

The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Thursday, April 3, 2008 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.

Public Hearings:

St. Marks Church Special Exception – install antenna existing steeple

John Coughlin, from the law firm of Munley, Meade, Nielsen & Re, said he was here on behalf of the applicant Omnipoint Communications, Inc. He explained that they seek Special Exception Permit approval from this Board for the installation of three public utility wireless telecommunication antennas which will be located at St. Mark's Church, 40 Main Street. He said that currently there is already a Cingular facility in the church tower. This facility will be immediately above where Cingular is located. The antennas will be stealth material in the steeple. You won't notice the antennas. The equipment will be located in the basement. He submitted copies of the decisions permitting Cingular's approval. Additionally, he submitted a copy of the decision of the Planning Board determination approving the site plan. He said that Omnipoint is licensed by the FCC to construct and maintain wireless telecommunications systems throughout New York State and Suffolk County and Omnipoint is considered a public utility for purposes of zoning. Omnipoint strives to provide reliable service in its licensed areas and at present is not able to do so. If permitted to establish this site, they will be able to provide coverage to much of Westhampton Beach. The services provided by Omnipoint benefit the community and are particularly helpful in times of emergency when regular phones are not available or do not work. The proposed site will be unmanned but will be monitored remotely on a continuous basis twenty-four hours a day, three hundred sixty-five days a year. Additionally, engineers will visit the site periodically to perform routine maintenance jobs. The power transmitted by the antennas is very low. He said it should be noted that the Telecommunications Act of 1996 preempts state and local governments from the regulation of the placement of antennas on the basis of environmental or health effects. That being said, they have an expert present who is prepared to report, it was part of their initial application packet, who has analyzed the combined radio frequency emissions of the existing Cingular antennas and also that of the proposed Omnipoint antennas and the total worst case scenario emission would be approximately two and a half percent of a one-hundred percent limit. He said that because the site will be invisible from an engineering and planning standpoint, the proposed site is ideal and if approved it will allow Omnipoint to provide coverage to much of the Village. He said that as is customary, he had several experts present today. However, considering the nature of this application, with the Board's permission, he wished to submit the reports and affidavits in lieu of full testimony, give the Board a chance to review them and if they have any questions, he can bring each one up.

Donald Cayea, 208 Dune Road, asked what could be done to provide coverage to all of the Village.

Mr. Coughlin said they were somewhat limited in that way because they were trying to use an existing structure and keep it hidden from view. They are limited to height and

scope of the propagation. If they were to build a much higher pole in the middle of the Village, they might be able to cover the entire Village, but considering how nice an installation this is going to be, this is as good as they can do. He said that Omnipoint may in the future try and analyze what else they can do to provide service to the remainder of the Village, but considering the location and the way the Village is laid out, much of the Village is going to receive coverage from that site.

Mark Raynor, 35 Bridle Path, asked how many more antennas could be put up there.

Mr. Coughlin said he did not know. It would probably take an architect or an engineer to figure out if anyone else could fit in the steeple. The folks that work for Omnipoint did the determination to analyze whether they could fit above where Cingular is presently located. He said they made that determination if they could fit behind the steeple, but he did not know if there is room for anyone else to go up there. He said if anyone else wanted to, they would need to come back before the Board and put together their application and present it.

Mr. Cayea asked what their experts had done to make sure that the whole Village would get coverage, had their engineers done any studies to make sure that the whole Village could get coverage given the existing structure.

Mr. Coughlin reiterated that the entire Village would not get coverage from this site.

Mr. Cayea said he knew that, but he wanted to know what they had done to determine why that can't happen.

Mr. Coughlin responded that by nature of the antennas and the power they emit, they are somewhat limited in the amount of coverage that each site can give. He said that because this is a co-location at an existing facility that is hidden, they think this will provide coverage for much of the Village, but Omnipoint will search for other such locations within the Village and surrounding the Village to see if they can provide the additional coverage that will serve the rest of the Village of Westhampton Beach, but at present this is what is proposed.

Mr. Cayea asked when this would happen.

Mr. Coughlin replied that he had no idea. He then submitted a planning report prepared by Erin Duffy from Freudenthal & Elkowitz. He said this report, based on the nature of the installation will be completely invisible, Ms. Duffy has concluded that there will not be a substantial change to the character of the neighborhood and it won't have a significant impact from a planning standpoint. Additionally, he submitted an affidavit and some maps that show the coverage that currently exist in the Village and the coverage that the proposed site will provide and composite coverage of the Village. The affidavit is signed by Mitchel Baum and explains Omnipoint's need for this site.

Irene Barrett, 1 Notamiset Road, Quogue, asked how tall this was.

Mr. Coughlin said the steeple to the top is 82 feet, give or take. The center line of the antennas once they are installed will be right around 57 feet. The current Cingular antennas are at 48 feet, so it will not increase the height of the steeple. He then submitted a report from Dave Collins, an engineer whose firm did the analysis of the FCC compliance. Additionally, he submitted a report from Michael Lynch, a licensed real estate appraiser. He said that based on the nature of the installation, Mr. Lynch has concluded that there will not be an effect on real estate values because the site will be invisible and he has some studies in his report that support his conclusions.

Village Attorney Hermon Bishop summarized the application by saying that the applicant was placing an antenna in the steeple where it will not increase the size. The structure will not be visible and the submission he has given today also addresses that.

Trustee Tucker asked if the company was sold to another company, would it then get re-reviewed.

Mr. Coughlin stated that he did not know. He said it was a little bit more involved because Omnipoint has a specific operating license from the FCC, so if someone were to go up there and try and use the existing equipment, it might not work because they would not have the same frequency to operate on. He felt there would be more to it than just coming to this Board for additional review. They probably would have to get through the federal government first.

Trustee Tucker asked if all of the equipment was going to be inside of the building with nothing else outside on the grounds, no other generators or boxes.

Mr. Coughlin said that everything would be inside.

Ed Dean, 103 Oak Street, asked what the church realized from this monetarily.

Mr. Coughlin stated that he did not know the exact numbers. He did not have access to the lease, but he did know there was a lease and they would be receiving something.

Mayor Teller asked if anyone else would like to address the Board.

Motion by Trustee Tucker:

RESOLVED, that the attached Special Exception Determination to construct, operate and maintain a public utility wireless communications antenna at the premises located at 40 West Main Street (St. Mark's Church), is hereby approved.

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

30 Old Riverhead Corp. Special Exception –convert 2nd fl. Storage to apartment

Jim Hulme, Kelly & Hulme, P.C., 323 Mill Road, appeared for the applicant. He explained that essentially all they were doing is taking an existing second story approximately 600 square foot storage space above Angelo's Autoworks repair garage on Riverhead Road and converting it into a one bedroom apartment. Provisions for this are provided for in Section 197-40.1 of the Village code which allows for one and two bedroom apartments above existing businesses in the B-1 and the B-2 by Special Exception Permit. He said they had been through Planning Board site plan review and had approval there. They received Health Department approval last year. He said they did have to take a little detour to the Zoning Board of Appeals because they were one parking spot short of what was required, but the Zoning Board granted the necessary variance to relieve them of that obligation. He believed the parking fee has already been paid relative to this matter and they were back before this Board for the Special Exception approval concerning this matter. He said if you look at Section 197-80 of the Village Code it goes through a whole series of factors that they were to consider in whether or not they are to grant this application. He said the overriding interest here is in providing the Village additional residential space. He thought that was why the law was adopted, to allow these apartments above businesses and that is really all they are looking to take advantage of.

Ed Dean, 103 Oak Street, asked if it was up to code.

Mr. Hulme responded that it will comply with all of the code requirements before they get a Certificate of Occupancy.

Mr. Dean asked if they still store oil down there and if there were enough sprinkler systems.

Mr. Hulme replied that there was oil down there and they had met all of the requirements of the fire code and fire separation, fire safety and all of that has been reviewed through this process.

Mr. Dean asked if they give a Special Exception, does any liability come back to the Village if something happens down there.

Mr. Hulme said he was not aware of any liability to the Village. This is still a privately owned property that was a privately managed facility and the Village is only doing the ministerial things that they do with all of the applications that they receive such as building permits, etc.

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

Motion by Trustee Birk:

RESOLVED that the attached Special Exception Determination to convert a second floor storage space to a 600 square foot one-bedroom apartment at the premises located at 30 Old Riverhead Road, is hereby approved.

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

Local Law 5/2008 Amend Code Chap. 197 Design standards multi-family

Mr. Bishop explained that this proposed local law would implement design standards in multi-family dwellings in the Village and also provide affordable housing in each development based on the density. There is a change or typographical error in Paragraph W with respect to the exemption as to this law to certain applications. Any application which was filed with the Village prior to January 1, 2008 would be exempt from this section.

Mayor Teller asked if anyone in the audience would like to address the Board regarding this issue. There being no response, he made a motion to close this public hearing. Seconded by Deputy Mayor Kametler 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 the 6th day of March, 2008 and the 3rd day of April, 2008, to hear all parties on a proposed Local Law entitled "A Local Law amending §197-1, Definitions, and adding §197-80.3 of the Code of the Village of Westhampton Beach to provide special exception standards for multi-family residential developments," 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, the 6th day of March, 2008 and the 3rd day of April, 2008, 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 of the Environmental Conservation Law (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 an

Unlisted Action, which action is not expected to result in any significant adverse environmental impacts, and,

WHEREAS, the Village Board has prepared an EAF Part II, in considering the magnitude and importance of each impact, and finds that no further environmental review is necessary, and accordingly ADOPTS the NEGATIVE DECLARATION prepared herein, and

WHEREAS, pursuant to §239-M of the General Municipal Law, the Suffolk County Planning Commission and applicable municipalities have not identified any significant county-wide or inter-community impacts associated with the proposed Local Law, 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. 5/2008, entitled "A Local Law amending §197-1, Definitions, and adding §197.80.3 of the Code of the Village of Westhampton Beach to provide special exception standards for multi-family residential developments," 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 Levan and unanimously approved. 4 Aye, 0 Nay

Mark Raynor asked if the change Mr. Bishop had mentioned was advertised.

Mr. Bishop responded that it was not advertised, that it can be done by affidavit and that is how this was done.

Mrs. McGinnis advised that the change was put on the Village website and would be re-advertised now that it is adopted.

2008-09 Tentative Budget

Mayor Teller explained that the Board's 2008-09 budget was proposed with total expenditures increased by 1.5%, estimated revenues down 1.5%, the real property tax levy was up 2.43 per cent, the assessed valuation is up 2.71% and the tax rate is 2.3965, down by 2.7%. He asked if anyone had any questions.

Dean Speir, 256 East Main Street, commented that it was a step in the right direction.

Mark Raynor, 35 Bridle Path, asked if this was on for a vote tonight.

Mayor Teller said they were holding the public hearing right now.

Irene Barrett, 1 Notamiset Road, Quogue asked how many full-time and part-time policemen are in Westhampton Beach and how many hours do they work.

Chief Dean responded eighteen full-time and seven part-time. He said the part-timers work off season approximately twenty hours a week. He said they work part-time year round.

Mark Raynor said that on page 1 there is \$30,000 for the repair to the DPW Barn. He said that was a brand new building and asked if this was for something different.

Mayor Teller explained that it was to bring the electric up to where it needs to be and for a generator.

Mr. Raynor asked if under the police budget, the savings of \$10,000 in the overtime line was because of the new schedule or is that just being cut.

Mayor Teller said it was just being cut.

Mr. Raynor asked if the dispatcher's salary line was for three full-time, or for two full-time and one part-time.

Mayor Teller stated that it was for three full-time dispatchers.

Mrs. McGinnis added that the third dispatcher was being phased in.

Mr. Raynor asked how the salary line for the police decreased when they are under contract.

Mrs. McGinnis explained that they received their contractual raise, but the reason there is a difference is because there are two officers retiring, one taking effect in June and one that will take effect next February.

Mr. Raynor felt their whole salaries should be taken out, not just \$8,000. He said the difference in these two numbers is \$8,000.

Mrs. McGinnis said they were taken out. We would have had an increase because the salaries went up by 4.15%, but because you are subtracting two salaries less than you had in this fiscal year the total number for salaries is less, but the remaining salaries are no less.

Mr. Raynor said there was an increase for part-time salaries in the Highway Department. He asked how many more people we are hiring for \$27,000.

Mrs. McGinnis responded that there were two people working part-time for six months.

Mr. Raynor asked if the Village was not doing any new projects under Permanent Improvements.

Mayor Teller said they were going to do Seafield, the parking lot and the toddler park this year, that is all the money the Village has for that. They are not getting any money from Albany this year, so most of that is going to rebuild Seafield.

Mr. Raynor asked what about the CHIPS money.

Mrs. McGinnis said they had listed Seafield with the drainage on the CHIPS, because we will get a partial reimbursement from the state on that. On Permanent Improvements, we have repaving of Sunswyck and various drainage throughout the Village. The reason it was a higher number last year is because they had put in Seafield with the anticipation that they were getting a multi-modal grant, which they didn't get. So, they were going to do it this year, but were going to use an offset for it from CHIPS.

Mr. Raynor asked regarding the beautification budget on page 6, where it lists equipment, if that wasn't technically still under the Highway Department and wouldn't that increase their budget. He felt it was the same crew, but it was just being divided up and that equipment was technically going to the Highway Department.

Mayor Teller said it was just being divided so you knew what the beautification was costing.

Mr. Raynor asked about whether the sales tax revenue on page 9 was a high "guesstimation" or a low "guesstimation". He said he knew the Town was having a problem with their sales tax and what they are going to get in.

Mrs. McGinnis explained that the Village had just received their check for this year, it was late, for \$60,555, so she had kept it the same level of funding for next year. She said she had not increased it, although the discussions with the County and the committee that is going to be formed to work on this issue, project that there will be an increase in funding. She said it was a "guesstimate", but she felt it was conservative to put the same exact figure that we had just received.

Mr. Raynor asked regarding the interest on page 10, the earnings on the money market, was just from changing money from one account to another.

Mrs. McGinnis said that was correct. We had moved to a different account and rather than confuse things, to keep it consistent, we have less money in one account and a lot more money in the other account and that is why there is a greater amount of interest. It is just switching it around, we shop for higher rates of interest.

Mr. Raynor asked if the Village spent any of the building repair reserve money and if not why was it increased to \$150,000 for it to just sit there.

Mayor Teller explained that they were doing like the Fire Department does, building a surplus fund.

Mr. Raynor asked why out of that \$150,000 why couldn't that \$30,000 they were using on the Highway Barn be used and \$30,000 be kicked back to the taxpayers.

Mayor Teller said because they had taken it for this building.

Village Attorney Hermon Bishop explained that this was establishing a reserve fund for any kind of capital improvements on any Village property.

Mayor Teller said they would see if they could use it for that.

Mr. Raynor asked if there was a cap on this or if it was just up to the Board.

Mayor Teller said it was up to the Board.

Ms. Barrett asked how many hours of overtime the police have under this \$75,000.

Mayor Teller said it would vary with the particular salary of the individual that earns the overtime.

Mrs. McGinnis said it was not actually \$75,000 this year, it was \$65,000.

Ms. Barrett asked what the public safety dispatchers were.

Deputy Mayor Kametler said they were the radio operators.

Chief Teller said they were the ones who answer the phones and dispatch the radio for the Police Department.

Donald Cayea, 208 Dune Road, asked if someone would explain the litigation budget. He felt it was 1% of the total amount of the proposed budget. He asked what that generally involves, the \$300,000 that the Village spends on litigation.

Mayor Teller said that would be spent on the zoning cases, there is one now where someone is encroaching upon our property and we have a lawsuit on that. He asked Mr. Bishop what other cases were pending and how many cases were pending.

Mr. Bishop said the asphalt case is still pending, there are several Article 78 cases pending. He said there were about seven cases pending.

Mrs. McGinnis said the Village also gets tax certioraris through the year and this funds for that, too. She said the number had actually gone down to \$275,000.

Mr. Cayea asked what was actually being done by the Village to contain these costs, was there any audit review of the bills or any measures that are taken to see if these matters can be settled without running up legal bills.

Mr. Bishop stated that if they could settle them, they would settle them. He said they had just settled one recently.

Mr. Cayea said he was very encouraged by that. He asked if Mr. Bishop encouraged dispute resolution and things like that to try and bring resolution.

Mr. Bishop said he had not seen any go to judgment yet. If there is an Article 78 on a zoning matter, we generally know what the Zoning Board is looking for and they usually come back to the Zoning board and present it to be more conforming to their wishes and also state law.

Mr. Cayea said that what he was hearing was that the Village wants to take a position with people that are involved adversely to try to bring together and settle these disputes and try and reduce the legal fees from \$300,000 to some lesser number.

Mr. Bishop said if the representatives of the Village can resolve a case, they will resolve the case. He said it is up to the Zoning Board, as well, or whatever Board we are dealing with.

Mr. Cayea said that was an Article 7. He was just trying globally to get a sense of what the Village does to contain legal costs. He said it might be necessary, some people don't want to settle.

Mr. Bishop said he did not know of any legal costs the Village has incurred that are unnecessary.

Mr. Cayea said he was not suggesting that there are. He was just asking what procedures are done to try and avoid escalating costs and he thought Mr. Bishop had answered that question. He asked if there was any attempt at cost containment, like review of bills or memos or questions asked of bills submitted.

Mr. Bishop said that all of those bills are reviewed and the attorneys of counsel are billed at a very low hourly rate.

Mr. Cayea said he was aware of that. He said that what Mr. Bishop was saying was that when bills are submitted they are reviewed and if there are questions, there are memos that are asked about those bills.

Mr. Bishop replied that was correct.

Mr. Speir asked if there was not a police matron anymore.

Mayor Teller responded that they had not spent the money in three years.

Mr. Speir asked what they would do if they needed a police matron.

Mayor Teller said they would get one and pay her out of another line.

Mr. Speir asked if the Police Department had a list of matrons to call on.

Chief Dean explained that if they have a female prisoner, they will seek that from another agency.

Mr. Speir asked about the public safety dispatcher's personal service going from \$166,192 to \$183,250. He wanted to know if that was simply moving from two full-time and one part-time to three full-times.

Mayor Teller said that was correct.

Mr. Speir asked with benefits involved, what does that bring the cost of the public safety dispatchers to the Village for the year. He asked if the benefits were included in the personal service figure.

Mayor Teller said the medical is separate.

Mr. Speir asked what the cost was for the medical and dental and such.

Mrs. McGinnis responded that the cost of a single person for an individual under the health insurance plan, we are in the NYS plan, the Empire Plan, it is \$7,108.56. For a family plan, if there is a married employee, it is \$15,105.36. The cost of the medical would be under employee benefits. That is not included in a salary line.

Mr. Speir said they were talking about \$210,000, roughly, for the cost of the police dispatchers for the next year.

Mayor Teller said with all of the "bennies", that was correct.

John Roland, 291 Dune Road, thought that it seems to him with the economic times we are going through and the Village businesses, why were we not spending a penny for publicity for the economic development for our Village.

Mr. Bishop said the Village cannot spend taxpayer's money for commercial matters.

Mr. Roland said he was talking about promoting the Village in general.

Deputy Mayor Kametler said the Chamber of Commerce is involved in that. He told Mr. Roland to look around this Village. He said we have a beautiful roundabout and he thought the Village looked pretty good.

Mr. Roland said he was absolutely right, but he was talking about attracting more visitors.....

Deputy Mayor Kametler asked if Mr. Roland felt it was the Board's responsibility to attract people to come out and visit. He felt that was the Chamber of Commerce who should be doing that. He said the Board was doing everything they can, they kept the budget down right to bare bones trying to save the taxpayer's money.

Mr. Cayea asked if the issue hadn't come up years ago when Sharpton had come, hadn't the Village hired Rubenstein as a publicist when Sharpton was out marching up and down the street with the Marakesh.

An audience member commented that we had hired Rubinstein. She said that Sharpton had come out here and churches and the synagogue had gotten involved.

Mayor Teller and Mrs. McGinnis both responded that the Village had not hired him.

Deputy Mayor Kametler asked if that was over the Shane Daniels incident.

Mr. Cayea responded that it was, subsequent to the incident, he had the march.

Mrs. McGinnis recalled that there was a non-profit group, a consortium that did that. She thought she was with the Village at that time and she did not recall any resolution hiring Mr. Rubenstein, nor did she recall any payment to him. She thought there was a

group that got together and that was how that was done. It was not Village funds. She said there would have had to have been a resolution for that to happen.

Mayor Teller said he did not remember the Village hiring anyone. He remembered Al Sharpton coming here, but did not remember hiring anyone.

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

Motion by Trustee Levan:

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 3, 2008; and therefore be it

RESOLVED, that, without further change, alteration, or additions, the Board of Trustees hereby adopt the 2008/2009 fiscal year tentative budget in its current form.

Seconded by Deputy Mayor Kametler 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 Board of Trustees meeting of February 7, 2008 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 February 2008, Justice Court, Police Department and Building Inspector reports for March 2008, are hereby accepted.

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

Accept final assessment roll received from Town of Southampton

Motion by Deputy Mayor Kametler:

RESOLVED, that the final assessment roll for the Village of Westhampton dated April 1, 2008 provided by the Town of Southampton Sole Assessor and the minutes of the February 19, 2008 Village Grievance Day are hereby accepted.

Seconded by Trustee Birk and approved as follows:

Trustee Birk	Abstain
Deputy Mayor Kametler	Abstain
Trustee Levan	Aye
Trustee Tucker	Aye
Mayor Teller	Aye

Approve renewal of outdoor tables permit @ Funcho’s Fajita Grill

Motion by Trustee Levan:

WHEREAS, Funcho’s Fajita Grill has applied to renew the Outdoor Tables and Chairs Permit to place five (5) outdoor tables and twenty (20) chairs pursuant to Section 197-76 of the Code and

WHEREAS, there were no incidents or reports filed with the Police Department concerning said use, and therefore be it

RESOLVED, that the Board of Trustees hereby authorizes the placement of outdoor tables and chairs as shown on the original plan and subject to the same set of conditions.

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

Authorize purchase of ICOP Digital video system for PD vehicles

Motion by Trustee Tucker:

RESOLVED, that the Board of Trustees hereby authorize the purchase and installation of three (3) ICOP Model 20/20W In-Car Systems from ICOP Digital, Inc., a sole source vendor, for the Village Police Department at the total cost of \$16,543.98.

Seconded by Trustee Birk and approved as follows:

Trustee Birk	Nay
Deputy Mayor Kametler	Aye
Trustee Levan	Nay
Trustee Tucker	Aye
Mayor Teller	Aye

Authorize purchase of En4cer Web System software for PD

Motion by Trustee Birk:

RESOLVED, that the Board of Trustees hereby authorize the purchase and installation of a customized Incident Based Reporting Module from En4cer Web Systems for the Village Police Department at the total cost of \$13,040.

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

Authorize payment of legal expenses for the Public Safety Sales Tax lawsuit

Motion by Deputy Mayor Kametler:

RESOLVED, that the Board of Trustees hereby authorize the payment of legal expenses related to the Public Safety Sales Tax lawsuit against Suffolk County in an amount not to exceed \$5,000.00.

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

Authorize Stipulation of Discontinuance- Public Safety Sales Tax Revenue lawsuit

Motion by Trustee Levan:

RESOLVED, that the Mayor is hereby authorized to execute a Stipulation of Discontinuance of the Public Safety Sales Tax lawsuit against Suffolk County.

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

Authorize settlement of Devost claim

Motion by Trustee Tucker:

RESOLVED, that the Mayor is hereby authorized to execute the attached Stipulation of Settlement and to issue payment of \$1,329.91 to Stan Devost in reference to a property damage claim.

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

Appoint School Crossing Guard

Motion by Trustee Birk:

RESOLVED, that John F. Moraldo is hereby appointed as a School Crossing Guard to work as assigned by the Chief of Police and to be compensated at the rate of \$10.00 per hour.

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

Refer Ince Painting Special Exception Application to Planning Board

Motion by Deputy Mayor Kametler:

RESOLVED, that the Special Exception permit application submitted by Ince Painting to convert the premises located at 183 Montauk Highway (SCTM# 905-5-2-14) from a retail office to a construction office, is hereby referred to the Planning Board.

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

Trustee Tucker said that this is a matter that comes before this Board that has been to the Planning Board already. He wanted to be clear about what they are asked to do on this. He thought that because it is a Special Exception application in a zone that permits it, a Special Exception, it needs to go back to the Planning Board for approval.

Mr. Bishop responded that this was correct. He said they would be referring this to the Planning Board for their determination and the Planning Board would be making a recommendation as to its denial or acceptance and also they would be doing any site plan work that was needed, as well.

Approve April 2008 warrant

Motion by Trustee Levan:

RESOLVED, that the warrant for the month of April 2008 in the amount of \$221,769.07 for the General Fund is hereby approved.

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

Public Discussion

Mayor Teller asked if anyone would like to address the Board.

Dean Speir asked if the sales tax law suit was kind of a \$5,000 crap shoot.

Mayor Teller responded that this was a Schneiderman thing and anybody that signed onto the lawsuit they withheld their money, until the lawsuit was withdrawn they held it hostage. He said that everybody else got paid. The Village just got their money yesterday - \$90,000.

Mr. Speir asked if we spent \$5,000 and got back \$90,000.

Mayor Teller explained that we spent \$5,000 to join the lawsuit. A group that was going to join, did not join and ultimately the County played hardball. They were going to pull the section of law that was in the charter which was negotiated years ago, which was the basis of the lawsuit, they were going to pull it so that eventually nobody would get any money. That would include Southampton Town, Easthampton Town, so it got to be a dogfight.

Mr. Speir asked what the Village had realized from all of this.

Mayor Teller said that all we were doing is getting back to the table and having discussions with the County.

Mr. Bishop said that the problem is you have supposed to be shared through the municipalities based on population. As it stands now, the East End towns receive around 4 – 6% of the public safety funds. The purpose of the lawsuit is to attempt to have the east end get their fair share of the revenues.

Mr. Speir asked what the Devost claim was.

Mr. Bishop said the Devost claim was a personal property claim from the operation of a vehicle by a municipal employee causing damage to a resident's vehicle.

Mr. Speir asked what department that was.

Mr. Bishop replied it was the Department of Public Works.

Richard Haefeli, representing the Hampton Synagogue, wished to discuss with the Board the proposal to establish the eruv in the Village and give some professional comment regarding specifically the things that will designate the area an eruv. He said that at the last work session he had brought in a piece of board and he did not feel it went over too well with anybody. Since that time, they had gone and done further investigation and had pictures of what they had done with an eruv in upstate New York. He said he understood that Stony Brook had just adopted an eruv and they have a very small black piece of plastic that they are affixing onto the telephone poles. He said they will contact the people that established this in Stony Brook to find out where they got this plastic from and this is what they will use on the telephone poles. He said if they use something like this, they will be indistinguishable from any of the other items that are on the telephone poles, so 99% of the people will not even know that it is there for this specific purpose. He said he hopes this would allay people's fears as to the look. He felt the aesthetics was what the issue happened to have been. He thought that by using something of this nature, the aesthetics will be improved dramatically so that when it is established most people won't even know, a lot of orthodox Jews won't even know.

Ed Dean, 103 Oak Street, asked if they would agree to using this type of material.

Mr. Haefeli said yes, this is a plastic material. We will agree that this is the type of material that we will use to affix to the telephone poles.

Mr. Bishop asked if they had gone over this at a hearing before.

Mr. Haefeli said they had not done so at a public hearing, but they had gone over it at two of the work sessions. He said the whole purpose of the eruv is an area, a boundary line within that area which permits members of the orthodox community to do certain things they are not otherwise authorized to do on the Sabbath or on other Holy holidays. They can neither push or carry things. Basically, it would allow young families to have their children go to the synagogue on the Sabbath, without it, it may be difficult for them to attend. It would allow elderly people to use a cane or some other implements that they need to walk to get to the synagogue where otherwise they would probably be unable to go to it. It is simply for the purposes of allowing those sort of items or sort of functions to take place on the Sabbath or on other Holy holidays. In order to establish it, since it is on the public property, we need the authorization from the local municipality, in this case the Village. Once you grant that, grant us the right to carry and to push, we then have to contact either LIPA or Verizon, whoever owns the telephone poles, and then enter into a contract with them to affix these to the telephone poles, provide them with insurance so that in the event anything occurred that the insurance would cover LIPA or Verizon, whoever it happens to be. He said he understood that the one in Stony Brook went up with no problems and everybody is very satisfied with it. He thought the Executive Director of the synagogue, Sam Nussbaum contacted LIPA and they said it went very well, there were no problems with it at all.

Trustee Levan said the confusion was that it kept changing, what was going to be done. The original presentation was a 12 inch piece of wood and then it became a 7 foot piece of wood. She said she gets that and she now is getting two other versions.

Mr. Haefeli said the picture shows it from the ground up, just underneath the lowest wire.

Trustee Levan said she sees that, but one of these versions shows that you use two and one versions shows that you use one and then it depends on if it goes on every pole based on the poles and how they fit on the road. She asked if she was correct.

Mr. Haefeli responded that his understanding was after speaking with Sam, the one that shows two is on there because there is a change in direction. Whenever you have a change in direction, you have to have one. If you have a pole that has two changes in direction, you would have two of them. If it goes in a straight line from point A to point B, there would be no attachment to any of the intervening poles unless there was a

problem with the pole. If the pole is leaning over or something, or the wires are leaning over, then on that pole they would have to put something.

Trustee Levan asked if this was done at the work session in a couple of weeks, he would be able to tell the Board exactly how it is going to be done and where.

Mr. Haefeli said he could.

Trustee Birk asked if what they were looking at here wasn't just having the Village of Westhampton Beach state that they were acknowledging the legitimacy of an eruv in the area, in the Village.

Mr. Haefeli stated it would grant them the symbolic right to have an eruv. It is symbolic, everything regarding an eruv is symbolic in this country. If you go to Israel they have physical, large structures that designate an eruv. In this country, they use the electrical lines and the telephone poles to designate the area of the eruv.

Deputy Mayor Kametler asked if Mr. Haefeli had said that they need an insurance policy to install it.

Mr. Haefeli said no, anybody that is going to affix anything to a LIPA pole, LIPA is going to require insurance, so that if something goes wrong they have the insurance to look to.

Deputy Mayor Kametler asked about the installation, if they need insurance while they are putting it in.

Mr. Haefeli said they would have to have the insurance with LIPA. It has nothing to with the Village. It is strictly LIPA. He said they would not be able to put a thing up on any of these poles without signing an agreement with LIPA and LIPA is going to require them to have insurance.

Sam Nussbaum, the Executive Director of The Hampton Synagogue, explained that there would be a representative from LIPA and from Verizon to watch the installation. The person who installs it is licensed to do that installation and the Rabbi will be there.

Deputy Mayor Kametler asked if there was a committee from the synagogue that monitors this whole thing.

Mr. Haefeli responded that on every Sabbath a Rabbi has to go around and check each of the poles in the designation to make sure they are up, to be sure that on the Sabbath the eruv is viable and can be used. So, every week it is privately maintained. There is no public monies involved in this, the synagogue or the benefactors or others are the ones who are going to pay for this material, pay for the people to put it up and pay for any of the cost of the expense from Verizon and/or LIPA. There are no public funds expended on this.

Mark Raynor, 35 Bridle Path, asked what they do when there are no poles.

Mr. Haefeli said this has been designated where there is a pole.

Mr. Raynor said that where he lives there are many people and there are no poles on the street.

Mr. Haefeli said that for the time being, they would not be able to establish one up there.

Mr. Raynor said that if they have to walk from his neighborhood to the synagogue and there are no poles, he does not want to envision that next year you are going to come back and say you are going to install all of these poles on his street when it is all underground cable. He said that even the new zoning is going to be underground for multi-family, so where do they put this.

Mr. Haefeli said the answer is that it was designated because the entire area has telephone poles. If they don't have telephone poles, they are not going to be able to do it without coming back and coming up with some other agreement if they can get that.

A member of the audience asked if they had a map of the area they would be doing. She asked if it would be going on to Montauk Highway.

Mr. Haefeli said they would not be going onto Montauk Highway, it would be south of Montauk Highway.

The audience member asked if you wanted your area to be included in this, what would you do.

Mr. Haefeli said they would have to deal with the synagogue and have them come back. He said he had explained to the Board at one time that the synagogue intends to come back in the future to expand this maybe to an area outside of the Village where we would need the approval of the Town. But, for the time being, it was established in an area where there is telephone poles all around to designate. That is the only reason this area was designated.

Ed Dean stated that he had no problem with this, but was curious as to how high they were going to put them.

Mr. Haefeli said it would go from the ground to the lowest electrical line, just underneath the electric line.

Irene Barrett, 1 Notamiset Road, Quiogue, said that Mr. Haefeli said that for the time being it was just going on the poles that we have now. She asked if that implies that they will be putting up more poles.

Mr. Haefeli said he was not implying more poles. He said they had designated this area because the entire area covers an area that has telephone poles. He said he was not about to answer a question as to if you went into Stillwaters where you have underground utilities, if you go up to Bridle Path, whether or not they would even be able to go up there. There are limitations and the limitation is the telephone poles.

Ms. Barrett asked what would happen if other religious groups want to put religious items...

Mr. Haefel said this was not a religious item.

Ms. Barrett felt that to the Jewish community it is a religious symbol.

Mr. Haefeli said it was not a religious symbol according to the Third US Circuit Court of Appeals.

Ms. Barrett said it is a Jewish tradition then, but that this community has a whole orthodox area. She said she had lived in a community like that.

Mr. Bishop said that Mr. Haefeli is correct. It is not a religious symbol, it has religious significance and that is how the court has dealt with an eruv. It is formed by the installation of a structure vertically on a telephone pole and that together with pre-existing wires around the Village, that is the area that consists of the eruv. Under Judaic law, as he understands it, he said he was not a Judaic law legal scholar, but for the last 2,000 years they have required proclamations from the governmental entity that has jurisdiction over that area to give a proclamation that an eruv is permitted. That is under Judaic law, not under state law.

Mr. Haefeli quoted from the Circuit Court of Appeals of the Third Circuit in the Tenafly case where it says, "it serves the purely functional purpose of delineating an area within

which certain activities are permitted". That's it, it is not a religious symbol, it only designates an area within which activities can take place.

Ms. Barrett said that if you look at the symbol, everybody knows in the Jewish community what it is.

Mr. Haefeli said that was not even true. According to the Circuit Court of Appeals, many if not most, Orthodox Jews don't even know where these symbols are unless they are told where they are.

Ms. Barrett said they will be told where they are.

Deputy Mayor Kametler asked if this was based on a lawsuit.

Mr. Haefeli said this was a 2002 lawsuit in Tenafly, New Jersey, which found that the borough of Tenafly could not prevent the.....

Mr. Bishop said that because the municipality failed to equally apply their ordinance relating to the placement of objects on utility poles, then they violated the free exercise clause of the First Amendment, because they allowed some things to be put on poles, like Rotary or Chamber of Commerce, things like that, but they would not allow the eruv to remain on the poles. He said it was an interesting case, it was a 47 page case, it was pretty instructive how it goes into Judaic law and how this law has been in existence and applied for 2,000 years. He said the White House was within the boundaries of an eruv, the Supreme Court of the United States is within the boundaries of an eruv, New York City - he believed the entire east side was within the boundaries of an eruv. He said that every major city, Los Angeles, Philadelphia, Baltimore, Atlanta, Cincinnati, New York, Chicago and many other major cities have eruvs. So, we are not just talking about just little Villages, we're talking about entire portions of cities. He said he thought the problem was that people think it is a religious symbol and the court has been very clear that it is not. It is not much different than a fence or a fenced in area and that is how the Third Circuit Court treated it.

Ms. Barrett said it is not their property.

Mr. Bishop said no, but that is the law.

Mr. Speir said that Mr. Bishop was making a very clear statement here that based on case law it is not a religious symbol. He said he had started something before, but there was some crosstalk and he had not heard exactly all of what he had said, but he thought Mr. Bishop had seemed to indicate it was a device that was allowing a Jewish tradition.

Mr. Bishop said that was correct.

Mr. Speir said in that case he would take the lady's question in a slightly other direction and ask is the Village then establishing a..... He said he had been challenged by a lawyer long distance, he believed Mr. Bishop knew him, Shep Sheinberg, today, challenging him to do some research on this. He said his research suggests that if the municipality is not without a compelling reason to deny it, the municipality in this case would be pretty much obliged to grant this.

Mr. Bishop said that was not correct. He said his reading of the cases, especially the Tenafly case, is the court is not saying in that case that the municipality was compelled to do this. But on the other side of the pancake, the Smith v. the Community Board case, there is nothing that prohibits a municipality from doing this under the First Amendment, under the free speech, free expression provision of the First Amendment. He said the Tenafly municipality really did wrong things, they allowed some secular entities to use the utility poles while not allowing the Orthodox Jewish community to use the utility poles and that was a violation of the First Amendment.

Mr. Speir thanked Mr. Bishop for the clarification on that and asked if the Village were to accede to the synagogue's application here or request, wouldn't that then kind of open up the floodgates should another religious group wish to come in and not use a symbol, but establish a tradition, arguendo, a Muslim community seeking to place foot washing baths at different places in the Village.

Mr. Bishop felt that was a different issue there. He said everything is case by case, but it is all analyzed by constitutional law and there is nothing that prevents different religious organizations from using public property, for example, as long as all of them are able to use it. He said that this is a very specific type of use and it has been established what the use is and it has been established what the use is, it has been very narrowly defined for the last 2,000 years. All it really is, is a ceremonious proclamation under their law, not ours, that permits them so that they are able to deem this an eruv.

Mr. Speir said that was from the point of the people making the application. He was talking about the Village's response to this, the Village's actions in this case, if they were to accede to the synagogue's request, wouldn't the Village therefore be expected to accede to any other secular.....

Mr. Bishop said he did not feel that by making this proclamation the Village would be necessarily acceding to anything or creating any kind of right. He did not feel the Village is bound by anything by reason of this action being taken.

Mr. Speir felt it was a precedent.

Mr. Bishop said it was not a precedent.

Mr. Haefeli said he did not believe it was a precedent, whatsoever. He said it was something that has been in the Jewish tradition for over 2,000 years. All it does is designate a boundary and because it is on public property, you need the approval of the local municipality.

Mr. Bishop said that you need this approval as part of Judaic law.

Mr. Haefeli said that it was also established that the poles are on public property.

Mr. Bishop said that the poles are on public property so you have already granted that, so the real issue is not whether we will allow them to be put on the utility poles, the issue is whether we are going to comply with a religious organization that requires our approval by reason of their law so that they can deem the area an eruv to permit the congregation to do things that they wouldn't be able to do on the Sabbath without having this area designated. As Mr. Haefeli said, pushing, carrying, carrying books, taking food from one person's house to another, all of this can be done in an eruv area, but it can't be done without this ceremonious proclamation.

Mr. Cayea said to take religion out of it because he thought it was a zero sum game. He said that Mr. Haefeli was trying to get something for a client of his to put in some kind, forget the religion, some kind of a proclamation involving the use of public property. Let's say somebody wanted to put gummy bears up on a pole or something like that. He said if he was hearing Mr. Bishop correctly, he was saying that number one, because it involves a public use of a property that the Village is involved but that certainly the same consideration would be given to anyone if they came in and wanted some sort of symbolic designation irrespective.....

Mr. Bishop said that first off, as a matter of law, it is not a religious symbol. Number one, it is not the use of public property. All this is and he asked anyone to correct him if he was wrong and they knew Judaic law,

Mr. Cayea said that was exactly his question. Put the religious aspect out of it. He said it was a zero sum.....

Mr. Bishop reiterated that this was a ceremonial proclamation that permits them to have an area to do things on the Sabbath that they wouldn't have the right.....

Mr. Cayea said they have the right under the First Amendment to, anybody has the right. He said all he was asking is would any person asking for the same kind of relief or the same kind of application that Mr. Haefeli is asking for, be given the same due consideration that is being given here. He said that if the answer to that question is yes, then he does not see the debate, or maybe he is missing something.

Mr. Bishop said that under the First Amendment, we have to treat religious organizations the same, but this is.....

Mr. Cayea interjected that you have to treat everybody the same, not just religious – atheists, flag burners, everybody.

Mr. Bishop said that basically he thought this has been defined as thoroughly as it can be, which is that it is a proclamation that is ceremonial in nature that allows them to do things under their religious law....

Mr. Cayea said it allows those who observe a certain religion in a certain way to do something. He said that was all, he asked if that was all that was being asked for by Mr. Haefeli.

Mr. Bishop responded that is exactly right.

A member of the audience asked if that was the size of the thing, that little piece of plastic.

Mr. Haefeli said that was the width of it. It will go from the ground up to the lowest electrical line. He said you won't even see it. He said you see things like this on telephone poles all over.

Mr. Cayea said that the gentleman to his left had said he had changed his argument from gummy bears to religion. He said he had been using a silly example, in other words, it was symbolic whether it was religious, atheistic or otherwise and a person is asking for permission from a municipality to do something and as long as any person is given equal consideration, then he is just trying to find out why the opposition.

Mr. Raynor asked if this all didn't hinge on LIPA.

Mr. Haefeli said that LIPA was for it. He said they have approved it in numerous places. They just finished doing one in Stony Brook. They are doing one in Patchogue. They did one in Plainview. LIPA doesn't have an objection to it. LIPA works with the people to establish this and he emphasized that you have a ten to fifteen page agreement that you have to sign with LIPA before they will go forward. But, if you sign that and comply with their terms, specifically that you provide them with insurance, they will work with you to have it put on their poles.

Mr. Raynor said that if anyone wants to use their poles, they should go to LIPA first.

Mr. Haefeli said that when the Fire Department puts stuff up on the poles they are supposed to go to LIPA first.

Mr. Raynor said they do.

Mr. Haefeli said they don't.

Mr. Dean asked how many poles they are talking about.

Mr. Haefeli responded that he had been told approximately twenty to twenty-five in total.

Mr. Nussbaum said there were probably thirty to forty. He said you have to put this piece of material on wherever the poles make a turn. Let's say you are going straight down Montauk Highway in a straight line, none of these would be on any of those poles. You have established poles and you have the wires running each way. When you cross over Montauk Highway to the southside, so that pole there and the receiving pole would have to have these wires and they could turn.

Mr. Haefeli said there would be one on Griffing Avenue. There will be one on Oak Street and there will be none on any of the telephone poles in between. When you go down Griffing Avenue, it has to cross over so there will be two way up towards Montauk Highway and then the rest of the way down Griffing Avenue there will be none until you hit Main Street. You are going to go right on Main Street and there will be one there and then when you go down Seafield there is one there and then when you make another turn. That is why he said twenty. If it is thirty, it is thirty, but he emphasized that it is not on every telephone pole.

Mrs. Barrett said it doesn't matter how many telephone poles it is on, it is the designation.

Mr. Haefeli said he respected her opinion, but he also respects the opinion of the courts.

Mr. Cayea said that in fairness, he would tell people that we are not in the Third Circuit, we are in the Second Circuit.

Mr. Haefeli said the Third Circuit case went to the Supreme Court and they refused to hear the case.

Mr. Cayea felt they were saying was that they didn't feel that it was of important enough national interest that they wanted to hear it.

Mr. Haefeli said it was a Circuit Court of Appeals case with a decision where the cert was refused by the US Supreme Court.

Mr. Bishop said there was a New York case on point, Smith v. Community Board, which he had spoken about, that was affirmed by the Appellate Division and that was the Second Department, which is this Department and said that a municipality had the right to make this proclamation and it was not a violation of the First Amendment to do so.

Mr. Nussbaum said the one in Plainview was the Town of Oyster Bay signed by all the councilmen.

A member of the audience asked if anybody had any idea how many people would be partaking of this, how many people would be actually using it.

Mr. Nussbaum said approximately 20% on the weekend.

Assistant Rabbi Avraham Bronstein said that there are many Orthodox families in the area. He said it works on a few levels. In the wintertime, off season, there probably aren't that many that are going to use it. In season there are many residents here that are Orthodox that would be able to benefit from this. There are many people that have children or relatives who are Orthodox, who don't come to visit them over the summer because this is something they have to contend with. He said that if you are a young family with children, you can't push your stroller. If you can't leave your house, you are not going to come out for the weekend to visit your family. So, they will be able to benefit from this as well. Also, in terms of people who come out for the weekend as guests, if he was a young family he would stay at the Grassmere or the Inn at Main, but if I know that my wife wouldn't be able to leave or I wouldn't be able to leave or because we couldn't push our stroller, then we wouldn't come out, so it is going to work on those three levels.

Deputy Mayor Kametler asked if they have the eruv, would their congregation increase.

Assistant Rabbi Bronstein said the point wasn't so much to increase the size of the congregation as it is to make life easier for the congregation that we already have.

Mayor Teller asked if anyone else would like to address the Board. There being no further response, Trustee Birk made a motion at 8:20 p.m. to adjourn the meeting to Executive Session. Seconded by Deputy Mayor Kametler and unanimously approved.
4 Aye, 0 Nay

Respectfully submitted,

Christine Owen
Deputy Clerk