

**The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Thursday, June 4, 2009 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**

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Mayor Teller opened the meeting with the Pledge of Allegiance. He asked for a moment of silence for former Planning Board member Albert O'Connell who served the Village from 1979-1995. He said Mr. O'Connell was a decorated Marine who was wounded twice in Korea and he had passed away just last week.

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**PUBLIC HEARINGS:**

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**Local Law 5/2009 amend Village Code Chap.196-2 Outdoor Music**

Village Attorney Hermon Bishop explained that this was an amendment to Chapter 196 regarding outdoor music. He said this law permits outdoor music in the B1 downtown district if an applicant obtains a permit. He said the existing law does not place any limitation on the volume of the amplification of music and this law proposes to limit volume of amplification of music, under what the Appellate Term refers to as the reasonable and standard. The language of the proposed law comes from a similar ordinance, similar language used by the Village of Westbury, and as he has indicated, this language was upheld. The proposed law also provides a method for dealing with excessive law. The applicant will be given two warnings by the police officers or code enforcement officers. After the second warning, if they do not comply, they will be given a violation. After two violations, they then would have their permit terminated pending notification and pending an opportunity to be heard before this Board as to why this permit should not be revoked.

Bart Wilenski, 14 Moneybogue Lane, stated the Village has two restaurants that have outdoor music. He asked if this law would apply to them the same as it does to everybody else that the Board was giving a permit to.

Mr. Bishop responded that if they were required to have a permit, then the law would apply to them. Basically, if it is a restaurant that has music on the interior of its property and it is located on their property, this normally would not fall under this law. This law was intended to apply to individuals who use sidewalks or public property or the front of their property for music. It is similar to the outdoor tables and chairs provision of law that we have which permits them to put tables and chairs on the outside of their premises.

Mr. Wilenski asked if they have outdoor music, does the law apply to restaurants.

Mr. Bishop said it would apply to restaurants and to every business.

Mr. Wilenski asked if the enforcement of this law, if it is passed, would be the responsibility of the community to tell the police to go do it or is it going to be part of the job description of the people that are working Main Street.

Mr. Bishop stated it is up to the Code Enforcement Officers and the Police Officers, either by being informed by residents, or on their own if they desire to do so, to enforce this law by giving warnings to the applicants that they have to reduce the volume immediately. He said this only relates to the volume of the amplification of the music. It

doesn't deal with the rest of the law. That law has already been passed and is in existence and the application of that law has been used.

Mr. Wilenski asked if Code Enforcement Officers are going to be employed each of the times we would have a concern regarding loud music.

Building Inspector Paul Houlihan responded that really, the Police will be out there at night and if there is an initial problem, he would imagine they would be notified by the Police Department and the police would be handling it. He said that if there is any type of recurring problem, his office would handle it. He said he wouldn't just have a Code Enforcement Officer or himself riding around the town if there was no issue, but if it becomes an issue, they would become involved in it.

Mr. Wilenski felt it would become a timing issue. He said if he called the police at 8, the officer would go to the place of business by 9, they would call Mr. Houlihan by 10 - he felt that is the way it happens.

Mr. Bishop said that right now there is nothing. Right now, there is no provision in the Code that limits the volume of music, nothing.

Mr. Wilenski said they did have something they tried to enforce.

Mr. Bishop said that is under the noise ordinance, but this deals with outdoor music and placing limitations as a special exception to the use. As a condition of this use, they must not have their music so loud as to offend a reasonable person of normal sensitivities, that is the language that is being used in the law. He said it is enforceable and has been decided so by the Appellate Division.

Mr. Wilenski stated he agrees with it and he applauds the Board for it. He said he just was seeing that maybe it could be enforced a little bit. His second question was in reference to the number of tables that the outside vendors are allowed to have. He asked if it is limited on the permits.

Mr. Bishop responded it was. He said that they have to apply to the Planning Board and to the Board of Trustees. The Planning Board has to give them approval of the number of chairs and tables and then it is referred to the Board of Trustees for a final determination.

Mr. Wilenski said that last weekend, at one time, we had 68 additional chairs on Main Street. He felt that if he was a restaurant owner who had to comply with all of the health laws, pay his rent, he would be getting concerned about the number of chairs. He said he loves the music and likes the camaraderie on Main Street, but if you were down there last Saturday night, you had a hard time walking in some places and there were an awful lot of chairs outside. He felt that if it was in the permit process and it was being checked, then fine.

Trustee Tucker asked Mr. Houlihan if there had been any complaints last weekend or Memorial Day weekend.

Mr. Houlihan said there had been no complaints last weekend or Memorial Day weekend.

Mayor Teller asked if anyone else would like 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 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 June 4, 2009 to hear all parties on a proposed Local Law entitled: "A Local Law amending Section 196.2 of the Code of the Village of Westhampton Beach to limit excessive volume of amplification of outdoor music", 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 June 4, 2009, 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 Article VIII of the Environmental Conservation Law (SEQRA), that it resolves itself lead agency, that it has reviewed the EAF Part I and lists this action as a Type 2 action requiring no further environmental review, 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 5/2009 entitled: "A Local Law amending Section 196.2 of the Code of the Village of Westhampton Beach to limit excessive volume of amplification of outdoor music," a copy of which is attached 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

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#### **Local Law 6/2009 amending Village Code Chapter 171 - Towing**

Mr. Bishop explained that this was an amendment to the towing law, Chapter 171 of the Village Code, that will increase the radius of service providers to the Village for towing services from two miles to three miles. Occasionally, the Village requires towing services for illegally parked vehicles or for accidents on Village roads and in order for companies to work for the Village, they must obtain a permit. In order to obtain a permit from the Village they have to identify all trucks to be used for towing. They have to have a number they can be reached at all times. They have to have liability insurance satisfactory to the Village and they must maintain a depot garage storage area within a certain radius from the Village. The radius presently now is two miles. The proposed law expands it to three miles. The purpose of the law is to give the Village a broader selection of towing services and these companies are picked on a rotating basis.

Mayor Teller asked if anyone else would like 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 Birk:

WHEREAS, A RESOLUTION was duly adopted by the Board of Trustees for a public hearing to be held by the Board of Trustees at the Village Hall, 165 Mill Road, Westhampton Beach, New York at 7:00 PM on June 4, 2009 to hear all parties on a proposed Local Law entitled: "A Local Law amending Section 171 of the Code of the Village of Westhampton Beach extending the towing service radius", and

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

WHEREAS, said public hearing was duly held at the Village of Westhampton Beach on June 4, 2009, 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 Article VIII of the Environmental Conservation Law (SEQRA), that it resolves itself lead agency, that it

has reviewed the EAF Part I and lists this action as a Type 2 action requiring no further environmental review, 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 6/2009 entitled: "A Local Law amending Section 171 of the Code of the Village of Westhampton Beach extending the towing service radius," a copy of which is attached 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 Tucker and unanimously approved. 4 Aye, 0 Nay

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**Resolutions:**

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**Accept minutes of Board of Trustees Meetings**

Motion by Trustee Tucker:

RESOLVED, that the minutes of the Trustees Meeting of May 7, 2009, Special Meeting of May 18, 2009, and the Executive Session of May 27, 2009 are hereby accepted.

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

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**Accept departmental reports**

Motion by Trustee Birk:

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

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

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**Authorize refund of boat slip rental fees**

Motion by Deputy Mayor Kametler:

RESOLVED, that the Board of Trustees hereby approve the refund of the 2009 boat slip rental fees in the amount of \$850.00 to Edward Gibbons, and \$2,850.00 to Steven Albert.

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

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**Authorize renewal of Goldberg's Deli's outdoor dining permit**

Motion by Trustee Levan:

WHEREAS, Goldberg 's Deli has applied to renew the Outdoor Dining Permit granted in 2008 to place four (4) standard tables and twelve (12) chairs pursuant to Chapter 196-1 of the Code and

WHEREAS, there were no incidents or reports filed with the Police Department concerning said use, and therefore be it

RESOLVED, that the Village Trustees hereby authorize the placement of outdoor tables and chairs as shown on the original plan and determination duly approved in 2008 by the Board of Trustees.

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

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**Authorize renewal of Dee Angelo’s outdoor dining permit**

Motion by Trustee Tucker:

WHEREAS, Dee Angelo’s has applied to renew the Outdoor Dining Permit granted in 2006 to place eight (8) bistro tables or four (4) standard tables and sixteen (16) chairs pursuant to Chapter 196-1 of the Code and

WHEREAS, there were no incidents or reports filed with the Police Department concerning said use, and therefore be it

RESOLVED, that the Village Trustees hereby authorize the placement of outdoor tables and chairs as shown on the original plan and determination duly approved in 2006 by the Board of Trustees.

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

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**Authorize renewal of Sunset Café outdoor dining permit**

Motion by Trustee Birk:

WHEREAS, Sunset Cafe’ has applied to renew the Outdoor Dining Permit granted in 2006 to place ten (10) tables (14 inch round bistro) and twenty (20) chairs pursuant to Chapter 196-1 of the Code and

WHEREAS, there were no incidents or reports filed with the Police Department concerning said use, and therefore be it

RESOLVED, that the Village Trustees hereby authorize the placement of outdoor tables and chairs as shown on the original plan and determination duly approved in 2006 by the Board of Trustees.

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

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**Schedule public hearing on Local Law amending Village Zoning Code**

Motion by Deputy Mayor Kametler:

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Monday, July 6, 2009 at 7:00 p.m. at the Village Hall on a Local Law to amend Chapter 197 and A-200 of the Village Zoning Code in reference to building fees.

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

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**Schedule public hearing on Patio Restaurant Outdoor Dining application**

Motion by Trustee Levan:

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Monday, July 6, 2009 at 7:00 p.m. at the Village Hall on an outdoor dining application submitted by the Patio Restaurant for the premises located at 54 Main Street and identified by SCTM # 905-12.1-1-2.1.

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

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**Authorize amendment to Mutual Aid Agreement with Southampton Town**

Motion by Trustee Tucker:

RESOLVED, that the Mayor is hereby authorized to execute the attached amendment to the Municipal Mutual Aid and Assistance Agreement with Southampton Town dated September 27, 2004.

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

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**Rescind Resolution & Authorize Analysis of Police Chief Comp Time**

Motion by Trustee Birk:

WHEREAS, the Police Chief and a predecessor Village Board entered into an employment agreement dated July 6, 2004, covering the period May 6, 1999 through and including December 31, 2008; and

WHEREAS, that agreement also provides that, "if an agreement establishing the terms and conditions of employment of the EMPLOYEE for the period following December 31, 2008 has not been agreed upon and does not take effect on January 1, 2009, the remuneration and fringe benefits granted to the EMPLOYEE by this agreement shall remain in effect until execution of a successor agreement. Upon agreement, the terms of the Agreement for the said successor agreement shall take effect January 1, 2009"; and

WHEREAS, the agreement further provides that, "The EMPLOYEE shall be entitled to earn and carry over no more than 200 hours of compensatory time"; and

WHEREAS, it came to the attention of the Board that the Police Chief had earned, accrued and taken hours of compensatory time far in excess of that to which the employment agreement entitled him; and

WHEREAS, the current Village Board does not believe that this employment agreement is or ever was legally valid, binding and enforceable; and

WHEREAS, even if it is legally valid, binding and enforceable, the Police Chief has earned, accrued and taken hours of compensatory time far in excess of that to which the employment agreement entitled him; and

WHEREAS, by resolution adopted in executive session on May 27, 2009, the Board took action in a good faith effort to rectify this situation, without in any way conceding that the employment agreement is or ever was legally valid, binding and enforceable; and

WHEREAS, the Board has since learned that the action it took in executive session should more properly have been taken in public session; and

WHEREAS, the Board wishes to restate, ratify and reaffirm its action.

NOW, THEREFORE, it is hereby resolved that:

1. The Board hereby rescinds any and all Resolutions approved during the May 27, 2009 executive session; and
2. The Village Clerk Treasurer shall, if necessary in conjunction with the Police Chief as well as any other Village employee having knowledge about this issue, ascertain and calculate, and report to the Board at its next regularly scheduled meeting, the total number of hours of compensatory time earned, accrued, taken, carried over and/or paid to or by the Police Chief commencing on May 6, 1999; and
3. The Police Chief, as well as any other Village employee having knowledge about this issue, shall fully and completely cooperate with the Village Clerk Treasurer in her efforts to complete the task assigned to her in paragraph "1" above; and
4. In the event that the Village Clerk Treasurer's report to the Board confirms that the Police Chief has earned, accrued, taken, been paid for and/or carried over more than 200 hours of compensatory time, the Village Clerk Treasurer shall consult with the Village Attorney and/or the Village's special labor counsel for the purpose of advising the Board as soon as possible about the procedure including, if necessary, litigation to be immediately implemented in order to recover to the Village any excess time earned, accrued, taken, paid to and/or carried over by the Police Chief.

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

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**Approve June 2009 warrant**

Motion by Deputy Mayor Kametler:

RESOLVED, that the warrant of June 2009 in the amount of \$281,332.07 for the General Fund is hereby approved.

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

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**Public Discussion**

Irene Barrett, 27 Notamiset Road, Quiogue, said she works in a garden center and they punch in when they come to work. She asked how you calculate the Police Department hours, who verifies it and who tells you that there is overtime. She asked if it was the person working or how was it done. She wanted to know if they hand in a sheet, does the Police Chief hand in a sheet and say they worked twenty hours or is there a punch in clock.

Mayor Teller responded that there was no time clock.

Ms. Barrett said she had never heard of such a thing. She could not believe there was not a time clock for hourly employees.

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Phil Grossman, 16 Meadow Lane, said his question relates to a letter the Mayor put in the Southampton Press this week about Waldbaum's confirming issues that there are no issues at Waldbaum's, when we all know that we have been trying to get Waldbaum's to try and clean up the store. He said their refrigerators don't work properly, they charge high prices, it's our only store, but it sits there and it's filthy. He felt it was not appropriate. He said they were trying to get Waldbaum's to clean the store and make changes, what can they do. He asked if the Board could help them.

Mayor Teller stated he had written his letter. He said he had shopped there for over fifty years and he did not have a problem with Waldbaum's. He felt the problem Mr.

Grossman has is not a matter for the Board. He said they handle the outside parking, the air-conditioning and the planning outside. He said that running the business inside is Waldbaum's. He said you can go with your feet, you can go shopping elsewhere. He said that as far as he knew right now they were re-doing the air-conditioning and they were re-doing the parking and they are changing out equipment inside.

Mr. Grossman said he had wanted to ask about the parking, because he felt it was in pretty bad shape.

Trustee Tucker said they had come before the Planning Board.

Mayor Teller said they were working on it and it was before the Planning Board right now.

Mr. Bishop stated that was already resolved and they had received site plan approval for the placement of the parking lot and additional drainage as well.

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Lovejoy Duryea of Remsenburg asked if we could consider when we look at parking permits, that we consider pervious paving and other green technologies to protect the environment.

Mayor Teller thanked Ms. Duryea and said that Highway Superintendent George Gordon was looking into this.

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Vic Levy, 58 Beach Road, thanked the Board because he knew they were all involved, he knew that Trustee Birk spearheaded the toddler park. He said he had gotten to use it with his two grandchildren on Memorial Day and it really came out very good. He felt they had obviously rescinded the motion from the executive session because he thought they had probably on the advice of counsel found the executive session was improper and illegal. He asked if there were any items that had taken place at executive sessions held by this Board where they took actions that weren't one of the six or seven actions allowed under the Open Meetings Law.

Mr. Bishop responded that actually it was eight actions that are permitted to go into executive session under Section 105 of the Public Officer's Law, provided you meet one of the eight criteria and this is the first time that he knows of since he had been here that this Board has ever taken an action, so the answer is no.

Mayor Teller said there had been no others since he had been here.

Mr. Levy said the open meetings law is really quite short and Mr. Bishop was right, there were eight, he had not counted the last one. He felt it would probably be good to review because it is one thing that gets Boards in trouble. He felt it was really not hard to understand what you are supposed to do and not do. He said he was a little amazed they had done that. He asked if other department heads had limitations on the number of hours of comp time that they are allowed to accumulate in their contracts.

Mayor Teller said they have comp time.

Mr. Levy asked if they have a limit on the number of hours as purported by the state....

Mayor Teller replied that right off the top of his head, he didn't think so. He said they had not had any problems with it so far.

Mr. Levy said that since the issue of the Police Chief's earnings seem to be a matter of some interest both in our local newspaper and certainly in Newsday today, it seemed strange to him that no one remarked that the earnings of the other officers who serve under the Police Chief aren't that far below him.

Mayor Teller explained that they had put out a sheet tonight covering all of the salaries.

Mr. Levy remarked that he had noticed on the sheet that it does not include overtime, which he did not believe the Police Chief was able to earn. He asked if the Police Chief received overtime or if he just gets comp time.

Mr. Bishop said he gets comp time.

Mr. Levy said that overtime for the officers amounted to around \$70,000, but he thought it had exceeded that.

Village Clerk Kathy McGinnis said it was about \$85,000.

Mr. Levy said that was divided among the whole force.

Mrs. McGinnis said yes, that was correct.

Mr. Levy felt it was conceivable that one of the Sergeants might have earned \$140,000, \$145,000 if he had much overtime.

Mayor Teller responded that was correct. He said if you look at the Chief's salary, you would notice that if you looked at his actual pay records, he would get a little bit more because he could buy back his vacation time by law, by his contract.

Mr. Levy asked Deputy Mayor Kametler what his earnings were for the last year before he retired from the Police Department.

Deputy Mayor Kametler said he did not recall, it had been a while.

Mr. Levy asked how long ago it was.

Deputy Mayor Kametler said it had been a good six years ago.

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Phil Grossman said that himself and two or three other residents on Meadow Lane in Stillwaters had sent a request in to Village Hall requesting that after twenty years or since their development was built or the area was opened up that they still have no lights on Meadow Lane. He said they have three lights in the front off Oneck Road. He said the response had been that it would cost, stakes were in the ground, but that due to a tight budget and a cost of \$14,000 to put in the lights, it would not be done, at least this year. He said there was no light, they have children on the street, they have people that walk dogs, people that drive around, they pay high taxes because they are double taxed because they are Town, Village, Southampton, Westhampton Beach. He said that for twenty years they have had no lights, yet we have sidewalks going in and we have sewers going in along Oneck that still don't work after they are put in.

Mayor Teller explained that they are looking in to a different method of putting lights in. He said the cost of \$16,000 or \$14,000 is for the big light poles and regular .....

Mr. Grossman said they want the simple, cheap, just some light.

Trustee Tucker said the Board had received their letter.

Mayor Teller said they were working on it, but there was no guarantee.

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Dean Speir, 256 East Main Street, asked for a clarification on something from Mr. Tucker or Mrs. Levan. He said a couple of weeks ago they seemed to have very publicly broken with the Mayor and the First Hampton Party and formed the Lightning Party. He asked if that was correct.

Trustee Levan and Trustee Tucker responded that this was correct.

Mr. Speir said he sees in the paper this morning there was an advertisement paid for by the First Hampton Party. He said that the last he looked Mrs. Levan was the Treasurer of the First Hampton Party. He asked if she was still...

Trustee Levan said she was not, as of a year ago.

Mr. Speir asked if the checks he had seen her take out of the Suffolk County National Bank the other morning for the First Hampton Party were for a friend.

Trustee Levan said she was asked to pick up a check there and she did.

Mr. Speir asked if she was no longer a signatory for the First Hampton Party.

Trustee Levan replied that she was not in the First Hampton Party.

Mr. Speir asked if she no longer had signatory powers as Treasurer.

Trustee Levan said she had been taken off as Treasurer.

Mr. Speir asked as of when.

Trustee Levan stated it was as of a few weeks ago.

Mr. Speir asked if any check received by the newspaper with her signature on it for that ad would have been from the First Hampton Party or the Lightning Party.

Trustee Levan said it would have been the First Hampton Party.

Mr. Speir asked if she had paid for the ad that was placed there this morning, was that her check.

Trustee Levan responded no, she didn't, that was not her check.

Angelo de la Fuente, 30 Old Riverhead Road, said he was answering Mr. Speir's question and he had signed that check. He said he was the Treasurer of that party, so all of Mr. Speir's investigation, like usually, is worthless.

Trustee Tucker said that our meetings here for the Village as Trustees and the Mayor, we're the Board of this Village and we have two times a month when we meet and that is when we are supposed to get our public business done and we try to get that done, cram it in. The rest of the week we're looking at things, reading over, conversing with each other, separately here and there and when we come to these meetings we try to take care of business. He said they have a full agenda and to get to this agenda there was a lot of work done by the staff and all of us up here and he thought political stuff, and yes, it is political season and it always happens, but he felt political stuff was best left outside and campaigns and that is what he had to say about that.

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Mark Raynor, 35 Bridle Path, asked under the Sunset Café, is a bar permitted in the B-1 District. He said they advertise as a bar.

Mr. Bishop responded that their permitted use is a coffee house and they have acquired a liquor license for liqueurs.

Mr. Raynor said their sign out front says liquor/bar.

Building Inspector Paul Houlihan said he would take a look at that tomorrow. He said they don't have an approval for a bar/nightclub as we define it. They do have an approval for a luncheonette and they are allowed to serve alcoholic beverages at a luncheonette, but they can't transfer them over to a bar where their principle business is the service of liquor and that sort of thing. They are still a luncheonette, which means they have to serve the food with it. He reiterated that he would take a look at it tomorrow.

Mr. Raynor said it had been mentioned that A & P was going to re-do their parking lot. He asked if they were going to put in a new cut for the trucks to come in on the side, on the south side of the property.

Mr. Houlihan responded no, there is none. He said the original plan that was done, they did not go through with, which was going to change the way the vehicles came in and out. They came back to the Board and asked to do a modified drainage paving. He said the reason they could do that is because they never did the expansion. The reason we got them in there in the first place is because they were doing the expansion to the adjacent 5,000 square feet. He said they are not doing that right now, so they simply came back and said we want to re-pave the parking lot. We were able to get them to do some additional drainage that the Planning Board and the Village Engineer and everyone looked at, so it is going to be an improvement, but they are not implementing the original site plan.

Mr. Raynor asked if there was any reason that the police couldn't enforce those trucks backing up illegally going into their property, maybe that would force them to make the traffic cut. They only have one driver, you're supposed to have two people that guide a tractor trailer in there, which is unsafe when they come in on the north side. If you put pressure on the drivers, they're not going to come because they're going to get the traffic ticket. He felt if you wanted to put pressure on A & P to get the traffic flowing around the building like it was designed to do, maybe you could step up enforcement that way.

Mr. Houlihan said they didn't have that in the Building Inspector books, but he will discuss that with the Police Department. He felt that would be something the police would enforce, but he would discuss that with them. He said they definitely back up right now as they have for the last twenty years, so he would discuss that with the police.

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Mr. Raynor questioned the resolution regarding the Police Chief regarding the 200 hours. He asked if he accumulated more than 200 hours.

Trustee Birk answered yes.

Mr. Raynor said their original statement in the beginning was that if he doesn't have a new contract, then the existing one stays into effect, correct.

Mr. Bishop responded that was the way the contract was written now, that is correct.

Mr. Raynor asked then, how could you change the contract if you were told you can't.

Mr. Bishop said it is not that the Village was told they can't.

Mr. Raynor said if he has an existing contract that says you.... He asked again, if he has an existing contract, which is going to be in effect until a new one is signed, if it allows him to accumulate more time, how can you change it now.

Mr. Bishop replied that the Village was taking the position that the employment agreement is not valid, binding or enforceable and even if it were valid, binding and enforceable, the Police Chief has acquired time in excess of 200 hours permitted within the contract and it is the Village's position that they are going to recoup or recover those hours that exceeded the 200 hour limit.

Mr. Raynor asked if his whole contract is invalid.

Mr. Bishop said the Village was taking that position.

Mr. Raynor asked if he had no contract, no coverage, no nothing, he is just going to collect what is in effect. He said if it is in effect....

Mr. Bishop responded he was not saying what is going to happen or not happen, he was just saying the resolution is taking first, the position that the contract is not enforceable and second, even if the contract were enforceable to the extent that he took hours in excess of 200 hours, that he was not entitled to those hours and the Village intends to recoup those hours.

Mr. Raynor said that maybe he was off in his math, but if he had 200 hours and takes 200 hours, then I can accumulate 200 more, correct.

Mr. Bishop said he can only discuss the resolution, he can't get into a legal debate or construction of the contract. He said this matter was not going to be tried in the court of public opinion, it will be tried in the courts if it has to be.

Mr. Raynor said it was just a question, if he has 200 hours, he can use 200 hours, then he starts at 0, he can collect 200 more, correct.

Mr. Bishop reiterated he was not going to go into the construction of the contract, because this is a legal matter between counsel and the courts and therefore, all he is going to do is explain what the resolution said. He felt he had done that, unless he wasn't clear on any part. He did not want to go into a discussion as to what one parties side might be or the other parties interpreting the contract might be, that was for the court to determine.

Mr. Raynor said his question was, can he have 200 hours on the books.

Mr. Bishop said the contract states that he can earn or acquire 200 compensatory time hours.

Mr. Raynor asked if he uses 200 up in a week, can he accumulate 200 more.

Mr. Bishop stated he was not going to discuss.....

Mr. Raynor thanked Mr. Bishop and said he was a good attorney to get around it.

Mr. Bishop said he was just the Village attorney.

Victor Levy said Mr. Bishop had stated the Board's position in the resolution is that the contract isn't binding and enforceable.

Mr. Bishop said that was correct.

Mr. Levy asked if the Board had spent money in an attempt to overturn the contract or undo it.

Mr. Bishop stated there has been no legal action taken at this time to obtain a declaratory judgment that the contract is unenforceable. The Board, in its resolution, is simply stating that in its opinion, the contract is not enforceable.

Mr. Levy asked if the Board, in its consultations with either Mr. Bishop or its special labor attorney, who he believed is paid by the hour, expended the Village's money in an attempt to overturn or undo the contract.

Mr. Bishop said he did not understand that question, has the Board expended legal fees for special counsel and representation of its labor law matters, yes it has.

Mr. Levy asked in regard to this contract, has there been money expended to try and put forth the position that a contract that is now nine or ten years old is unenforceable.

Mr. Bishop replied that this Village has been represented by labor counsel and there has been investigation, there has been legal work done on this issue and yes, the Village has expended money on that.

Mr. Levy asked if he had any idea how much money.

Mr. Bishop said he had no idea.

Mr. Levy asked if the Mayor has any idea how much money.

Mayor Teller stated it was somewhere around \$28,000.

Trustee Tucker explained that was over a three year period.

Mr. Levy said that's just...if you have spent \$28,000 on this matter already...

Mayor Teller said to put it in his language, it is a contract, we're in court, we'll be in court with it.

Mr. Levy said he was sure they would fight to the Village's last dime, he was sure.

Neil Hanrahan, 346 Dune Road, stated regarding the Chief's contract, we are stating that the contract that was signed in the beginning, whether it was valid or not. He asked if currently he was receiving a 7.9% raise.

Mayor Teller responded no.

Mr. Hanrahan asked if the contract in the past ten years, has it stated that he receives a 7.9% raise every year, or something to that effect.

Mayor Teller stated that was an executive bonus.

Mr. Hanrahan asked what that executive bonus would be for the past 10 years.

Mayor Teller said it was 7.9% per year.

Mr. Hanrahan said, so he received 7.9% per year for 10 years.

Mayor Teller said yes.

Mr. Hanrahan said, so if the contract remains valid, we will pay the Police Chief somewhere in the neighborhood of half a million dollars a year after ten more years at 7.9%.

Mayor Teller said he didn't write the contract.

Mr. Hanrahan said he understood that this Board inherited the contract.

Mayor Teller stated the contract is written, the contract has the Triborough Doctrine in it, that it continues on, it is under negotiation at this time, he is not getting any more money than he got last year.

Mr. Hanrahan said there seems to be an issue whether or not the Village will spend \$28,000 in the past three years to fight the various contracts this current Board inherited and feel that this is not a fiscal responsibility to pay certain contracts. So, if the contract is found valid after it goes to court, then the Village will be paying 7.9% for the next ten years or until Mr. Dean retires.

Mr. Bishop said the court may find the contract valid to a point, the court may find the contract is not valid, the court may find that when it comes to certain parts of it they are not valid.

Mr. Hanrahan asked if the Village Board does not take this matter to a court, then the Village Chief is entitled to 7.9% for the remaining ten years or as long as he remains on the job.

Mr. Bishop said, let's focus on when you say another ten years, by saying the contract was entered into on July 6, 2004 and it covered the period of May 6, 1999 and expired on December 31, 2008. The contract then provided that should there not be a

successive agreement after December 31, 2008, then the terms of the contract will continue until such successive agreement occurs.

Mr. Hanrahan asked with regards to the salary/benefit package, it would be 7.9% as far as salary goes.

Mr. Bishop said it would be the same, yes.

Mr. Hanrahan stated that as a taxpayer of the Village, as a retired Police Officer of the Village, he felt he was very fortunate to have the job as a Police Officer in this Village and he was very happy to serve this Village and the community, he thought that 7.9% for the next couple of years is an outrage. He said that as a past PBA President of the union and Vice-President, after speaking to several members of the current union, he knows they are in negotiations now, but several of the members would be willing to accept a 0% raise due to the fact of the economic turmoil that this country is in and the lack of money that is coming into the Village now regarding sales tax and regarding....

Mayor Teller said that is not the truth, he had sat in a room with them and they absolutely did not say they would go for zero.

Mr. Hanrahan continued...and the fact that everybody's tax grievances in the Village is losing some of their income. He felt that for the Board to spend a certain amount of money to save hundreds of thousands of dollars over the course of years, is not much money at all when we are speaking about the long term. He said this Village Board has a fiscal responsibility to reel in whatever has been handed to them, they inherited various contracts whether it be the Police Chief's, Police Officer's or general maintenance of the Village.

Barbara Rasmussen, 346 Dune Road, asked regarding the fact that the contract has now expired, does this Board, does our Village have the right to just terminate the Police Chief.

Mr. Bishop responded no, it doesn't.

Ms. Rasmussen asked if we were bound to keep him on.

Mr. Bishop stated that under Civil Service Law, unless he is brought up on charges for certain reasons, this Board cannot terminate him.

Ms. Rasmussen asked if we had no right to replace him, if we're bound eternally to this contract until he decides to.....

Mayor Teller said that if you replaced him, you would have to pay the same salary to the next Chief according to Civil Service Law.

Ms. Rasmussen asked if the only way to replace him was for cause.

Mr. Bishop said he has to be removed for cause.

Ms. Rasmussen asked if this Board was looking into any of those aspects and possibly letting the Chief go.

Mr. Bishop said he preferred the Board not comment on that.

Ms. Rasmussen asked if the only basis right now was to rescind the contract.

Mr. Bishop stated that was the resolution pending, the resolution that has been passed. The Board is taking the position that the contract is unenforceable and should the contract be deemed enforceable, any amount of compensatory time in excess of 200 hours that the Police Chief has received is to be recovered by the Village.

Dean Speir asked regarding the fact that Mr. Hanrahan made a reference to the fact that the Board is currently in negotiations with the PBA, he asked if that was accurate.

Mayor Teller said that was correct.

Mr. Speir asked if they are in active negotiations.

Mayor Teller responded that right now they took a leave to set up their vacation schedules and they will be back in negotiations. They want to make sure they get all of the team together at the same time.

Mr. Speir asked if the negotiations are on hiatus at this time.

Mayor Teller said he wouldn't say that. He felt that in the month of June they should be starting again.

Mr. Speir asked if during the month of June the police officers are on vacation at one of the busiest times of the year.

Mayor Teller said no, they were setting it up so they can have all of their team when they pick a date to negotiate.

Mr. Speir thanked the Mayor for the clarification.

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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 7:52 p.m. to adjourn the meeting. Seconded by Trustee Birk and unanimously approved. 4 Aye, 0 Nay

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Respectfully submitted,

Christine Owen  
Deputy Clerk