

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

Verizon Special Exception application-install antennae

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

Steven Marks, Amato Associates d/b/a Verizon Wireless, 666 Old Country Road, Garden City, New York, said he was here on behalf of the applicant. He stated that he had a number of experts with him and also had reports with him. He explained that this application involves the property located at 74 Sunset Avenue, which is also known as 14 Brook Road, the corner there. He said they were intending on replacing existing drum antennas on top of the tower and replacing them with six new antennas, much smaller antennas, four foot antennas, and putting some equipment at the base of the tower. They are also doing a number of improvements to the property, which were requested by the Planning Board. In addition to the Special Permit application, they had also appeared before the Planning Board for a site plan application and a referral from the Board of Trustees to the Planning Board in connection with the Special Exception application. They had a number of work sessions with the Planning Board and a work session with the Architectural Review Board and through those sessions we made a number of changes to the proposed plans, including replacing the fence that runs along Sunset and Brook Avenue, adding a wood stockade fence in the back of the property separating the existing parking lot from the neighborhood residents, fixing the dumpster enclosure area by taking away the existing wood stockade fence and replacing that with a chain link fence with green slats through it and adding a great deal of landscaping to the property including three trees on Sunset and a variety of landscaping along the building on the Brook Avenue side. He said they are also putting in an irrigation system to support that landscaping. On top of that, they also addressed some existing structures on the property that do not have permits or CO's and we resolved those issues with the Planning Board. There is a muffler for an existing generator. There was also an issue of noise coming from the existing generator, which we addressed with the Planning Board. Verizon Communications actually came up with a plan to address the noise issue that was coming from their generator and it was accepted by the Building Inspector and Planning Board as adequate to address the issues of noise. He wanted to clarify that the building is owned by Verizon Communications, the application is made by Verizon Wireless. They are two separate companies. As part of our application to the Planning Board, we had brought in Verizon representatives from Verizon Communications, who were willing to work with us and with the Planning Board to address a variety of these issues. He said that their original application to the Planning Board on the monopole was to take down the large drum antennas and put up an additional platform mount installation for our wireless panel. We were going to put up twelve antennas on that platform mount. We agreed to take away that platform mount,

which would protrude a little bit out away from the monopole and install instead, six antennas flush right against the pole, so it would be less visible. On top of that, we also offered and it was accepted by the Planning Board, to paint the pole whatever color they wanted. At the recommendation of the Village engineer, they decided they wanted to go with blue.

Mayor Teller asked if they had any kind of a drawing or picture showing before and after.

Mr. Marks responded that he did.

Trustee Tucker asked from a safety standpoint, since they were regulated by the FCC already, if what they are doing is already an accepted and approved practice from the FCC, as far as safety and airwaves, etc.

Mr. Marks said that was correct, under the Telecommunications Act, their operations are well within FCC guidelines. He said that under that act, a Board such as this is prevented from judging the application based upon so called health concerns from these facilities, subject to site plan approval.

Village Attorney Hermon Bishop said that the Village has a provision in the Code, section 197-42.1 which the Village had discussed with them and they have complied with the provision and during site plan approval all of those elements were dealt with.

Mr. Marks said that was correct. They had received a recommendation from the ARB and approval to site plan application and recommendation from the Planning Board as to the Special Exception Application.

Trustee Tucker said he had an opportunity to be at most of those meetings where they had come before those boards. He had also had the opportunity of walking through the building with our Building Inspector and our Village engineer and seeing a test of the existing generator. He thought it was a pretty neat building over there. He shared some of the things he had learned over there. He said it is of value to the Village if there is a major power failure in the area, these folks actually come off the grid, they have their own power. That is why it needs to be tested frequently, to be sure that it works, as far as noise and power. If there is a power failure in the area, they actually come off the grid, so none of that power is being sucked out of the Village, they are giving it back to the Village, actually. He felt that was a plus that he had found of them being in the neighborhood over there. He said that watching them go through the planning process, satisfying from what he saw and heard, all of the requirements.

Mr. Marks said they had made every concerted effort to work with the Planning Board and the Architectural Review Board to address any concerns that they had raised under the work session process. He then submitted all of his reports for the record. He submitted Verizon's FCC license, which requires a mandate to provide reliable service within this geographical area. In addition, he submitted an engineering report by Dan Falasco. He also submitted a copy of the revised plans. These are plans that were not necessarily submitted as part of the special permit application but these are revised plans based upon all our various discussions with both the Planning Board and the ARB reflecting all of the additional landscaping, irrigation and all the other improvements to the site. In addition, he submitted a planning report by Erin Duffy, which also contains simulated photographs depicting what the site looks like right now versus what the site will look like after the site is constructed. He also submitted a radio frequency affidavit by Tony Wells, which contains propagation maps reflecting the existing coverage area and how that will be addressed once the site is turned on and increasing the coverage in this general Westhampton Beach area, an appraisal report from John Goess discussing the fact that the installation will have no effect on real estate values in the area and a report by Lou Cornacchia of Scinetics Corporation as to the fact that the site complies with all FCC wireless radio frequency exposure. Finally, he submitted a structural analysis report that reflects that the existing monopole will be able to accommodate the proposed antennas on the tower and a copy of resolutions from the Planning Board and ARB approving the proposed site plan application.

Dan Falasco, a consulting engineer from Savik & Murray, showed the site plans and explained the various improvements that were recommended by the Planning Board and which they had accepted.

A member of the audience asked if the existing cables were located outside of the poles that were coming down.

Mr. Falasco said yes, when those come down obviously the cables will come down.

A member of the audience asked how they contained the sound level for the generator, was it a critical muffler or a residential muffler.

Mr. Falasco responded that Verizon Landline is working with Verizon Wireless to address that because the Planning Board wanted it addressed. It was his understanding that the existing muffler silencer that is on there now has failed, the internal mechanism of it, whatever it is, has failed. They are going to take that out all together and replace it with new equipment.

Trustee Tucker explained that as a Village, we actually physically had our engineer and Building Inspector go out and take decimal readings all around every which way, every spot, and that actually helped determine where there were problems coming from the muffler and that was related to the planning and that is how it ended up being changed.

Mr. Falasco indicated from a report done by Williams/Collins, architects for Verizon Landline that it appears that, in summary, they are going to remove the existing roof top mounted damaged exhaust silencer and install a new slim line, super critical silencer inside the building. He said he believed this report was made public at the Planning Board session, so it should be in their file if anyone wanted to see it.

Erin Duffy, of Freudenthal & Elkowitz Consulting Group with offices in Islandia, explained that they had Creative Visuals create photo realistic simulations of the proposed facility. She showed pictures of the representative viewpoints of publicly accessible locations with regard to the pole that show both your existing condition and your conditions when you have your simulation. She showed the difference between the pole with the large antenna and a blue pole with a flush mounted antenna and noted that with the latter, from a distance, you are really not seeing antennas like you would with the drum antennas. She said that overall, this proposal is improving the viewpoint in the general area.

Tony Wells, of C. Squared Systems, LLC, a radio frequency expert, briefly went over the coverage needs and where the proposed site fills in those coverage needs. He produced a computer generated map to show this. He also explained his experience with FCC limits and compliance with FCC guidelines. He said these sites are relatively low power sites because this is a two-way communications facility. He said this is typically around 1% of the FCC specifications, so we could put 100 of these facilities in the same spot and still not exceed the FCC guidelines for public access. He felt that even those FCC guidelines are very conservative in how they generate those. He said that part of their job was to go out and measure these facilities and they had never had any facility of this type reach over 3 or 4%.

Trustee Birk asked if there was any pole in the area or on the island that is at 3 or 4%.

Mr. Wells said he couldn't answer that, but if they were a similar installation to this, it would be below 3%. He said if there is an FM transmitter somewhere, they typically transmit at a higher level, but they are still governed by the FCC.

A member of the audience asked if based on the map, they are reaching Dune Road.

Mr. Wells stated that they were still lacking some coverage on Dune Road. It is not to say there would not be any service on Dune Road, but it does not meet their reliable standards.

A member of the audience asked if 1% is normal operating, but as they bring the system on line, would it be common place to go above that to get reception that is clear and concise.

Mr. Wells said that actually, it will generally be below that and actually that 1% figure is an overestimation. To clarify this, he said that since this was 1% under the FCC guidelines, it is still 99% well under the FCC guidelines.

John Goess, a NYS licensed, certified appraiser with over nineteen years experience appraising properties in the Nassau/Suffolk region said he was appearing before the Board in support of this application as an associate of Breslin Appraisal Company. He said that the Breslin firm was asked by the applicant to examine the subject application with the potential effect, if any, on the surrounding neighborhood resulting from the siting of the proposed communication facility in the proposed location. In evaluating the subject's impact on real property values, it is his opinion that the factors that influence the value of properties in this area have already been established. The subject building and monopole already exist. The applicant, by locating the antenna on the existing monopole will not be introducing to the skyline in the community a new structure designed solely for this applicant's use. Further, it is his opinion that this proposed use will have no adverse impacts on the surrounding real property values or the character of the surrounding community. This conclusion is derived due to the fact that the monopole has existed at this location for approximately twenty-eight years and real property values have continued to rise in the surrounding area. He said that in conclusion, it is his opinion that this proposal will have no adverse impact on the surrounding real property values or will it alter the existing development patterns. It will have no impact on the physical, environmental conditions in the area and further it will help to provide a necessary service to the residents of Westhampton Beach and as such he would recommend approval of this application.

Trustee Tucker thanked them for all of their hard work in trying to make this as compatible with the Village as possible.

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 to close this hearing. Seconded by Trustee Levan and unanimously approved. 4 Aye, 0 Nay

Motion by Trustee Tucker:

RESOLVED, that the attached Special Exception Determination to construct, operate and maintain a public utility wireless communication facility at the premises 74 Sunset Avenue a/k/a 14 Brook Road is hereby approved.

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

Local Law 4/2008 Amend Code Chap. 197.63Q Park Fees

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

Mr. Bishop explained that this is a proposed amendment to change 197.63Q regarding recreation areas that are provided by applicants respecting multi-family developments. The prior ordinance did not comply with Village law section 7-75-A and this amendment corrects that.

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 to close this public hearing. Seconded by Trustee Birk 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 March 6, 2008, to hear all parties on a proposed Local Law entitled "A Local Law amending Section 197-63Q of the Code of the Village of Westhampton Beach to provide additional criteria for the requirement of park or recreation areas or fees in lieu thereof;" 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 March 6, 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 (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 pursuant to 6NYCRR part 617, and has prepared an EAF Part II and determines that this action will not result in a significant environmental impact. Accordingly, the Board adopts a negative declaration, 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. 4/2008, entitled "A Local Law amending Section 197-63Q of the Code of the Village of Westhampton Beach to provide additional criteria for the requirement of park or recreation areas or fees in lieu thereof," 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 Deputy Mayor Kametler and unanimously approved. 4 Aye, 0 Nay

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

Mayor Teller opened the hearing and asked Kyle Collins to speak regarding this local law.

Kyle Collins, KPC Planning Services, said he was here to present the local law that he was commissioned to write for the Village. The Village Trustees requested that he prepare this as a result of some recommendations coming out of the Comprehensive Plan Update of 2006 for the residential districts. That plan recommended some changes as related to affordable housing. This legislation addresses that. Also, this legislation provides design standards as it relates to multi-family housing. As they are currently contemplated in the zoning districts today, multi-family residential housing is currently permitted as a special exception use within the B-1 zone, MF20 zone and the highway district zone. The densities contemplated under the existing code are six units per acre in both the HD and MF20 and eight units per acre in the B-1 zone. Those are existing regulations under the code. This regulation does not propose to change the density as they currently exist under the code, however, they do include a

requirement for an affordable component for any number of units proposed over four units an acre and would require one unit of affordable for every market rate unit proposed over that four unit density. Multi-family is permitted, there are no design standards in the code. The intent of providing those design standards is to ensure and to maintain and enhance the existing character of the Village of Westhampton Beach. The primary character of the Village of Westhampton Beach now is the single family residential character. The design standards and the intent of those design standards are to have any multi-family residence to be compatible. He said the code also provides for specific types of housing types that are permitted within the zoning district and different regulations as they relate to those housing types. Design standards as they relate to the orientation are included in the legislation. There are specific regulations as it relates to the location of parking. Another important thing that comes up before Boards is determining how many units are going to go on site. Oftentimes there has been some question as it relates to applicants of what is their number of units that they are permitted as of right. Often times there is a density issue of either four units or six units an acre. However, that is a maximum density. It does not mean that an applicant has an as of right and this law clarifies that. The actual yield that anything is going to happen on a given site is actually determined by applying all of the regulations under the code, not just applying the square footage of the lot divided by the maximum density under the code. The affordable component is determined for distribution as identified in the Code. It contemplates trying to reach a mix of income ranges. Affordability in the Village of Westhampton Beach for somebody who is a teacher or possibly a Police Officer, given the existing median house values, would not be able to afford a home within the Village today. That is why we put it in the Code to have not just for the lower income, which is accounted for as moderate income defined by 80% of the median income for Nassau and Suffolk. We also go up to 100% of the median, as well as 120% of the median. Those affordable units that are identified would be distributed between those income ranges. He said there is also a priority list. The selection of the households that would receive or have the potential to receive the affordable units would be done by a lottery basis and priority would be given first to year round residents in the Village of Westhampton Beach, with higher priority of that group going to members of the Westhampton Beach Fire Department or EMS Volunteer Services. Second is year round residents of the Town of Southampton, again with priority given to members of the Fire Department and the ambulance service and then with residents living within the Westhampton Beach School District. The next income eligibility priority would be year round residents outside the Village having an adult member that is employed within the Village and the higher priority would be given to somebody that is employed for the Village itself, as well as a general community service provider. The question is, what is a general service community provider. The target here is to try to keep people that are employed and provide essential community services, such as teachers, police officers, nurses and it is identified in the definitions as community services providers. The code has specific references, as well as graphical references, to assist applicants as well as Boards, in the review of the application and how they comply with trying to meet the standards of creating housing in a multi-family format that is consistent with the existing character and historic character of the Village. There are minimum requirements for recreational and open space facilities, standards for exterior lighting which minimizes potential impact associated with lighting associated with multi-family housing projects. Again, that lighting, as well as the traditional streetscape that is mandated under the legislation, is to be consistent with the historical feel of family streetscapes. The last section, and actually there is another section of the code that is being considered under this legislation, has to do with unit size. The minimum unit size for an apartment within the Village, whether that is a multi-family or it could be an accessory apartment above a store, is currently 800 square feet. Currently, that proposal is going down to 600 square feet. That is more consistent with the Health Department standards and basically, that is the extent of the nature of the change of the legislation.

Deputy Mayor Kametler asked if the family was defined at all.

Mr. Collins said he believed the family is defined under the Village code today.

Deputy Mayor Kametler asked if it would be staying the same.

Mr. Collins said it would.

A member of the audience asked what the median income would be for the affordable rental and sale.

Mr. Collins said it had changed. The reason why they chose Nassau/Suffolk median income is because it is the only reliable annual income you can get. He said that HUD puts it out every year and currently, 2007 for a family of four, the median income was \$93,000. 80% of the income would be \$75,000 and it goes up to \$112,000. When you talk about three times the annual incomes, even at the 120% range, that would get you in the area of \$136,000, which you realize is pretty difficult to find a house in the Village of Westhampton Beach for \$136,000, even though you would say \$120,000 household income sounds like a decent income.

Victor Levy, 58 Beach Road, said he certainly understood the reason that volunteers for the ambulance and fire department receive a preference, but he said Mr. Collins had also mentioned community service providers. He said he was curious how on Long Island where policemen are paid after five or ten years, pretty high numbers and teachers follow very close to that, they were given preference. They receive a very generous pension package and certainly the best health benefits that are available to any of us. He said that even though they provide a service, they are paid very well for that service and he was having a hard time seeing why they come in ahead of the plumbers and the roofers and the siders or even the boat salesmen.

Mr. Collins replied that if they do not meet the income guidelines, they are not income eligible.

Mr. Levy said they were putting them ahead of the other people who may be in the same income brackets who may not enjoy, and probably in most cases don't enjoy, those same benefits. He did not feel this was fair. He felt that part should be stricken. He said there was a big difference in volunteers and paid people, in our area at least. He said that where teachers upstate are starting at \$23,000, teachers down here are starting at \$46,000. He felt that was a big difference and the people down here are being very well compensated for their benefits.

Deputy Mayor Kametler said that was a very valid point.

Mr. Collins said that also, houses upstate are commensurate with the salaries.

Mr. Levy said that was correct, but cars cost the same, food costs the same, fuel costs more because there is more heating involved, so he felt that they should really look at that part.

Trustee Tucker asked Mr. Levy to clarify this, he said teachers and police.

Mr. Collins read the definition – “community service provider, non-commercial use established primarily for the benefit and service of the population community in which it is located, including but not limited to schools, churches, community centers, fire stations, government agencies, hospitals and libraries.”

Mr. Levy stated that they were begging for nurses at \$35 an hour out here.

Mr. Collins responded that nobody was willing to come out here because they can't afford to live out here, that's the problem. He said that is what they were trying to address.

Mr. Levy said he had the same problem. He can't find mechanics who can live out here.

Trustee Tucker said it is defined as a non-commercial use and like Mr. Levy said, a mechanic or a plumber or roofer or.....

Mr. Levy said he didn't realize he was a second class citizen because he was not a teacher or a policeman. He felt that is what they were saying and he really takes offense with it.

Mayor Teller stated that it was not written in the law.

Mr. Levy commented he knew it was not written in the law, but that it was what they were saying.

Mr. Collins said it wasn't really, because it was just saying these are getting higher priority, but it is saying only under affordable guidelines.

Deputy Mayor Kametler asked Mr. Levy how he thought it should be written.

Mr. Levy felt it should be stricken. He agreed with the guidelines, he felt they were fine. He said he was a Fire Commissioner, he was not a fireman, but he sees these guys put in the minimum of ten, twelve hours a week, sometimes thirty hours a week on stuff, out at 2 in the morning. He felt that was a different situation. They were not being paid for that. But, when you have people who are being remunerated at a pretty high scale, he did not feel they should take precedence over the rest of the citizens who pay taxes and who live in this community and frankly, serve the community. He said when your plumbing line is clogged and it is 2 in the morning or you need your oil burner fixed and it's fifteen degrees out and you need to get the guy out and instead of coming from Hampton Bays or East Quogue like he used to, he has to come in from Shirley or Mastic and it takes forty-five minutes to an hour to get here at 2 in the morning and your heat is dropping down, he felt they should think about who deserves more of a priority. He did not think the teachers and policemen and hospital workers deserve any more priority than those other people who provide services to all of us.

Trustee Birk said they would open that up and make it broader as just general service personnel.

Mr. Levy said he did not feel it should have even service personnel. He thought it ought to just be the guidelines and do it for the volunteers, do it for those people. He did not see why they want to include different occupations.

Mayor Teller thanked Mr. Levy and said they would put it under advisement.

A member of the audience asked if there were any provisions to restrict the re-sale of these affordable units.

Mr. Collins responded that the guidelines for those will be that they ensure they be affordable in perpetuity. He said that typically the way it is going to work is it will be tied to some index instead of just a real estate market index. That doesn't really apply to the rental units. The sale units will be tied to an index. Typically, municipalities do it by the consumer price index and not the real estate market, which we know out here has rapidly appreciated. They still will be able to gain equity within their home, but it will be tied to something like the consumer price index.

A member of the audience asked a question regarding the density. He wanted to know what became affordable and how you determine that you have to build an affordable unit. He asked if when you build an affordable unit, does the direction of that sale or rental by this Board default to the Village, are they going to say who can move into that unit.

Mr. Collins said it would be done by lottery.

The audience member felt that you then usurp the right of the owner who built it.

Mr. Collins replied that was correct, absolutely. It will be determined to open it up to the members of the community who are going to meet those income guidelines.

The audience member asked if it was being done in return for the density.

Mr. Collins responded that if you have four units an acre or less, you are fine, anything over and this would apply. He said it was different in different zones – in the B1 zone you can go eight units an acre.

An audience member asked if the right of the builder/developer/owner to rent to what is determined by the statistics Mr. Collin's just gave, gets usurped from that person and turns over to the Village.

Mr. Collins said it gets turned over to whomever the Village has managing the affordable components. Typically, those people have to be qualified to make sure that they meet the affordable income guidelines.

Bill Bennett, 7 Parlato Place, remarked regarding a group of multiple dwellings down at Mitchell Road, probably when they were built they didn't have adequate parking. He said he would imagine they had two parking spaces for each unit, which seems to be common practice still. But when you group rent those apartments, which is under the control of who is controlling that group of houses, they seem to put that under the maintenance and everything else under the heading of the whole unit. They park out on Mitchell Road on both sides and clutter up that road for July and August and you can't get down there sometimes, they are two abreast. He said that at this time when the Board is changing the law, he wished they would put in there about the group rental where you have four to six people in there bringing six cars in to one of those units. He said they don't have the parking, so they are going to go out in the street.

Trustee Birk asked if the group rental permit doesn't read where only the number of people in that bedroom can only have that number of vehicles and that is all recorded. She said it was already in the code.

Mr. Bennett said you don't see them out on Dune Road. Those places, the Yardarm and all of them have parking spaces for every unit and they can control that because they don't allow groups to come in or if groups do come in, they are only allowed to have one parking space for that unit. But they control that, the Village doesn't control that.

Mayor Teller asked if there wasn't a no parking ordinance on Mitchell Road.

Mr. Bennett said he didn't believe so. He said you can park up and down Mitchell Road in the summertime. He said you can go there on Friday or Saturday night and it is one end to the other.

Mayor Teller said there were supposed to be no parking signs there. It is supposed to be no parking.

Trustee Tucker explained that this was not a change to an existing property. This is for any new construction in that regard or any renovations thereof. So, the group rental, as was just stated, is already in our law, that doesn't need to be a part of this local law. That is an existing law that needs to be enforced or can be enforced. The parking issue with the number of units, that's one of the reasons that these design guidelines are coming to bear right now, because of the fact that if you maximize density in an area with a minimum amount of parking spots, but you'd rather have bigger units as opposed to less parking spots, then it becomes a problem in that there aren't enough parking spots and then such as Mr. Bennett is pointing out, where people tend to spill out and park in neighboring areas in streets, in front of houses, on the grass in the unit in the

development itself. So, these design standards come into bear. That will help ease that problem just inherent in itself.

Mr. Levy said that one of the things he had noticed on Mitchell Road is that it is not necessarily a group rental. He said it was the equivalent of that, in that it is your children returning home. For instance, his driveway this weekend, he had three sons that came in separate cars and generally his son who lives in Remsenburg comes with his car and his girlfriend's car. So, that makes six cars, his and his wife's, their three sons and the girlfriend's car. He felt that was a lot of what happened on Mitchell Road. He said he knew some of the people in those condos and certainly, if there were any kind of rowdy group rental, they would start trouble. He felt a lot of it was not the group rental, but the family group that is causing the problem, because we live in America where everyone has to have at least one car.

Bruce Barnet, 180 Main Street, said he had read that there would be an average of two bedrooms per unit in the Code. He asked what a bedroom was, whether it was a conventional bedroom or a bedroom as defined from 1983.

Mr. Bishop said there were two provisions. One is a bedroom as defined in section one and another provision that defines a conventional bedroom. He said it was his opinion that those two provisions are inconsistent in one regard and that is with respect to a den being considered a bedroom in one provision and not being considered a bedroom in another provision. He said they are working on that.

Trustee Tucker said that is not part of this law. That is part of our current code that needs to be amended.

Mr. Barnet said that this law specifies an average of two bedrooms, so he would assume that a bedroom is a bedroom and any hallway or den area that would be considered a bedroom, so that is the way you would be passing this law versus giving flexibility that a normal person would be able to live in a home that had a bedroom, in this case an average of two bedrooms, living room, dining room area, kitchen and a den or study, so that they don't have to just live in their bedroom or living room and have no other place because we don't have habitable spaces in garages or basements. He asked if they were going to amend it, why wouldn't it be part of this code at this time, rather than the word bedroom or conventional bedroom.

Trustee Tucker said because the definition of bedroom is in our code as it stands and that is where it needs to be amended. Even if we pass this as is, our current code defining a bedroom, we are not going to be able to change it here. We have to change it in our master code. It's not part of the multi-family design standard law.

Mr. Barnet asked if that was something that would be done in the future.

Mr. Bishop responded that it would be done in the immediate future.

Mayor Teller said that this will not be passed tonight.

Mr. Barnet said they did not read in the park fees something that was near and dear to his heart, is that the way the current code is written we pay the park recreational fees before the issuance of the building permit, which is a tremendous hardship on anybody trying to make an investment to this community, because certainly banks are not going to finance that, that is cashed out of the developers pocket up front where there is no use being utilized by any of the people that would live in those buildings for at least one to two years. He suggested that this be modified so that the park fee be charged as a C of O, rather than a building permit.

Mr. Bishop responded that the Town of Southampton has payment similar to what this law is at time of the issuance of approval of site plan. He thought East Quogue did as well and most of the other municipalities.

Trustee Tucker added that the park fees are based on fair market value, so if you let it go out over time, let's just assume you put up a complex and it is two years before you finish building your units, fair market value has already changed by the time that you have started the project, so what would the park fee be based on – when you start the project or when you are actually ready to pay it.

Mr. Barnet said that in the case of the particular project that is in the Village now, the fair market value two years ago is less than half of what it is today and not one person except for himself has moved into that complex. He said that by having to pay the park fee upfront, it is definitely a detriment for a developer to make an investment in the Village of Westhampton Beach. He felt that maybe they will look into making investments in Southampton and Quogue. If we want to attract people to come to our Village, maybe this is something we want to do to attract developers to invest in our Village.

Trustee Tucker said they could make a bigger recreation area inside the development with less units.

Mr. Bishop stated that actually under the new law, if you provide recreational facilities, that would reduce the square footage amount of park area that you would be required to donate. If you provided 1,500 square feet of park area and there is 10,000 square feet that you are supposed to provide, then you would only have to pay for, if you couldn't provide anymore, 8,500 square feet. Under the Village law, what it says is create the need of the park area needs of the owners and also Village residents. If you are providing recreational needs of residents in the Village, if you have it on site, then you wouldn't have to have it open to the public. You would still be providing recreation for Village residents.

Mr. Barnet asked if they create a swimming pool and club house on 6,000 square feet, would that reduce the square footage of park area needed.

Mr. Bishop responded it would, the way the law is proposed.

Mr. Barnet felt that was a very big bonus.

Mr. Bishop added that if any affordable housing is provided, you don't pay a park fee for those units.

Trustee Tucker said it was to encourage more open space.

Jim Hulme, of the law firm of Kelly and Hulme, 323 Mill Road, said that he was here on behalf of his client, Westhampton Associates. He said he was representing them relative to a project that was working its way through the Planning Board right now for a thirty-nine unit multi-family project on Riverhead Road. He commented that they had been watching this law with great interest because they have not yet been approved by the Planning Board and as he understood the rules, if this is enacted before they are, in fact, approved by the Planning Board, they are subject to these rules. He said the rule of particular interest was what would qualify as an exemption under this law. He said he had been led to belief that there had been discussion about the Section W of this law, which is, in fact, entitled exemptions. He said he knows from his discussions with various people that there is a general sense that their project, which has been going on since almost 2005 and is virtually complete but for Health Department approval and the final action of the Planning Board, there is a general sense that the exception that is provided for in this law would provide an exception for their project. He said he had read the exception, at least as it has been written and published in this document, and he is not 100% certain that this is the case. He said that Section W provides for an exemption for an application for site plan approval and it appears to have three elements to it before you are deemed to be exempt from this law. The first element being that it is deemed complete. The second element is that an environmental review has been completed and the third element is some sort of approval by the

Planning Board, but for obtaining Suffolk County Department of Health Service or ARB approval. He said the first element which has been deemed complete, deemed complete for what purpose? In reviewing his file in his office earlier today, they do have a resolution from the Planning Board that the project has been deemed complete for purposes of SEQRA. He asked if that was the form of completion the Board was talking about or are they talking about some other form of completion as it pertains to their application or any other application. He said that in his review of the various actual resolutions passed by the Planning Board regarding their application, they don't indicate, as far as he can find so far, any form of completion other than completion for the purposes of determining SEQRA. He felt there was a question as to whether or not they would qualify for that element of the exemption standard. The second was a completed environmental review. He felt that in the case of their application that was a little clearer. They did have a SEQRA review. It was the lead agency. The action was typed, the environmental significance of the project was determined, so he thought that perhaps the second one, they had achieved. He said the third one, "has been approved by the Planning Board but for obtaining Health Department approval", again, he did not believe there was anything in the record that clearly indicates that their application had been approved. He felt that it could not be, because their application had not been approved yet, because they had not submitted Health Department approval for it and that is one of the requirements for a final Planning Board determination. He said that for many years there have been discussions about the benefit or lack of benefit of preliminary approval and the Planning Board and the Village, for their own sometimes very good reasons, have taken the position that a preliminary approval is not a kind of approval that this Board grants. He asked, having said that, what we were talking about in this law when we are talking about has been approved by the Planning Board, how do we determine whether or not we are at that point in time when there is not a piece of paper that specifically has those words in it. He said he knew there had been some assurances and suggestions coming his way that this application is virtually done and it is not going to be stopped by this law, it should be found to be exempt. He said he does not disbelieve all of the people that have told him that, but there is another element that none of us have control over and that is the public itself. He said if we all go ahead and we all agree that this exemption standard as defined in this code section is adopted and applied to his client's application and he is found to have a waiver for an exemption, that does not prevent someone from the community from bringing a lawsuit saying that it is not really true for a lot of the reasons he had just outlined and for that person unknown to us and not anybody's intention, stopping, preventing, holding up, delaying a project that has been well reviewed and worked its way through the Planning Board for quite a long time. He said it was a very active Planning Board and that every time he has come before this Board and talked about the Planning Board, he has complimented them. He felt they were really a very active, a very engaged Board. He said he understood Mr. Collins' viewpoint on the design standards and all of that kind of stuff, but he has said with the B1 standards, the Planning Board is already doing a lot of the stuff that the Board is trying to accomplish here. He felt that simple is always better, an exemption that says that exempted from this law is any application pending before the Planning Board on January 1, 2008. He felt it was clear, easy to understand, you know exactly what it means and you can look at the records of the Planning Board and see how many applications are pending as of January 1, 2008, make a list of those and those are the exempt applications and then everything else that comes in after that is subject to this new law. He felt it was simple, it accomplishes what he believes is the intention as far as the exemption goes as it pertains to his client's application and it is also very simple for some third party, some member of the public, somebody not bound by any of our understandings or any of our agreements that the application was pending and it was handled not in accordance with this law, but in accordance with the existing law that governed for 99% of the due process of that application. He encouraged the Board to please take a very careful look at this exemption, understand what it does, understand what it can do, understand what you want it to do and then consider changing it along the lines of how he has suggested.

Tim Laube asked what areas of the Village are targeted by this, how many units were they talking about total and how many units would be affordable.

Mr. Collins responded that none of it is targeted. He explained that it was to address existing, multi-family as permitted in the Code. He said that would be HD which is the Hotel District, the Multi-Family District which is the MF20 and the B1 District. He did not know the number of units. The number of units are currently contemplated as presented under the Code. This does not increase or decrease the number of units that will be permitted under the Code, so he could not tell the number of units. This doesn't impact the number of units that currently could come under the existing code.

Mr. Laube asked if there was a percentage of units that went for affordable.

Mr. Collins said that every market unit over four, you have to provide an additional affordable unit. If you went to eight units an acre, you would have six market rate and two affordable.

Mr. Levy asked if the two bedrooms was an average.

Mr. Collins replied that it was. He said you can have three bedrooms, but the total number of bedrooms out of the total number of units has to average two bedrooms. He said the reason that was done was in order to minimize the potential impact on the school district. He said that pertaining to the school district, typically your bedroom mix is very important in determining the number of school kids that are going to come out. Statistical and empirical evidence shows that in order to get your first school age child, it takes five two bedroom units. However, with your three bedroom units, you get one school child per unit, basically. So, by limiting it to an average of two bedroom units, it drastically reduces the potential number of school children and the impact of the increase on the school district.

Mr. Levy commented, that although he kind of likes the idea, that the discussions of the project here represents some other discussions of other projects we have heard and there seems to be an economic impetus to build three or two and a den, that kind of unit, which is similar to what he has seen in other areas. He said he was thinking of Patio Villas because that is the existing one that more closely matches in this area, he did not feel you could consider the Dune Road ones. He said that he just questions it because some of them are being used as second homes, those owners have a tendency to come out with adult children. He was concerned that the two unit may make it impossible for a developer, even an average of two units. He wondered if they were going to limit it, he said he was certainly not trying to speak for the developers, but he thought it could be a serious detriment in being able to build. He wondered if they couldn't think of something like you could have an average of two, except for one in five or something. He did not know if there was a way to do it, but he felt that it was an issue that may just stop it entirely and that may not be a bad thing. He said he was not sure that we should have as much multi-family zoning as we have in the Village and maybe this is a way to meet that intent.

Mr. Collins said that someone who has submitted an application may tell you whether they are going to move forward or not based on this law.

Mayor Teller asked if anyone else would like to address the Board. There being no further response, he made a motion to adjourn this hearing until April 3, 2008. Seconded by Trustee Birk and unanimously approved. 4 Aye, 0 Nay

Resolutions:

Accept Departmental reports

Motion by Deputy Mayor Kametler:

RESOLVED, that the Justice Court, Police Department and Building Inspector reports for February 2008, are hereby accepted.

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

Approve purchase of plastic bulkhead materials

Motion by Trustee Levan:

RESOLVED, that the proposal submitted by Port Lumber Corp. to furnish plastic bulkhead materials at a cost of \$4,840.00, is hereby accepted.

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

Accept proposal for annual fiscal year Capital Asset Depreciation report

Motion by Trustee Tucker:

RESOLVED, that the proposal submitted by Appraisal Affiliates, Inc. to prepare the Capital Asset Depreciation Report as required by GASB 34 at a fee of \$2,000.00, is hereby accepted.

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

Schedule public hearing on the 2008-09 Tentative Budget

Motion by Trustee Birk:

RESOLVED, that the Village Clerk-Treasurer is hereby authorized to publish and post a Notice of Public Hearing to be held on April 3, 2008 at 7:00 pm at the Village Hall on the Tentative Budget for the 2008/2009 fiscal year.

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

Schedule public hearing St. Marks Church Special Exception – install antenna

Motion by Deputy Mayor Kametler:

RESOLVED, that the Village Clerk Treasurer is hereby authorized to publish and post a Notice of Public Hearing to be held on April 3, 2008 at 7:00 pm at the Village Hall on a Special Exception application submitted by St. Mark's Church (Omnipoint Communications) to install a public utility wireless communications antenna within the existing church steeple and to install related equipment within the church located at 40 Main Street and identified by SCTM #0905-12-3-15.

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

Schedule public hearing 30 Old Riverhead Road Corp. Special Exception

Motion by Trustee Levan:

RESOLVED, that the Village Clerk Treasurer is hereby authorized to publish and post a Notice of Public Hearing to be held on April 3, 2008 at 7:00 pm at the Village Hall on a Special Exception application submitted by 30 Old Riverhead Road Corp. to convert a second floor storage space to a 600 square ft. apartment in the B-2 Zoning District at premises located at 30 Old Riverhead Road and identified by SCTM #0905-4-2-8.

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

Schedule public hearing on Local Law to amend Chap. 74 of the Village Code

Motion by Trustee Tucker:

RESOLVED, that the Village Clerk Treasurer is hereby authorized to publish and post a Notice of Public Hearing to be held on April 3, 2008 at 7:00 pm at the Village Hall on a Local Law to amend Chapter 74 of the Village Code.

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

Appoint 2008 Election Inspectors

Motion by Trustee Birk:

RESOLVED, that Anne Creed is hereby appointed as Chairperson of the Election Inspectors, and Jeannette Zegler, Carol Aldrich and Mary V.N. Gallagher are appointed as Election Inspectors, and Gloria Vaczy is appointed as a Poll Clerk, to perform the official duties of the Village General Election to be held on Friday, June 20, 2008 and to be compensated at the rate of \$12.25 per hour.

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

Authorize 2008 STOP DWI contract with Suffolk County

Motion by Deputy Mayor Kametler:

RESOLVED, that the Mayor is hereby authorized to execute a contract with the County of Suffolk to be eligible to receive grant funding in the amount of \$7,500.00 for the participation by the Village Police Department in the 2008 STOP-DWI program.

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

Appoint Special Counsel for Denihan Article 78 litigation

Motion by Trustee Levan:

RESOLVED, that Hermon Bishop is hereby appointed to serve as Special Counsel to represent the Village in the Denihan vs. the Village Zoning Board of Appeals Article 78 litigation and to be paid at the rate of \$165.00 per hour.

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

Authorize Police Municipal Mutual Aid & Assistance Agreement

Motion by Trustee Tucker:

RESOLVED, that the Mayor is hereby authorized to execute the attached Municipal Mutual Aid and Assistance Agreement with the East End Towns and Villages with Police Departments to furnish and exchange supplies, equipment, facilities, personnel and services in the advent of a local disaster, civil disturbance and any other emergency event.

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

Approve March 2008 warrant

Motion by Trustee Birk:

RESOLVED, that the warrant for the month of March 2008 in the amount of \$176,920.15 for the General Fund is hereby approved.

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

Mayor Teller asked if anyone else would like to address the Board. There being no further response, Trustee Birk made a motion at 8:38 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