

The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Thursday, September 6, 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.

Presentation:

Deer Population Management Program - Michael Clark NYSDEC

Michael Clark, a wildlife biologist with the New York State Department of Environmental Conservation, gave a presentation in regards to the deer population in the Village. He said he had come down to Long Island about a year and a half ago to try to tackle Long Island's deer population which is ever-growing and is an ever-growing issue, especially in the eastern towns. He said they were also moving further west and to northern Nassau and they had even received a few reports of deer in Queens. They are expanding throughout Long Island, as well as the rest of New York State. Traditionally, New York, as well as the rest of the states in the United States has relied on traditional hunting to keep the deer population in check. He said it was a little bit different on Long Island because of the developmental pressure, which is not only taking natural habitat away from the deer populations, but at the same time it is creating a lot of refuges for these animals where they are able to get into non-accessible areas for hunting. He said we are also providing a smorgasbord of food for these animals that is actually increasing their sustainability in the area. We are supplementing their natural food between the agriculture, our landscaping, our flower and vegetable gardens, all of these factors are creating an overpopulated deer herd. He said deer are very adaptable and are very prolific. Females on average are having twins and in a lot of areas out here they are having triplets. He said the key to population management for a deer herd as a whole is in the reproduction of the female animals. You are always going to have enough males in the population to breed any does in the area, so as far as long term population management goes, the key is to reduce the number of female animals. Long Island has the longest hunting season by law in New York State, a three month archery season and throughout the month of January there is a shotgun season. The DEC also hands out the most liberal tags on Long Island. He said they have a program called the "bonus tag system" where essentially you keep on shooting female deer, which is the key to population management, and we will keep on issuing you additional tags as an incentive to keep hunters harvesting female deer. One of the biggest hurdles for hunting on Long Island is something called the "500' rule", which basically says you are not allowed to discharge a firearm within 500 feet of a house, dwelling or inhabitable structure, unless you have that landowner's permission. This, in itself, creates a lot of these refuges for the deer. One of the laws they are trying to change is that archery tackle is included in New York State's definition of a firearm, they do not separate bow and arrow versus a gun. He said that last year they harvested 2,300 animals from Long Island from Suffolk County eastward. The state realizes that there is an overabundance of these animals, so they have created a few different programs to work with landowners to help try and manage these populations. Besides their regular hunting, they have a program called the DMAP, which is the Deer Management Assistance Program. This gives landowners who are experiencing damage additional female antler's tags to be issued to hunters during the regular season. He said they also have

a new assistance program which is giving out permits geared towards outside of the regular season in an effort to try and continue to reduce the deer. In order to apply, you have to be experiencing some type of damage to your property or to your crops. He emphasized that one of the big misconceptions landowners have is that landowners are not liable for hunters on their property. As long as you are not charging them to be on your property, you are not liable.

Trustee Levan asked who would be liable if the shot on the bow and arrow goes awry and lands somewhere else on another property.

Mr. Clark replied it would be whoever released the arrow, the hunter.

Trustee Birk asked about the 2,300 deer that Mr. Clark had said were harvested on Long Island. She wanted to know what area, what part of Long Island, did he have a generality.

Mr. Clark said he had not brought that with him, but said they do have it broken down into towns. He said they are estimates at best, but he would provide that to the Board.

Carol Matthews, 61 Brittany Lane, asked if they permit bow hunting and if they get the count of the number of deer that are killed from the state from the deer tags. She said when a hunter is issued a deer license when they kill a deer they have to take it off and tie it on and send the other to the DEC.

Mr. Clark responded that they promote bow hunting. They have a three month long season that runs from October 1st through December 31st. He said that by tagging the deer, this is how they get their population numbers, that is how they came up with the 2,300 animals from Long Island. He said that every animal that is taken from this season needs to be tagged and reported in.

Trustee Tucker asked if they get involved with tick issues relating to the deer.

Mr. Clark answered yes, they have two big species of ticks down here, the black-legged tick, otherwise known as the deer tick, and the lone star tick. He said they were becoming more and more of an issue and they were spreading further north. He said the black-legged tick gives Lyme Disease and the lone star tick has a few different nasty diseases that it hosts, as well. Right now we are in the heart of the larval stage of the ticks, so he advised people to be very careful when they are out because when the ticks are in the larval stage they are very small and almost look like a speck of dirt. He said they are hatching right now and it will look like a patch of dirt on your leg and will start spreading. He said to check yourself, wear light colored clothing, spray yourself with a pesticide.

Trustee Tucker asked if the fact that the tick, especially the lone star tick, becoming more prevalent out here, alters the way they determine how the deer population should be reduced.

Mr. Clark said deer are the host for the ticks, but as far as how they manage deer for the tick population, they basically have an unlimited doe season down here on Long Island, so they are being as liberal as they possible can in an effort to reduce the deer population so that will in turn help the tick problem.

Ralph Neubauer, 33 White Oak Lane, asked if Mr. Clark would describe the tick season in a little more depth.

Mr. Clark said they hatch in the summer, now they are in the larval stage, they will try and get a single meal for the winter, in the spring they will be nymphs and then they will have another meal and turn into adults next year and then lay their eggs, it is a two year cycle.

Deputy Mayor Kametler asked if they need a host to survive and if the deer would be the most prevalent host.

Mr. Clark responded they do, they need a blood meal. He said the deer would be one of the primary hosts for the adult tick, but for the first two stages it is generally small mammals, birds and rodents.

Dean Speir, 256 East Main Street, said he was curious about the 500' rule. He said it had come up earlier this year under a different circumstance and he had read the NYS DEC law on this and it specifically address a political subdivision as a "city". He said he had gone over this with a couple of lawyer friends of his and they felt it really is only talking about New York City.

Mr. Clark said it applied to the entire state, the language is in the conservation law.

Mr. Speir felt the person that discharged the firearm in the municipality was able to avoid the charge on that because it did talk about New York City rather than outside of that political subdivision.

Mr. Clark said it might be a regulation, but it says right in there 500' from a house, dwelling, church and the list goes on. He said he would check on it, but he felt that in New York State it was 500' from a house, dwelling, etc.

Trustee Tucker asked if there were state funds available for the Village to analyze if there is a deer or tick problem here.

Mr. Clark answered that there were not. He said the state would help address the problem, but as far as funding, he was not aware of any.

Trustee Birk asked how a problem is definitively defined.

Mr. Clark explained that there were many constituents that they were working for. There is the basic landowner, the farmer, the recreational hunter, the motorist, everyone is going to have their threshold of when a problem is and when a problem is not. As a community, if you wish it to go as a community based project, it is up to the Village when you perceive it to be a problem. He said they recognize that there is an overabundant population of white tail deer on Long Island, that is not a question to anyone. What amount of action we take, derives from the landowner and whether it is private, Village, town, etc. He said that as landowners you have the ability to control what is harvested on your property, if you choose to go that route. You can set that you have to harvest two or three female deer before you will allow them to take out a buck or all antlers only, set times and days when you can hunt, as a landowner you have a lot of control that you can use when it comes down to recreational hunting.

Mr. Neubauer asked if landowners can act as a group.

Mr. Clark said they can, and that was a good point. If you have a strip of ten houses and all ten houses are in agreement and all ten houses sign off on this 500' rule waiver, then you could in theory have a controlled hunt in that plot as long as there were no other houses within a 500' radius. That is something that is definitely an option.

A member of the audience asked if there were alternatives, such as birth control.

Mr. Clark responded that there were a couple different ways of doing it. One is actually a sterilization process where they surgically remove them. When you have a free ranging population of wild animals that is not feasible, it is extremely expensive. They do have a few new contraceptives which are either administered by dart or pills, but none of them have proven successful, especially on a free ranging landscape. Those are all very expensive, there are health concerns when it comes down to marking the animals that have been given these drugs and whether they are fit for human consumption. Trapping and relocating is illegal in New York State and there have been

many studies proving that the final fate of that deer is usually death. When you relocate those deer they have a very hard time being transported, as well as when you are putting them in a new area they don't do well, they usually try to beeline back home and they don't make it, they aren't familiar with the area, the weather conditions, etc.

Trustee Levan asked if Mr. Clark had any documentation regarding the number of Lyme Disease cases on Long Island.

Mr. Clark stated that the Health Department would have those numbers.

Mrs. Matthews asked if the license specifies when they can kill doe only, instead of bucks.

Mr. Clark said that down here on Long Island, any tag you can get will allow you to shoot an antlerless deer in order to promote that whole population control. Upstate areas there are some buck only areas, but on Long Island that is not the case.

Elyse Richman, 78 Rogers Avenue, asked if Mr. Clark had any statistics on how many people had been killed by deer from car accidents.

Mr. Clark answered that he did not. He said they do get some numbers through the car insurance agencies, but they are so skewed because the percentage of reported accidents is not well documented. He said that localized areas will keep track of those, but as far as state wide, they did not. He concluded saying he was here to help. Those were the Village's three options as far as pro-active hunting as a management tool. You have your regular season, the CMAP program and the nuisance program. As far as ease goes, regular hunting season starts October 1st. As long as you have the property available, there is nothing the Village needs to do. He asked if the Village had a no-discharge ordinance.

Mayor Teller responded only in the parks.

Mr. Clark reiterated that if you have somebody's sufficient land and the 500' rule is fine, there is nothing stopping you from proactively managing right now.

Ms. Richman asked if her neighbor next door could shoot at a deer or if he needed her permission and also if he could do it day or night. She also asked if they have to get a permit that they have to put up that says they can shoot in the area and if it was just one person that could shoot.

Mr. Clark responded that as long as where he discharges his bow is not within 500' of another house, dwelling, building or if he has landowner permission he did not need permission of the neighbor. He emphasized that it is not within 500' of the property line, it is within 500' of the house or structure. He said they could only hunt from sunrise to sunset and anyone can shoot as long as they have the landowner's permission. As a landowner you can regulate that – you can allow how many people you want on your property. You can tell people “no, I already have two people hunting on my property” or you can regulate when they can come, such as Monday and Tuesday or Tuesday and Thursday. There are a lot of different options that you have.

Mr. Neubauer asked if the DEC had a standard form that would function as landowner permission.

Mr. Clark stated that they did have a form and it was on the internet and you can download a copy of that and print it. He said they also have a copy of those liability forms stating that the landowner is not liable, sometimes that is a good thing to have, too.

Mr. Neubauer asked if as a group of property owners, they could do this independent of the Village of Westhampton Beach or does it have to be in conjunction with authority delegated by the Trustees.

Mr. Clark responded that since there is no discharge ordinance in the Village, unless you are in the parks, so as long as you are on your private property and you are okay with the 500' rule and you are operating by the regular laws set during the regular hunting seasons, there is nothing stopping you from starting October 1st.

Mrs. Matthews asked if homeowners decide to do this as a group, does the Village stand any responsibility should anything occur. She felt 500' was not a lot and a bullet does not always stay in the animal, it goes through and the guns they make nowadays are very powerful.

Mr. Clark said he would have to look at the map, but he did not think the Village of Westhampton Beach would be allowed to hunt during the January shotgun season. This would be archery only and generally when you are shooting at a deer with archery tackle you are looking at a 20 to 30 yard shot, so the 500' rule is well beyond any means the bow and arrow is going to go. In fact, as a state, we are trying to reduce that number down to a lower number to allow greater accessibility for archery hunting.

Mr. Speir said that on Long Island no rifles were allowed, only shotguns.

Mr. Clark said that was correct, only shotguns and muzzle loaders were allowed. He said the state had designated rural areas of Long Island that were okay for shotgun hunting, but he was 99.9% sure the Village was not in that area.

Mayor Teller and the Board thanked Mr. Clark for his input.

Public Hearings:

Outdoor Music permit – Westhampton Steakhouse

Mayor Teller opened the hearing and asked if anyone would like to address the Board regarding this matter.

Diane Roberti, representing the Westhampton Steakhouse explained that they had applied for the permit and had gone to the Planning Board and had received approval and was here tonight to receive approval from the Board of Trustees.

Mayor Teller asked if anyone else would like to address the Board. There being no further response, he made a motion to close this public hearing. Seconded by Deputy Mayor Kametler and unanimously approved. 4 Aye, 0 Nay

Motion by Trustee Tucker:

The applicant is operating a restaurant located at 142 Mill Road and has applied for a permit pursuant to the provisions of Chapter 196 of the Village Code to permit outdoor music.

The applicant proposed to provide outdoor live music on its property, located in the area in front of the restaurant entrance, as shown on the plan attached to the application.

The applicant is requesting to provide live outdoor music, either a three piece Jazz Band or a one person guitarist, on Friday, Saturday and Sunday from 12 noon until 11:00 p.m. from May 15th to September 30th, 2007.

The application has been submitted to the Village Planning Board for its recommendation which was issued on June 14, 2007 as follows:

- (1) no amplification of the outdoor music
- (2) strict adherence to the 11:00 p.m. curfew

The application is granted subject to the provisions of Chapter 196 Section 196-2 and the following conditions:

1. The maximum number of musicians/vocalists shall not exceed three.
2. The music shall be limited to Friday through Sunday evenings.
3. The music shall only be allowed during the hours of 12 noon to 11:00 p.m.

Therefore be it

RESOLVED, that the Westhampton Steakhouse outdoor music application is approved subject to the provisions set forth above and in Chapter 196 of the Village Code; and be it further

RESOLVED, that the Board of Trustees hereby reserves the right to revoke and terminate the permit if the Board determines there would be a conflict with the music from the applicant's property.

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

Local Law 10/2007 to amend Chapter 178 Vehicles & Traffic - Stop sign on Library Ave.

Mayor Teller opened the hearing and asked if anyone would like to address the Board regarding this matter.

Harris Palmer, 69 Beach Road, asked where this stop sign would go.

Mayor Teller responded that it was on Library Avenue Extension and Tuttle Place down by the boat yard. He said there had been a yield sign there.

Mr. Palmer stated that there was not a lot of traffic on either of those streets.

Mayor Teller said they were changing it from a yield intersection to a stop intersection. The intersection was changed to, instead of just going around the corner, to a "T" intersection.

Mayor Teller asked if anyone else would like to address the Board. There being no further response, he made a motion to close this public hearing. Seconded by Trustee Tucker and unanimously approved. 4 Aye, 0 Nay

Motion by Trustee Birk:

WHEREAS, a resolution was duly adopted by the Board of Trustees for a public hearing to be held by the Board of Trustees at the Village Hall, 165 Mill Road, Westhampton Beach, New York at 7:00 PM on September 6, 2007 to hear all parties on a proposed Local Law entitled "A Local Law amending Chapter 178, Vehicles and Traffic, of the Code of the Village of Westhampton Beach to delete and amend provisions of Chapter 178," and

WHEREAS, notice of said public hearing was duly advertised in the Southampton Press and posted at various public locations throughout the Village and

WHEREAS, said public hearing was duly held at the Village of Westhampton Beach, on September 6, 2007, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof, and

WHEREAS, the Board of Trustees determines that this action is subject to Part 617 of the implementing regulations pertaining to Article VIII (State Environmental Quality Review Act) (SEQRA), that it resolves itself lead agency that it has reviewed the EAF

Part I, and lists this action as a Type 2 action, pursuant to 6NYCRR Section 617.5 (30), and accordingly, no further environmental review is necessary, and

WHEREAS, the Board of Trustees, after due deliberation, finds it is in the best interest of the Village of Westhampton Beach to adopt said Local Law,

NOW, THEREFORE, the Board of Trustees hereby adopts Local Law 10/2007 entitled "A Local Law amending Chapter 178, Vehicles and Traffic, of the Code of the Village of Westhampton Beach to delete and amend provisions of Chapter 178," a copy of which is attached hereto and made a part hereof, and the Village Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and to enter said Local Law in the Local Law Book of the Village, and to give due notice of the adoption of said Local Law to the Secretary of State.

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



Local Law 11/2007 to amend Zoning Code - B1 zone minimum Parking spaces

Mayor Teller opened the public hearing and asked if anyone would like to address the Board regarding this matter.

Village Attorney, Hermon Bishop, explained that this is a local law that was made pursuant to the Business District Comprehensive Plan Update and deals with the number of spaces required for certain uses in the B1 District, the Main Street District. Pursuant to the plan, it provides that there should be one space for every 250 square feet. As exists now, the requirement is one space per every 200 square feet. The Village Planner believes that because the parking spaces in the Village will be used for multiple businesses and also that there is adequate, available on-street parking and municipal parking that this law should be passed. It would affect basically four types of uses in the B1 District. It would affect office uses, instead of having one space per 200 square feet, it would be one space for 250 square feet. It would affect the personal service shops and it would affect the retail shops for sale of consumer goods.

Jackie Bennett, 7 Parlato Place, asked if this would mean it requires less parking spaces for the businesses.

Mr. Bishop replied yes.

Bill Bennett, 7 Parlato Place, asked if you could still buy parking spaces, and if you could, how much were they.

Mr. Bishop answered you could and they were about \$7,000 a space.

Dean Speir, 256 East Main Street, asked why they were reducing the need for commercial parking spaces. He asked if it was because the Village was running out of space.

Mr. Bishop responded that this was the recommendation of the Business District Plan Update and Kyle Collins is basically saying that based on his calculation of the needs of the Village in the downtown area, it should be changed to one space for 250 square feet. The reason is that we had a law change previously where there was a shared parking concept where owners could grant easements to the Village, reciprocal easements and also easements where they dedicate the land for public use instead of using it for their own private parking spaces. Based on the concepts that were adopted in the previous law, and based on his studies, that is what he feels should be done.

Mayor Teller asked if anyone else would like to address the Board. There being no further response, he made a motion to close this public hearing. Seconded by Trustee Birk and unanimously approved. 4 Aye, 0 Nay

Motion by Deputy Mayor Kametler:

WHEREAS, A RESOLUTION was duly adopted by the Board of Trustees for a public hearing to be held by the Board of Trustees at the Village Hall, 165 Mill Road, Westhampton Beach, New York at 7:00 PM on September 6, 2007, to hear all parties on a proposed Local Law entitled "A Local Law To Amend Chapter 197 Of The Village Code To Amend The Minimum Parking Spaces In The B-1 Zoning District," and

WHEREAS, notice of said public hearing was duly advertised in the Southampton Press and posted at various public locations throughout the Village, and

WHEREAS, said public hearing was duly held at the Village of Westhampton Beach, on September 6, 2007, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof, and

WHEREAS, the Board of Trustees determines that this action is subject to Part 617 of the implementing regulations pertaining to Article VIII (State Environmental Quality Review Act) (SEQRA), that it resolves itself lead agency, that it has reviewed the EAF Part I, and lists this action as a Type 2 action, pursuant to 6NYCRR Section 617.5 (30), and accordingly, no further environmental review is necessary, and

WHEREAS, the Board of Trustees, after due deliberation, finds it is in the best interest of the Village of Westhampton Beach to adopt said Local Law,

NOW, THEREFORE, the Board of Trustees hereby adopts Local Law No. 11/2007, entitled "A Local Law To Amend Chapter 197 Of The Village Code To Amend The Minimum Parking Spaces In The B-1 Zoning District," a copy of which is attached hereto and made a part hereof, and the Village Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and to enter said Local Law in the Local Law Book of the Village, and to give due notice of the adoption of said Local Law to the Secretary of State.

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

Resolutions:

Accept minutes of Board of Trustees Meetings

Motion by Trustee Tucker:

RESOLVED, that the minutes of the Trustee Meeting of August 2, 2007 & Special Meeting of July 18, 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 July, Police Department's report for August, Justice Court reports for June, July, & August, and Building Inspector's report for August 2007, are hereby accepted.

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

Accept bid for the purchase of a trailer mounted sewer cleaner

Motion by Deputy Mayor Kametler:

RESOLVED, that the bid received from Camspray in the amount of \$13,889.00 to furnish a trailer mounted sewer jetter pursuant to the DPW Department's bid specifications, is hereby accepted.

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

Authorize FBI Natl. Academy Annual Rogers Beach Picnic

Motion by Trustee Levan:

RESOLVED, that the FBI National Academy is hereby authorized to hold their annual picnic at Rogers Beach on Friday, September 21, 2007 between 8 a.m. to 9 p.m.

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

Authorize Justice Court to submit Grant request to NYS Unified Court System

Motion by Trustee Tucker:

Resolved, that Robert A. Kelly, Jr., as Justice of the Village of Westhampton Beach is authorized and directed to file an application for funds from the State of New York Unified Court System Office of Court Administration under its Justice Court Assistance Program, in an amount not to exceed \$30,000.00 and upon approval of said request to enter into and execute a project agreement with the State for such financial assistance to the Village of Westhampton Beach to purchase security equipment for the courtroom.

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

Authorize DPW Supt. to attend NYCOM Public Works Training School

Motion by Trustee Birk:

RESOLVED, that Supt. of Public Works George Gordon is hereby authorized to attend the NYCOM Public Works Training School to be held at the Hilton Lake Placid Resort on October 21st -25th, 2007 at a cost of \$215 for registration and \$230 per day for lodging & meals, plus travel expenses.

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

Authorize Bldg. Dept. Officials to attend NYS Bldg. Officials Conference

Motion by Deputy Mayor Kametler:

RESOLVED, that Bldg. Administrator Paul Houlihan, Fire Marshal Bill Hart, & Fire Marshal Richard Tebaldi are hereby authorized to attend the NYS Building Officials Capital District 15th Annual Educational Conference to be held in Albany at the Holiday Inn on October 14th – 17th, 2007, at a cost of \$245 for registration and \$212 per day for lodging, plus meal and travel expenses.

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

Authorize Justice Court Director to attend the NYS Magistrates Conference

Motion by Trustee Levan:

RESOLVED, that Justice Court Director Leanne Gionta is hereby authorized to attend the NYS Magistrates Association 98th Annual Conference at the Westchester Marriott on September 30th to October 3rd, 2007, at a cost of \$250 per day for lodging & meals, plus reimbursement for travel expenses.

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

Authorize Greater Westhampton Chamber Sidewalk Sale

Motion by Trustee Tucker:

RESOLVED, that the Board of Trustees hereby authorize the Greater Westhampton Chamber of Commerce to hold a Super Sidewalk Sale on Friday, September 28th to Sunday, September 30th and Saturday, October 6th & Sunday, October 7th between the hours of 10 a.m. to 6 p.m. along Main Street and the ancillary streets.

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

Appoint Board of Trustees as the Village Board of Assessors

Motion by Trustee Birk:

RESOLVED, that the Board of Trustees will hereby act as the Board of Assessors for the Village of Westhampton Beach during the ensuing year.

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

Authorize payment for boundary survey for pre-school playground property

Motion by Deputy Mayor Kametler:

RESOLVED, that the Board of Trustees hereby authorize a payment in the amount of \$3,150.00 from the Park Fund for the boundary survey prepared by Norton Dunn for the pre-school playground property on Mill Road.

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

Authorize purchase of preschool playground equipment

Motion by Trustee Levan:

RESOLVED, that the Board of Trustees hereby approve the purchase of pre-school playground equipment from Game Time/Marturano Recreation Co. in the amount of \$58,067.00 under NYS Contract # PC62098; and 2,850 square ft. of engineered wood fiber surfacing at a cost of \$3,315.00 to be paid from the Park Fund.

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

Approve purchase of recycled rubber curbing for the preschool playground

Motion by Trustee Tucker:

RESOLVED, that the Board of Trustees hereby approve the purchase of recycled rubber curbs for the preschool playground from Playsafer Rubber Mulch at a cost of \$3,032.00 to be paid from the Park Fund.

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

Accept proposal for the installation of preschool playground equipment

Motion by Trustee Birk:

RESOLVED, that the Board of Trustees hereby accept the bid from P.Corsetti, Inc. Contracting for the installation of playground equipment and surfacing at the preschool playground at a cost of \$18,150.00 to be paid from the Park Fund.

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

Authorize traffic signal repair by Leslie-Johnson Corp. at a cost of \$2,129.00

Motion by Deputy Mayor Kametler:

RESOLVED, that the Board of Trustees hereby accept the proposal from Leslie-Johnson Corp. for the repair of the traffic signal at the intersection of County Road 31 and Montauk Highway, at a cost of \$2,129.00 as per the attached proposal.

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

Accept 2006/2007 fiscal year report

Motion by Trustee Levan:

RESOLVED, that the Board of Trustees hereby approve the 2006/2007 fiscal year annual report prepared by Giaquinto & Co. Certified Public Accountants, including Justice Court Audit pursuant to Section 2019-a of the Uniform Justice Court Act.

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

Accept resignation of School Crossing Guards

Motion by Trustee Tucker:

RESOLVED, that the resignation of School Crossing Guards Heidi Lelaidier and Raymond Hahn are hereby accepted effective September 5, 2007.

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

Approve September 2007 warrant

Motion by Trustee Birk:

RESOLVED, that the warrant for September 2007 in the amount of \$176,783.94 for the General Fund is hereby approved.

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

Public Discussion

Benjamin Edwards, 288 Sunset Avenue, stated that he had been in contact with the Mayor about a flood that they had in their basement about six weeks ago, seven feet of water due to, they believe it is still undisclosed, the Village repaving the road the day before. He said the water came down their driveway and flooded their basement. He said they still had not heard what the results of the engineering study were and they are still under the understanding that if the Village is proved at fault they will receive some compensation for all of their losses. He asked what the results are of the study and said there was also an issue of drainage itself in front of their property and asked what was being done about that as well.

Mayor Teller answered that the engineering report is done but the report was not written yet. He should have that next week and he would speak to Highway Superintendent George Gordon and they will look at the drainage problem again. He said they had not forgotten Mr. Edwards.

Mr. Bishop indicated that he had discussed this previously with Mr. Edwards and had referred him to counsel to advise him in this matter because it is important that he follow the procedures that are necessary to file a claim against the Village.

Mr. Edwards responded that he had filed a claim against the Village.

Jackie Bennett, 7 Parlato Place, observed that when the art show is on and Mill Road is blocked off, that weekend is delightful because we can actually get in and out of Library Avenue onto Main Street because nobody is making any left turns or coming out the other way. She thought if nobody else had noticed it, she would like to point that out.

Mayor Teller said the Village engineer is looking at that intersection.

Mrs. Bennett thanked the Mayor.

Dean Speir, 256 East Main Street, asked if it was business as usual or a departure from previous years regarding the appointment of the Board of Trustees as the assessors.

He said there had been some discussion when the assessor from Southampton Town came up and discussed the three options.

Mr. Bishop explained that prior to 1983 the only option the Village had was to do all of its assessing by itself and there were seven specific things they had to do. They had to determine the tax status of each parcel, they had to determine the value of each parcel and they had to hire people to do so. They had to provide for the administrative review of the assessments and they had to file the final roll, which we still do today. In addition, they had to correct any errors that occurred and they had to defend any judicial review of the assessments. After 1983 there were a few possibilities, as Mr. Speir points out. The first one is the one that was prior to 1983. The second one is that the Village can use the Town or County assessed valuation, which is given to the Village in December and the administrative and judicial reviews of those assessments are still done by the Village. That is the one we are doing now. As it exists, under the law, the Village is responsible for paying for the defense of any judicial review of those assessments, but the Town has taken it upon itself to handle this litigation. In addition, the Town could charge us for the assessing duties that they are performing, putting together assessment rolls and so forth, they are not charging the Village as to that. The third alternative, again that Mr. Speir alluded to, was that the Village could forego any of its assessing responsibilities or duties, whatsoever, and to turn everything over to the Town. If that were to happen we would be sort of like a school district. The days of filing a grievance would be the same as the Town's, the day of filing the rolls would be the same as the Town's and the day of filing a complaint would be the same. He felt there were pros and cons to doing both of these, setting aside the first way and just focusing on number two and number three. If the Village were to turn over its assessing duties to the Town, we would no longer have any say one way or the other as to what the assessments would be for the Village and all the residents would be referred to the Town Assessor's Office if they have problems with assessments.

Mrs. McGinnis added that actually the Village went into the Town system around 1993.

Mr. Bishop said the pros and cons are that with the Town you don't have to worry about filing two separate grievances. As it is now, you have to file with the Town and with the Village. If we go with the Town, then everything would be filed in the Town and that would deal with the Village taxes as well, but then you lose control over what the assessed valuation for Village residents would be.

Harris Palmer, 69 Beach Road, said that as far as he knew most of the folks on the Board are either homeowners or married to homeowners in the Village. He said if they had a grievance to file with their assessment for Village purposes and they were sitting as the Board of Assessment Review, he would guess that they would recuse themselves from that decision. He asked if that was correct.

Mr. Bishop responded that it was correct. He said there has to be a process where that occurs in a more formalized way because it is a little bit more involved than that. The Town of Southampton, the Town Board appoints the Board of Review, which are separate individuals from the Town Board, and those individuals cannot review their own assessed value and they can't review their brothers, their sisters, their sons or daughters, their parents, their nephews and nieces and there is a whole list of things that have to be disclosed, which they do. He said that technically, in the Village, the Board of Trustees is the Board of Review, so his position is that same procedure should be followed. He felt it had not been followed in the past.

Mr. Palmer asked that if he were on the Village Board of Trustees and had a grievance concerning his Village assessment, he would need to disclose the fact that he was a property owner and step aside and two or three other Board members, without his intervention in any way, other than the evidence he may present, will come to a determination.

Mr. Bishop felt the Board of Trustees don't involve themselves as a whole Board in making determinations as to the adoption of assessments.

Mrs. McGinnis added that they really make recommendations to the Town, because the Town officials are the assessors. The Village Board members are not assessing professionals, so they will recall what someone has said and say that they have a good point and let's make sure that the Town assessing department re-looks at this and re-evaluates it with this specific information that the applicant has presented.

Mr. Palmer asked if this was for Village purposes.

Mrs. McGinnis responded that it was for Village purposes, but generally it will carry over to the Town.

Mr. Palmer asked if the Village recommends to the Town assessor that a reduction be made for the Village valuation and then the next step is that the Village Board will ratify this group of decisions for the entire community.

Mrs. McGinnis explained that everything is referred to the Town, our recommendations, all the applications that are received at grievance, they have them in Southampton, they are reviewing and working on them with their professional staff. We make recommendations and communicate, but they are working on things, too, and there are many things that they may make determinations on that we wouldn't even be aware of because, perhaps, the person had not even come to Grievance Day. They may have had someone else file it for them or an attorney filed it, so, there are many things going on simultaneously. It is a joint effort, but it does come back to the Village because we must accept it for our purposes of our year that we do, which includes setting our tax rate.

Mr. Palmer asked if a decision of the Board of Review of the Village would be only a recommendation for further determination by the assessor in the Town and is not a decision that is actually determinative.

Mrs. McGinnis said that the Village is not the sole assessor, the Town has the sole assessor. We are not assessors, so it has to be signed off by the Town. The Village could not make a change that wasn't approved by the Town assessor, and in most cases the Town is making the change because they are reviewing things and they work with their modeling formulas and they have all sorts of things. We could never say someone is assessed at two million, but we think it should be down to a million five. They would say thank you for your input and they will look into it.

Mr. Palmer asked if our Board recommends it to them and then it will come back and then the package will be ratified, if that is the proper term, by the Board of Trustees.

Mrs. McGinnis responded that this was exactly right.

Trustee Tucker added that this also goes into what Mr. Speir had asked regarding if we were to go the route of just letting the Town be the sole assessor, we wouldn't even be able to make recommendations, so residents would have to go to the Town only and we wouldn't be able to interject at all.

Mr. Palmer felt the Village, being more local, it should be obvious to everyone that they may have better information than the Town assessor.

Mrs. McGinnis added that the Village was not doing the tax certioraris, the Town is doing them, their assessor.

Mr. Speir said that Mr. Palmer raises a question that Mr. Bishop gave a very interesting answer to and he was wondering if, pursuant to the conversation colloquy that Mr. Bishop and Mrs. Levan and Mr. Victor Levy had during this period at last month's meeting and they discussed the need to perhaps review or revisit the Village code of ethics, which he did not feel had been touched in a number of years, if this was something that might be incorporated into that review.

Mr. Bishop responded that he thought it could be and not only with respect to this, but other issues of conduct as well. He said that obviously, his recommendation, he said it would be up to the Board of Trustees, but his recommendation would be a more stringent amendment to the Code of Ethics as presently exists, something in line with the Town of Southampton, but the answer was yes.

Carol Matthews, 61 Brittany Lane, said she had lived in Westhampton Beach for twenty-two years now and asked the Board if they were under a contract with the Town of Southampton to do the assessing.

Mrs. McGinnis responded that we pay a comprehensive fee for the computer's integrated govern system which has the tax assessing. We pay a small fee, \$12,225 this year, and that is our agreement with them. We use that system, it is invaluable to the land use and planning, it is integrated with our assessing and all of that is provided to us, the GIS is provided and the equipment is provided.

Mrs. Matthews said there were no problems with the Village's assessment before, until the Town was ordered to do 100% assessment by the Supreme Court.

Mrs. McGinnis said that was correct. She said that before that, for the ten years that she was here prior to that, there were some years our assessed value even went down, there were very little fluctuations in the overall value of properties in the Town.

Mrs. Matthews thought that under the state municipal law that the Village Board of Trustees is your assessment board. In the Village's case, you are not, because you are using the Town assessors. She always understood that this Board of Trustees was always the Board of Assessment, they are allowed to do it by state law. She felt there was nothing that would have to be covered under ethics law, as far as she could see.

Mr. Bishop explained that what Mr. Speir was discussing was an update of the Village Code relating not only to taxation issues, but other possible conflict of interest issues. We are not talking about a conflict of interest with respect to tax assessment, really, so much as we are talking about implementing a system which Mrs. McGinnis and he have been discussing, to make sure that all t's are crossed and i's dotted, which we did not have before in the Village.

Mrs. Matthews asked if there was any possibility that the Village would consider hiring a part-time assessor to do their own assessing. She felt that was the beauty of being an incorporated village, you control your own government. She said that in the Village you have your residents running out there to Southampton Town complaining, you have to listen to them because they are your taxpayers. She asked if they would please think about that. She said they would only need a part-time resident, you don't have that big of an area, an assessor is very knowledgeable about land values, building values, construction, he has to have all that knowledge. She said she was not saying that the Board did not have that knowledge, but she felt they would have to call on the Village Attorney a lot to make some decisions. She felt that once you try it, everything stays here in the Village where it should, it's your Village government.

Mrs. McGinnis remarked that the Town has trained professional assessors. The assessor in the Town is a state certified sole assessor and they have a tremendous infrastructure of computer records and modeling and a lot of things that at this stage of the game for the Village to try to replicate that would be a lot more complicated than just hiring a part-time assessor.

Mrs. Matthews said she understood that, because they are very expensive as far as the salary, but there is an avenue because there are a lot of retired assessors looking for part-time work.

Mrs. McGinnis responded that the Village did hire one as a consultant for Grievance Day and he did advise them. She said that Mrs. Matthews was talking about the Village tax bill which is a very small part of the overall tax burden for Village residents. For their

school tax and everything else, the Town's assessment is what is getting used, so she was not sure when you look at it in a more global way as far as the impact on a homeowner versus the cost that would be added to the Village budget, if it would make sense.

Mrs. Matthews felt it would definitely be a big step and in the beginning maybe a costly one, but to look at the end picture, she felt it would be so much better for the Village taxpayers to have to go to one place and make a complaint.

Mrs. McGinnis said they will still have to go to the Town because they will still be very concerned about their school, library and everything else that would be based on the Town's assessment. She felt it would not be quite that simple for them because they would still come to us and then they would still have to go there and now you are talking about possibly two different figures, so they have to get appraisals, etc. That is what used to happen before the Village went into the Town system. She said that all of the villages on the east end are using the Town's assessments, even Easthampton Village is one of the few villages that doesn't do anything. They don't hold a Grievance Day, so the trend is really not to go back to what we had in the eighties and seventies, but to continue with this comprehensive program.

Mrs. Matthews complemented Mrs. McGinnis on the knowledge she has in running government. She felt this Village has a big asset with her.

Mayor Teller asked if anyone else would like to address the Board. There being no further response, a motion was made by Deputy Mayor Kametler at 8:05 p.m. to adjourn the meeting to Executive Session. Seconded by Trustee Levan and unanimously approved. 4 Aye, 0 Nay

Respectfully submitted,

Christine Owen
Deputy Clerk