

The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Thursday, October 4, 2007 at 7 p.m. in the Municipal Building, 165 Mill Road, Westhampton Beach

PRESENT: Mayor Conrad Teller
Deputy Mayor James Kametler
Trustee Toni-Jo Birk
Trustee Joan Levan
Trustee Hank Tucker

**Clerk Treasurer Kathleen McGinnis
Village Attorney Hermon Bishop**

Mayor Teller opened the meeting with the Pledge of Allegiance.

Accept minutes of Board of Trustees Meetings

Motion by Trustee Tucker:

RESOLVED, that the minutes of the Trustee Meeting of September 6th and Special Meeting of September 19, 2007 are hereby accepted.

Seconded by Trustee Birk and unanimously approved. 4 Aye, 0 Nay

Accept departmental reports

Motion by Trustee Birk:

RESOLVED, that the Treasurer's report for August, Justice Court, Police Department's and Building Inspector's reports for September 2007, are hereby accepted.

Seconded by Deputy Mayor Kametler and unanimously approved. 4 Aye, 0 Nay

Authorize RFP for municipal auditing services

Motion by Deputy Mayor Kametler:

RESOLVED, that the Village Clerk Treasurer is authorized to solicit proposals for municipal auditing services for the fiscal year ending May 31, 2008 and the preparation of the Village's annual report to the New York State Comptroller.

Seconded by Trustee Levan and unanimously approved. 4 Aye, 0 Nay

Authorize WHB Elementary School Halloween parade – Oct. 31st @ 3:15 pm

Motion by Trustee Levan:

RESOLVED, that the Westhampton Beach Elementary School PTA is hereby authorized to hold the annual Halloween Parade on Wednesday, October 31st starting at the WHB Elementary School on Mill Road at 3:15 p.m. and ending with Trick or Treating on Main Street beginning at 4 p.m. to 5:30 p.m.

Seconded by Trustee Birk and unanimously approved. 4 Aye, 0 Nay

Authorize WHB ‘Homecoming Parade’ – Oct 20th 12 noon

Motion by Trustee Tucker:

RESOLVED, that the Board of Trustees hereby authorize the closure of Village streets for the Westhampton Beach High School “Homecoming Parade” on Saturday, October 20th between 12 noon and 1:30 p.m. commencing at the Westhampton Bowling Alley parking lot, heading south on Sunset Avenue to Main Street, east to Mill Road and proceeding west to the High School property.

Seconded by Trustee Birk and unanimously approved. 4 Aye, 0 Nay

Authorize Hurricane Foundation 5K Walk/Run

Motion by Trustee Birk:

RESOLVED, that the WHB High School Hurricane Foundation is hereby authorized to hold a 5K Walk/Run on Saturday, October 13th between 8:00-10:30 a.m. and to close the streets listed on the attached event route.

Seconded by Deputy Mayor Kametler and unanimously approved. 4 Aye, 0 Nay

Appoint Zoning Board of Appeals member

Motion by Deputy Mayor Kametler:

RESOLVED, that Thomas Moore is hereby appointed to serve as a member of the Zoning Board of Appeals to fill the vacant term expiring on May 31, 2008.

Seconded by Trustee Birk and unanimously approved. 4 Aye, 0 Nay

Schedule hearing on Local Law Re: Eligibility for tax exemptions

Motion by Trustee Levan:

RESOLVED, that the Village Clerk Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Thursday, November 1, 2007 at 7 p.m. at the Village Hall on a proposed Local Law to increase the income eligibility to qualify for the senior citizen, disabled or emergency volunteers real property tax exemptions.

Seconded by Trustee Tucker and unanimously approved. 4 Aye, 0 Nay

Approve HVAC Annual Service Agreement

Motion by Trustee Tucker:

RESOLVED, that the Dynaire Service Corp. annual service/maintenance contract for the Village Hall HVAC system is hereby renewed at an annual cost of \$6,760.00.

Seconded by Deputy Mayor Kametler and unanimously approved. 4 Aye, 0 Nay

Schedule public hearing for 2008/09 Community Development Funding

Motion by Trustee Birk:

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Thursday, November 1, 2007 at 7 p.m. at the Village Hall on the allocation of the 2008 Community Development Block Grant funding estimated at \$13,000.00

Seconded by Deputy Mayor Kametler and unanimously approved. 4 Aye, 0 Nay

Schedule public hearing -Local Law to amend Village Code Chap. 150

Motion by Deputy Mayor Kametler:

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Thursday, November 1, 2007 at 7 p.m. at the Village Hall on a proposed Local Law to amend Chap. 150 relating to park fees for minor subdivisions.

Seconded by Trustee Levan and unanimously approved. 4 Aye, 0 Nay

Appoint School Crossing Guards

Motion by Trustee Levan:

RESOLVED that Bruce Howser is hereby appointed to serve as a School Crossing Guard effective 9/25/07 and to be paid at the rate of \$10.00 per hour; and be it further

RESOLVED, that Gypsy Adams is hereby appointed as a substitute School Crossing Guard to work as assigned by the Chief of Police and to be paid at the rate of \$10.00 per hour.

Seconded by Trustee Tucker and unanimously approved. 4 Aye, 0 Nay

Accept bid from Stone Plus to replace two brick planters

Motion by Trustee Tucker:

RESOLVED, that the bid received from Stone Plus Construction Corp. to replace the brick planters in front of the Westhampton Beach Post Office at a cost not to exceed \$3,050.00 is hereby accepted

Seconded by Trustee Birk and unanimously approved. 4 Aye, 0 Nay

Approve warrant for October 2007

Motion by Trustee Birk:

RESOLVED, that the warrant for October 2007 in the amount of \$157,867.64 for the General Fund is hereby approved.

Seconded by Deputy Mayor Kametler and unanimously approved. 4 Aye, 0 Nay

Public Discussion

Rob Muchnick, related that he owned six parcels of land on Old Riverhead Road. He said that as everyone probably knows, he has been trying to get approvals for a project on his land for quite some time. He had just read an article in the paper this week that said that this Board is going to be looking at a new law to possibly change the zoning. He was wondering if the Board felt this would have impact on him.

Village Attorney Hermon Bishop stated that he absolutely could get a copy of the proposed law. He said it had not been adopted yet, but whether or not it impacts on Mr. Muchnick, he would not be able to say anything until he had met with the Planning Board and discussed it with them. He said that at this time there is no law.

Robin Lechner said she had been involved in community service in Westhampton Beach since 1995. She said that this past July she had organized a non-profit organization called Harley's Paws Park. It was created to work in cooperation with the Town of Southampton residents to design and maintain off-leash dog parks. She said their goal was to open six parks within the Town of Southampton within the next ten years. They are currently working on a management agreement with the Town to create a park and right now they have one in Hampton Bays. She said she understood that the Town had recently purchased a half acre on Glovers Lane between the Chamber of Commerce and the Waldbaum's parking lot. She was here tonight to suggest that the Village consider creating a public park on that site that, in addition to providing space for public enjoyment, would also include specific fenced-in enclosures that would accommodate a separate area for large and small dogs. Ms. Lechner presented the Board with information packages that included a general site plan that she had sketched in.

Mayor Teller responded that it had not been fully determined if the Village was going to take this piece of property from the Town, due to the fact that certain requirements, the title did not rest with the Village and we cannot expend any monies on the property just for the Town of Southampton.

Mr. Bishop stated that the Village is in the position of working with the Town so that if we want improvements to the property that we work with them, basically it is with the Town and Village attorneys right now.

Ms. Lechner said it was her understanding that they would not be asking the Village to expend any money whatsoever on that project, that they would be working in cooperation with the Town and Harley's Paws Park would have a management agreement with the Town and whatever design elements that they would have, they would work with the Village for their approval.

Trustee Levan asked if they were working on a park in Remsenburg. She said she had received something in the mail regarding this.

Ms. Lechner said there are several sites that they are working with the Town Council on and there are certain possibilities. There is nothing finalized, but there is a site in Remsenburg that they were talking to the Town about. It has another title issue and a transfer issue that the Town is working on, so the park has to be put on the back burner until that is completed, but they were looking at that area. She said they were also talking to Bide-A-Wee in Westhampton. They have 230 acres and they have expressed an interest. The rescue organizations and the shelters are interested in this project, because they have an opportunity to socialize dogs and train dogs so they are more readily acceptable for adoption. She said that the senior citizens and disabled were also behind this project, because not every senior citizen can actively exercise their dogs, so this is an opportunity for them to take them to a safe environment to exercise the dogs.

Trustee Tucker asked if this was an off-the-leash type park and how much room would be required for a park like this.

Ms. Lechner responded that it was an off-the-leash park. She said the Glovers Lane property is half an acre and basically, what they wanted to do since they have been talking about this for a while and some of the residents of the Village have said they don't have a dog and asked if they could come to the park, is to have the whole center portion for the public. There would be benches and a gazebo, typically modeled after the Village Green, because she felt it was really pretty. She said the perimeter would have a section for large dogs and a section for small dogs and there would be what is called an air-lock or double gated entry system so that if a dog should get out of the confined area they wouldn't get freaked and wouldn't affect the rest of the park. She said it would be landscaped and irrigated, it is not just a dog run, it is not concrete. There would be dog fountains and people fountains on both sides. There would be benches both in the dog section and the public section. She said that all dogs would have to be fully immunized and there is a health declaration on their website that would have to be filled out by the dog owner's local vet.

Trustee Levan asked how they would police this.

Ms. Lechner explained that one of the things they would consider is having a slide-card system where once a person and their pet were approved by the vet and filled out the application, they would get a magnetized slide-card that would open the gate and let them into the dog park. She said she had been exploring various dog parks in this area and also in Florida and that is the method they use. Also, whatever the guidelines of the Town and the Village are, they would adhere to those.

Trustee Tucker asked if the Village would be responsible for maintaining the park and poop-scooping and all that.

Ms. Lechner said they already had a maintenance crew that they had talked to and a landscape person who would replace the sod if there was a little yellow spot. She said they would hope that most of the community would self-clean, as far as pooper-scoopers, they would provide similar bags and garbage containers that are available on Main Street. They would have a waste disposal company that they had already made arrangements with and they were very willing to come several times a week depending on the season, during the summer they would come more often, obviously, and empty the garbage cans and pick up any poop.

Mayor Teller thanked Ms. Lechner, but reiterated that the Village did not have the property yet. He said that if she wanted to come to the next Work Session, by that time they might have an answer from the Town.

George Kast, 6 Mickie's Way, appeared before the Board to voice the concerns of himself and his neighbors regarding a variance that was applied for a house to be built on a 40' wide lot in that area. He said his concern, that he also stated at the Zoning Board hearing, was that if he or anybody else owned the property, it would not have gotten that far, because nowhere in that area is new construction on a lot that is 40' wide. He said the applicant was applying for three different variances, eight foot side setbacks, and it is a very small lot. He reiterated that he wanted to voice the concern of the neighborhood that approval of something like this could open up a can of worms of potential other variance applications on similar size lots.

Harris Palmer, 69 Beach Road, said he was afraid that some of his remarks at the last meeting may have been misunderstood or misconstrued. He said they were talking about the assessment process and the reviews of people's assessments. He wanted to apologize to the Board for this and particularly to Trustee Levan, because her review sort of got picked on as a sub-topic from the account he read in the Press and some individual that has spoken to him in person. He said he really did not have a problem with the process. He thought it worked and was pretty fair. He thought the subject they were speaking of was the Village Board of Trustees, as the Board of Trustees, ratifying the package of assessment figures that have been put together for the Village's consultant to the Town assessor's office, reviewed by the Board of Assessment Review

of the Village, which then upon adoption became the final roll. Subsequent to that, the Board of Trustees adopts a resolution ratifying this package of assessment figures. He said he understood they adopt a resolution after the roll is ready to be final, adopting what the Board of Review has done, with the figures that they have.

Village Clerk Kathy McGinnis explained that the Village has never had a separate resolution which says the Board of Trustees hereby adopt the final roll as prepared and reviewed by the Board of Assessment Review and the sole assessor of the Town and here it is. She said what they do is, they get the final number after our Board has had a grievance process and in working with the Town, because many, many, a good portion of the applications for grievances go directly to the assessor's office. There are very few that we are able to review in a day where we are meeting from 1 – 5 p.m. We, as a Board, review what people are presenting to us. We are simply listening, along with the assessing staff of the Town, to what our citizens are coming in and explaining as to why their property has some unique feature or detraction which may make their assessment different from what the professional certified assessors have deemed it to be.

Mr. Palmer said he would like to bring the subject back to the meeting of the Board, the minutes of which include a ratification of the roll.

Village Attorney Hermon Bishop said it was not a ratification, it was an approval. He said the way the Village has always treated this Grievance Day is to treat it as a Special Meeting. They treat it as a Special Meeting because there are more than three Trustees present and because all of the Board of Trustees are appointed to the Board of Assessment Review. He said this is merely approval of the minutes of that meeting. It is not approval of the final assessment roll. The final assessment roll is final on April 1st, that is what occurs. On the filing of that roll, then you have thirty days after that to file a claim. He said the other confusion seems to be that the assessor is Ed Deyermond for the Village, the assessor for the Village is the town assessor. He explained that the reason is because we use the Town's assessment roll and who would create that, but the town assessor, as a starting point. Then the Board of Assessment Review, which is the Board of Trustees in a municipality, there is a legal presumption that that assessment is correct, so at a grievance hearing, if you represent an individual at that grievance hearing, you have the burden of coming forward and showing that that assessment is not correct. If that burden is not met, the Board of Review doesn't have the authority to change that assessment, they can't just take conclusory statements that "my assessment should be reduced because..." They have to come in with some kind of evidence to show that the assessor's findings are wrong. If the applicant disagrees with that, of course they can bring SCAR proceedings or a certiorari proceeding after that. He hoped that helped to clarify it. He said that this year the Board did something that was not done in prior years, they hired an assessor to help individuals to sort of make their argument. This assessor also spoke to the town assessor, which is the Village assessor, spoke to that individual to bring to light that there were certain issues respecting properties in the Village that he ought to be considering and to further support the arguments of the homeowner that their assessment should be reduced. He said that as far as he knew that had never been done, there had just been a representative from the Town in prior years.

Mrs. McGinnis said that she had been with the Village for thirteen years and the Village had always had a representative from the Town there. There has always been a member of the assessing staff at Grievance Day. The Board has never sat there by themselves, as it would be very confusing. She said this was the first year, however, that the Board had hired a representative to help with the process.

Mr. Palmer said that at issue were the minutes of this meeting, that when adopted by the Board tends to imply that the Board members themselves are approving indirectly their own property assessments, including any additions. He felt that is where you have a problem, because everybody on the Board is a homeowner.

Mr. Bishop said the issue was, can a Board of Review member be involved in their own assessment. He said the answer is no, but the Village really let down a Board member this year, because it is the Village's responsibility to give Board members a statement that is supplied by the State of New York saying whether or not they have an interest, and their interest would be that of themselves, that of their spouses or that of their minor

children. That was never done and that is our fault. It has never been done in the Village and people have raised this as an issue, but the real fact of the matter is, any fault at all, it falls on the Village. He said that from now on the Village will be doing that. He said that they are making it a part of the ethics code, but it is not so much an ethics issue. The ethics code is given to each Board member so they know issues that they should be aware of when they are performing the duties as Trustees or public officers. He felt this is something that we should have done before.

Mr. Palmer felt it was not an ethics issue.

Mr. Bishop said he was trying to say that it might be in the ethics code, that code is given to the Trustees and every public officer when he assumes duty and that way everyone will have notice as to what is expected of them. He said the Village Clerk and Board are all aware of it now.

Mr. Palmer thought that some people were thinking that the act of approving minutes of that meeting, as minutes of that meeting, was in effect approving your own assessment. He said that as far as he knows that everyone on the Board is either a homeowner or married to a homeowner, so he felt the difficulty that all Board's face is dealing with the issues that have to do with a particular member of the Board.

Mrs. McGinnis explained that these minutes were the results of the Grievance Day and so they were adopting the results and it refers to the final register. It would really only be impacted if someone had a grievance. There is no change, if people have a tentative and then they have a final and there is no change, then there is no action. She said there was nothing saying, "do you approve this change?"

Victor Levy, 58 Beach Road, asked if there was any progress, or where the Board was with revising the sign ordinance. He wanted to know where they are with that project, having been involved in two of the previous sign ordinances and knowing it is not a fast, easy process. He also asked if they were at the point where they would want to give a synopsis of what the low-income housing or work-force housing is, or would they rather wait until the Work Session to discuss it.

Mayor Teller responded that the housing will be discussed at the Work Session. He said regarding the sign ordinance, they had not appointed a committee yet.

Mayor Teller asked if anyone else would like to address the Board. There being no further response, he made a motion at 7:30 p.m. to adjourn the meeting to Executive Session. Seconded by Trustee Birk and unanimously approved. 4 Aye, 0 Nay

Respectfully submitted,

Christine Owen
Deputy Clerk