

The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Thursday, May 1, 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 Hearing:

Local Law 6/2008 Amend Code Chap. 74 Coastal Erosion Management

Village Attorney Hermon Bishop explained that this deals with the coastal erosion hazard law that we have in this Village. It is Chapter 74 and the purpose of the law is to prevent coastal erosion on public and private lands and to prevent damage to buildings and people. The coastal erosion hazard area is an area south of Dune Road. The coastal erosion hazard line is a line that was drawn by the Department of Environmental Conservation and everything south of that line requires a permit in order to build. In our law as it stands now, even if you have a pre-existing, non-conforming structure built into our dune area, our dune area is a very important aspect of coastal erosion or the most important feature we have to prevent coastal erosion. Even if you have a non-conforming house that is built into a dune, you can still add to that house as long as that addition does not exceed 25% of the footprint of the existing structure and as long as the construction that is being done does not exceed 50% of the replacement cost of the structure at the time of the work. The way we have applied this law for many, many years is that with respect to the 50%, we cumulatively add the percentages for each coastal erosion permit that is issued to determine whether or not there has been or whether the applicant has met the threshold of the 50% law or would be seeking to exceed it. For example, if somebody came in for a coastal erosion hazard permit and they asked for 10% of the replacement cost of the building or structure, they would have 40% more that they could build and we are talking about 40% of the replacement cost of the structure. So, if they came in two years later and they asked for another 20%, they would have 30% and they would be allowed to have 20% more of the replacement cost of the building they would be able to rebuild or at least restore 20% more of the structure. It sort of made sense. If you think of it, the law when it says you can reconstruct but not in excess of 50%, somebody could come up today and say I want to reconstruct my building, I want to take everything down and put new walls up, new roofs and basically replace all of the structure, but maybe it would only come out to 50% because of the way it was being done of the replacement cost of the structure. You couldn't then come two weeks later or a month later and say, well, the law says I can do 50%, so I want to ask for another 50% and then later come back and ask for another 50%, because you would make the law sort of foolish. A person would be getting 300% of the replacement cost of the structure instead of 50% as set forth in the code. That is how we have been applying the coastal erosion hazard law with respect to that percentage. The amendments to Section 74-3, which is the section dealing with definitions, amends the definitions of regulated activity and restoration to accomplish the purpose of the coastal erosion hazard law. It also codifies the procedure that has been followed by this Village for many, many years, the procedure of adding percentages cumulatively is the same as many other municipalities, so this is nothing new. He said that this amendment was drafted by Mr. Haefeli and it really deals with the law and it is a good amendment to the law. In addition, the definition of modification has been added that should have been in existence when the law was first passed in 1988, but it was inadvertently omitted and that also clarifies the law. One reason for the code change is that a Judge ruled that a restoration or reconstruction only occurred when a building was blown down by wind or wave, that wasn't his language but basically that is what he said, or if it was destroyed by fire. We firmly believe the Judge is totally

incorrect on that, but rather than have the taxpayers pay for an appeal of what we consider to be an erroneous ruling, it is more economical to amend the law and it is better for the interests of the residents of the Village to amend the law, as well.

Mayor Teller asked if anyone in the audience would like to address the Board regarding this issue.

Michael Nobiletti, 8 Stillwaters Lane, thought the purpose of this law is being not looked at for what it is intended to be and the intent of this law is the protection of the dunes, the dune system and dealing with development within the dune. He thought that the proposed law is somewhat of a reaction to use this coastal code as a zoning code, but it is not the intent of this law. He felt this should be looked at in terms of the definitions, the purpose and the intent, which it has not been done, except by the one side, the Village attorney's side and that gives you a one side view of this. With regards to the case that Mr. Bishop was referencing, he said he had written the word usages of that code of the law, Article 34 state code and its implementations and usages and definitions in Part 505. You adopt both of those into your Chapter 74 in the back and there should be a full analysis of those, what the meaning is, before the Board makes the decision as to whether or not to bring this forward and amend it the way it is proposed, which brings it more to a zoning tool. Simply put, if a construction does not impact the dune in its footprint, then this rule, this law rather, this really should not be in play. It is not for somebody changing a window in their house or changing an interior in dimension. He commented on the statement made that this Judge made a decision that if a house had some damage to it, Part 505 in its definition, states "if a building is damaged or destroyed by other than a coastal event, no coastal erosion permit is needed for restoration". That being said, as part of the foundation of this law at state level and adopted into the Village code, he thought that the Board should look further into this and find out what these words and uses or what the intents are, based on the descriptions in Part 505. He said he had administered this law for over nine years in the Village of Quogue and he knows this law very, very well. He said he had been chastised for attempting to use it as a zoning tool by the administrators from the state and this is what he is passing on to the Board.

Mr. Bishop stated for the record that this law has been reviewed by the state and they have approved the law. He said the regulations that Mr. Nobiletti was referring to deal with the very, very minimum standards that must exist in the law, not what we may consider important in order to protect our dune area, which under the findings of the state is the most highly effective feature we have for mitigating erosion in this Village.

Trustee Tucker felt this law still enables a resident to do normal maintenance on their existing house, so if their windows break or they need a roof or shingles fall down, they are able to still maintain their home. He asked Mr. Bishop if that was correct.

Mr. Bishop responded that if there is any change of a window, you want to replace a window or a door, any kind of replacement of like kind is not regulated by this provision. So, it wouldn't prevent people from making changes of like kind.

Mr. Nobiletti commented that based on the decision that was made by the ZBA, which generated the Article 78 that is before you now, there were window changes involved. There were cosmetic aspects, there were interior changes that did not change the footprint of the building, nor was there any construction on the dunes. That activity, which we packaged as a modification or as normal maintenance and repair, did not affect the dune structure, yet the ZBA denied, went to Article 78 and Judge Beasley upheld that the Village was misapplying that law. Mr. Nobiletti thought that the Board should take a further look at the common sense intent of this law, what restrictions this will be to when it goes to ZBA and have an understanding or very clear communication to the ZBA as to what you mean by restricting and in broadening this into a zoning tool. With regards to the comment about the state approving this law, yes they have. In the absence of a municipality approving such a law, the administration goes back to the state DEC. They don't want to handle it. If you'll meet the minimum standards with regards to protection of the dunes, they will approve that law. They don't care if you step on the homeowners and they don't care if you step into something beyond the scope of it, as long as you meet the minimum standards, as long as you don't get the Supreme Court, you got the Supreme Court and you lost and this is why how this is

applied cannot be broadened to mean something that is way beyond the intent of the law. He said if the Board would like, he would prepare something for the Board to consider along the lines he had done for this house in question as to when and where these terms and restrictions should be done. If you choose to take it beyond it, that is up to you, but he felt the Board should be informed as to where they are headed.

Jim Hulme, of Kelly and Hulme, 323 Mill Road, stated that he agreed with Mr. Nobiletti. He felt it was not an issue for him or for the Board as to whether they can do this, because clearly you can. The question is why would you want to do this. He said this law, this coastal erosion law comes to this Village and comes to all of the waterside communities from the state environmental conservation law through some regulations that were developed by the Department of Environmental Conservation and those DEC standards are the minimum standard, but this law as it has been enforced in this Village for a number of years and this law as you propose to amend it now, goes way beyond the minimum standards that the DEC has set for this. Again, he questioned why they would want to do this. He said the DEC knew what the charge was when they promulgated the regulations that they promulgated. He said he was sure that what they were looking at was to balance the need to protect the dunes and to protect the coast, which it does, with the rights of private property owners and their abilities to maintain and improve their homes. That statute, that regulation from the state, was for the most part adopted into the original law that we have had here and as Mr. Nobiletti pointed out, Judge Beasley in a decision last year indicated that the way this Village has been enforcing that law, went far beyond what even the law said in his ruling in the Malone case. He said they should talk a little about the Malone case because in Mr. Bishop's description of the law and people's ability to operate under the law, both now and amended, seem to suggest that it was a pretty simple thing, generous thing, a thing that would be easy to negotiate. But, in fact as Mr. Nobiletti indicated, in the case of the Malone home, there were for the most part cosmetic changes. This was a house that was fully functional, fully built, not harmed, not damaged in any way by fire or a storm or a flood. She wanted to change some windows, she wanted to move some interior walls around. She wanted to raise the roof in the back a little bit. The closest thing that took place on this project to the dune itself was about 20 feet up in the air and yet the statute, as it exists now, was used to prevent her from doing any of that and the Zoning Board went on to continue to prevent her from doing that, which is what resulted in the Article 78. It was just shocking and frustrating to those of us that worked on that case or those of us that work in this field that number one, the law was enforced to the extent that it was and number two, to discover that you were essentially codifying the way that that law was enforced, bringing about results that severely restricted the ability of a homeowner to maintain, improve, alter and change their property with no real benefit to the protection of the dune. In this case, in many cases that you can imagine or think of, there are in this law if it is property applied and enforced, some very nice restrictions. He felt the 25% footprint limitation was certainly a restriction that helps keep projects from getting too big, but what we have done in the Village over the years is overlaid that regulation with this idea that a restoration is any kind of construction, which clearly from the Beasley decision, clearly from the information provided from the DEC, is not the case and it just gets more restrictive and more restrictive and more restrictive to the point where he thought that you begin to affect property values by being so restrictive of people and their ability to develop and maintain their properties. He said it clearly has to have an impact on the value of those properties, which has an impact on lots of things, including the desirability of this community, including the ability of this community to raise taxes for municipal purposes, for school purposes, all of those things included. He questioned as to why we would want to go there, why we would want to become even more restrictive than the law as it currently applied already is. He encouraged the Board to consider that and encouraged them to return the law to the minimum standards that the state has set for this kind of law and return the enforcement of that law to that same point before we get to a point where we start to do harm to portions and members of our community.

Trustee Tucker asked Mr. Hulme if it was correct that these structures are structures that are pre-existing in what the DEC has labeled a coastal erosion area.

Mr. Hulme said that was correct.

Trustee Tucker said that by the Village taking maybe a little more stringent approach as to the coastal erosion management, we are actually trying to protect the dunes more so than what is the minimum standard. He did not see where that is necessarily a bad thing.

Mr. Hulme responded that you have to ask the question whether what you are doing actually does that and by preventing somebody from changing the windows to a little bit larger size window or little bit smaller size window on the second floor of their building, are you causing any harm to the coastal areas. By allowing somebody to put a dormer in their second story roof so that they can get a little bit of light in from a different direction, are you protecting the dune in any greater sense by preventing somebody from renovating their kitchen, by preventing somebody from reorganizing the walls within this existing building, by preventing somebody from putting a chimneyless fireplace into their home, are you in any way protecting the dune? He felt that this law has been used to do all of those things and by making it even more restrictive, it is going to happen to an even greater extent. He said you always have to balance the cost of the benefit. The cost here is to the homeowners and their abilities to do things with their homes. The benefit here, as Mr. Tucker correctly pointed out, is an attempt to protect the dunes. He asked how does any of this serve to protect the dunes to any greater extent than the minimum law that already exists. He said he was not talking about a home that was damaged that needs to be restored. He thought that was one of the points and that is really what a restoration is all about.

Mr. Bishop asked if supposing you want to rebuild the house, is that okay? It is not conforming, it is built into the dune area and you want to rebuild the entire house.

Mr. Hulme stated that is probably not okay under the DEC minimum standards.

Mr. Bishop asked what about under the coastal erosion hazard law that Mr. Hulme was talking about. He said we have a house that is located well south of the coastal erosion hazard line and it is built into the dunes and totally in contravention to the purpose and intent of the coastal erosion management plan of the Village. He asked if it was alright to do that.

Mr. Hulme said that under the code as it exists right now, you could not rebuild that at that location.

Mr. Bishop asked if that was wrong.

Mr. Hulme said he was not saying that was right or wrong. He said he did not have any issue with that part of the law and that derives from the regulations that the DEC itself has promulgated here. It doesn't need all of the added features that you want to build into it and it doesn't need to have all of the added features that you have built into it in the way that it has been enforced over the years.

Mr. Bishop said he knew that Judge Beasley had not said that the way the Village is applying this law is wrong. He said that if you read the case closely, the Judge said that the Village's code does not permit you to do what you are doing. It did not say you do not have the right to do it. It said that based on interpretation of the code, you can't be doing this, even though this Village has been doing it for the last ten or fifteen years.

Mr. Hulme said he had been fighting with it since then.

Mr. Bishop said that is the irony of Mr. Hulme's position, because if you have a new building and it is built within the coastal erosion hazard area, like it or not, you are going to have to get a coastal erosion hazard permit and you have to show that the location of the house is reasonable and necessary in light of the reasonable alternatives that are available. The intent of the law is to move structures north of the coastal erosion hazards line. If you can't locate the house north of the coastal erosion hazard line, there is a remedy of the Zoning Board of Appeals and almost all of the time something is worked out. If there was a building that was taken down, clearly, there is no question, you have to go to the Zoning Board. If you want to rebuild in the coastal erosion hazard area you have to obtain a variance, just because you are building in the coastal erosion hazard area. But now, if you have a non-conforming structure, you can say, I can

rebuild 50% of the building one day, 50% of the building the second day and 50% next month. The purpose of this law is to codify the procedure of the Village. He said Mr. Hulme may not be happy with it, but he thought that preserving our Village coastal erosion is more important than Mr. Hulme's clients and his desire to get paid.

Mr. Hulme said he was not sure what that means, since he was here on his own and not representing a client.

Mr. Bishop said that as an advocate for applicants coming before the Zoning Board, he could understand Mr. Hulme's frustration because.....

Mr. Hulme said that the more regulations is actually better for his pocketbook, if he wanted to talk about that, so here he was arguing against his own monetary interests by suggesting that they were going too far with the law and he felt Mr. Bishop had tried to refute whatever argument he was making by talking about taking down a house entirely. He said he 100% agreed with Mr. Bishop about that. If you are going to take the house down, you have to comply with the coastal erosion rules and he would agree that this is an issue that rebuilding has to be done with care, because the rebuilding of the house itself could be of damage to the dunes.

Mr. Bishop said that Mr. Hulme had said that he wanted to go back to the very bare minimum.

Mr. Hulme responded that he wanted to go back to the bare minimum of being the bare minimum of the regulations that the state promulgated, which is essentially what our code is now. He said it may not be the way our code is being enforced, but if you read word for word, it matches pretty much with what the state.....

Mr. Bishop said that is not what the Town of Southampton has done nor have there been other municipalities that follow the bare minimum of the regulations that he is suggesting. He did not know of any municipality that follows the bare minimum regulations that Mr. Hulme was referring to.

Mr. Hulme said that may be the case.

Trustee Tucker said that since these structures already lie in an area which Mr. Hulme had said was a value judgment whether if it came down in totality, could you rebuild there, 50% of the construction costs of the value of the property isn't enough for someone to be able to.....how many times are they going to put windows in before that house is an adequate house for them.

Mr. Hulme said that it is a question of the 50% rule as it relates to whether the work is a restoration or not. He said that what he is suggesting to them is that when the DEC promulgated these regulations, what they meant when they were talking about a restoration, and he believed that Judge Beasley did agree with this fact, what they meant when they were talking about a restoration was that a home that was damaged by flood or fire to an extent of greater than 50% of its replacement cost, it should come down completely. And, the property to the extent, the house to the extent that it can, should be built in compliance with the code, that is what a restoration is. That is what he believed the state legislature felt that it was, that is what he felt the NYS Department of Environmental Conservation felt that it was and he believed that is what that is. He said that makes perfect sense to him in the context of protecting the dunes. If a house is damaged to such an extent that it would cost more than 50% of the replacement cost to replace that home, then you should just all in and get out of the way. But, anything that is short of that or anything that is not a restoration may still require a coastal erosion permit, which is also another part of the regulation, but it shouldn't have to jump all of these other hoops. Something that is not a restoration should not be analyzed from the perspective of 50% of the cost, at all. That is not what the intent of the law was and the cosmetic alterations to existing, fully functional houses in no way, shape or form impact or impinge on the dune to any greater extent than the fact that the house is there already and can stay there do. He asked why do we choose to pass a regulation that makes that so, when there is no benefit to the dune by doing that, but great harm to people who own their property down there. He said that was really his point.

Richard Haefeli stated that he was the attorney for the Village when the case was brought and there were statements here that he wanted to clarify. He reminded the Board that in 1938 you had, up until Katrina, the fifth worst hurricane that has ever hit the United States in dollar value, if you related the 1939 costs to today's costs. In 1939 the Village adopted the first provision to do any regulation on the beach. In 1944 they did another. This Village has been in the forefront of adopting laws to regulate and protect the beach as a result of the 1938 hurricane. Mr. Hulme says they will impact property values. Mr. Haefeli thought it will impact property values in the opposite way. As a result of prior people who are in this Village, we are fortunate enough to have a groin system that comes in front of this Village. If you look at any survey that was prepared roughly 1962 or 1963 before the groins came in, from the south end of Dune Road to the high-water mark you had 200 feet and a little or no dune. The groins came in and now we feel we are totally protected. We have two or three dunes throughout the entire Village. In 1987 this law was adopted. The purpose of the law is to protect the dunes and Mr. Bishop is absolutely correct. In this particular case, three years before Miss Malone came into the Board with her application, the prior owner came in and basically rebuilt the house from scratch. By the time everything came in...he was granted a variance, so he had already exceeded the 50% replacement cost that you could have under a restoration. Miss Malone came in and he said he would tell them right now, a reasonable amount of the work she proposed, she could have done, but she was proposing construction work. She was proposing work that fell within the definition of a reconstruction and there had been a total reconstruction. As Mr. Bishop has already said, what are you going to do, you are going to have a reconstruction in 2000, almost total reconstruction and then you are going to take another 50% in 2005 – based on 2005 values, by the way – and in 2008 you are going to have another. That is not the purpose of the law. The purpose of the law is to protect the dunes and as far as this law is concerned, the way it protects the dunes is if a house has to be rebuilt because it is old, it is decrepit and it can't function anymore, then the individual has to make a choice of how they are going to proceed and if they can they should move the house out of the coastal hazard erosion area. Over the years the Village has done that on innumerable occasions when they came into the Zoning Board for applications because they had problems. They were granted maybe some front yard variances and they may have been granted some coastal erosion variances, but they had to move the house. The Zoning Board has been consistent, at least all of the time he was there and he thought the same time with Mr. Bishop. He said if you can move the house further away from the dunes, move the house further away from the dunes. That is the purpose, that is the intent of the law. It has to do with protecting the dunes and the best way you protect the dunes is to take the structures and move them as far away from the dunes as you possibly can. He said that this law does not change a lot of things, it adds clarity to some of the provisions in the code. He felt Judge Beasley was a fine Judge, but he totally disagreed with Judge Beasley's decision and his interpretation. The Village filed a Notice of Appeal and we would have fully prosecuted the Notice of Appeal except that we are now in the process of finishing up a settlement with Ms. Malone which will allow her to do what she wanted to do other than the construction work that she wanted to do. He asked Village Building Inspector Paul Houlihan if that was correct.

Mr. Houlihan replied that was correct. He said she will not have the dormer or the reconstruction.

Mr. Haefeli stated that this law is not going to adversely impact the property values. This law is going to increase the property values where people that buy on the ocean will know that they are better protected than the people in Westhampton Dunes, the people in Quogue, the people in Southampton and Bridgehampton. Because if we have another hurricane, and everybody in the world knows we are going to have another hurricane, you have a greater dune protection here than anywhere else. He did not believe the Board should turn around and do anything to reduce the current dune structure that you have. That is the purpose of the law. It lets people do work, as Mr. Bishop said, in one year you can do 20%, next year.....but, it is the percentage. It's not the dollar value. You can't use it on the dollar value, because that is not fair to the homeowner. You can't say 50% of \$200,000, which it was in 1990. We are using percentages. So, if the amount of work done in 2000 was 20%, they can still do more work, but they can't rebuild. Once they get to the 50% value, then they must turn

around and make a decision as to what they are going to do. If they want to do more work, then they have to move the house. If they don't want to do the work, they can continue to keep the house where it is. He thought it was a good change because it clarifies, because he thought there were some provisions in the code that may not have been totally understood by people and he felt the changes in the definitions, specifically, clarify exactly what is involved.

Trustee Tucker said that Mr. Nobiletti said the Village was trying to use this as a zoning tool. He asked Mr. Nobiletti how protecting the dunes is trying to use it as a zoning tool.

Mr. Nobiletti responded that the dunes have nothing to do with zoning. With regards to zoning, you have tools in place already, pre-existing, non-conforming locations, damage to a structure, the right for continuation of a permitted use in a non-conforming location, when we talk about damage to a structure that would kick in, in a non-dune setting. So, the Village is not being denied any zoning power or authority by going back to what the previous edition of this law was. You already had that in place in all of your districts. This reconstruction and construction is solely, or this law is solely related to the dune and the impact that construction has and in the absence of impact to the dune, that construction or reconstruction would be unregulated and would go back to the home rule concept of your local zoning that you have in place. He said he had found a citation that he was speaking of with regards to not requiring a coastal permit for reconstruction if damaged by other than a storm event and that is out of Part 505, which goes into greater depth of definition than the Village's Chapter 34 if you do adopt that section of state law at the back of your Chapter 74. With regard to Judge Beasley, he does not think there was any misunderstanding. He read the last sentence of his six page determination, his findings, "In light of the foregoing, the court finds the Board's determination to be arbitrary and capricious, an abuse of discretion and affected by error of law". He thought the Board needed to get more deeply into this law, what is it about and to put this into balance together with the other zoning laws that you have on the books.

Paul Houlihan, Village Building Inspector, said he agreed with everything that Mr. Haefeli and Mr. Bishop had said. He wanted to address the changing of the code. He said the truth of the matter is that probably most municipalities around us have all tweaked the code and modified it to fit into their Village and really when you look at the Town of Southampton, they did a complete revamp to their coastal erosion laws. They regulate areas north of the coastal erosion line. They take things like the definition of a non-major addition, where we would let someone put up to a 25% expansion as long as they didn't exceed the restoration. The Town puts additional requirements that that expansion can only be north of the existing structures. He thought that all of the villages and municipalities have done that and to be frank, everything he has heard from the state, they encourage that. Because they never looked at this as a "do all" law and they understood that different municipalities had different needs. He felt this was just what the Village was doing. We are codifying everything that we have done with this municipality. It has worked well and in the end it is going to protect both our residents down on Dune Road and also on the mainland.

Mr. Hulme said he wanted to be clear that he absolutely did not dispute the Board's ability to do this. He understood that they can do this. He said he understood why they wanted to do this. He said all he was asking was for them to take a pause, take a step back and look at what they are trying to accomplish and whether what they are doing actually accomplishes that. He said one other example of that, the amendment to the law appears to take out of the law the ability as a matter of right to add a second story to an existing one story residence. If the impact on the dune is the fact that the house is there, why do you need to take away the ability to add a second story to an existing house. He asked how that protects the dunes, something that occurs twenty or thirty feet into the air above the dune. He said that was just one example of the many ways that this law is headed. He said the final thing we all always have to keep in mind is that people have a series of rights and duties and obligations and things that they can do – every time we pass a law, we take a little bit more of those rights away from those people. He thought the Board just needed to be cognizant of that and see how far they are going and whether or not it makes sense.

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

Motion by 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 the 1st day of May, 2008, to hear all parties on a proposed Local Law entitled "A Local Law amending Chapter 74 of the Village Code entitled "Coastal Erosion Management", 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 1st day of May, 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 has 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. 6/2008, entitled "A Local Law amending Chapter 74 of the Village Code entitled "Coastal Erosion Management", 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

Resolutions:

Accept minutes of Board of Trustees Meetings

Motion by Deputy Mayor Kametler:

RESOLVED, that the minutes of the Trustees Meetings of March 6, 2008, April 3, 2008, and the Special Meetings of April 16, 2008 and April 23, 2008 are hereby accepted.

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

Accept departmental reports

Motion by Trustee Levan:

RESOLVED, that the Treasurer's reports for March 2008, Police Department, Justice Court and Building Inspector's reports for April 2008 are hereby accepted.

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

Refer Patio Gardens III Special Exception to Planning Board

Motion by Trustee Tucker:

RESOLVED, that the Special Exception permit application submitted by Patio Gardens III, LLC, to construct 48 condominiums on 8 acres of properties located at Montauk Highway and Depot Road and identified by Suffolk County Tax Map # 905-4-1-lots 22.1, 23, 26.3 and 30.1, is hereby referred to the Planning Board.

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

Authorize renewal of Shock Ice Cream outdoor dining permit

Motion by Trustee Birk:

WHEREAS, Shock Ice Cream has applied to renew the Outdoor Tables and Chairs Permit originally granted in 2004 to place three (3) outdoor tables with attached benches pursuant to Chapter 196-1 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 determination duly approved by the Board of Trustees on April 12, 2004.

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

Authorize renewal of Shock Ice Cream outdoor music permit

Motion by Deputy Mayor Kametler:

RESOLVED, that the Board of Trustees hereby approve the renewal of the Shock Ice Cream outdoor music permit for 2008 subject to the conditions as set forth in the Determination dated August 3, 2006, the provisions of Chapter 196-2 of the Village Code, and the requirement that amplified music when measured from the center of Main Street (as defined by the double yellow lines) shall not exceed 65 decibels between 6 p.m. and 9 p.m. and 55 decibels between 9 p.m. and 11 p.m. when monitored by a properly certified decibel meter.

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

Authorize renewal of Beach Bakery Café outdoor music permit

Motion by Trustee Levan:

RESOLVED, that the Board of Trustees hereby approve the renewal of the Beach Bakery outdoor music permit for 2008 subject o the conditions as set forth in the Determination dated May 24, 2006, the provisions of Chapter 196-2 of the Village Code, and the requirement that amplified music when measured from the center of Main Street (as defined by the double yellow lines) shall not exceed 65 decibels between 6 p.m. and 9 p.m. and 55 decibels between 9 p.m. and 11 p.m. when monitored by a properly certified decibel meter.

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

Appoint 2008 seasonal Village Marina personnel

Motion by Trustee Tucker:

RESOLVED, that Frank Prudente is appointed as the Dock Manager to be compensated at the rate of \$14/hr. and Vincenzo Portelli is appointed as a Dock Attendant to be compensated at the rate of \$12/hr.

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

Appoint 2008 seasonal Police Officers

Motion by Trustee Birk:

RESOLVED, that the following 2008 Seasonal Police Officers will be hired at the rate of \$19.00/hour and will be scheduled to work at the discretion of the Chief of Police:

- | | |
|----------------|----------------|
| Steve Frano | Jeff Platt |
| Mark Yakaboski | John Rankin |
| James Storan | Marc DeMartino |

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

Appoint 2008 seasonal Traffic Control Officers

Motion by Deputy Mayor Kametler:

RESOLVED, that the following 2008 seasonal Traffic Control Officers will be hired at the rate of pay of \$ 15/hour and will be scheduled to work at the discretion of the Chief of Police:

- | | | |
|-------------|---------------|-----------------|
| Ron Gholson | Robert Laube | Daniel Dolomite |
| Mathew Dean | Timothy Niles | Vincent Iannela |

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

Appoint 2008 seasonal Beach personnel

Motion by Trustee Levan:

RESOLVED, that the following persons are appointed to the positions specified below at Rogers and Lashley beaches for 2008:

Managers (40 hrs/wk)

Stephen Wisnoski	\$19.50/hr.
Anthony Grausso	\$17.25/hr.
Eric Sweet	\$17.25/hr.

Substitute Managers (as needed)

Max Mascia	\$22.00/hr.
Tom Betjemann	\$22.00/hr.

Lifeguards (48 hrs/wk)

James Raynor	Head Lifeguard	16.75
John Balzano	Lt. Lifeguard	14.50
Robert Duca	Lt. Lifeguard	14.50
John Westfield	Lifeguard	14.00
Mark Nordman	Lifeguard	14.00
Matthew Montpetit	Lifeguard	13.50
Derek Westfield	Lifeguard	13.50

Beach Attendants (35 hrs/wk)

James Carr	Attendant	10.25
Brian Carr	Attendant	10.00
Merisa Booth	Attendant	9.50
Olivia Lignon	Attendant	9.50
Sarah Burke	Attendant	9.25
Marissa Apstein	Attendant	9.25

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

Appoint part time DPW Laborer

Motion by Trustee Tucker:

RESOLVED, that Thomas C. Mitchell is hereby appointed as a part time Department of Public Works Laborer to work as assigned by the Highway Superintendent at an hourly salary of \$13.50 per hour effective May 17, 2008.

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

Authorize Five Borough Bicycle Club to use Village Marina

Motion by Trustee Birk:

RESOLVED, that the Five Borough Bicycle Club is hereby authorized to use the Village Marina as a rest stop during the annual Montauk Bicycling Event to be held on Sunday, May 18th from 6.a.m to 6 p.m. and to install temporary restrooms.

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

Authorize SH Town Parks Dept. "Movie Night"

Motion by Deputy Mayor Kametler:

RESOLVED that the Town of Southampton Parks & Recreation Department is hereby authorized to hold the "Annual Movie Night" on the Great Lawn on Monday, July 21, 2008 from 5:00 p.m. to 11:00 p.m.

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

Refer Beach Bakery outdoor dining application to Planning Board

Motion by Trustee Levan:

WHEREAS, Beach Bakery has applied for an outdoor dining permit which has been referred to the Village Planning Board for an advisory review; and therefore be it

RESOLVED, that the Village Clerk is directed to publish and post a Notice of Public Hearing in the event that the Village Planning Board recommends that application.

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

Approve amended Village Beach Regulations

Motion by Trustee Tucker:

RESOLVED, that the 2008 Beach Regulations as amended are hereby approved.

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

Approve Greater Westhampton Chamber of Commerce 2008 events

Motion by Trustee Birk:

RESOLVED, that the Greater Westhampton Chamber of Commerce is hereby authorized to use various Village properties for the 2008 events listed on the attached.

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

Authorize appraisal of property to determine a subdivision park fee

Motion by Deputy Mayor Kametler:

RESOLVED, that Hampton Appraisal Service Corp. is hereby authorized to appraise the Westhampton Beach Associates multi-family subdivision property for the calculation of the park fee at a cost of \$2,750.00.

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

Schedule May 28th public information meeting on Eruv

Motion by Trustee Levan:

RESOLVED, that the Village Clerk is hereby authorized to publish a Notice of Public Meeting to be held on Wednesday, May 28, 2008 at 7 p.m. at the Village Hall to discuss the request by The Hampton Synagogue to designate an Eruv within the Village.

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

Accept proposal for workers compensation coverage insurance

Motion by Trustee Tucker:

RESOLVED, that the Mayor is hereby authorized to execute any and all documents required to accept the proposal to provide the Village with workers compensation insurance coverage for the 2008-09 fiscal year as submitted by the NYS Municipal Workers' Compensation Alliance.

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

Approve May 2008 warrant

Motion by Trustee Birk:

RESOLVED, that the May 2008 warrant for the General Fund in the amount of \$215,095.54 is hereby approved.

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

Public Discussion

Jackie Sprotte, 441 Dune Road, thanked the Village for extending this eruv meeting until May, since there are a lot of people that really were not informed and might have a lot of questions. She said she had been here since 1982 and she can honestly say that this Village has been friendly to the synagogue and the church and it is part of the community and she was kind of glad that they are here. She said that, having said that, she is trying to understand Jewish law, so she went on line and at the last meeting she asked the Rabbi if she was right with her comment and he had said yes, so she wanted to read it for everybody. "Under Jewish law the Jewish community must seek agreement with the community at large for installing the eruv, which adds a layer of complexity to the issue of the installation." She said she knew that Tenafly was an extreme case where they sued, but she felt that Westhampton Beach was a coastal community and we do have different issues than Tenafly. She said that it does say that "in some extreme cases, some congregations have sued local authorities to allow their installation. This method is rare and controversial. Some critics within the Jewish community have criticized the very rare incidents of lawsuits, for their installation as a method is not considered by all to be equivalent to community support." She said she was again, surfing the internet, and came across this article, California is also having an issue with how to install and if they are going to approve it, whatever, so this girl Ellen, from one of the newspapers, wrote this. She asked Mr. Haefeli to please take a deep breath. "Like other community issues that have invoked strong feelings, approval of the eruv should become a valid item for the entire community to vote on. At present, we are hearing the amplified voices of special pleaders, articulate activists on both sides of the issue, who are expressing strong feelings in strong words and creating an atmosphere of acrimony and division. Most Palo Altans may, in truth, be indifferent to the eruv, but we won't know unless we put it to a vote for the entire community and democratically arrive at this decision." She said that was the end of the article. She felt that since this would be the first eruv on the East End, maybe we should be the first to vote on it. She left the Board with a quote from Rabbi Romm. "The only thing worse than no eruv, is having a controversial eruv."

Father Joe Mirro, Pastor of the Immaculate Conception Church, said he was only here to speak to those, some people have contacted him or have sent him e-mails, as to what the churches position might be as regards to the eruv. He said their position is that they really don't have a problem with it, they are not afraid of it, it doesn't impact the lives of any of their parishioners and they don't see how it affects the lives of anyone. He said that if anything, it would help to make our community even more tolerant and acceptance of other peoples and other people's traditions than it is already. He said he knows it invokes many fears, but he felt the fear it invokes is more frightening to him

than the fears that people have. He said we are afraid of intolerance towards us, but if we are intolerant towards somebody else, how does that end our fear, how does that end intolerance. He felt intolerance can only be ended with tolerance. He said this request is the least that you can possibly imagine of a community, to have a community to do and if you can't be tolerant in the least request, then what is going to happen in the future. He said it has invoked many fears, but those fears are usually not the issue here. The issue here is whether we are going to take some ugly telephone poles and make them have something else to look at besides those ugly telephone poles on them, that's all, no more, and he could not think of anything less.

Michele Harrington, 33 Stevens Lane, thought the eruv should be fully discussed. She said that her only concern about how we are going about it, is that it is done properly and that everyone has a choice to listen in and learn about it. She thought that one of the problems is that it is unknown and we don't know what it means, how it is supposed to work, how it has been designed, what is included and what is not included. She also thought that what was very important for the eruv and for the Village and for east coast seaside Villages is a full assessment. She felt that we have to look at this environmentally, as well. She said we have some birds that are very endangered here on the east coast in Westhampton Beach. She said there are these lines that are going across. When she spoke to the Cornell Lab of Ornithology, they basically have shown through different reports that are around about any types of wires, whether it is for wireless cell towers, that a lot of these birds are killed with these clear, colorless flyers. She felt that it was something that before we fully take a vote on it as a town or make a decision, that an assessment should be made, an environmental assessment should be had so it is done properly. She thought that was important.

Richard Haefeli, attorney for The Westhampton Synagogue, stated that based upon Father Mirro's comments tonight, he really would ask that the Board consider adopting the proclamation tonight so that this is over and done with.

Bob Sprotte, 441 Dune Road, said he knew that this was very controversial. The first thing he had to say was that we have a mayoral election coming up on June 20th and he really thought that because a lot of people are not informed and aware of this, aware of tonight, it really wasn't broadcast well, because your system was down and your minutes were not on one month and then you couldn't hear the replay on the next months, so most people just found out about this problem within the last week. He requested that, in fairness, we delay this vote until after the next mayoral election because he thought it was very unethical that we do it before then, because we could have a new Mayor and we could have a couple of new Trustees here and he did not feel it was fair to do that. Also, he was just curious. He knew that by calling the Village yesterday, there are 2,400 taxpaying parcels, which includes houses, condos, land and commercial real estate. He was just curious as to how many parcels do members of the temple own, taxpayers. He asked if they could find out that information.

Mayor Teller responded no.

Mr. Haefeli said it was his understanding when you issue a tax bill, you issue a tax bill in the name. He said he did not think we had gotten to the point in this country where we stamp somebody with whatever religion they happen to be and that is exactly what this is.

Mr. Sprotte said he was not. He said he wanted to know what percentage of the 2,400 are going to use the eruv. He said that on the synagogue's website, they advertise hotels for your members to stay in so he assumes there are a lot of renters and he felt the public should know that. He said he is not asking anything that is outlandish, he wanted to know if it was 1%, is it 2%, is it 10% of the 2,400. He asked the Mayor if he could find that out.

Jean Sweibish, 114 Potunk Lane, asked what was the point, what was the point to finding that information out.

Mr. Sprotte said he wanted to find out how many taxpaying members are in the temple, the congregation out of the total 2,400.

Ms. Sweibish asked why.

Simon Jorna, 112 Main Street, commented that even if there are ten people, what makes the difference, a couple of those you stick on a pole.

Mr. Sprotte said we are not educated on this, this is the problem, we are not really educated on this.

Mayor Teller said what Mr. Sprotte was asking for was how many people are members of the temple.

Mr. Sprotte said he wanted to know how many taxpaying residents.

Mayor Teller said he did not think that was any of his business.

Mr. Sprotte said he was just curious. He said they advertise to look into Lawrence and Cedarhurst. He did not know if a lot of people in this room knew about the towns of Lawrence and Cedarhurst. He thought we should look into that. He felt this should not be voted on May 28th, the whole community should be aware of this and we should vote on it afterwards when the whole community knows all the issues.

Elyse Richman, owner of Shock on Main Street, stated that a police officer came around this week to ask if the stores were asked to close, if they were being forced to close on Saturdays and she was very offended that a police officer was asked to do this.

Mayor Teller responded that the reason he asked him to do this was that every e-mail he received said that the storekeepers were threatened to close.

Ms. Richman said that was false information. She asked if he could read the e-mails that went around. She said she had a copy of them and they had false information.

Mayor Teller said he understands that.

Ms. Richman said she was never asked to close, ever. She said she was open 365 days a year, Yom Kipper, Christmas, Ramadan, every holiday. She said she doesn't have to work if she doesn't want to, but no one has ever forced her to close in the twenty-four years she has been here. She did not feel it was a police matter. She said that maybe the Trustees should have gone around and asked, to interact with the merchants. She felt they should come down and here what the merchants say, not read false e-mails that got everyone crazy this week.

Mayor Teller said that almost every e-mail we received had erroneous information in it.

Ms. Richman said she corrected the person that sent them out and she is cognizant of them, but it was wrong and every one in this Village was in a panic that we were going to become Lawrence, we were going to close on Saturday and that is what they were afraid of and it is not going to happen.

A member of the audience asked if she could guarantee that.

Ms. Richman said she was a store owner, she could tell them. She said that is why people are afraid of the unknown and what is going to happen here, it is wrong.

Betty Ann Iseman, 44 Westbridge Road, said she did not know what Elyse was referring to. She asked if the Board could tell the audience what she was referring to about the policeman and all of this. She did not know what Elyse was talking about and felt that others didn't either.

Mayor Teller responded that they had been inundated with e-mails citing certain information, the e-mails saying that stores have been requested to close on religious holidays. They said that people going to the temple will be authorized to walk on private property. He said he had asked one of our employees to go down and ask a question, if in fact, somebody had done this.

Jim Flood, 59 Rogers Avenue, felt there was a fear, whether it was founded or unfounded, that what happened in Lawrence and Cedarhurst could end up happening in Westhampton Beach.

Ms. Sprotte said the reason people might feel that is because in the Newsday article, the Rabbi mentioned Lawrence and Cedarhurst, so when someone says that in the newspaper and then you go and you check and there is an article that everyone should really, if they would like to read, is "Lawrence, a divided community". It is written by a Jewish woman that lives in Lawrence so it is not intolerance, it is just people wanting to know if this is a possibility. She said she was sorry if some people maybe read that and really panicked, but that is why we need to have this meeting. She felt we actually need to have a couple of meetings because so many people live in Connecticut and New Jersey and they just want information, they just want to ask a couple of questions. Since the synagogue is asking for eighteen years, she thought that it was not a ridiculous request from the community.

Father Mirro stated that he was not afraid of the eruv, he was not afraid of the synagogue and he was not afraid that this community will ever be like Lawrence and Cedarhurst.

Victor Levy, 58 Beach Road, said he was not a member of the synagogue. He said that those who are familiar with Planning Board meetings will know that he is often quite critical of them because he has had some differences over there over the years with the applications that they have brought forth before us. He stated that he had attended two meetings now where this has been discussed, one of them was a work session. He thought there might be a benefit, since there were a lot of people here that were not here at the last work session when we had some discussion of this and since the Executive Director of the synagogue who deals more with the business end of it rather than the religious end of it is here and Mr. Levy felt that he would be happy to give the audience any information they want to know about what an eruv actually is. He said he certainly never knew before then. He said that Trustee Tucker and he had spent a lot of time in a community that had a very large Jewish population, he didn't remember it ever being an issue, he didn't know, maybe there was one. But, they were in the community of Merrick that was conservative, was considered Orthodox and Reformed, they were heretics completely so there was not an Orthodox population there. He said he had made some comments at the work session and he felt they really applied here and they were really said much more articulately by Father Mirro, and that is that this is really a non-event. When you hear what is going on and what it means, it means something to those five, ten, fifteen, twenty-five, fifty people who maybe are so observant that they do not push a baby carriage, do not carry books, leave their wallets and money at home when it is the Sabbath. He said that Mr. Bishop described it in the best words of all, it is an "accommodation". It is the same kind of accommodation we make on the beach on Easter Sunday when there is a number of churches that have Easter Sunday services. It is the same sort of accommodation that we make when various religious symbols appear on the Village Green during the holiday season. It is the same sort of accommodation when a church steeple, which is probably higher than our current regulations are, that has a cross on top, is recognized when we listen to the bells that have beautiful music out of this church. It is an accommodation so that those people who practice can perhaps have a somewhat easier time during their Sabbath day. It is nothing more than that. It is what drives the change in population to make a community like Cedarhurst or those communities, the difference is they have a huge, overwhelming number of them there. There are a lot of people there, they have decided that they want to run the community in a certain manner and they have really done it very democratically, whether you liked it or not, that is your choice whether you lived there or not. He felt that this community was not going to change like that. This community does not have the population of Orthodox people, nor does he think the Orthodox people have the desire to have the sort of changes made in the community. He said it is his impression that they like the community the way it is. He found it disturbing, the ignorance at some of the remarks that have been circulated around. He thought they really came from a lack of knowledge. He felt they could have gotten some knowledge by calling the synagogue, they would be happy to discuss it with you and he felt that is what people really need to do. He told the Mayor he thought there might be some benefit in asking if anybody has any questions to ask them of the representative of the synagogue. He is here and he can show them what it is. He felt you could have

meetings endlessly to debate this. He said they were elected and sometimes when you have been elected, you have to have some cajones to do what you have to do.

Sam Nussbaum, Executive Director of The Westhampton Synagogue, set the record straight by explaining that he was not a Rabbi at all. He said he was not even a practicing Jew, but he is Jewish. He said he had been with the synagogue since July and honestly speaking, he had to do a lot of research on the eruv himself, because before he came he did not know what an eruv was and he has been Jewish all his life. He said he had learned a lot through this process. He explained that essentially, what an eruv is, it is a symbolic religious boundary in which people within that boundary can push and carry. For example, on the Sabbath, which was Friday night through Saturday night for Jewish people, those that are religious, because there is an all different range of people that are Jewish, some don't practice at all, some eat non-kosher foods, some of them eat kosher foods, etc., for the people for whom this means something which would be Orthodox Jewish people, they are not allowed to push, for example, push a baby carriage to the shul, to the synagogue where they worship. They are not allowed to push a stroller with their children into the shul and they can't carry, they can't even carry a book or change in their pocket. So, what the eruv does, within their home they are allowed to do those things, within their home they can carry their child on the Sabbath, as soon as they go out that front door they are no longer allowed to do it. Again, this is for a select group of people. The gentleman asked how many homes in that area, what percentage of our congregation would use the eruv. In his opinion, it would be maybe ten per cent. For example, if somebody is an Orthodox Jew who would want to use an eruv, they may have their grown children coming out for the weekend and maybe they are staying at the Inn on Main or the Grassmere and that is pretty close to the synagogue. They would not be allowed to push their children, their grandchildren, to the synagogue for services unless there was an eruv, a symbolic boundary within which the Inn on Main or Grassmere was. And, the eruv that we are proposing has the Inn on Main and Grassmere within that, because we do get some people that come out for the weekend and like to spend it over there within walking distance of the synagogue. So, essentially, once you walk out the front door of your house, you can't push, you can't carry, just for this select group, most of their congregants this would not mean anything to them. They will walk to shul just like they normally do. He explained that what the eruv does, is essentially you have a door, what the eruv does is it creates a series of doors beyond the scope of your house. When you are in your house, it is private domain. When you step out of the door, it is public domain. You can't push or carry in the public domain going to the synagogue. So, essentially, the eruv creates a series of door which are outlined by the poles that already exist. We have these telephone poles as referred to by Father Mirro and a few other people in our Village, we have them all over the place. So, basically what it is, if you have two telephone poles and then you have a wire connecting them, that creates a door. Then, next to it you have another pole and another wire and that creates another door and next to it a pole, a wire and another pole. It is the already existing poles. The area of the eruv that we have recommended is already pre-existing poles and pre-existing wires. That creates a series of doors and if you outline that boundary, in essence what it is saying is, now the door for you to go out of your house has been expanded to wherever the circumference of the eruv is. So, now within that section which we proposed, we gave a map the other week to the Village, within that section you can now carry a book to the synagogue, you can now push your children in the stroller or baby carriage to the synagogue and there is no problem with doing that. That means that on the Sabbath, on a Saturday or Friday night, the husband can go to services and the wife can come and push her children to the services as well. If they are an Orthodox Jew that practices this, and that is not even all Orthodox Jews, now they can't do it. As far as the eruv, it has no impact on the community in the sense that all of the poles that are there are pre-existing, because we walk through it and use the pre-existing poles and pre-existing wires. He said there are some poles that may require an additional rope in between. This is something that LIPA and Verizon, both of whom he has spoken with, have no problem with. They don't have any problem with us doing the eruv. As a matter of fact, they have a forty page contract that he would have to sign in order to do this, which lays out exactly how the work is done and they would have to supervise all of the work. The thing about the "lechi", you might have heard this term, which is basically a piece of wood or a piece of PVC piping. When you have the two poles and the wire, let's say you are going straight down Montauk Highway, they have all straight poles, there is no problem. When you make a turn into another street,

like Montauk going into Aspatuck, for example, it is curving, it is turning. Wherever there is a turn in that religious boundary, according to the Jewish law, you have to put something on those poles identifying it is not a straight door, now it is curving. That is called a "lechi" or it could even be what they call a wooden staid or it could be PVC piping which is like ½" to ¾" black or any other color, that goes up the pole, that is wherever it turns. Those poles would require those extra pieces. The other poles that go in a straight line are fine, they will not require those pieces. So, that is essentially what it is, as far as eruvs, the White House has an eruv around it, the White House and the Supreme Court; right now there is an eruv around it. He was sure the President doesn't know, but it is there. He said Baltimore has an eruv, Roslyn in Long Island, Roslyn Heights, the five towns you mentioned, Great Neck and Kings Point. Manhattan has an eruv covering most of Manhattan, most people don't even know it is there. There is one in Kew Gardens, Kew Gardens Hills in Queens, North Shore Hospital has one around it, East Northport, Plainview. Recently there was one put up in Stony Brook, which is now in existence, so those are some of the areas that have eruvs. They are all around the country. There are hundreds of them. Most people don't even know they exist. The truth of the matter is, after it is up, it is not going to have meaning to anybody except those few people, and he believes it will only be a few people, who practice their Judaism in that way that it would require them to have an eruv in order to push or to carry. It is only going to have meaning for those people. He said it was like this water here (Mr. Nussbaum held up a bottle of water). He said that on the Poland Spring water there was a "U" and a person who was Jewish and kosher and only eats kosher foods, he or she has to have food that says either "U" on it which means union of something or other, he did not know himself, or "K" which means kosher. This water, Poland Spring, right over here it says "U", so if a person is Jewish they will be looking at this. If it doesn't have a "U", they may not drink this water. It is the same thing with the eruv. A person to whom it has meaning is going to look to make sure the eruv is there and make sure the lechis and whatever is there and they know that they can walk within that area. For a person that doesn't require the eruv or doesn't know about it, it is not going to mean anything. As far as the fear and concern about Cedarhurst and Lawrence and Woodmere and that area, that is never going to happen, zero. First of all, we have a very modern Rabbi, Rabbi Marc Schneier, who would never want that. He is a modern Rabbi. He would really go in the other direction than to go to a more strict interpretation. He said he would never see that happen and it certainly is not on tap. What it is, is there is a small group of people in their synagogue who have difficulty on the Shabbat. They can't carry change. We heard from a person on our Board of the difficulties he has had, so in order to accommodate these people, we approached the Village and said we would like to have the eruv. That is essentially what it is. In order for us to put this up, it has to be supervised by LIPA and Verizon. They have a whole contract on it and they talk about the eruv and they talk about these lechi, they have it right in there. We have to have a Rabbi supervise it to make sure it is done correctly and that is pretty much it. But, before we go ahead, we would like to get the Village approval as required by Jewish law and then we would go ahead and construct it. It doesn't separate any group of people out. It doesn't separate us out from non-Jewish people. It only has meaning for a small segment of our Jewish congregation and population and that is the truth and that is pretty much it. He said that for him, it does not have meaning, because he is not even kosher.

Trustee Levan asked how this would accommodate people who leave their homes, but their home is not within the eruv. She said that where her home is, it is not within the eruv and there are plenty of Orthodox people walking to synagogue.

Mr. Nussbaum responded that if those people don't push or carry on Sabbath, some of them do and some of them don't, if they are in that area that is not within the eruv, it would be the same for them. This wouldn't help them.

Deputy Mayor Kametler asked how come they were asking for certain parts of the Village and not the whole Village.

Mr. Nussbaum explained that when they laid it out, they wanted to do an area where all of the poles are pre-existing. In other words, if they went into the southern part as you get to Dune Road, where the utilities are underground, they would have to put up poles to make that an eruv. He said they did not want to do that. They felt they wanted to have the least impact on the community. The other thing is that when you start going

over bridges, like to go into Dune Road, it is a problem for the eruv. It is not that easy, there are other things you have to do, so they wanted to make it a reasonable area which accommodates some of their people. Some of their people have requested it and that is the reason why they did it and have the least impact on the environment. This would mean they would have to put up some of this PVC piping, supervised by LIPA, but they charge us, they charge us by the pole. They have to supervise every single pole, the installation of it by the contract, it has to be supervised.

A member of the audience asked what it cost.

Mr. Nussbaum replied that they charge something like \$7 per pole. What they do is, before it is put up they go around with him and a Rabbi who is an expert in this and they identify which poles it is going to be done to and where on the pole it is going to be done. They won't allow it on certain sides of the pole, so we have to say we would like to do it here and they would say yes or no, that is pre, pre is around \$7 or \$7.50 a pole, something like that. And post, after it is all up they have to go around again and see if it is all acceptable and let's say this particular PVC piping is in the wrong place, we have to move it and it's about \$6 and change per pole afterwards, so it's a nice cost to assume for them.

Deputy Mayor Kametler asked if they would be coming back next year saying they want to do a little bit more over here. He asked if this was a one-shot deal.

Mr. Nussbaum said that was not their intention. He said it was their intention to really have an area that has the least impact and that was what this area basically is.

John Roland, 291 Dune Road, asked about the lady's concern about the birds.

Mr. Nussbaum responded that if the birds, according to what she said, if they added wires, now there are a lot of wires going in between these poles. Sometimes there is one wire, some two, some three, so they are already existing. If they have to add a wire in, it wouldn't be a wire, it is a rope, which is an approved rope by LIPA and Verizon. They have identified what type of rope it has to be because they have done this in Stony Brook and it would probably go on the lowest part of the pole. He did not know how that would affect them, but they certainly did not want to harm them.

A member of the audience asked if it was a colorless wire, she said that is what she had read.

Mr. Nussbaum said he had heard it was like a fishing wire.

Deputy Mayor Kametler said it was a mono fishing wire.

Mr. Nussbaum said he had heard it was a fishing wire, but he had also heard it was like a rope, but very, very thin.

The audience member said it would be so you can't see it, it would be almost invisible.

Mr. Nussbaum replied that he did not think you would notice it in connection with the other wires that exist, just like you probably wouldn't notice that PVC pipe going up and down because if you look at the pictures we showed the last time we were here, we showed some poles in pre-existing eruvs. On one side of the pole was a piping and the other side was a piping. One side was a piping that pre-existed, it had nothing to do with the eruv of that place and the other side was from the eruv and they were exactly the same, so you really couldn't tell the difference.

The audience member asked if they had done any environmental assessment, had they asked the Department of Fish and Wildlife or have they asked the Cornell Lab of Ornithology. She felt it was very important.

Mr. Nussbaum said that he honestly did not know about that until she had mentioned it, he had not known about it. He said there will be a minimum number of poles that would require it, there may be zero, there may be up to possibly twenty. He said that would be determined by the Rabbi, whether he feels that in completing that door, the top one

doesn't work for some reason, the top wire. He said he would not be making that determination, the expert would make that determination, but if they do put up the wires, they have to do a slightly different contract with Verizon. They have to pay more actually, they have to pay \$500 right up front. There is no problem from Verizon's point of view to putting it up. He said he did not know the impact and he certainly would be concerned about that, but he did not know it because he had not done any research on it.

Another audience member asked about the people that don't want poles in front of their house.

Mr. Nussbaum said that they were only using pre-existing poles. They will not be adding any poles.

The audience member said he thought Mr. Nussbaum said they were putting up PVC poles.

Mr. Nussbaum explained that the PVC were not poles, they were an attachment to the existing wood pole and it is about $\frac{1}{2}$ and $\frac{3}{4}$ of an inch PVC piping. He said it is very unobtrusive and you would hardly even know it is there. He said the other way to go would have been to use a wooden two by four, which they had shown the Village and the Village didn't like the way it looked, so they changed it to the PVC. He said it was sort of like the old tennis rackets were originally wood and now they have gone to more different elements. It is the same with this, they used to use wood and now they are using this because it is thinner, it is lighter and it is more acceptable to the public because it looks better.

A member of the audience said she had not seen the map, but wanted to know if they had spoken to the various homeowners within the area to advise them of it and ask them how they feel about it.

Mr. Nussbaum said they had not. He felt that something like this would be an opportunity for the homeowners within the area.... He said that again, it wouldn't impact them except the time they were actually constructing and putting up those....

The audience member said that just being in the eruv, had they let the various homeowners know that they are going to be within that area.

Mr. Nussbaum said that the people in their congregation have been informed that the synagogue was looking to do an eruv. He did not think they all even know the area that it encompasses is.

The audience member asked concerning the homeowners that are going to be within the eruv, just the Village residents.

Mr. Nussbaum responded that he thought that is what this process would be for, to let people know. He said it had been in the public eye a lot with different articles in the news and he thought that through that process....because it would be a lot of homes, actually, because if you look, it is going from Montauk down to Stevens and then up. He said it is all going to be poles that are actually there and once it is done he did not think you would really notice the difference unless you were looking for it. He said that from their point of view, you may see a few more people, maybe twenty more people walking with the baby carriage to their shul rather than staying home and not being able to worship, that is the impact, they will be walking on sidewalks, not on the road, so that is the impact. He said they weren't even a year-round congregation, per se. He said they had a small group that was here throughout the winter and in the summer they have more people who come who have second homes that live in Manhattan. He said it would not be going to impact in the winter at all.

A member of the audience asked if they could get back to the wire issue. She asked if they were using something like monofilm, was it visible. She felt it would be harmful to birds if that is strung from pole to pole and it is invisible.

Mr. Nussbaum said he honestly didn't know. He had heard it was either a very thin wire or a thin rope. He believed it would be visible. He asked if the audience member would prefer it be visible like the existing wires so they wouldn't be running into it.

The audience member thought it should be, for bird issues.

Mr. Nussbaum said he would look into it. He believed it would be invisible, but he can't 100% say for sure, because he hadn't really seen one.

Trustee Levan asked if Mr. Nussbaum could show the people an example of the PVC so they could see what it is like.

Mr. Sprotte asked if the synagogue will be bussing in other people from other synagogues to use this.

Mr. Nussbaum said no, that basically they have their existing congregation and those people that come out here will use that and their children or visitors will be able to use that. He said it will not increase the number of people in the congregation, people that don't belong to their synagogue are not going to all of a sudden come there because they have an eruv.

Eileen Barrett from Quiogue said she has a live Orthodox community in her community and that at both meetings Mr. Nussbaum had said and she had read it in the newspaper that this eruv is going to be expanded. She said Mr. Nussbaum had said it at two meetings, which means that once it gets up, it is going to go in larger parts of the community.

Mr. Nussbaum said he did not think he had said that. He did not remember saying it.

Ms. Barrett said he did say it.

Mr. Haefeli said that he had said it at every meeting that they have had that this is going to be expanded, no question about it. He said it started in the Village..... He said that Mr. Nussbaum made a mistake.

Mr. Nussbaum said that he honestly didn't know, he was just telling her what he knew. He said it was a possibility. He did not remember saying anything like that.

Mark Raynor asked if they could put the map on the webpage so that the public could see where the outline is.

Village Clerk Kathy McGinnis said they could do that.

Ms. Barrett asked if they plan to expand this in the future, what communities would that entail, would it go into Quiogue or down into Remsenburg.

Mr. Nussbaum stated that if they did that they would have to go to those communities.

Mayor Teller said that for Quiogue, they would have to go to Southampton Town.

Mr. Nussbaum said he understands how people feel. He said he did not know anything about this until about three or four months ago and he and Mr. Haefeli became experts on it pretty quickly. He said that once it was there, he can almost guarantee that you won't even know it is there. It is not going to be any different than it is now, except maybe a few more people will be coming to the services.

Mrs. Sprotte said her question is to the blocks that don't have sidewalks. She felt that maybe this is where taxpayer's money comes in. She wanted to know how they could ask people to walk in the street. Mitchell Road floods and as soon as it rains, it maybe a day or two. She asked what happened if there are no sidewalks, do people actually walk in the street, which is dangerous.

Mr. Nussbaum said they certainly wouldn't ask people to do that. He said he could see three uses. The people that already live here that have a second home, although they

have a small congregation here around the year, so the person that lives here and is religious, which most of their congregation is not, that person, if they were in the eruv, would be able to use that and walk. Then, if they have their children over for the weekend or a friend over who is as Orthodox as they are, they would use it and would walk with them. Third, would be when they have guests over the summer. They have a great summer program at the Synagogue with all kinds of activities. We have speakers that come from all over the country and if those people are religious enough to use an eruv, then those people, if they are staying at the Inn on Main or at Southwinds or somewhere else, whatever it is within the eruv, they'll be able now to carry their book with them to come to service. He said he did not know the Village that well, he had only been out here since last July, if there are streets where there is no sidewalk and it is within the eruv and those people are practicing enough that they use the eruv, then most likely they would walk on the road, but it would not be an intent of the synagogue to tell people to start walking on the road. He said this is not like a closed community. He said he had lived in Rockland County before, many years ago, and he felt he probably shouldn't say it, but he lived in a Jewish area which became too Jewish for him. On a Saturday, everybody would walk in the middle of the road with their baby carriage and he would drive his car, because he drives on Shabbat, because he is not Shabbat observant, and he would get these dirty looks. He said he wound up moving out of an area in New Hempstead to a new area, but that is different, that is a closed community that everybody in there is like that. That is not what this is.

A member of the audience asked how they would see this on the telephone poles if it is invisible, would they get a map or something.

Mr. Nussbaum said that after it is up and has been approved from some religious individual, a Rabbi, let's say, who does that. In Stony Brook, they have one fellow who does that. Then it is an eruv, so now the people that live within there will be told where it is and they can walk. He said that theoretically a person has to check from time to time to make sure that all of those PVC pipes are still in place and if they did add wire, that it is still there, to make sure the line is not broken anywhere and those series of doors are not broken. So, that could be done once a month, it could be done before every Shabbat, that person would have to go around, drive around and make sure everything is in perfect condition and the eruv is still there. He said that is a responsibility they would have for their people because they would want to know that the eruv is up and functional and meets the requirements. On Friday night there is no driving or anything like that, but before that they would have to look around.

Mr. Flanagan said he could send them some money. He asked why they couldn't get the Rabbi to go through and just bless it all. You wouldn't have to get any permission from LIPA or Verizon and save us a lot of money and it would help them.

Ms. Barrett asked if this issue would be decided at the May 28th meeting or if it will be delayed for a general election vote.

Mayor Teller indicated that he did not want to delay it until after the election. He said if they are going to throw me out, then throw me out.

Dean Speir, 256 East Main Street, remarked that in the 65 years he has been here, he never realized there was such a large community of people where aluminum underwear and aluminum beanies, after reading the e-mails that were circulated around and just some of the concepts expressed in them about private property being trespassed upon with the creation of this eruv. He said that Mr. Flanagan had asked, facetiously, a question which he felt was actually, wasn't that pretty much what was going to happen. He said that Mr. Nussbaum had said that a Rabbi, on a regular basis, would be responsible for seeing that the eruv was properly maintained would be going around and approving the condition of the eruv so that it was intact, which is essentially the same as a blessing, so that is not such a facetious question, that is really what it comes down to here. Mr. Speir spoke to Ms. Barrett and said that he had been at all three meetings where this was discussed and Mr. Nussbaum had not said what she said he had said. He said that Mr. Haefeli took the weight on that and that is what he said. He felt that the Mayor had allowed this to become much more of a divisive issue than it needed to be. It was a rather simple request, there was an informational meeting at the Work Session, which unfortunately was not recorded. He thought this was possibly the

most ill-advised extension of an issue since Mr. Bishop was on the Board and he thought he would remember back in 1989, 1990 when they had the meeting about what was essentially a personnel matter about replacing a police administrator.

Mr. Bishop said he had forgotten that story, but whatever.

Mr. Speir said that the Mayor had allowed this to grow and by extending this, he had allowed the communications that were going on by e-mail this week and a lot of misinformation. People don't understand what is going on so they kind of fill in the blanks and now like Topsy "it's grew". He felt the Mayor was very close to losing control of this for some inexplicable reason.

Trustee Birk commented that she was very glad the Mayor had let it go, because for the first couple of meetings the Board was being presented with very different information from the Synagogue, so they as a Board had wanted to get specific information so they can answer to the constituents.

Mayor Teller made a motion to add on to the agenda a resolution to approve the eruv petition. Seconded by Deputy Mayor Kametler and voted on as follows.

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

Mark Raynor asked if this was under discussion or was it being approved.

Trustee Tucker said that is what he also wanted to know.

Mayor Teller responded that he was making a motion to add a vote to approve the petition.

Deputy Mayor Kametler said he was seconding that motion.

Trustee Tucker asked if the Mayor was saying that on May 28th they would have a vote on that.

Mayor Teller said he was saying they would have the vote right now.

Trustee Tucker stated that they had reached out to the public and told them we wanted their opinions, we wanted their input and yes, we have heard it, but it has come to light over recent times that a lot of people were not informed and that is why there was a lot of disinformation and even though now, we have sat through three meetings and have been very much informed, he felt there were a lot of people here for the first time tonight that aren't and we have also said that May 28th to a lot of people this week, that was going to be the day where they could find out what was going on and hear about it. So even though he knows what the Mayor is saying and there have been a lot of meetings and he respects what all of the speakers have said, he still felt that, you say it has gotten out of control or blown out of proportion, he still thought that they had heard from enough people and they all weren't just things, a lot of them just didn't understand it. He said he had received a lot of phone calls for the last two weeks and it has just been two weeks that he understood what an eruv really is and now he feels that we have said that we want to wait until May 28th. He said he had told a lot of people that in the past few days that he had responded back to them and he felt that is what we should do is to do what we said.

Trustee Levan said she agreed with Trustee Tucker.

Another vote was taken to add on the resolution for a vote to approve the eruv. The vote was as follows:

Mayor Teller	Aye
Deputy Mayor Kametler	Aye
Trustee Birk	Nay

Trustee Levan Nay
Trustee Tucker Nay

Elyse Richman asked what was going to be discussed on the 28th.

Deputy Mayor Kametler replied it would be the same thing they had just discussed.

Trustee Levan said there were a lot of people who want to hear it first hand, who have questions, they would like a presentation by the Synagogue like Mr. Nussbaum gave us tonight.

Ms. Richman asked if it would be the whole thing again.

Trustee Levan said that was correct, for people to see it in person, live and ask questions and she felt they deserve that.

Deputy Mayor Kametler told Ms. Richman to tell everyone she knew that was not informed or in the audience to come to the next meeting so they can inform everybody.

Simon Jorna of the Beach Bakery on Main Street, wanted to know how he was going to control the music in decibels. He didn't know how high 50 or 65 decibels is, how loud it was.

Mayor Teller responded that 55 decibels is the night time noise ordinance and 65 is the day time ordinance.

Mr. Jorna asked how he would know how loud that was since he did not have a meter.

Mayor Teller said the Village has a meter. He said they will come around and tell him where to set the music at so he can come close to it.

Deputy Mayor Kametler said they would come down and help him set the gauge.

Mr. Jorna asked why he could only play music until 9:00 pm.

Mayor Teller said he had people that want to sleep. They have filed complaints with the Police Department.

Mr. Jorna said that this was Main Street in the summer. If somebody walks underneath the store where there is an apartment, why so soft.

Mayor Teller said they have had noise complaints and this is the way they are going to handle it.

Mr. Jorna asked the Board to tell him how many days he will be allowed to have music, was that going to be restricted this year.

Mayor Teller said he was one of the only ones who had gotten his requested dates in, so they were looking at them now and he would get an answer shortly.

Mark Raynor asked regarding the noise ordinance, does it have to be two people that file a complaint. He asked if someone was in violation, what would they be written for.

Mayor Teller said not on this. This is not a noise ordinance, this is a permit. If there is a violation, they could revoke his permit here at a Board meeting.

Deputy Mayor Kametler said if he has a violation, we can take his permit.

Mr. Raynor asked if they would take it at the end of the summer or during the summer.

Mayor Teller responded that they could take it during the summer.

Trustee Birk asked Mr. Jorna to be a good neighbor.

Mayor Teller asked if anyone else would like to address the Board. There being no further response, Trustee Birk made a motion at 8:50 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