

The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Wednesday, December 2, 2009 at 7 p.m. in the Municipal Building, 165 Mill Road, Westhampton Beach

**PRESENT: Mayor Conrad Teller
Trustee James Kametler
Trustee Joan Levan
Trustee Hank Tucker**

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

ABSENT: Deputy Mayor Toni-Jo Birk

Mayor Teller opened the meeting with the Pledge of Allegiance

Public Hearings:

Musnicki Change of Zone Request

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

Joe Musnicki, 50 Library Avenue, stated he owned the property at 95 Old Riverhead Road. He purchased it twenty years ago. At that time it was in the B2 zone. He said he believed it was 1999 when it was changed to the Hotel District. He is respectfully asking for it to be returned to business zone and specifically the B3 zone.

Village Attorney Hermon Bishop explained it is in the comprehensive plan update that was done that this be re-zoned to Business 2, that was a typographical error and when he discussed it with the Village planner, the recommendation was to have this parcel re-zoned to Business 3 adjacent to the other business on that road.

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

2010/2011 Community Development Block Grant Budget

Mayor Teller opened the hearing and asked if anyone would like to be heard regarding this issue.

Judy Margolis, Executive Director of Family Counseling Services, said they are very, very appreciative to this group of people, to the community of Westhampton Beach for the support that you have given to us ongoing and certainly the past four years that she has been here. If you remember last year, I came to you and told you that we were really facing a very challenging year and we certainly have faced a very challenging year and we are going to be pleased when 2009 comes to an end and we can rally up our forces again and go forward in 2010, but we have made it. We're still here and we have served the people of the Westhampton Beach community, the children, the Westhampton Beach High School and most of the money that we have used from your grant has gone to the underinsured and uninsured. These are the people that present the greatest challenge to our agency. The people are coming in without any health insurance. People are coming

in, in the middle of having lost their jobs and are in the middle of a treatment, counseling, husbands and wives and children and we have to make a decision. Are we going to continue treatment; are we going to say that we can't afford to do it. What we have done, we have made a fund, which we use your money, we use other money that comes in from community donations, so that we don't have to turn anybody away. So, that is one population of people we help. The other population of people is where the co-payments are so high that people can't afford it, so as the insurance industry changes their guidelines and people's insurance changes with their jobs, very often their co-payment could reach \$45 to \$50 a co-payment and that becomes very, very, very difficult for some families to afford. So, this is also where we use your funds and we have been able to continue services; we have been able to hold our own and we have not had to turn anybody away, which is something that I know I made a commitment to you last year and we're going to make the same commitment to you this coming year. That is where our effort has been.

Trustee Levan asked if the community funds that we give to you are used strictly here and not in the satellite offices.

Ms. Margolis said no, and that was a very good point because I think people should know that we do have another office in the Town of Brookhaven.

Trustee Levan asked if it was in Shirley.

Ms. Margolis explained that Shirley is substance abuse and that is funded by Oasis. But, there is another mental health satellite, which is in Yaphank, it's in the Town of Brookhaven and we do not use any funds from Westhampton Beach for that population. We have two Town of Brookhaven grants that help fund that one, a community development grant such as this and also, a youth and family grant. So, we are very specific in terms of how we allocate the funds, because I know that is really one of the commitments that we made to Westhampton Beach. The money goes to Westhampton Beach families. She said that since she couldn't bring her film, although she would come back and do a presentation, she brought newsletters, the latest newsletters.

Neil Hanrahan, 346 Dune Road and 21 Bishop Place, asked how much this grant was for.

Village Clerk Kathy McGinnis responded it was for \$12,000; it is federal funds based on our population.

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

Local Law to amend Village Code Re: Building Fees

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

Mr. Bishop explained that this local law has three substantive provisions in it. The first deals with changing the fees under the building code with respect to building permits, site plan applications, subdivision applications, FEMA applications and these all have gone up between \$50 and \$100 depending on which application you are filing and also some of the rental applications go from \$50 to \$100. The Building Department fees have not been amended since 2001. The prior amendment was in 1997 and the prior amendment to those fees before that was in 1993. So, usually every four years we amend and increase the Building Department fees. It has been about eight years now. These fees are commensurate with the surrounding municipalities, Quogue, Hampton Bays, Town of Southampton, Village of Southampton. These fees are basically modest in scale and similar to the surrounding municipalities. The second portion of the law deals with obtaining from the applicant consultant fees in advance, prior to filing the application or during the approval process. When I am talking about consultant fees, I am talking about the Village planner, the Village engineer, the architect, environmental consultants and

similar types of experts that would be used during the review of site plans, subdivisions, plats and other land use and development applications. The way it works is the Board, Planning Board or Zoning Board depending on who needs the consultant, would obtain an estimate from that consultant or consultants prior to the application being filed and the applicant would be required to pay that amount to the Village in advance. The amount would be held in escrow by the Village, it is not the Village's money so it would be held in escrow and from that escrow deposit, consultants would be paid. The process as set forth in the law, the payment of the consultants is that the professional will submit an invoice and a voucher to the Village Board and also to the Planning and Zoning Board and the Village would submit this voucher and invoice to the applicant. If the applicant doesn't object to the amount to be paid, within fifteen days it will be paid. If he does object within that period of time, then the matter would be referred to the Board of Trustees for a determination as to whether or not the fee that is being asked for from the consultant is fair and reasonable.

If the applicant withdraws his application prior to finalization or withdraws it at any time, any amount in the escrow deposit will be forwarded back to the applicant minus the amounts due to the consultants. Another provision of the law is that there will be no permits and there will be no approvals granted until all consultant fees are paid. The reason for this law is that often, this has happened at times, that an applicant will come before, for example, the Planning Board for site plan approval and will submit numerous plans which require the Village planner, the engineers to review and then all of a sudden decide not to go forward. The Village is then on the hook for those fees that are owed to the consultants. This way the Village would be having this money held in advance and from that escrow deposit, would pay the consultants. The law also provides that if the escrow deposit becomes less than 80% of the initial deposit, the applicant would be required to re-stock or put more money into the account to bring it up to the 80% threshold.

This law is similar to an ordinance in the Town of Monroe, Orange County. The law was challenged in the courts, it went to the Court of Appeals and was challenged with respect to park fees and consultant fees and the Court upheld the law. The last portion of the proposed ordinance is that for any extension of approval for any Board, the applicant must pay the sum of \$500 for the first extension and for any extension of approval after that \$1,000. This would not apply to single family dwellings, accessory structures or any improvements on residential properties, so residences would not be subject to this.

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

Cablevision Franchise Agreement (adjourned from 11/5/09 meeting)

Mayor Teller said this was being held over until next month. He made a motion to adjourn this hearing until January 7, 2010. Seconded by Trustee Kametler and unanimously approved. 3 Aye, 0 Nay

Resolutions:

Accept minutes of Board of Trustees Meeting

Motion by Trustee Tucker:

RESOLVED, that the minutes of the Trustees Meeting of November 5, 2009 are hereby accepted.

Seconded by Trustee Levan and unanimously approved. 3 Aye, 0 Nay

Add-on Resolutions

Trustee Levan made a motion to add a resolution on to tonight's meeting. Seconded by Trustee Kametler and unanimously approved. 3 Aye, 0 Nay

Motion by Trustee Kametler:

RESOLVED, that the Police Commissioners of the Village of Westhampton Beach hereby direct Chief Raymond Dean to immediately withdraw the disciplinary charges dated November 10, 2009 filed against two Village police officers and be it further

RESOLVED, that the Police Commissioners of the Village of Westhampton Beach hereby direct Police Chief Dean to immediately reinstate the two police officers to the Village payroll and their full police duties and be it further

RESOLVED, that the Police Commissioners of the Village of Westhampton Beach hereby direct the Village Clerk-Treasurer to immediately reimburse the two police officers for all salary withheld from their paychecks following their suspension with pay after being served with the disciplinary charges.

Seconded by Trustee Levan and approved as follows:

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

Mayor Teller said he would like to add a resolution to the agenda. Seconded by Trustee Levan and unanimously approved. 3 Aye, 0 Nay

Motion by Mayor Teller:

RESOLVED, that the resolutions to appoint a hearing officer, stenographic services, suspension without pay pending hearing employee A, suspension without pay employee B are removed from this agenda.

Seconded by Trustee Levan and approved as follows:

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

Accept Departmental reports

Motion by Trustee Levan:

RESOLVED, that the Treasurer's report for October 2009, Justice Court, Police Department's and Building Inspector's reports for November 2009, are hereby accepted.

Seconded by Trustee Kametler and unanimously approved. 3 Aye, 0 Nay

Appoint Special Counsel for Winhaven Realty vs. ZBA Article 78

Motion by Trustee Tucker:

WHEREAS, Winhaven Realty, LLC has commenced an Article 78 proceeding to review the determinations of the Village Board of Appeals; and therefore be it

RESOVLED, that Hermon J. Bishop is hereby appointed as Special Counsel to represent the Village in the proceeding and to be paid at the rate of \$165 per hour.

Mayor Teller asked, "Do I hear a second?" (There was no response.)

Approve Peconic Bay Medical Center "Garden Festival" on the Great Lawn

Motion by Trustee Kametler:

RESOLVED, that the Peconic Bay Medical Center is hereby authorized to hold a "Garden Festival" on the Great Lawn on May 6th through to May 9th 2010 from 9 a.m. to 6 p.m.

Seconded by Trustee Levan and approved as follows:

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

Authorize Family Counseling Services 2010 Gala on the Great Lawn

Motion by Trustee Levan:

RESOLVED, that the Family Counseling Services is hereby authorized to hold the Annual Gala on the Great Lawn on Saturday, July 10, 2010 from 7 p.m. to 11 p.m., including set up & break down from July 6th through to July 11th.

Seconded by Trustee Kametler and unanimously approved. 3 Aye, 0 Nay

Authorize Rotary Club Annual Flea Market on the Great Lawn

Motion by Trustee Tucker:

RESOLVED, that the Rotary Club of Westhampton is hereby authorized to hold the Annual 2010 Flea Market on the Great Lawn on Saturday, August 14th 2010 and Sunday August 15th 2010 from 10 a.m. to 6 p.m., including set up on August 12th & August 13th.

Seconded by Trustee Levan and unanimously approved. 3 Aye, 0 Nay

Authorize Community Development Budget modification

Motion by Trustee Kametler:

RESOLVED that the Village of Westhampton Beach Board of Trustees hereby approve the following Community Development fiscal years budget modifications and authorize the Village Clerk to publish and post a public notice of the budget modifications:

CDBG FY 2008

Handicap bathroom fixtures at Marina - deduct \$2,500.00
Handicapped Curb Cuts on South Road - add \$2,500.00

CDBG FY 2006

Handicapped walkway at Rogers Beach – deduct \$3,530.00

Handicapped Curb Cuts on South Road - add \$3,530.00

Seconded by Trustee Levan and unanimously approved. 3 Aye, 0 Nay

Appoint Registrar, Deputy Registrar, and Sub-Registrars for 2010

Motion by Trustee Levan:

RESOLVED, that Kathleen McGinnis is hereby appointed Registrar of Vital Statistics for 2010, and Christine Owen is appointed Deputy Registrar with an annual stipend of \$300, and Elizabeth Lindtvit and Rosemary Towers are appointed as sub Registrars for 2010 with annual stipends of \$300.

Seconded by Trustee Kametler and unanimously approved. 3 Aye, 0 Nay

Approve warrant for December 2009

Motion by Trustee Tucker:

RESOLVED, that the warrant for December 2009 in the amount of \$588,882.16 for the General Fund is hereby approved.

Seconded by Trustee Kametler and unanimously approved. 3 Aye, 0 Nay

Public Discussion

Mayor Teller asked to take a moment to read a statement he had prepared. He read the following: It is my opinion that the disciplinary charges identified in a special investigation initiated and participated in by the Village Board must be heard by an independent hearing officer for the following reasons: The investigation found numerous charges of alleged lying. These charges must be vetted and cannot be swept under the proverbial rug. A Police Officer has to testify under oath to his actions taken on many occasions from routine parking tickets to actions in County Criminal Court. They cannot be left under a cloud. Failure to move forward with due process may seriously diminish internal discipline within the Village Police Department. Popular officers must be treated in the same manner as unpopular Police Officers. To just take no action in this matter constitutes a failure to uphold your obligations as duly elected Village Trustees. The potential cost of a hearing is a lame excuse. The Trustees asked for and received an independent investigation. The fact is that the investigation gave findings that you did not want. You can believe what you want, but until this matter is adjudicated by a legal hearing with sworn testimony providing the right to cross-examination and hear witnesses, it's only your opinion, which is based on unsubstantiated whispers and rumors. It tends to call into question the investigation conducted by an outside independent agency, which was also requested to participate in by the Board of Trustees. Thank you.

Mr. Bishop stated on the Winhaven matter that he just wants the Board to know that they have the responsibility to appoint counsel to represent the Zoning Board of Appeals and the return date on that is January 15th, so it is going to take some time to put those papers together.

Mayor Teller asked Chief Dean if he would like to speak since most of this pertains to him.

Chief Dean asked, just for clarification on the add-on that you just had, that I'm being ordered by you three Trustees and not the Mayor, correct.

Trustee Kametler said we just passed a resolution, Chief.

Chief Dean said he was just asking for clarification.

Mayor Teller said the Board passed a resolution, I voted no.

Chief Dean said okay, thank you, I'll follow your order, although I'm not quite certain it's legal. I'll do a little research on that. He said he did have one question. All internal affairs throughout the County, as a matter of practice, are sent to the District Attorney's Office for review, as was this one. Have any of the Board members that just passed this resolution, have you conferred with the District Attorney's Office? Have you gotten an opinion or gotten permission to move forward with a hearing. He said it was unbeknownst to him and he was just curious if they had gotten any information from the District Attorney. As there was no response, he said I'll take that as a no.

Trustee Tucker responded no comment.

Irene Barrett, 27 Notamiset Road, Quogue, asked what is Winhaven Realty.

Mr. Bishop responded it was North Mall.

Ms. Barrett asked if it was the existing mall that's on Riverhead Road where the Hospice is or the other one.

Mr. Bishop said it was the next one over.

Ms. Barrett asked what they were doing there.

Mr. Bishop said there was an application to the Zoning Board of Appeals for a 35 space parking variance. The code required 202 spaces and they wanted to only provide 185 spaces and the Zoning Board denied their application.

Ms. Barrett asked if they want to expand that mall.

Mr. Bishop said yes, they want to expand, 14,000 square feet of office space.

Dean Speir, 256 East Main Street, said he needs some clarification. He asked Mr. Bishop regarding the resolution to appoint special counsel for Winhaven to address an Article 78 proceeding that has been brought against the Village; there was no second on it?

Mr. Bishop said that was correct.

Mr. Speir said okay, so the Village is not going to, in essence, does that mean the Village is not going to oppose the Article 78.

Mr. Bishop explained the Village has an obligation to appoint counsel to represent the Zoning Board. They are obligated under the law to appoint counsel to represent the Zoning Board in this proceeding.

Mr. Speir asked if they had done that.

Mr. Bishop replied it hasn't been done yet, not yet.

Mr. Speir asked if he had just heard Mr. Bishop caution the Board that you needed time for

this to be done and it was a date next month.

Mr. Bishop said the return date is January 15th, so they just have to be prepared and the record has to be compiled and the answer and the brief has to be filed by that date.

Mr. Speir asked what happens if the Board doesn't move on this.

Mr. Bishop said it would be a violation of law.

Mr. Speir said for his next question he would like a clarification. On the Suffolk County Internal Affairs investigation, this was something that all the members of the Board were in favor of, weren't they, Ms. Levan.

Trustee Levan asked him to repeat the question.

Mr. Speir asked if she was in favor of the SC Internal Affairs Division.....

Trustee Levan responded she was in favor that they did it.

Mr. Speir said yes, Mr. Kametler were you in favor of it?

Trustee Kametler said we asked for this investigation.

Mr. Speir asked Trustee Tucker.

Trustee Tucker said yes, to a certain degree, not quite the way, that's not quite the way we had asked for it, but we did ask for an internal affairs investigation.

Mr. Speir said that according to the reports in the Chronicle, excuse me, the Southampton Press Western Edition, the four, the fourth is not here, unfortunately, tonight, the four of you had contact early on with the investigation, the investigators of the SC Police Department, is that accurate?

Trustee Levan said yes.

Mr. Speir asked, Mr. Kametler, is that accurate to your recollection, that you were one of the four Trustees that went up and talked to the SC Internal Affairs.....

Trustee Kametler said that is correct.

Mr. Speir said Mr. Tucker, is that your recollection?

Trustee Tucker said it sure is.

Mr. Speir asked, have any of you, collectively or individually sought a legal opinion as to whether you can take any action on this report. He said he would start again with Mrs. Levan.

Trustee Levan replied yes.

Mr. Speir asked if she had sought legal opinion.

Trustee Levan reiterated yes.

Mr. Speir asked, if her opinion was that she can take action or you cannot.

Mr. Bishop advised he would caution Trustee Levan or any Board member from discussing what legal advice was given to them and the substance of that advice.

Mr. Speir asked if they can state whether they have sought advice.

Mr. Bishop said if they wish to answer whether they have obtained advice, they can answer.

Mr. Speir asked Trustee Kametler if he had sought legal advice.

Trustee Kametler answered, absolutely.

Mr. Speir asked Trustee Tucker if he had sought legal advice.

Trustee Tucker answered, the whole Board did.

Mr. Speir asked if it was collectively or individually.

Trustee Tucker said he had no comment. He said that is part of personnel issues and part of legal issues.

Mr. Speir said he wasn't asking for specifics about the personnel, he was asking about the Trustee's actions.

Trustee Tucker said he gave Mr. Speir specific answers. He said he gave him a specific answer to his question.

Mr. Bishop said that the Board members have indicated that they have received legal advice. He said he could state on the record that they have received legal advice in the appropriate manner, but as for any further discussion as to what occurred during the appropriately conducted meeting cannot be discussed.

Mr. Speir asked if the advice was given that you could act on a report. He felt that was essentially what they had done was to quash the report tonight and a report in which they were all named. He asked if it was the legal opinion that they received that that was the appropriate action for them to take.

Mr. Bishop reiterated that he had to state that the Board members should not be talking about any legal advice that was given to them due to the attorney/client privilege.

Mr. Speir said he would then ask another way. He asked Trustee Levan if she felt it was appropriate for her to essentially quash a report in which she was named.

Trustee Levan asked how she was named in the report.

Mr. Speir said that part of the report indicated, a section of the report indicated that she had been with the other three Trustees, had been to Yaphank to discuss.....

Trustee Levan said we've already told you that we did request the report.

Mr. Speir said, you did acknowledge that and I followed up with that, do you feel that it's appropriate for you to take action on a report in which you were named specifically.

Trustee Levan replied yes.

Mr. Speir asked Trustee Kametler the same.

Trustee Kametler said he was not elaborating any more on this. He said you know what is taking place here. We made a resolution. It's over and I'm not answering any more of your questions.

Mr. Speir said he thought Trustee Kametler has an obligation.

Trustee Kametler said I do, we have a legal obligation. I've spoken to the attorney on several occasions and I am not speaking to you anymore, that's it.

Mr. Speir asked Trustee Tucker.

Trustee Tucker said it was basically the same thing. He said I believe I answered your question already.

Mr. Speir said no, I asked a separate question.

Trustee Tucker said I've answered your prior questions and in terms of where we stand now, we did pass a resolution tonight. We have sought counsel, as we told you and that's all there is to it. I can't comment on anything that happened in internal affairs, here, there or anywhere.

Mr. Speir said he was asking him what was happening on the Board right now, tonight.

Trustee Tucker said you heard what happened tonight.

Mr. Speir said he did and he was asking if you feel it is appropriate for you to essentially quash the.....

Trustee Tucker responded that we just passed a resolution, so I would tend to think that I agreed with the resolution if I voted yes.

Neil Hanrahan, 346 Dune Road and 21 Bishop Place, asked regarding the report that you people are speaking of, is that public record.

Mr. Bishop answered no, it was not.

Mr. Hanrahan said he was just wondering why some members of the public can quote directly from the report if it is not a public record.

Mr. Bishop said he did not hear any member quote from the report. He said he wouldn't allow it.

Mr. Hanrahan said they were asking certain people about their names being in the report.

Mayor Teller said he would go as far as to say the newspaper had a complete copy of it, inappropriately.

Mr. Bishop said this Board has not commented on this report in any way nor has anyone I've heard speak so far spoken about the substance of this report, nor will I allow or would I advise this Board to hear and comment about the substance of this report or the substance of any charges relating to personnel.

Irene Barrett asked if he didn't just say to Joan Levan that they were all named in the report. Where did he get that information?

Mr. Bishop said he asked if they saw the District Attorney, not the.....

Ms. Barrett said that he said Joan was named in the report.

Mayor Teller advised that he had said that a report was given to the newspaper by a person or persons unknown and it was a copy of the report.

Ms. Barrett asked what edition it was in.

Mayor Teller said it was a couple of weeks back.

Ms. Barrett said I read that paper, I didn't see it.

A member of the audience said she had missed that one; it was on the front page.

Mr. Hanrahan asked if it was being investigated as to how a copy of this report that is not supposed to be public was made public or supposedly some sort of form of it was made public.

Chief Dean advised it had been forwarded to the District Attorney's Office.

Trustee Tucker said to Chief Dean, thanks for letting us know.

Victor Levy, 58 Beach Road, asked without going into any specifics of the report of even what it relates to, am I correct that the Board and/or the Chief of Police ordered an independent report and why would you order an independent report. Would it be so that there would not be local influence on the report? Why would you order an independent report? That's not regarding the specific thing. Why would you order an independent report? You sat up and said you ordered it Hank.

Mr. Bishop said it has been discussed in the past the Board ordered an independent report and if the Board wants to discuss why they, and it has been said before, but if the Board wants to say why it ordered the report that is fine to the extent that it does not discuss any personnel matters and I think you are treading very closely to personnel matters.

Mr. Levy said he was standing on the outside of the tread.

Mr. Bishop stated just barely.

Mr. Levy said I've got big feet, but not that big.

Mr. Bishop said if you want to ask why.....He said I think the answer to your question is they felt that an investigation should be conducted, that's the answer.

Mr. Levy said the investigation was conducted by people who I would assume are fairly professional, the Suffolk County Police Department Internal Affairs Department. They then produced a report that had a result and it would appear that that's a result that you didn't agree with and therefore you rejected the result. Would that be a fair summation of what's happened tonight?

Mr. Bishop said he would caution the Board against responding to that question.

Mr. Levy said it doesn't involve any of the personnel.

Mr. Bishop reiterated he would caution the Board not to respond to that question.

Mr. Levy said so, it is kind of like when your kid is with a teacher and your kid fails math and you get a tutor and then the tutor fails at teaching the kid math, but really you should fire the tutor and just leave the kid to progress. He said you've really gone way outside the lines of normalcy. You got a report with a result you didn't like and then you didn't do anything with it. He asked if it was your intention to defend the Zoning Board of Appeals in their Article 78 motion or are you going to not do that.

Trustee Kametler asked who he was addressing the question to.

Mr. Levy said he was addressing the question to the Board of Trustees who voted no on hiring an attorney to defend the Zoning Board of Appeals.

Trustee Kametler responded that this Village will have legal representation when that comes up.

Mr. Levy said, so it is your intention to hire an attorney to defend the Board.

Trustee Kametler said absolutely.

Trustee Tucker said he didn't hear anyone vote no on that. It wasn't seconded, no one voted on that.

Mr. Levy said well, that would mean that the motion failed, so therefore, you didn't hire an attorney. It is now December 2nd. We have the holidays coming up and the thing is to be answered by the 15th. He said he has seen these motions before and they are lengthy and they take a lot of time. He thought you would try to expeditiously hire an attorney, but you have obviously decided not to.

Trustee Tucker said why don't you ask the Board members what they know about this and what they've seen and read and heard about this and been told about this. You seem to have knowledge more so than the Board. He said to ask Trustees Kametler and Levan.

Mr. Levy asked what knowledge I have besides what the Board has knowledge of.

Trustee Tucker said, I don't know.

Mr. Levy said that you just said I have more knowledge than the Board. I want to know what I said that indicates that. You just voted with no second, there was no second to the Mayor's motion to hire somebody or whoever made the motion, am I correct.

Trustee Levan said that was correct.

Mr. Levy said there was no second. That's the only thing I said. That's the knowledge I have.

Trustee Tucker said he stands corrected then.

Mr. Levy said the only other knowledge I have is what I read in the Southampton Press Western Edition which said that the Winhaven Group had decided to bring an Article 78 action against the Village Zoning Board of Appeals. That article appeared at least two weeks ago, maybe three, and you didn't know that?

Trustee Tucker responded that he didn't say he didn't know that. He said he asked Trustees Kametler and Levan.

Mr. Levy asked if he couldn't have seconded it.

Trustee Tucker said he became aware of what had happened. I followed close suit, but I believe it is the responsibility of members of a Village to inform all Trustees, so when they come in here and they are asked to vote on something, they know what they are voting on. I don't know if my fellow Board members, as of earlier today, have even seen the lawsuit at all, so I don't know how you can appoint someone when you haven't even seen a copy of a lawsuit.

Mr. Bishop said just for the record, it has never been the practice of this Board to give copies of pleadings and legal proceedings to Village Board members. As I said before, the Board of Trustees have a legal duty, which is quite serious if you don't follow it, to provide appropriate counsel to represent the Zoning Board in the Article 78 proceeding regardless of what the proceeding is about. The fact of the matter is that there is an appeal of the Zoning Board's decision and the Village has an absolute duty to ensure that the Board is adequately represented.

Trustee Levan said we have time to do that.

Trustee Kametler said we will have legal representation.

Mr. Levy had a question for Trustee Tucker. He believed it was during the summer during one of the hearings on the outdoor music gatherings. Did you remark that you had a cell phone conversation with one of the policemen; during a Work Session did you make that remark?

Trustee Tucker asked, during a Work Session?

Mr. Levy said he was pretty sure it was a Work Session. I don't think it was part of the public hearing. You don't remember having that conversation.

Trustee Tucker said no, he had conversations with Chief Dean about that, but he didn't have any other conversations.

Mr. Levy asked him if he didn't remember saying that, that he had a conversation the evening that Simon.....

Trustee Tucker said he did not recall that at a Work Session.

Mr. Levy asked if he recalled it at another hearing, at another time.

Trustee Tucker said he had conversations with Chief Dean about that.

Mr. Levy said not with Chief Dean, with one of the officers on his cell phone.

Trustee Tucker responded he had just answered the question.

Mr. Levy said, so you don't recall that?

Trustee Tucker said I don't recall having a particular conversation at a.....

Trustee Kametler asked what the point was.

Mr. Levy said he was asking a question, he was allowed to ask questions.

Trustee Kametler said to ask as many as you want, we have plenty of time. He said most Villages give five, six minutes; you take twenty.

Mr. Levy said thanks; you're such a generous fellow. He asked Trustee Tucker again, so, you don't recall that?

Trustee Tucker answered no.

Mayor Teller asked if anyone else would like to address the Board. There being no further response he made a motion at 7:43 p.m. to adjourn the meeting. Seconded by Trustee Levan and unanimously approved. 3 Aye, 0 Nay

Respectfully submitted,

Christine Owen
Deputy Clerk