

**The Board of Trustees of the Village of Westhampton Beach held their Organizational Meeting on Monday, July 6, 2009 at 7 p.m. in the Municipal Building, 165 Mill Road, Westhampton Beach**

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

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

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Mayor Teller opened the meeting with the Pledge of Allegiance. He then asked for a moment of silence for Anne Poillon

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**Oath of Office - Elected Officials**

Village Clerk Kathleen McGinnis administered the oath of office to re-elected Trustees Joan Levan and Hank Tucker, after which she congratulated them.

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**Annual Appointments:**

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**Appoint Village Attorney**

Motion by Trustee Tucker:

RESOLVED, that Hermon Bishop is hereby appointed to serve as the Village Attorney to perform the functions and duties as legal counsel to the Board of Trustees, Planning Board, Zoning Board of Appeals, and Architectural Review Board for an annual retainer of \$67,600.00 to be paid in twelve equal installments, with litigation as authorized by the Board of Trustees to be compensated at the rate of \$165 per hour, subject to an accounting of hours once each month.

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

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**Appoint Special District Attorney**

Motion by Deputy Mayor Birk:

RESOLVED, that Hermon Bishop is hereby appointed Special District Attorney to prosecute violations of the ordinances of the Village of Westhampton Beach.

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

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**Approve 2009-10 Board of Trustees meeting schedule**

Motion by Trustee Kametler:

RESOLVED, that the Board of Trustees shall hold its regular meeting on the first Thursday of the month at 7:00 p.m. in the Municipal Building located at 165 Mill Road, Westhampton Beach unless the first Thursday is a holiday in which event the regular meeting shall be held on the first Friday thereafter which is not a holiday or as specifically noted on the attached schedule; and be it further

RESOLVED, that the work session will be held at the Municipal Building at 7 p.m. on the last Wednesday of the month, except as indicated on the attached schedule. The Annual Organizational Meeting will be held on Monday, July 6, 2010 at 7:00 p.m. at the Municipal Building.

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

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**Approve meeting schedule for appointed boards**

Motion by Trustee Levan:

RESOLVED, that the Planning Board shall hold its regular meeting at 7:00 p.m. on the second Thursday of each month and work sessions, as necessary, shall be held on the last Thursday of the preceding month at 5 p.m., during April thru October, and 4 p.m., during November through March; and be it further

RESOLVED, that the Zoning Board of Appeals shall hold its regular meeting on the third Thursday of each month at 7:00 p.m. and the Architectural Review Board shall hold meetings on the first and third Tuesdays of each month at 7:00 p.m.

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

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**Trustee Liaison Assignments**

Motion by Trustee Tucker:

RESOLVED, that the Mayor and Village Trustees shall serve as liaisons for the following Village Departments and/or functions:

Deputy Mayor – Toni Jo Birk

Police Department - Trustee Hank Tucker

Building Dept. – Deputy Mayor Toni Jo Birk

Dept. of Public Works - Mayor Teller

Beautification Committee - Trustee Joan Levan

Building Maintenance & Yacht Basin - Trustee James Kametler

Village Beach Operations – Trustee Joan Levan

Insurance Issues - Deputy Mayor Toni Jo Birk

Community Development Program – Trustee Joan Levan

Police Commissioner, Budget Officers & Labor Negotiations:

Mayor Teller, Deputy Mayor Toni-Jo Birk & Trustee Hank Tucker

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

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**Designate official depositories**

Motion by Deputy Mayor Birk:

RESOLVED, that TD Bank, J.P. Morgan Chase Bank, Suffolk County National Bank, MBIA

Municipal Investors Service Corporation (CLASS Program), Bridgehampton National Bank and Capital One are hereby designated the official depositories of the Village of Westhampton Beach during the ensuing year and that the Village Clerk Treasurer is hereby ordered to deposit all funds therein.

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

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**Authorize check signers**

Motion by Trustee Kametler:

RESOLVED, that all Village of Westhampton Beach checks shall be signed by Conrad Teller, Mayor, or Toni-Jo Birk, Deputy Mayor, and Kathleen McGinnis, Village Clerk-Treasurer or Elizabeth Lindtvit, Deputy Village Treasurer, except for Trust and Agency checks which shall be signed by either Kathleen McGinnis or Elizabeth Lindtvit.

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

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**Appoint Acting Village Justice**

Motion by Trustee Levan:

RESOLVED, that Gair Betts is hereby appointed as the Acting Village Justice of the Village of Westhampton Beach, to serve for a one-year term at an annual salary of \$12,142.00.

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

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**Appoint Marriage Officer**

Motion by Trustee Tucker:

RESOLVED, that Deputy Mayor Toni Jo Birk is hereby appointed to serve as Marriage Officer for a term of one-year pursuant to the provisions of NYS Domestic Relations Law Section 11-c.

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

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**Designate official newspapers**

Motion by Deputy Mayor Birk:

RESOLVED, that *The Southampton Press-Western Edition* (formerly the *Hampton Chronicle-News*), *Newsday*, and *the N.Y. Times* are hereby designated as the official newspapers of the Village of Westhampton Beach during the ensuing year.

Seconded by Trustee Levan and approved as follows:

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

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**Approve mileage reimbursement for official business**

Motion by Trustee Kametler:

RESOLVED, that all employees and officials of the Village who use their vehicles or other private vehicles for official Village business shall be reimbursed mileage at the rate allowed by the Internal Revenue Service in effect at the time the request is made.

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

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**Appoint Mayor as Commissioner of Licenses**

Motion by Trustee Levan:

RESOLVED, that Mayor Conrad Teller is hereby appointed Commissioner of Licenses for a term of one year.

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

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**Approve Village Investment Policy**

Motion by Trustee Tucker:

RESOLVED, that the attached investment policy is hereby approved.

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

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**Regular Meeting:**

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**Public Hearing:**

**Outdoor dining permit – Patio Restaurant**

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

Village Clerk Kathy McGinnis asked if anyone was in the audience from the Patio Restaurant. She said it had all been publicly noticed and she had received the certificates of mailing from the applicant, but she did not see anyone here for the applicant.

A motion was made by Trustee Kametler to table this hearing until August 6<sup>th</sup> and to notify the applicant that he should be present. Seconded by Deputy Mayor Birk and unanimously approved. 4 Aye, 0 Nay

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**Resolutions:**

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**Accept monthly Reports from Departments**

Motion by Deputy Mayor Birk:

RESOLVED, that the June 2009 reports submitted by the Police Department, Building Department and Justice Court are hereby accepted.

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

**Accept results of General Village Election**

Motion by Trustee Kametler:

RESOLVED, that the results of the General Village Election of June 19, 2009 are hereby accepted as set forth in the attached Official Return of Votes.

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

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**Appoint Architectural Review Board Chairman**

Motion by Trustee Levan:

RESOLVED, that Greg Minasian is hereby appointed to serve as Chairman of the Village Architectural Review Board for a term of one year to expire May 31, 2010.

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

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**Appoint Architectural Review Board Member**

Motion by Trustee Tucker:

RESOLVED, that Andrea Kaloustian is hereby reappointed to serve a five year term as a member of the Architectural Review Board to commence June 1, 2009 through to May 31, 2014.

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

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**Appoint Zoning Board of Appeals Member**

Motion by Deputy Mayor Birk:

RESOLVED, that Chris Bean is hereby reappointed to serve a five year term as a member of the Zoning Board of Appeals to commence June 1, 2009 through to May 31, 2014.

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

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**Appoint Zoning Board of Appeals Chairman**

Motion by Trustee Kametler:

RESOLVED, that Chris Bean is hereby appointed to serve as Chairman of the Village Zoning Board of Appeals for a term of one year to expire May 31, 2010.

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

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**Appoint Planning Board Chairman**

Motion by Trustee Levan:

RESOLVED, that Ralph Neubauer is hereby appointed to serve as Chairman of the Village Planning Board for a term of one year to expire May 31, 2010.

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

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**Appoint Planning Board Member**

Motion by Trustee Tucker:

RESOLVED, that George Lawrence is hereby reappointed to serve a five year term as a member of the Planning Board to commence June 1, 2009 through to May 31, 2014.

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

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**Appoint Traffic Control Officer**

Motion by Deputy Mayor Birk:

RESOLVED, that Thomas Glover is hereby appointed as a seasonal Traffic Control Officer retroactive to June 14, 2009 to be paid at the rate of \$16.00 per hour.

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

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**Refer Firehouse Pizza outdoor dining permit to Planning Board**

Motion by Trustee Kametler:

RESOLVED, that the Firehouse Pizza outdoor dining permit application is hereby referred to the Planning Board for an advisory review.

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

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**Refer Hampton Coffee outdoor dining permit to Planning Board**

Motion by Trustee Levan:

RESOLVED, that the Hampton Coffee application to amend the outdoor dining permit is hereby referred to the Planning Board for an advisory review.

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

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**Refer Starr Boggs outdoor music permit to Planning Board**

Motion by Trustee Tucker:

RESOLVED, that Starr Boggs Restaurant outdoor music permit application is hereby referred to the Planning Board for an advisory review.

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

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**Refer Lettieri Construction Special Exception Application to Planning Board**

Motion by Deputy Mayor Birk:

RESOLVED, that Lettieri Construction Special Exception application for a general and special trade contractor's administrative office, pursuant to the Village Code Chapter 197.80.9, is hereby referred to the Planning Board.

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

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**Authorize refund of boat slip rental fee**

Motion by Trustee Kametler:

RESOLVED, that a refund of the seasonal boat slip rental fee in the amount of \$1,137.50 to Elizabeth Lindtvit is hereby approved.

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

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**Approve 2008/09 fiscal year general fund budget transfers**

Motion by Trustee Levan:

RESOLVED, that the attached general fund budget transfers for the closing of the 2008/2009 fiscal year in the amount of \$122,003.82 are hereby approved.

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

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**Schedule public hearing on the Cablevision Franchise Agreement**

Motion by Trustee Tucker:

RESOLVED, that the Village Clerk is hereby directed to publish and post a Notice of Public Hearing on the proposed Cablevision Franchise Agreement to be held on Thursday, August 6, 2009 at 7 pm at the Village Hall.

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

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**Authorize the 2009 Community Development Block Grant Agreement**

Motion by Deputy Mayor Birk:

RESOLVED, that Mayor Teller is hereby authorized to execute the 2009 Community Development Block Grant Agreement with Suffolk County to receive \$12,000.00 in federal funding.

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

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**Determination - PBA Work Chart Appeal**

Motion by Trustee Kametler:

RESOLVED, that the Board of Trustees, having reviewed the June 11, 2009 work chart appeal filed by the PBA, the relevant facts and the provisions of the Stipulation of Agreement dated May 3, 2007, hereby deny the PBA appeal.

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

**Approve warrant for July 2009**

Motion by Trustee Levan:

RESOLVED, that the warrant for the month of July 2009 in the amount of \$225,055.00 for the General Fund is hereby approved.

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

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**Public Discussion**

Jackie Sprotte, 441 Dune Road, congratulated Trustees Levan and Tucker. She then read the attached statement to the Board regarding having her and her husband's absentee ballots being challenged at the June 19<sup>th</sup> Village election.

Village Attorney Hermon Bishop said that with respect to who filed the challenges, that is available as a public record that you can have. That person has to make a challenge affidavit that says the basis of what they are challenging the registration for and those affidavits are available.

Mrs. Sprotte asked if they had it here.

Mr. Bishop said they did not have them here tonight, they would be available in the Village Clerk's office.

Mrs. Sprotte asked if their votes had been counted.

Village Clerk Kathleen McGinnis said no. She explained that when an absentee ballot is challenged on the day of the election, she has no way to contact people because they are not here. She said they were held aside in the safe and had the election been very close where the ballots would have made a difference one way or another, or if ultimately the validity of the election had been challenged, it would have been opened by the Board of Elections, that is where everything would have gone. So, she didn't open their ballots that night because she really couldn't, so they just remain uncounted.

Mrs. Sprotte asked if she was voting for President, if it is not close, they don't count.

Mrs. McGinnis stated that the federal laws on that, there are laws which direct how you can proceed and the process that was followed the day of the election was pursuant to state law.

Mrs. Sprotte asked why they were challenged.

Mr. Bishop responded it was stated in the challenge affidavit, if she takes a look at it she will see. He said that usually it is residency, they challenge a person based on allegations that it is not their primary residence.

Mrs. Sprotte said that because she wasn't here to even defend herself, she was on vacation, then actually anybody can just challenge.

Mr. Bishop said, no, what would happen is as Mrs. McGinnis said, there would be a re-cavass if there was a close election and everything would be forwarded to the Suffolk County Board of Elections. Whenever there is any question respecting ballots the SC Board of Elections makes a final determination.

Mrs. McGinnis said that actually happened last year.

Mrs. Sprotte said she had actually gone to Yaphank.

Mayor Teller said he had to go look at his list, because Mrs. Sprotte was on vacation in Hawaii, so their absentee ballots, as far as he was concerned were legal. He did not know

where she had gotten that statement that he was questioning her residency. He apologized and said he knew they were on vacation.

Frank Wright said he was a member of the Westhampton 64, they call themselves and he is a resident of Westhampton Beach and has been for some fifteen years. He said his wife was here and they were full time residents, not seasonal residents, they had been full-time residents here for some four or five years. He said he voiced the same objection except he supposed it was the way it was done. He said it was his understanding is that this person, whoever he is, this Mr. Speir, in this kind of faceless, nameless fashion of having the ability to simply identify in a kind of pro forma way without any actual support, without any ability to challenge on our part, just drops in a group of names and creates an embarrassing situation, is what it amounts to. He said we came up here, the place was filled with people, we went to stand in line and all of a sudden we were pulled aside and an announcement was made that we were ineligible in some fashion.

Mrs. McGinnis said they were challenged, but they did vote.

Mr. Wright said he was challenged and he did vote because he filled out this form affidavit that contains a lot of information apparently that isn't even necessary.

Mrs. McGinnis said it was the law, though.

Mr. Wright said that in any event, it is his objection that if something like this is going to recur, if this is going to be the way these elections are going to be held, if residents come up here and they want to participate and all of a sudden they find their name on a "hit list" and that "hit list" has been prepared three months earlier and the person who prepares it knows the basis upon which the challenge is being made, then the residents should be informed ahead of time. He felt they should be prepared to deal with it at the time they came up.

Mrs. McGinnis responded that the list he was referring to, she had received probably about three minutes before the polls opened, so it wasn't prepared three months before. She thought she had received a communication from Mr. Williams, who questioned that, but if you go downstairs she would be happy to show him the electronic machine.....

Mr. Wright said he objects even more so, then. He said the notion that someone can come in two minutes before an election takes place and can slip a piece of paper in front of her and then all of a sudden, those persons who walk in here are "challenged", he thought was offensive. He felt the person who is challenging it ought to have an obligation to do so ahead of time, you ought to have an obligation to come in and articulate some factual basis for the challenge and the onus should be on that person and that person should not be somebody who is secret and unknown. It should be a public challenge and it should be done with a sufficient amount of time ahead of time so that people don't come in here and .....He said he was embarrassed slightly and he felt other people could come in here and be intimidated faced with a situation like that and it just shouldn't be permitted. He felt what should be required is that if a person intends to do that, there ought to be some requirement that ahead of time the person puts people on notice and informs whoever, Mrs. McGinnis or whoever with a twenty day notice that you are going to be challenged.

A member of the audience suggested that everybody should be challenged.

Mrs. McGinnis advised the audience member that they could deal with his question later so we could know who he actually is, after she addressed Mr. Wright's questions. She told Mr. Wright that it was the laws of New York State, there is a whole process and we have to conduct the election in accordance with those laws because if we didn't, the results of the election could be voided. She felt it was in everybody's best interest to conduct it as professionally as you can in accordance with the law and follow the law. She said that he had actually went through the process and he had voted. She thought he had his wife with him and she voted. She thought there were twenty-five people who were challenged that came to the polls and out of those twenty-five, twenty went through the process and actually went upstairs and voted. She felt it was an inconvenience to him, but she did not think anybody tried to embarrass him. In fact, when people came back upstairs, the Inspectors were like clapping for them, so it wasn't a hostile or negative environment and we tried to handle it as professionally as possible. That being said, there were three

people that ended up voting and they did not give her any affidavit. So, again, she was glad that the election was definitive because it would have been difficult if it was very close and three people who were challenged actually voted and didn't give her affidavits. She said that was another situation, and two people that were challenged took their paperwork and they were going to confer with their lawyers and they didn't come back. So, again, pretty much everybody voted and it was in accordance with the law.

Mr. Wright said he understood that, but he felt everybody should vote.

Mrs. McGinnis reiterated that everybody did, everybody did who wanted to.

A member of the audience asked why they were challenged.

Mrs. McGinnis responded that she did not challenge them. She explained that she was just charged with the duties under state law to conduct the election and we did it to the best of our ability and we followed the law, which she felt was better for everybody.

Mr. Bishop said that every registered voter has a right to challenge another registered voter to vote, but, in that affidavit he has to state under penalties of perjury that he has a good faith basis for believing that person does not have the right to vote or does not have the right to be registered.

Mr. Wright asked if he has to articulate what that basis is.

Mr. Bishop responded yes, he has to articulate it in the affidavit.

A member of the audience asked if that affidavit was a public record.

Mr. Bishop said it was.

Mr. Wright said he understood, but he thought it was something the Board should consider consonant with state law. He said that nevertheless, he thought there should be some consideration given to the notion that it shouldn't be permitted, it shouldn't be allowed that an individual can come up and pick people off at the last minute. He felt there ought to be some sort of time requirement, there ought to be some sort of requirement that people are identified publicly, who they are, what their basis is and give people an opportunity to clear the record before they come up here and be embarrassed.

Trustee Tucker assured Mr. Wright that before the next election, the Board would take a long, hard look and whatever is within their power of the law to be able to do, they will do what they can with that. He said he agreed with Mr. Wright.

Angelo de la Fuente said he pays taxes in this Village and cannot vote in this Village. He said he can vote in the general elections, county, state, but not the Village. He said that Mrs. McGinnis said that she received a few minutes before, the list that was the objections. He said he had a copy of that indicating that on March 4<sup>th</sup>, the Village received it, which includes his name, his wife's name and everybody's name...

Mrs. McGinnis said she would be happy to explain that. She said she had the information downstairs and she would be happy to show him. She said the Village Office has an automatic machine which apparently was not working, it hasn't worked for a while. She said she walked down from the polls with this list, put it in the automatic machine and said "Oh, my goodness, it is not working" – it said March 4<sup>th</sup>. So, then it was correctly stamped.

Mr. de la Fuente asked why it was not.....

Mrs. McGinnis said she did not imagine that she would be interrogated about it.

Mr. de la Fuente felt it was very convenient what Mrs. McGinnis was saying.

Mrs. McGinnis said she would be happy to show him the machine.....

Mr. de la Fuente asked what he had to do now to be able to vote in this Village.

Mr. Bishop explained that in order to be a registered voter, it has to be your primary residence.

Mr. de la Fuente asked for how long.

Mr. Bishop said that was a good question. He said you have to look at the surrounding circumstances and there is no one particular thing, there is no one particular item or fact that determines it. There is along with the challenge, the affidavit of registration, there is a qualification questionnaire, that under 5-104 of the election law is supposed to be asked and a lot of people don't like some of the questions, but the primary issue is to try to determine where the individual's primary residence is. They can ask questions such as financial independence, business pursuits, employment, income sources, residence for income tax purposes, age, marital status, residence of parents, spouse and children, if any, leaseholds, sites of personal and real property owned by the applicant, motor vehicle, other personal property, registration and such other factors that it may be reasonably deemed necessary to determine the qualification of an applicant to vote in an election district within this jurisdiction. The decision of a Board to which such application is made is presumptive evidence of a person's residence for voting purposes. So, if the Clerk were to say you can vote and the Board or the Clerk who stands in the stead of the Board agrees that this is your primary residence, then other issues come up but the most important thing is if she says you can vote, then this is considered your primary residence for purposes of voting.

Mr. de la Fuente asked how many days do you have to live in the Village.

Mr. Bishop replied it was a minimum of thirty days. He said that actually, this is the way the elections have been conducted, certainly since 1976, when this election law was passed. He said that he had seen the questionnaires and had seen they dated into the late seventies. He said this hasn't been anything different than has occurred in past elections with the exception of one extra question that the District Attorney's office wanted us to put in with respect to the Star exemption. Otherwise, it has been the same since then.

Mr. de la Fuente said it was such a loophole in the elections when a person living in New York City having a property here in this Village can change their residence from New York City to here. He said he had asked that many times.

Mr. Bishop said there is no definitive answer to that. He said the state Board of Elections hasn't ruled on that question, there is no court case that has ruled on that question.....

Mr. de la Fuente said it was his understanding he thought it was a state law from what he read. He said he was not a lawyer.

Mr. Bishop said Mr. de la Fuente would have to show him chapter and verse because he is not aware of any state law that says that, but he looked at this issue and had even forwarded a letter at the request of the Board to the state Board of Election legal counsel and they haven't responded.

Mr. de la Fuente asked if all of these people that were rejected to vote, had they all gone through this.

Mr. Bishop said all they have to do is file a challenge affidavit stating that they have a good faith belief that the person registered should not be registered or allowed to vote and stating forth the reason.

Trustee Kametler asked what the punishment would be if they just made up any old thing just to.....

Mr. Bishop said it was an affidavit and you are swearing under the penalty of perjury that what you are saying is true.

Trustee Kametler said Mr. Bishop had just made a statement that the District Attorney's Office told you that the Star exemption was to be added on there.

Mr. Bishop said Mrs. McGinnis had told him that.

Trustee Kametler asked if she had contacted them to ask them to do that.

Mrs. McGinnis said she had followed up with them because they had subpoenaed the documents and she asked them what the status was, if she was getting the documents from last year's election back because they had subpoenaed them and they said they would be releasing them. She then asked what was the outcome and they said it was a matter that they really just dropped it, they didn't pursue it against individuals that had registered and had been challenged and we had problems, as you know, last year. It was suggested by them that she be more diligent in the criteria of the challenge.

Trustee Kametler asked if all that happened last year at the elections has been closed down in the District Attorney's Office.

Mrs. McGinnis said she could not speak for them. They told her there was not anything that they were getting back to her on with regard to removing someone from the roll or anything. She said they never tell you.

Trustee Levan asked if this was the first year that we did such an extensive questionnaire.

Mrs. McGinnis responded no, actually the questionnaires are actually yellowed, they have been in her files for so long and in her predecessor's, so there have always been questions.....

Trustee Levan said she understood they had been in her files, but had they really ever done long....

Mrs. McGinnis said no, not long questions, but then last year it was a very close election and we had a recount.

Trustee Levan said yes, by three votes, but other than last year has that been the norm.

Mrs. McGinnis said it was to follow the law, the law provides that. She said she tried to be very low key with people so that they are comfortable and not made to feel she is putting them.....

Trustee Levan asked if someone was on the challenge list in past years, have they ever submitted that large a questionnaire.

Mrs. McGinnis responded she had asked them a lot of questions verbally and she usually at that point took, if they had anything to substantiate that something was their address.

Trustee Levan asked if they had to fill out a questionnaire.

Mrs. McGinnis said that since she had been doing it, no, she had not had people fill out a questionnaire, but she could not speak to all of these questionnaires that are yellowed, they have been used before, so.....and the law provides it.

Mr. de la Fuente asked in reference to the people who were rejected....

Mrs. McGinnis said it wasn't anybody.

Mr. de la Fuente said so, the absentee ballots, you said there were four or five of these people....

Mrs. McGinnis said no.

Mr. de la Fuente asked if everybody voted.

Mrs. McGinnis said that everybody that came did, yes.

Mr. de la Fuente asked if all of the absentee ballots were voted.

Mrs. McGinnis responded she couldn't do anything with the absentee ballots.

Mr. de la Fuente asked if she counted them as votes or did she say they could not vote.

Mrs. McGinnis said the ones that were challenged she didn't.

Mr. de la Fuente said they didn't vote.

Mrs. McGinnis said no.

Mr. de la Fuente asked if they had been notified why their vote didn't count.

Mrs. McGinnis said no.

Mr. de la Fuente said in a close election, ten votes here or there.....

Mrs. McGinnis said that in a close election, they would have been opened, they would have been opened by the Board of Elections.

Mr. de la Fuente said you say that, but you say no, too.

Mrs. McGinnis said the process, the law, would be that in a close election, if the election was close and it was challenged, it would go for a recount to the Board of Elections and they would have made the determination. That is the procedure and that is what the law is.

Trustee Kametler said it might be a good idea to notify people that were challenged that their votes weren't counted, so maybe next year when they do want to vote again, they won't have to go through this.

Mrs. McGinnis said she did not know what the law provides.

Mr. Bishop said the law provides the Village Clerk stands in the stead of a Board of Election. In a Village election, the election officer is the Village Clerk. She is empowered to and also has a duty to ask appropriate questions to make sure that the person that is registered to vote has the right to be registered and the right to vote. He said he had just read a specific section of the election law which outlines the statutory form of what questions can be asked and on top of that extensive list, you can ask additional questions as well. He said he would not want to be the Village Attorney, he would not want to start telling the election officer of the Board of Elections what questions they should or shouldn't ask. He said he would feel uncomfortable doing that.

A member of the audience said that was not what was asked, she asked if Mrs. McGinnis had notified the people.

Mr. Bishop explained that if she received it in a short period of time before the election, he did not know how you would notify sixty-four people and that is really not her duty. He said the procedure is really set forth in the election law. He said you just can't make up rules as you would like them to be. He said as much as we would like to do that.....

A member of the audience asked if someone could challenge voters three minutes before the election.

Mr. Bishop replied that unfortunately, every voter has the right to challenge another voter. He asked is it right to challenge sixty-four people, he would leave that for another day and a debate after the meeting, but the Village Clerk as the election officer is charged with following the election law which, in his opinion, she did follow, there was no departure from it.

A member of the audience asked if she would contact the people so that the next election they would know and would not be on the "hit list" again and could do something about it.

Mr. Bishop said he would have to look at that, but he did not see any reason why that procedure couldn't be considered by the Board.

A member of the audience said it was stated that a couple of people's votes were not accepted. He asked if that was right.

Mrs. McGinnis responded no.

The audience member said that Mrs. McGinnis had said there were five absentee ballots and three of them were accepted and two of them weren't, or something to that effect.

Mrs. McGinnis said no, what she had said was that she did not give numbers. She said those were people that came to the polls and voted and those people went through the process and voted. There were twenty-five, actually that came. Twenty went through the process, three actually, partially, went through the process, but they didn't hand in an affidavit, so she has no paper work on them. Then, two people took the affidavit and they left and didn't come back. She said those were the people that were here. As far as the people that were challenged that had voted through absentee ballots, there isn't any way to go through the challenge process with them, so they were left aside. We had thirty-five absentee ballots, twenty-five were opened that night, put in the ballot box, we didn't count it because it was a definitive win and twenty-five wasn't going to make any difference, even thirty-five wouldn't have made a difference. The other ones are still in the safe in the Village Office and they just haven't been opened because we didn't have a re-canvass and there was no opportunity to have the challenge reviewed. It is just not the process for absentee ballots. Again, that is only for this year. It has nothing to do with next year. She said the year before she had received a few challenges and the year before that, so it varies.

An audience member said there were sixty-four.

Mrs. McGinnis said sixty-four was this year, but that was very unique and that is this year, but next year she may not get any.

Mr. Wright asked if after the election was held and after all of this was finished, was the comparison made of the affidavit, the so-called affidavit of good faith as against the information that was provided by the twenty persons. He asked if some effort shouldn't be made to determine whether or not if you filled out.....

Mrs. McGinnis said she did not know if that was in the law. She asked Mr. Bishop what was in the law, as she did not know of any process....

Mr. Bishop said they had submitted a list of challenges and had set forth the reasons for the challenges but, the law states there is nothing you can do at that point in time.

Mr. Wright said there is something you can do. He said if a determination is made that an individual has filled out, you say twenty affidavits, which are supposedly, he says an affidavit which challenges the basis upon which somebody is eligible to vote.

Mrs. McGinnis said no, the twenty are the people that came to vote and signed affidavits.

Mr. Wright said he understands that, but they were challenged because some person supposedly filled out an affidavit which presumably has a factual basis for it, that is what the law requires, has a factual basis, upon which he says we're not eligible. He said that after all of this was done, you had an affidavit which challenges, presumably on a factual basis, and then you have twenty affidavits filled out by persons and questionnaires filled out by persons. He asked if any effort had been made to determine if the person who filled out the affidavit did so perjuringly.

Mr. Bishop said on neither side.

Mr. Wright asked if the Board didn't think that should be done, and if it was a perjurious affidavit.....

Mr. Bishop replied if this Board wants to have a criminal investigation as to whether or not there were perjurious statements made or any resident wants to do that, they can do so. They can file charges with the District Attorney's Office and have the District Attorney look into these matters and see whether there were false statements made and if he feels there are grounds for preferring charges against that individual or individuals who filed the challenge affidavits improperly, then he may bring charges against them.

Mr. Wright said that would not make sense for an individual. He felt it does make sense for the Board, if it turns out there is no comparison between the so-called factual affidavit of the challenges and the results of the questionnaires. He said if it turns out that twenty of them come up zero, twenty of them have been fully rebutted by the affidavits filled out by the individuals, he thought it was incumbent upon the Board, on the basis of an examination like that, perhaps to make a reference.

Mr. Bishop said to refer the entire election to the District Attorney's Office, that would be up to the Board whether they wanted to do that.

A member of the audience said to look at how much time this person has wasted for everybody, from tonight to wasting people's times at the polls.

Mr. de la Fuente said he understood that Deputy Mayor Birk performed weddings in the Village and asked how much the charge is for that.

Deputy Mayor Birk said she believed it was \$75.

Mr. de la Fuente asked if it was \$75 for each wedding and if that was on top of the income she makes as a Trustee.

Deputy Mayor Birk said that was correct.

Dean Speir, 256 East Main Street, said he was the one who submitted the affidavit with sixty-four challenges on it. He said he did not prepare the list alone, but he was the one who takes responsibility for handing it in to the Village. He said a few years ago he ran for Village office against Mrs. Levan and Mr. Tucker. He lost to Mrs. Levan by six votes. He said that five of the votes were subsequently shown to be fraudulent votes or illegal votes. He said he couldn't come up with a sixth one, so he dropped the challenge, he didn't go anywhere with it and as he explained in his blog a week or two ago, that was foolish on his part because he could have set a precedent at that time and he didn't. He said that last year there was another Village election in which he did not participate. Mr. Kametler won by two or three votes.

Trustee Kametler said it was three votes. He thought it was five, but he didn't argue the point. He said he took the three and won the election.

Mr. Speir said yes, he did and Mrs. McGinnis has just informed you that you are safe for the rest of your term. He said that three of the votes that were found to be improper two years ago became five votes from the same address last year and that would have made a difference and that is just from one particular residence. He said he did not know why these people were picking on Mrs. McGinnis as the designated Village election officer. He felt she doesn't make mistakes. He said she is charged with certain duties and he thought she performs them pretty well, very well as a matter of fact. He said that as far as there having been challenges before, there is precedent within the Village and he didn't remember whether it was 1983 or 1984, but there were significant challenges to that election and Mrs. Canedo, who was the Village Clerk at the time, sat upstairs in the firehouse and went through each challenged voter with a questionnaire, it was a short questionnaire and then you were allowed to vote by affidavit ballot and they decided to determine at a later time whether the ballots were to be challenged or not. He said that is what he was aware of because he was one of the ones that was challenged at that time. He said there have been challenges before, there will be challenges again. He said that Mr. de la Fuente just stood and announced that as a preamble to his presentation, that he was a resident of Remsenburg and he has property in Westhampton Beach and he feels that on the basis of that he should be allowed to vote, so do a lot of people down on Dune Road, they think the same thing. He felt a lot of people feel the same thing, they are paying taxes here. He said you only have one place to claim as a residency for the purposes of voting. The people that recently claimed here, he felt this was a substantial move because of the eruv issue, to have people change their voting residences to here from western Suffolk, Nassau County, New York City and that was the basis of a lot of the challenges that were on that list of sixty-four names. He said if your name was on the list, you were challenged when you came to the poll and you were asked to fill out an affidavit under penalty of perjury....He spoke to Mr. Wright saying he raised the question of have

any of the challenged ballots, voters who filled out affidavits, have those been examined, and asked him if that was that his question.

Mr. Wright asked if there had been a comparison between the affidavit that Mr. Speir filled out, in which he swore that there was a factual basis to challenge Mr. Wright's eligibility, he presumably said something or they wouldn't have accepted it, so has there been any comparison between Mr. Speir's factual affidavit, he has his doubts about how factual it was, and the specific information that he.....

Mr. Speir said that was perfectly within Mr. Wright's right. He said he had asked him a question and apparently he did not understand him correctly, but he will tell him that he has examined the affidavits of the people who were challenged and who were subsequently allowed to vote and he found that there are disqualifying elements in their affidavits, which should not have allowed them to vote. He said that he was not making that determination. He said he was forwarding that to the proper authorities to make that determination, it is that simple.

Mr. Wright said fine, as long as the opposite is also done, as long as the factual basis of Mr. Speir's affidavit about him and his wife is also scrutinized to determine whether or not that affidavit had any factual basis whatsoever.

Mr. Speir said he just told him.

Mr. Wright said it did, you say it did.

Mr. Speir said he just told him what it was.

Mr. Wright asked what it was. He said that Mr. Speir said that Mr. Wright was not eligible...

Mr. Speir said that he had challenged his eligibility and he thought Mr. Wright needs to be very careful and very precise in his language, the Village Attorney was, Mr. Speir was.

Mr. Wright said, fine, his challenge to him is based upon the specifics of his circumstance, it has nothing to do with Mr. Speir's history, as interesting as that was, it has to do with whether or not there was some factual basis or question as to whether or not Mr. Wright is a permanent resident.

Mr. Speir said that wasn't the basis.....

Mr. Wright asked how did he get his name then.

Mr. Speir said he went through the voter rolls.

Mr. Wright asked if he had just picked out his name.

Mr. Speir said no, no, let me tell you.....

Mr. Wright remarked he was sorry, that this was the essence of his objection, when an affidavit is submitted like that, if it is just a pro forma, I pick people out of the air, I pick them out of the phone book, I'm not required to say why and wherefore, that person is not eligible, then that affidavit should not be accepted, that affidavit should be thrown out and then we move on to something that is more specific and something that can be tested against the facts. He felt that Mr. Speir's particular circumstance, however interesting, has nothing to do with his challenge of Mr. Wright and his wife, it has nothing to do with it.

Mr. Speir said he disagrees. He said he had said his piece and he thought he had explained what he needed to explain.

Mr. de la Fuente said he thought Mr. Speir was always wrong and he.....

Irene Barrett, 27 Notamiset Road, Quiogue, asked Mr. Bishop if the voters that have a Star exemption have to have it on their voting record that there is a Star exemption, if they have one.

Mr. Bishop explained that question was a recommended question by the District Attorney's Office when there was an investigation in last year's election. He indicated that the election officer can ask any reasonable question to determine appropriate residency and to enable registration for voting. He said that since there was an investigation into the prior year's election, one of the questions he recommended to Mrs. McGinnis was the representation as to the Star exemption.

Mrs. Barrett said that if you have a stabilized apartment in New York City, you cannot, cannot vote in the local election and maintain a stabilized apartment. She said you cannot, it is against the law and she knows for a fact that it has happened here and she just wanted to know if she could FOIL who has a Star exemption and who does not. She asked if that was possible.

Mrs. McGinnis explained that the Star exemption applies to the school district and is administered by the Town of Southampton, so Mrs. Barrett could get that information from the Town.

Victor Levy, 58 Beach Road, said he believed that the reason the Star question becomes maybe more important, is if you remember filling out your Star exemption, the last part of it, he thought it actually cites a section of law, but it clearly says that under penalty of prosecution for perjury you certify that that is your primary residence. He said he believed it specifically uses that language, primary residence. He suspected that was why the Star question, maybe needs to be the only one. He said it was really hard and he could understand if he was a resident of New York City and he paid \$10,000 or \$20,000 or \$30,000 a year for taxes here, he would wonder why he didn't have the right to vote, or if he lived in Garden City or if he lived in Tenafly, New Jersey or if he lived anywhere else. He said but, that is the law, he guessed New York State law says you have to have one primary residence. He didn't think you could switch it back and forth, he wasn't sure.

Mr. Bishop said that two Court of Appeals cases basically state that if you have two residences, either residence can be used for voting purposes. He said but, there has been no, if anybody can find a case and prove him wrong, he would love to see it, but there has been no ruling that makes a determination whether or not you can vote in two places within one year. It has just hasn't come up yet, nobody has challenged it yet. He thought the State Board of Elections, a letter had been sent to them some years ago and they didn't answer that question, so it is still an open question, that particular issue.

Mr. Levy said that he thought, just staying specifically on the Star thing, Star specifically asks, is that your primary residence, and if not, you don't qualify for the Star exemption. He believed that was the reason that Star question is part of the whole process.

Mr. Bishop said the only problem with the Star question is if you have represented that there is another primary residence that is not your Star residence, they can discontinue your exemption for five years and that is the problem that people should be concerned about or maybe are concerned about.

Mrs. Sprotte said she was even more furious now, but just for Dean Speir and for anyone else, she had called the Board of Elections, because she does own a house in Garden City and one in Westhampton Beach. She called them and they said of course, you cannot vote on the Presidential election, that is the whole reason, they don't want you running from Garden City on Election Day and voting for the President and then going into Manhattan and vote. They said that if she followed the rules of residency, which is thirty days prior to the election, she had every right to vote here. She said she had voted in the Presidential election here, so she did not know why anyone is even challenging her husband and her vote. She said she could then, months from now, if she changed back to Garden City, she was well within her rights. She said they didn't give her she could do it once a year or twice a year, they said as long as it is thirty days prior to this election, the Village Trustee or whatever it is, that is what she was told and she followed the rules. She said she was really sorry, she thought her vote was going to count and they both didn't count and it was very disappointing.

Trustee Kametler stated that a couple of elections back, we had a certain individual from the Hurricane Party that was telling people exactly what you said, you can change, thirty days later you can change back and that is exactly what he was telling people.

Mr. Speir said he did not recall when the Star exemption came in. He said the primary consideration prior to the Star exemption was rent controlled apartments in New York City.

Ms. Barrett said no, rent stabilized and rent controlled, she has lived in the City, she has it, she knows what they are, she knows the rules.

Mr. Speir asked if Trustee Levan would like to chip in.

Trustee Levan said about this, no.

A member of the audience said that Trustee Levan lives here.

Mr. Speir stated he had never had a rent stabilized or rent controlled apartment in the City, but he knows that people protected them and protected that control very jealously and if they had a second residence, there were some disqualifying things with their rent control situation if they weren't very careful about it. He said that Mr. Bishop brought up the point of the Star exemption. He said if you are found to be maintaining a Star exemption incorrectly or even fraudulently, you will lose it for five years and that is a hit nobody wants to take. He said that is one of the reasons why it was a question and he thought suggested by the Board of Elections to put it on the list of qualifying people, people who would qualify for the election. He felt it was that simple, if you want to perjure yourselves and you want to take a chance on losing a Star exemption, that is your choice.

Mrs. Sprotte asked how John Roland runs for Trustee then, she did not understand. She said when he ran for Trustee last year that he was also in the situation where she guessed, he lives in Manhattan and.....

Ms. Barrett said it was a rent stabilized apartment....

Trustee Kametler said if that was the case, then his election last year was not that close.

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Mayor Teller asked if anyone else would like to address the Board. There being no further response he made a motion at 8:05 p.m. to adjourn the meeting. Seconded by Deputy Mayor Birk and unanimously approved. 4 Aye, 0 Nay

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Respectfully submitted,

Christine Owen  
Deputy Clerk