

The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Thursday, October 2, 2008 at 7 p.m. in the Municipal Building, 165 Mill Road, Westhampton Beach

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

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

Mayor Teller opened the meeting with the Pledge of Allegiance.

Public Hearings:

Local Law 8/2008 to amend Chapter 178 Vehicles & Traffic

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

Village Attorney Hermon Bishop explained that this was an amendment to Chapter 178 which deals with parking limits and regulations in the Village. We are amending the ordinance to raise the fines for offenses. This would raise it from \$50 to \$75 for a first offense. For a subsequent offense within eighteen months, this would raise it from \$100 to \$150. For a third offense, it would be raised from \$250 to \$325 if that occurred within eighteen months of the first conviction. In addition, we are raising the fine from \$100 to \$125 with respect to the provisions dealing with parking in a fire zone or parking within fifteen feet of a fire hydrant. Finally, we are merely taking some provisions out of the Vehicle and Traffic law and placing them in our zoning code. The reasons are financial and also it will be easier for us to control fines by doing so.

Mayor Teller asked if anyone in the audience wished to be heard. There being no further response, he made a motion to close the public hearing. Seconded by Trustee Birk and unanimously approved. 4 Aye, 0 Nay

Motion by Trustee Tucker:

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 October 2nd, 2008, to hear all parties on a proposed Local Law entitled "A Local Law amending Chapter 178, Vehicles and Traffic, of the Code of the Village of Westhampton Beach, to Delete and Amend Numerous Provisions of Chapter 178," and

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

WHEREAS, said public hearing was duly held at the Village of Westhampton Beach, on October 2nd, 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 (State Environmental Quality Review Act) (SEQRA), that it resolves itself lead agency, that it has reviewed the EAF Part I, and lists this action as a Type 2 action, pursuant to 6NYCRR Section 617.5, and accordingly, no further environmental review is necessary, and

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

NOW, THEREFORE, the Board of Trustees hereby adopts Local Law No. 8/2008, entitled "A Local Law amending Chapter 178, Vehicles and Traffic, of the Code of the Village of Westhampton Beach to Delete and Amend Numerous Provisions of Chapter 178," a copy of which is attached hereto and made a part hereof, and the Village Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and to enter said Local Law in the Local Law Book of the Village, and to give due notice of the adoption of said Local Law to the Secretary of State.

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

Beach Bakery Outdoor Dining Application

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

Village Clerk Kathleen McGinnis advised that she had not received the required proofs of notification for this application. Mr. Jorna then gave the required proofs to Mrs. McGinnis.

Simon Jorna, owner of the Beach Bakery, explained that he was requesting some seating for the front of the store and some additional seating in the driveway on the weekends and he would like to get it approved.

Mr. Bishop stated that the Planning Board had reviewed this and they have recommended approval of this on August 7, 2008 pursuant to a plan that was submitted.

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

Motion by Trustee Birk:

WHEREAS, the applicant has applied for an outdoor dining permit, pursuant to the provisions of Chapter 196 of the Zoning Code of the Village of Westhampton Beach at 112 Main Street, SCTM #0905-12-3-53, 29 & 16, located in the B-1 Zoning District, and

WHEREAS, the application was referred to the Planning Board, and the Board recommended approval of the permit pursuant to the plans date stamped received 8/7/08 by the Village, and

WHEREAS, a public hearing was held before the Board of Trustees on October 2nd, 2008, at which time applicant produced testimony and exhibits in compliance with the Zoning Code,

Therefore Be It Resolved, that based on the information submitted, this Board grants approval of the outdoor dining permit, subject to any conditions, or limitations set forth by the Planning Board of the instant application.

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

Goldberg's Deli Outdoor Dining Application

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

Village Clerk Kathleen McGinnis asked if anyone was present from Goldberg's Deli. She said she had not received proof that they had mailed out the public notice to the bounders.

A representative from Goldberg's Deli said he was away and someone else was handling it for him.

Mrs. McGinnis explained that when you hold a public hearing, you have to notify the bounders so that they have an opportunity to speak for or against the application. She said that since the proof had not been submitted, this would have to be held over until next month.

Village Attorney Hermon Bishop agreed, saying that the Board had no jurisdiction to hear it without the proof of notification to the bounders.

Mayor Teller then made a motion to hold this hearing over until November 6, 2008. Seconded by Deputy Mayor Kametler and unanimously approved. 4 Aye, 0 Nay

Sunset Café outdoor music Application

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

Mrs. McGinnis said she had not received any proof of notification of bounders regarding this application. There being no one present to represent Sunset Cafe, Mayor Teller made a motion to hold this matter over until November 6, 2008. Seconded by Trustee Birk and unanimously approved. 4 Aye, 0 Nay

Westhampton Associates Special Exception Use Application

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

Tony Macari said he was the owner of the property next door to this and he resides in Mattituck. He explained that they seem to have a problem that they are cutting through his property to put in an access to theirs. He said they had one in the front and now they are putting one in the back and they told him the Village had accepted that and approved it. He said he did not know how that could be.

Mr. Bishop said that the Village Planner normally recommends cross-access between the parcels surrounding an applicant's property. In the future, if your property is developed it would go to the Planning Board to determine whether or not that access should be used. It doesn't automatically mean that that access shall be used.

Mr. Macari said they had opened it up already.

Mr. Bishop asked where his property was located.

Mr. Macari responded that they were the North Mall and they were north of it.

Mr. Bishop said they shouldn't be touching his property.

Mr. Macari said they had opened it up for access in the rear. He said the Village had granted them access to the front a few years ago and now they have access through the rear.

Trustee Tucker felt they were talking about a different application here.

Mr. Macari asked if they were talking about the North Mall on this.

The Trustees responded they were not, this was for Westhampton Beach Associates across the street on the west side of County Road 31.

Mr. Macari stated that they were here for the wrong one.

Deputy Mayor Kametler asked which one they were here for.

Mr. Macari stated it was not on the agenda, but the Village had granted permission for the stores next to them, according to the owner, to gain access through the rear, when he already had access through the front. He did not know how the Village could grant that permission.

Trustee Tucker asked if he was talking about the North Mall itself, or the house next to it.

Mr. Macari said it was the North Mall itself, next door to it, the building to the south.

Trustee Tucker stated that was Mr. Fabian's property.

Mr. Bishop said that on the Fabian application, the Planning Board obtained from him a cross-access agreement should the property owners to the south need to have the Planning Board determine if they should be linked together in parking, then....

Mr. Macari asked if it was the property to the north or to the south.

Mr. Bishop said the property to the north was the shopping center and the Planning Board wanted cross-access from that parking lot.

Mr. Macari said they have that in front and now you have it in the rear.

Mr. Bishop said he understood that, but that was a determination by the Planning Board.

Mr. Macari said the problem with that is they are planning on remodeling the Mall and they need as many parking spaces as they can get. With that opening, it is limiting their parking and they were losing a couple of spaces which he did not feel was fair.

Mr. Bishop responded he would meet with them and the Building Inspector.

Building Inspector Paul Houlihan said he would be happy to pull the files on that. He said the Board was unprepared for this tonight because it was not on the agenda.

Mr. Macari agreed. He said they had gotten there by mistake, but he was happy he was here anyway.

Mr. Houlihan said he would pull the files and sit down and talk with Mr. Macari in the near future.

Mr. Bishop recommended they adjourn this application and notify the applicant that the Board will need someone here to make a presentation so that he is satisfying standards.

Mrs. McGinnis said she had received all of the notifications and they had been done by the law office of Kelly and Hulme, so they were aware of it.

Mr. Bishop asked Mr. Muchnick, who was sitting in the audience, if this was his application.

Mr. Muchnick responded it was.

Mrs. McGinnis asked if anyone else was coming to represent him.

Mr. Muchnick told the Board to do whatever they were going to do.

Mr. Bishop stated there was nothing the Board could do until somebody comes up and tells them what they have to say about the standards and the special exception permit as it relates to the Code.

Mr. Muchnick said he didn't feel like making a presentation and the Board could do whatever they wanted to do and he would take it from there.

Mr. Bishop asked him if he wanted to be heard on this issue at all.

Mr. Muchnick responded he did not.

Mr. Bishop asked him if he was saying he did not want to give any testimony or make any statements about the special exception use permit that he is trying to obtain.

Mr. Muchnick responded that was correct.

Mr. Bishop asked Mr. Muchnick if he then did not want the Board to go forward with respect to the special exception use permit that he had submitted.

Mr. Muchnick replied that the Board could do what it wants to do.

Mr. Bishop said there is nothing the Board can do if Mr. Muchnick did not proceed with his application. He asked how the Board could proceed.

Mr. Muchnick asked what should he say. He said nothing has been heard before, so what should he say now.

Mr. Bishop explained that there are certain standards that have to be discussed and usually an attorney comes up on special exception uses and permits so that they will go through the standards. They will talk about those standards, because then the Board can make a determination based on the presentation. He said it can be long or it can be short, but it should be done, preferably by an attorney who is familiar with the special exception provisions of the code and touches on those points.

Mr. Muchnick said he would speak with his attorney and see how they would like to proceed.

Mr. Bishop then recommended this hearing be adjourned until next month.

Mrs. McGinnis stated that the notice was sent to Mr. Hulme's office and they did the notification.

Mr. Bishop reiterated that the Village had received the notification receipts which are proofs of mailing from the applicant indicating that the Board does have jurisdiction to hear this matter.

Mrs. McGinnis said the Village also received a letter asking us to process this from Mr. Hulme.

Mayor Teller asked if anyone else in the audience wished to be heard. There being no further response, he made a motion to adjourn the public hearing to November 6, 2008. Seconded by Trustee Birk and unanimously approved. 4 Aye, 0 Nay

Resolutions:

Accept minutes of Board of Trustees Meetings

Motion by Trustee Tucker:

RESOLVED, that the minutes of the Trustee Meetings of September 4th and Special Meeting of August 18, 2008 are hereby accepted.

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

Accept departmental reports

Motion by Trustee Birk:

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

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

Accept bid for DPW Generator

Motion by Deputy Mayor Kametler:

RESOLVED, that the Board of Trustees hereby accepts the bid submitted by Long Island Emergency Power to furnish a 60 kw generator, pursuant to the Village bid specifications, at the cost of \$14,858.00.

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

Authorize Update of B2 & B3 Zoning Code – Design Standards

Motion by Trustee Levan:

RESOLVED, that KPC Planning Services, Inc. is hereby authorized to prepare design guidelines for the Village's B-2 and B-3 Zoning Districts and an implementation strategy at a cost of \$6, 000.00.

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

Appoint Village Board of Assessment Review

Motion by Trustee Tucker:

RESOLVED, that the Board of Trustees will hereby act as the Board of Assessment Review for the Village of Westhampton Beach for the 2009 tax year.

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

Authorize Visa Municipal Credit Card

Motion by Trustee Birk:

RESOLVED, that the Village Clerk-Treasurer and Deputy Treasurer are hereby authorized to obtain Citibank Visa cards through the NYS Procurement Contract #PS60443 to be used exclusively for Village purchases from internet vendors at a maximum limit of \$5,000.00 pursuant to the attached established purchasing limitations.

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

Authorize DPW Supt. to attend NYCOM Public Works Training School

Motion by Deputy Mayor Kametler:

RESOLVED, that DPW Supt. George Gordon is hereby authorized to attend the NYCOM Public Works Training School in Saratoga Springs on October 20th – 23rd at the Holiday Inn at the cost of \$230 per day for lodging and meals, plus reimbursement for associated travel expenses.

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

Authorize renewal of Dynaire HVAC service contract

Motion by Trustee Levan:

RESOLVED, that the Dynaire Service Corp. annual service/maintenance contract for the Village Hall HVAC system is hereby renewed at the annual cost of \$7,030.00.

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

Schedule public hearing for 2009/10 Community Development Funding

Motion by Trustee Tucker:

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Thursday, November 6, 2008 at 7 p.m. at the Village Hall on the allocation of the 2009 Community Development Block Grant funding estimated at \$12,000.00

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

Approve renewal of Hampton Coffee Outdoor Dining permit

Motion by Trustee Birk:

WHEREAS, Hampton Coffee Company has applied to renew the Special Exception permit granted in 2005 to place two (2) outdoor tables and eight (8) chairs pursuant to Section 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 for 2008 as shown on the original plan and subject to the same set of conditions.

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

Authorize warrant for October 2008

Motion by Deputy Mayor Kametler:

RESOLVED, that the warrant for October 2008 in the amount of \$237,246.38 for the General Fund is hereby approved.

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

Public Discussion

Simon Jorna, owner of the Beach Bakery, 112 Main Street, said that about a decade ago he had purchased property behind the bakery with the thought of making that the future parking lot for the bakery and to be able to add on to the bakery at the same time. Five years ago he officially filed the paperwork for the add-on to the bakery and the parking lot. This would increase the size of the bakery and the Schwartz building and the Village in exchange would have gotten the parking lot from Mill Road all the way to Cross Lane and probably even all the way to Sunset Avenue. He explained that the cost of that parking lot to the Village would have been close to nothing, because he would have paid for the parking lot and would have paid for the property and the paving of the property. He said he had to go to lots of meetings, made lots of changes to the plans, fighting especially, Paul Houlihan, Dick Haefeli and Kurt Hofmann about these plans. After two years of fighting to renovate the bakery and add on, he decided to pull the application and file a new one to knock down the building and build a brand new building the same way it looks like right now, except bigger. He said he spent over \$100,000 in the process and has not gotten anything out of it. One thing he got out of it – a big scar on his mind and almost four years of a waste of his time. He felt he could probably sue the Village and felt he should have done it, but he didn't. He thought the Village had spent a lot of money on a new master plan that was written by Mr. Collins. In Mr. Collin's own words, the creation of a new large parking lot, right behind the stores on Main Street is one of the most important parts of this new master plan. He said he was so fed up with the Village government that he took a break for almost a year without going to meetings and he finally talked to Mayor Teller in October 2007, exactly a year ago, to see if the Village still had any interest in getting his property donated to the Village in exchange for him adding on to his properties. He said he spoke to the Mayor about ten times in the next couple of months about it and then finally the Mayor told him to speak to the planner. He met with the planner in December of last year and he said he would get back to Mr. Jorna in two weeks. A month later, in January, he had not gotten back to him. February and March, he still had not gotten back to him. He said he went over there, nothing got done. In April, nothing got done, not a single phone call, nothing. He went there in May before the election, of course nothing got done, he did not blame him for that. Then in June, nothing got done. In July, Mr. Collins finally sat down with him, gets some paper, he writes things down and he promised Mr. Jorna he would get back to him in two weeks. Mr. Jorna asked if he was sure he promised to call him in two weeks, because he had promised this many times.

Mr. Collins told him, "Simon, you will hear from me in two weeks". He said that was in July. In August nothing happened. End of August, again he went to his office, he wasn't there. He saw a guy who works with him on the plans and asked him to talk to him about it and he said that all of the plans had been given to the Village. Mr. Jorna went back two weeks later and they said the Village has it and they are looking at the plans for the parking and everything else. He said he asked Mr. Collins to give him a copy of them and he did not get it. He went back in September and again, he didn't give him anything. He said he left him a note last week asking him to please call him with an update about the plans. Again, no phone call. Again and again and again. His question to the Board right now is what is going on with this parking lot plan, number one and number two, knowing how important it is for the Village of Westhampton Beach to get this new parking lot behind Main Street going from Mill Road all the way to Sunset, why is the Village not pursuing this matter full speed.

Building Inspector Paul Houlihan responded that he had spoken with the Village Planner briefly about this a month or so ago and there is no plan that has been submitted and the Village Planner is looking for a way to review our master plan and try and see if he can work out anything with the applicant so that he can build a building around the size that he is looking for and also create that access point. Mr. Houlihan said he had never seen any plan. Mr. Jorna did not really submit a plan. This is really the Village Planner looking at ways to make an overall project happen. He did not know where Mr. Collins is with that right now. He said he would find out, but there is no plan in front of the Village now and there wasn't six months ago or a year ago, but, he is looking at it since he did the master plan update. He said he was unaware of what time he gave it to the planner. The first time Mr. Houlihan spoke with him was in May or sometime around then and Mr. Collins said he was going to look at that development back there. That is what is happening now. Mr. Collins is looking at it. It is something he feels we should encourage and he is trying to see how he can make that connection all of the way across. We can ask Mr. Collins where he is with that right now, but there is no application, there is no site plan, there are no drawings before the Village that he knows of.

Mr. Jorna said he wanted to correct this. He said there have been many drawings made over the last six years, signed, stamped plans. Over the last five or six years many plans have been submitted that showed how the parking lot could have been and should have been right four years ago, how this parking lot should have been approved four years ago, how we would have had the use of it for the last four years. To say that there is no plan for the last twelve months is right. He said he had stopped any plans, he had given Mr. Collins copies of whatever he had, so they do have it. He said he knew the Mayor had talked to Mr. Collins about this.

Mayor Teller said he hoped they would get an answer to Mr. Jorna. He said he could not give Mr. Jorna a definitive answer right now, but he would get in touch with Mr. Collins. He felt there was some other catch to this other than the Village getting all of that parking and the parking lot.

Mr. Speir said there was a quid pro quo.

Mayor Teller thought there was a trade-off and asked Mr. Houlihan if that was correct.

Mr. Houlihan said there is, but thought it was important to understand that Mr. Jorna is talking about an application that he had long before this Board instituted the new Master Plan Update, which deals with all kinds of parking elements that actually are going to help Mr. Jorna. He said that was just put into place last year and this is our Village Planner looking at it in a new light, at a new master plan, which actually is going to benefit Mr. Jorna. But, this is not the same plan that was in six years ago or three years ago or anything. He thought that many of the changes that the Village Board made in the Master Plan Update are going to be very, very beneficial to a project like this. He said he was not sure that what Mr. Jorna wants, he'll be able to get all of that, but it certainly is going to be beneficial to a project like this.

Mayor Teller apologized to Mr. Jorna for the delay and said they would work on it.

Mayor Teller announced that if anyone would like to put in an application for the Planning Board or any one of the other Village boards, would they please submit them downstairs.

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

Respectfully submitted,

Christine Owen
Deputy Clerk