

The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Thursday, October 1, 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**

Mayor Teller opened the meeting with the Pledge of Allegiance. He asked everyone to remain standing for a moment of silence for Steve Smith, the Westhampton Beach Fire Chief and an employee in the Village DPW.

Public Hearings:

Mill Road Plaza Contractor's Administrative Office Special Exception

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

Aram Terchunian, First Coastal Corporation of Westhampton Beach, appeared on behalf of the applicant. He said the application before them for a contractor's administrative office is under a new section of the Village Code, recently adopted. There are three specific provisions. Provision one – no vehicle may park on the site in excess of 20 feet or 8,000 pounds. Two, no interior or exterior storage of items including but not limited to materials, equipment, tools or supplies related to contractor's business other than administrative office items. Number three, there shall be no overnight parking of company or employee vehicles permitted on the premises. This Board referred this matter to the Planning Board for review. He said they have been in front of the Planning Board and he believed they had forwarded the Board a report in support of this office. The applicant agrees to the three conditions specified in the Code.

Trustee Tucker asked if there weren't five conditions. He asked if he wasn't required to pay the off-street parking as another requirement.

Village Attorney Hermon Bishop stated the off-street parking fee is one space and is one of the conditions of the approval.

Mr. Terchunian said that is not under the special contractor's, but under the park requirement, that is correct, and that was certainly part of their application regarding the additional space that they need.

Mayor Teller asked if anyone else had any questions or comments. There being no response, Trustee Kametler made a motion to close the public hearing. Seconded by Trustee Tucker and unanimously approved. 4 Aye, 0 Nay

Motion by Trustee Tucker:

RESOLVED, that the attached Special Exception Determination to convert an existing dry storage cellar area to a General and Special Trade Contractors' Administrative Office use at the premises 170 Mill Road is hereby approved, subject to the conditions of the special exception determination therein.

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

Ronald Fabian Mini Spa Special Exception Permit

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

John Fabian explained he was looking for a special exception to open a mini-spa at 64 Old Riverhead Road in Westhampton Beach.

Trustee Tucker asked how his offices and all were coming over there.

Mr. Fabian replied they were all finished, he just needed some tenants.

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

Motion by Deputy Mayor Birk:

RESOLVED, that the attached Special Exception Determination to install a 905 square-foot mini-spa in an existing building located at 64 Old Riverhead Road, is hereby approved.

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

Cablevision Franchise Agreement (adjourned from 9/3/09 meeting)

Mayor Teller said this was being held over until next month. He made a motion to adjourn this hearing until November 5, 2009. Seconded by Deputy Mayor Birk and unanimously approved. 4 Aye, 0 Nay

Resolutions:

Accept minutes of Board of Trustees Meetings

Motion by Trustee Kametler:

RESOLVED, that the minutes of the Board of Trustees August 6, 2009 meeting and the Special Meeting of August 21st are hereby accepted.

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

Accept monthly Reports from Departments

Motion by Trustee Levan:

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

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

Schedule public hearing on Hampton Synagogue Special Exception

Motion by Trustee Tucker:

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Thursday, November 5, 2009 at 7:00 p.m. at the Village Hall on a Special Exception permit application submitted by The Hampton Synagogue to convert a single family dwelling to a meeting hall on the first floor and office use on the second floor at the premises located at 154 Sunset Avenue, and identified by SCTM # 905-12-2-1.2.

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

Schedule public hearing on Local Law amend income eligibility for tax exemptions

Motion by Deputy Mayor Birk:

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Thursday, November 5, 2009 at 7:00 p.m. at the Village Hall on a Local Law to increase the income eligibility levels to qualify for the senior citizen, or disability real property tax exemptions.

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

Authorize joint NYS shared service grant for pictometry services

Motion by Trustee Kametler:

RESOLVED, that the Mayor is hereby authorized to execute a Memo of Understanding with the Town of Southampton for a joint shared services grant application to the NYS Dept. of State for pictometry services.

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

Accept bids for surplus vehicles & equipment

Motion by Trustee Levan:

RESOLVED, that the bids received for surplus Village equipment and vehicles are hereby accepted as indicated on the attached bid summary; and be it further

RESOLVED, that the bids submitted for the vehicles are hereby rejected and the DPW Superintendent is directed to transport the surplus vehicles to Gershow Recyclers for payment at the rate of \$.07 per pound.

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

Authorize renewal of snow removal agreement with Village of Westhampton Dunes

Motion by Trustee Tucker:

RESOLVED, that the Mayor is hereby authorized to execute an agreement with the Village of Westhampton Dunes for the removal of snow by WHB Public Works employees for an annual fee of \$10,500.00 plus reimbursement of any certified expenses that may exceed said fee, for the time period commencing November 1, 2009 through to October 31, 2010.

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

Adopt Local Law 8/2009 to terminate assessing unit status

Motion by Deputy Mayor 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 September 3, 2009, to hear all parties on a proposed Local Law entitled "A local law relating to the termination of the Village of Westhampton Beach's status as an assessing unit for village real property tax purposes;" 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 September 3, 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 8 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 8/2009 entitled "A local law relating to the termination of the Village of Westhampton Beach's status as an assessing unit for village real property tax purposes," a copy of which is attached hereto and made a part hereof, and the Village Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and to enter said Local Law in the Local Law Book of the Village, and to give notice of the adoption of said Local Law to the Secretary of State.

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

Authorize Forensic Accounting Services for Suffolk Asphalt Plant Litigation

Motion by Trustee Kametler:

RESOLVED, that the Mayor is hereby authorized to sign the attached letter to engage the firm of Getzel Schiff & Ross LLP to assist the Village's Special Counsel with pending action regarding the valuation of a certain asphalt plant at the standard hourly rates ranging from \$55.00 to \$300.00 per hour plus reimbursable expenses, depending on the personnel assigned.

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

Authorize DPW to purchase a 1998 Ford F850 truck for the swap loader

Motion by Trustee Levan:

RESOLVED, that the Department of Public Works is authorized to purchase a 1998 Ford F850 truck from Randall's Auto Collision, Inc., at a cost of \$5,500.00; and be it further

RESOLVED, that the 1992 Ford F-700 truck is hereby declared as surplus and the Supt. of Public Works is authorized to dispose of said vehicle.

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

Authorize WHB Elementary School PTA Halloween Parade

Motion by Trustee Tucker:

RESOLVED, that that Westhampton Beach Elementary School PTA is authorized to hold the annual Halloween parade on Friday, October 30th starting at 3:00 p.m. at the Westhampton Beach Elementary School on Mill Road and ending with Trick or Treating on Main Street until 5:15 p.m.

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

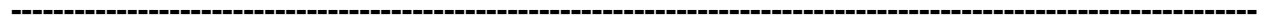


Approve warrant for October 2009

Motion by Deputy Mayor Birk:

RESOLVED, that the warrant for the general fund for the month of October 2009 in the amount of \$210,095.89 is hereby approved.

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



Trustee Kametler announced that he had an add-on to the agenda.

Village Clerk Kathleen McGinnis advised that they would need to make a motion to add something on.

Trustee Kametler made a motion to add-on an item to the agenda. Seconded by Trustee Levan and unanimously approved. 4 Aye, 0 Nay

Motion by Trustee Kametler:

As Police Liaison, Police Commissioner and Labor Negotiator, I make a motion to make Trustee Tucker in charge of all interactions with the Village labor attorney. Seconded by Trustee Levan and approved as follows:

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

Village Attorney Hermon Bishop said they may have a problem with that resolution. He said it may be in violation and an infringement upon the Mayor's duties as well, because the Mayor is responsible for the supervision and control of department heads and if labor counsel is appointed for the Village, then the Mayor should have the right to consult with counsel to meet his obligations to enforce the rules, regulations and laws for the Village in the State of New York.

Trustee Tucker asked what his obligations were to share that information with the rest of the Trustees that represent, that were elected by the residents.

Mr. Bishop said he was not speaking to that question. He said that maybe something that they could discuss now. All he was saying is that this resolution may run afoul of Section 4-400 of the Village law, that is to say that the Mayor would have the right, in his opinion, to consult the counsel that he needs to.

Deputy Mayor Birk asked what information they are not getting.

Trustee Tucker responded what they were not getting was information about negotiations, this information.....we were elected by the people of the Village of Westhampton Beach to represent you, all four Trustees sitting up here, as well as the Mayor and that was to be done as a quorum, as a vote of all of us and if we are going to be given responsibility with no authority, that is a problem. He said there are negotiations going on we have on many

occasions where the Mayor has come forth and said that we are going to discuss this with our labor attorney, that is why we hired him, we spent tens and twenty thousands of dollars, he's already spent discussing it with the labor attorney without any of us, over time prior to me being here, gotten a lot of information and we have negotiations going on and we all have been trying to negotiate, all four Trustees. We've been trying to talk to the labor attorney and negotiate properly and the Mayor is going and trying to do his own negotiations despite all of that. He asked if that answers her question.

Trustee Levan added that we also had a meeting where we met with our labor attorney, all of us and Mayor Teller left the room and said you handle it, the four of you and at that meeting Trustee Birk took the minutes and did all of the write-ups that we needed to do, all four Trustees agreed to it and we sent it off to Zuckerman.

Trustee Kametler said that on top of that, correspondence from the Mayor dated September 28, 2009 and he would like to know from what duly constituted public meeting this was formulated from, well, this would be the public meeting that we are formulating it at.

Mr. Bishop stated that in his opinion, and nobody is asking his opinion on this, but he thinks you have the right to appoint a labor negotiator. A negotiator can be one of the Trustees, the only question I have.....

Trustee Tucker said he was appointed as that already.

Trustee Levan agreed he was, at the organizational meeting.

Deputy Mayor Birk said there were three of us who have been appointed.

Mr. Bishop said at the Organizational Meeting you were appointed liaison.

Trustee Tucker said yes, and labor negotiator and police commissioner....

Deputy Mayor Birk said Trustee Tucker, herself and Mayor Teller are negotiation liaisons.

Mr. Bishop said alright, very good then.

Trustee Tucker said the bottom line is he was here to represent all of the residents and to do what is in the best interests of all the residents in discussions with all my fellow Trustees, as well as the Mayor and I don't sit here and act in a unilateral, secretive matter and he doesn't expect that from anyone else sitting next to me up here. He said that is not why any of us are elected.

Mayor Teller asked Trustee Tucker if he had attended the DPW negotiations.

Trustee Tucker responded yes, he had attended one.

Mayor Teller asked how many were there.

Trustee Tucker said I don't know, how many were there.

Mayor Teller said there was one.

Trustee Tucker said Mayor Teller had sat with the DPW more than one time.

Mayor Teller stated they were not official labor negotiations. We had a conference before we even discussed negotiations. We tried to see if we could settle it without attorneys. We couldn't and that is where it went.

Trustee Kametler interjected that Mayor Teller said there was one and Trustee Tucker went to one.

Mayor Teller asked if Trustee Tucker had sat with the PBA.

Trustee Tucker said yes, once.

Mayor Teller said there was only one official meeting with the PBA.

Trustee Tucker asked what were all the other meetings.

Mayor Teller said all the other meetings were unofficial to see if we could gain some consensus of no raises, no nothing and pass it and that didn't fly.

Trustee Tucker asked if he had given the Trustees information on all of those meetings or discuss that information with us at all, what transpired on what.....

Trustee Levan indicated no, he had not.

Mayor Teller responded why should I, they weren't official, they were nothing.

Trustee Tucker said that is what I'm talking about; why wouldn't you, I would discuss it with you.

Deputy Mayor Birk said they put us back to zero. We were back to ground zero, when it is over with that, everything goes back to the starting board, the slate is clear.

Trustee Tucker said he would make it simple, our Police Chief, his contract had expired and we are negotiating a new contract and we had all decided on how to best go about that, spending money on that, Mayor Teller are you negotiating that on the side without us.

Mayor Teller said he was trying to make some headway with the contract and our labor negotiator knows all about it and it's unofficial; we haven't even.....

Trustee Tucker asked if he had discussed this with any of the Trustees, have you shown us anything.

Mayor Teller responded I've already said it, no.

Trustee Tucker said that is why we wanted to pass that resolution. I would share that with you, as well as all the other Trustees.

Mayor Teller said wonderful.

Trustee Levan said if it is not secret, then you'll be sharing with us what you are discussing with him.

Mayor Teller said you will have a copy of it once it's roughed out and finalized.

Trustee Levan asked why it would be roughed out without getting any input from us.

Mayor Teller said you've already said what you want from the Chief of Police.

Trustee Levan said not totally.

Trustee Tucker said we didn't discuss that with you, you walked out, you would not discuss it with us.

Trustee Levan said that Mayor Teller walked out of the meeting.

Deputy Mayor Birk said but we gave.....

Mayor Teller said you gave it all to our labor attorney, did you not.

Trustee Levan said and then he was to come back to us and we were to rehash it again.

Mayor Teller said he has talked with the Chief, his attorney and they are, nothing was done whatsoever.

Trustee Levan asked but, how do we have any idea, things that you are negotiating with him that we may not think are correct.

Mayor Teller said well, then you will have the opportunity to change it.

Trustee Levan asked, after you are all finished with it?

Mayor Teller said I can't sign off a contract.

Deputy Mayor Birk said no, we've got to sign off on it.

Trustee Levan asked wouldn't you want some more input, wouldn't you want to have a meeting and talk about what you are thinking of doing so you could hear what we have to say.

Mayor Teller responded he knows what they are going to say just about.

Trustee Levan asked how do you know.

Mayor Teller responded maybe I don't, maybe I'm not clairvoyant.

Trustee Levan said you really don't know, you really don't know what we're going to say, nor do you ever ask what we want to know.

Deputy Mayor Birk said you do have the memo that we created for what we wanted the Chief to have, you got that, or at least Zuckerman did, our labor attorney got that.

Trustee Levan responded that was months ago, months ago.

Deputy Mayor Birk said right, but we gave that to our labor attorney that what the four of us as a Board wanted.

Trustee Levan remarked the only thing she wanted to see happen is, after spending thousands of dollars on an attorney and you taking their advice and then not following it, she thinks is not correct; she did not want to see that happen again. She said you've already spent \$30,000 worth of taxpayer money.

Deputy Mayor Birk wanted to say for the record it was not just Mayor Teller who is racking up that information. We've all been in a number of meetings and it's a combination of all of us for various areas of the Village, so it's not just Mayor Teller racking up all that advice, racking those legal fees up.

Trustee Levan said no, but when Mayor Teller asked the Village Attorney as well as Zuckerman, I'll only do this, this and this if you tell me I can or cannot and when they tell him he cannot, he goes ahead and does it anyway and we start all over again with attorney fees. She said let's be honest about it, it's dragging on for a long time and it shouldn't.

Mayor Teller said negotiations can go on for three and four years.

Trustee Levan said I know, but if you don't follow what the attorneys tell you, Conrad, it will go on for ten years.

Mayor Teller said it could very well.

Trustee Kametler asked Mrs. McGinnis how long did Chief Dean's nine year, six month and twenty-two day contract, how long was that negotiated.

Mrs. McGinnis said that actually she has in her files drafts from 1999 that when he first started working.....

Trustee Kametler asked if they had negotiated four years.

Mrs. McGinnis thought like life happens, there were other compelling things in the Police Department. There were PERB actions and other things that took precedence.

Trustee Levan asked what other things.

Mrs. McGinnis said there were plenty of legal actions that were going on in those intervening years as Trustee Kametler knows, he was the PBA President.

Trustee Kametler said that was a long time ago.

Mrs. McGinnis said yes, but as you know, you used to call periodically to see why the Chief had, did he have a contract, what was it and when she would say no, there isn't any contract Jim, you would say well, how could he not have a contract because obviously as a PBA would do, they wanted to see what the Chief was getting, because you're always negotiating. There were many contracts during that time period that went almost to the next one, so we would settle and we would be ready again, so she thought to the prior Board it was really more of a priority to deal with things that involve sixteen or seventeen people as opposed to one. In the absence of a contract, he had your contract or there are things in the law that provide for it, but ultimately he got a contract.

Trustee Kametler asked if there were any questions from the floor.

Mayor Teller said we're not ready for that. He asked if there was a motion for adjournment.

Trustee Kametler felt the audience might have questions on this agenda.

Mayor Teller replied that's why we open it afterwards.

A member of the audience asked if the last motion was approved.

Trustee Levan and Trustee Kametler said yes, it was approved.

Trustee Tucker said he would like to make another motion then.

Deputy Mayor Birk asked what the motion was.

Trustee Tucker said you have to; it's on the second, right?

Trustee Kametler seconded the motion.

Motion by Trustee Tucker:

I make a motion that on the present internal affairs investigation that is happening that the Trustees are given copies of the report immediately upon it coming back, since the Trustees were the people that asked for this investigation in the first place.

Seconded by Trustee Levan and approved as follows:

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

Police Chief Ray Dean wanted to go on the record saying that internal investigation was initiated by himself as he had explained to Trustee Tucker on numerous occasions, that it was not initiated by him. He said that as he had explained to Trustee Tucker on numerous occasions, once it is completed he will get a copy of it.

Trustee Tucker responded that all four Trustees sitting up here right now, Trustee Toni-Jo, Trustee Jim, Trustee Joan Levan and himself had requested of the Mayor to open up an investigation and when we requested to open up an investigation we requested to the Mayor how we would like it to be opened up and that investigation came from us.

Chief Dean told Trustee Tucker he could not re-write history. He said he was being disingenuous with his comments.

Trustee Tucker asked Mayor Teller and the rest of the Trustees to respond as they were all there.

Trustee Levan agreed that was exactly what happened.

Chief Dean addressed Trustee Levan and her fellow Board members saying that investigation was conducted by the Chief of Police.

Deputy Mayor Birk said we discussed it. Whether Chief Dean called before we wanted to or not, she did not know the time frame of that, but she knew they had talked in the office that they wanted to do an investigation, that is correct.

Chief Dean said if that's the case.....

Trustee Kametler said the case Chief, is we asked the Mayor to get the BCI involved in this case, which is the New York State Police. They declined due to the fact.....

Chief Dean interrupted

Trustee Kametler said he was speaking and when he was done Chief Dean could speak and have the floor at that time. He said they asked the Mayor, the Mayor made a phone call to BCI, State Police, they declined. He said their next step was the Suffolk County Police, all four of us took a ride down there and we told them we are going for this investigation because we didn't have any faith in you. He said Chief Dean told him and Trustee Tucker in the Mayor's office that he was handling it and it was being dealt with and taken care of. We didn't have any faith in your investigational skills because we had our website turned off for twenty-four hours in the past and you know what I'm referring to and.....

Chief Dean replied he had no idea what he was referring to.

Trustee Kametler continued, saying he has written correspondence from our Village attorney saying it was a felony and Chief Dean found nothing wrong with the fact that our website was turned off for twenty-four hours after a certain individual was terminated of his employment to this Village. There was nothing wrong with that, you found in your investigation, so therefore we felt that we needed to go somewhere else to investigate this matter that we felt was more highly, highly irregular that took place in your department. That is why we called the Suffolk County Police Internal Affairs.

Chief Dean said he was so glad that Trustee Kametler feels that way, but the facts are what the facts are.

Trustee Kametler responded the Mayor felt that way and we all felt that way.

Trustee Tucker said the facts are that the four Trustees.....

Chief Dean said the facts are, Trustee Tucker, when you and Mr. Kametler questioned me about that investigation in the Mayor's office, I explained to you it was ongoing, it had been initiated by myself and that I could not share with you because I do not know where it is going to go and.....

Trustee Tucker said it was not an internal affairs investigation at that point.

Trustee Kametler said it would have never went if you were doing it.

Trustee Tucker said Chief Dean's words were that it was a confidential investigation, Trustee Kametler asked you if the detectives were involved, you said for twenty-five years you had been doing this and you were handling the investigation, so.....

Trustee Kametler said we had two detectives that knew nothing about it, zero.

Chief Dean said that was right.

Trustee Kametler said, but you know more about it than our detectives.

Chief Dean responded perhaps if you wait and read the report, they'll answer a lot of your questions.

Trustee Kametler replied he was looking forward to seeing that report.

Trustee Tucker said he didn't know why Chief Dean should get upset, we asked for the investigation, so all we're asking is that when it comes back, we would like to see it.

Chief Dean said he is not upset, but you continue to say that this is your investigation. It was not initiated by yourselves, you cannot rewrite history.

Trustee Tucker said to ask the Mayor.

Mayor Teller said right now it is Suffolk County's investigation instituted by the Village of Westhampton Beach.

Trustee Tucker asked the Mayor if all four Trustees asked him to initiate an investigation.

Mayor Teller responded that all four Trustees asked him to call the state police, which he did; the state police turned it down; he requested the Chief of Police go down to the County, which he did and the County took the job on.

Trustee Tucker said okay, so we asked for the investigation. I don't know why you are saying we didn't.

Mayor Teller said you've been told today, you've been told other days that you do not get the investigation until it comes back to the Chief of Police.

Trustee Tucker explained that all we are doing is requesting that when it comes back, we get it.

Chief Dean said you are requesting something that he had already told them, once it is complete, you would get a copy of it. He said he got a memo from you the other day telling him that when I got it I have to give it to you and I could not do anything.

Trustee Tucker said that is why he is bringing it up in a public meeting. I sent you a memo and the Mayor went to you and said don't listen to what he had to say. So, I'm bringing it up in a public meeting. I think that's fair.

Trustee Kametler said the last time I checked, Ray, Mr. Chief of Police, you can't do anything unless this Board approves of it, so, just so you know.

Mayor Teller said he can request charges to be filed, the charges come to me, I can sign them, you don't have anything to say about them until they are adjudicated.

Trustee Kametler asked if that was coming out of the NYCOM book. He said he would have to review that.

Mayor Teller responded that was coming out of the Village law and Civil Service.

Trustee Kametler said he would have to refresh himself with that.

Trustee Tucker asked do we really want a Mayor that handles things that way, that's the question right now. Do we really want someone that says he's going to handle things unilaterally, I think not.

Trustee Levan said she thinks not, also.

Mayor Teller said we won't belabor the point.

Deputy Mayor Birk asked Chief Dean if he wanted to make a statement. She added that in conversation before we all came up here tonight that there was interest from the Board that no action was taken on that report until we see the report, if that is possible. She asked if that wasn't what the Trustees were saying.

Trustee Tucker said that is what he requested in his letter.

Deputy Mayor Birk said we asked that no action be taken until we saw the report.

Trustee Levan said that Trustee Tucker wrote that memo that that is what we all wanted.

Mayor Teller said the thing does not work that way, the law does not work that way, but he wasn't going to belabor the point. He said we have a labor attorney coming next week, you can ask him.

Public Discussion

Mark Williams, Mitchell Road, said that unfortunately Dean Speir is not here because he would be part of what he wants to talk about this evening. He said that in any event, at the last Trustee meeting, there can only be described as a spirited discussion about various issues that arose on June 19th at the Village election and Trustee Tucker made the strong point that he felt efforts should be made to find a better way or another way to handle certain issues so that they do not recur in future elections. He said he happens to agree with Mr. Tucker on that and so he prepared a letter which he delivered to Bo Bishop a couple of days ago with copies to everybody who is up there and he hopes you all have the letters. The purpose of the letter is not to go back and point fingers; it is solely to reference what happened on June 19th as a guide to the future so these types of issues don't arise again. He briefly summarized the three points that he makes in the letter and read into the record his recommendations. The first issue was that the challenge list, the list of, he believed, sixty-four names submitted by Mr. Speir was incomplete because it didn't give any reason for over 80% of the names that were listed. Title 5 of the election law specifically refers in various places to reasons, I feel strongly that reasons have to be included when a challenge is made and indeed, the challenge list submitted by Mayor Teller was absolutely proper because, in point of fact, it contained with respect to each person challenged a fact based reason which, if approved, would disqualify that person. It turns out that apparently Mr. Speir orally told Mrs. McGinnis that the overriding reason for his challenges was "he believed that all other voters challenged had not established residency in the Village thirty days prior to the election". Unfortunately, that statement was never communicated to the challenged voters. He asked some of them and they never heard that. He said moreover, that statement is basically a legal conclusion. It is not a factual statement such as Mayor Teller included in his challenge list. For example, this address is outside the Village limits of Westhampton. That's a fact, boom, it disqualifies the person. Unfortunately, it is not enough simply to allege legal conclusions; you need facts. The second issue was that the challenged voters, when they got to the polls, were only told you've been challenged; you have to fill out this questionnaire and sign this oath. They weren't told why they were being challenged and the result was at least one resident said he felt like he was ambushed. He had no idea anyone was going to challenge him and he didn't believe, indeed, that there was any basis for the challenge. As it turned out, everybody that was challenged was permitted to vote, from which one could conclude that none of the challenges were valid, because if they had been valid, they should not have been permitted to vote, or at least a subsequent investigation should have been done to determine whether their vote needed to be voided after the fact. He said believe me, you had upset, confused and surprised voters at the polls on June 19th. The final issue is this whole question of moving residences from, let's say, Nassau to Suffolk in order to vote twice. This issue has been around for years, I am told and Mr. Bishop wrote to the NYS Conference of Mayors and Municipal Officials and received a response on that that stated very clearly, you can't do it; you can only vote in one place. There was no ambiguity about NYCOM's position. However, it appears that NYCOM's position may be in direct conflict with the position of the NYS Board of Elections based on an, admittedly unofficial, report in an article from May '08 in the Southampton Press which says, "Bob Breen, the Deputy Information Director for the NYS Board of Elections explained that it is possible for voters to change their primary residence for purposes of voting up to two times each year. For example, a person living in Manhattan who has a summer home in Westhampton Dunes can vote in the general election in November and then switch residences to vote in the Village election in June". Mr. Williams said it was his understanding that Jackie Sprotte, a Westhampton Village

resident received the same explanation of the Board of Election's position when she called the Board of Election in Yaphank. Now, that is not an official position. He was not saying it was an official position. But, it sort of indicates that maybe we have a little problem here, that these two bodies have a different point of view on an issue. He said he talked with people in East Hampton; they've got the same issue out there. He thought it was really poor show to allow this issue to drag on and have the whole thing get rehashed in June of next year if somebody decides, well, I like NYCOM's position. Mr. Williams then read the attached letter containing the recommendations he was making. He said his thought is only to move this thing forward, maybe take a few more steps, but it is all up to the Board as to whether they are willing to consider those recommendations. He said it does not require any change in NYS Election Law; the Village Clerk has wide discretion as we have been told and as he understands to be the case. He said that in the conduct of Village elections, things like informal submissions of challenges ahead of Election Day would certainly comport with the spirit of the election law. He said the idea here is not to sabotage people on Election Day. They take their right to vote very seriously; he thought any challenge to that right to vote has to be scrutinized very carefully.

Trustee Levan asked Mr. Bishop when will we get the NYS Board of Election's answer.

Mr. Bishop responded it was going to the Board of Elections on Tuesday, so we should have an answer by either this week or the following week. He said the first draft has already been written.

Mr. Williams said he wanted to make it absolutely clear that he did not care how that issue is resolved. He said if people are not entitled to change their addresses and come to Westhampton, you know, Nassau – Westhampton, then so be it; they don't get to vote and he personally will help publicize that result. He said he is simply looking to get the issue resolved.

Deputy Mayor Birk said it has amazed her after everything that has been going on this year that transpired during the elections, where she knows since she has been in office there have been challenges every year, but this year was just a very different election year.

Trustee Levan said there had never been challenges since she had been involved, more than ten people being challenged.

Mr. Williams said that Dean Speir made the point and maybe an absolutely valid one, that he believed that some people who shouldn't have been allowed to vote in prior years, did. For example, a person moves out of Westhampton Beach into Westhampton, stays registered with the Suffolk County Board and doesn't give it much thought, or does, and shows up and votes and isn't challenged because nobody really, kind of looked at the whole thing. He felt that was not right; he shouldn't be allowed to vote.

Trustee Kametler asked Mr. Bishop, based on what he just heard from Mr. Williams, how he felt about maybe making them the Village guidelines.

Mr. Bishop responded he thought the last two were really good; he thought the Village should seriously consider that to the extent that they can be accomplished. He said the first one recommends that the challenged vote be in writing. He explained that is contrary to the election law because the challenge can be made by an inspector, by a poll watcher, by anyone who is present at the polling place who is a registered voter and it doesn't have to be in writing - it can be oral and actually when you talk about the reasons, you do have to give a reason; it is implied in the law, it is not expressed in the section that you cite.

Mr. Williams agreed it is more implied. He said they use the word reason.

Mr. Bishop said that of course, you have to give a reason. There are only four reasons why you would be challenged. Number one, that you weren't a resident of the Village thirty days prior to the election. Second, that you took a bribe to vote a certain way. Third, that you are a felon. Fourth, that you are adjudicated incompetent. Those are the only four reasons that you can be challenged to vote, so obviously, the one that everyone is going to focus on is residence, he is not a resident.....

Mr. Williams said when Mr. Speir says to you that Mr. Jones has not established residency in the Village thirty days prior to the election, he could mean he doesn't own a home. It could mean he owns a home but the address is outside of the Village limits or he sold his home and he no longer lives in the area anymore. He said there could be all sorts of factual basis for the conclusory statement he hasn't established residence. He said that somebody confronted with that challenge, you haven't established residency, doesn't have a clue as to how to deal with it.

Mr. Bishop responded with all due respect, and he knew Mr. Williams had worked hard on this, the election law does not require that anybody give a factual reason – they have to give those four reasons. There is no statute or guidelines; there is no provision of the election law nor is there any case that says you must specify the reasons, the factual context, so I respectfully disagree with you on that.

Mr. Williams suggested how about having the Village Clerk encourage people to include the fact based reasons, not require it, can't require it, but you can encourage it on the basis that the Trustees want transparency, openness, fairness, no surprises, come on, let's all work together in a civil way on these things rather than make challenges a political weapon. He felt it was time for that to stop. He said we need to challenge people who ought to be challenged and stay away from people who shouldn't be challenged.

Mr. Bishop said he was sure Mr. Williams was aware that the court has zealously encouraged people to challenge voters. The Court of Appeals in the late 1800's and up to the current time has indicated that the law will zealously guard the right of an individual to challenge a voter with respect to his qualification to vote or even his right to register. He said that is an overriding public policy that has to be woven into this conversation.

Mr. Williams said to look at the hoops you have got to go through if you want to challenge somebody's registration. You've got to have an affidavit with respect to every single one; you've got to have all sorts of facts, the basis for the facts.

Mr. Bishop said that was another area of law, that is Article 5.

Mr. Williams said he understands that is Article 5 and this is Article 8.

Mr. Bishop explained that is an entirely different procedure for an entirely different reason. He said when you challenge somebody to register to vote, you have to submit the affidavit, but also the Board of Elections investigates and the person being challenged has a right to object to that and put it into evidence, so.....

Mr. Williams indicated he understood the difference.

Mr. Bishop said the issue about qualification, the most important thing to understand is if you follow the procedures, you can vote even though you are not a resident of this Village. If you say you are a resident and you're willing to swear to that and you answer the questions and you take the preliminary oath, every single time, as long as you do that, you will vote in this Village or any other municipality.

Mr. Williams asked wouldn't you like to eliminate people who do that, take steps, whatever steps we could take, so that people who shouldn't vote don't vote.

Trustee Levan said yes, she would.

Mr. Bishop said yeah, he felt it was important to see what the NYS Board of Elections says too, to see if we can, if there can be other improvements as well.

Mr. Williams said he would be happy to work with Mr. Bishop, with Mrs. McGinnis, with the Board, anything he can do to try and make things better. He felt there were some real hurt feelings and surprised and confused people on June 19th and he thought we need to try to make it better.

Trustee Levan said yes, and unfortunately, at the last meeting with Mr. Speir here, he only had one-half of the answer and took it to be well, I really did a wonderful thing and I'm off scott free, but he didn't have the whole thing, he only had half of it.

Mr. Williams replied that in all honesty, if he were in Dean Speir's position, that is what I would have done, too.

Trustee Levan said she would have done the same thing too.

Angelo de la Fuente asked Deputy Mayor Birk with reference to the.....

Mayor Teller asked Mr. De la Fuente to give him the question, please.

Mr. De la Fuente said the question is in reference to the weddings. He would like to find out if the weddings are still being done and the charges, what they are and if refunds were made up to the people.

Mayor Teller responded everything was given back to the people; checks were mailed back by Trustee Kametler and Deputy Mayor Birk. He said the information that you could charge \$200 was erroneous; there was no attempt by anybody to gouge anybody. It was the Mayor's secretary handles the wedding request. They come in. She was told by a prior administration that the fee was upped from \$100 to \$200 and she conveyed that information to myself, Trustee Kametler and Deputy Mayor Birk. He said he didn't charge anybody, not that he didn't want to charge them, they were personal friends and he figured they were going to go through enough expenses after they got married. He said that Deputy Mayor Birk and Trustee Kametler had sent out letters and refunds and resolved all the problems. He said that also the previous Mayor and a previous Trustee have done the same thing.

Mr. De la Fuente said the question is, when he asked Deputy Mayor Birk that question, if she knew it was only supposed to be \$75 at that time, if she knew before.

Mayor Teller said that none of us knew.

Deputy Mayor Birk said no, she didn't know. She explained that years ago when she was appointed to do weddings, she was just told by the office that the fee is \$200. She did not know what the fee was and she did not know where it had originated. She said she was just told \$200 and since that time she has found that out in the past couple of months and out of Trustee Kametler and herself, they have done a number of weddings and as Mayor Teller said they sent letters out and we mailed the check back for the difference of \$125 to everybody. She said she does have weddings coming up and \$75 is the fee. She said she has a wedding on Saturday and a wedding on Sunday and she has asked the bride and groom to make a donation to the charity of their choice for \$75, so basically she is marrying everybody for free and she has one in Village Hall in a few weeks and that one will be free. She said for the record that time is money and it takes time to do a wedding, but she has made remediation, as has Trustee Kametler and they did not know, but everything has been made as far as they are aware..... She said the other weddings coming up will be gratis because that money will be going to a charity of their choice.

Mr. De la Fuente asked if she wasn't still advertising in the magazine that she was doing weddings.

Deputy Mayor Birk asked what magazine.

Mr. De la Fuente said some magazine that advertises.....

Deputy Mayor Birk responded she was not advertising anywhere of doing...she said she did not advertise anywhere of doing weddings. She asked where he had seen that. She said that was totally incorrect, as she was totally unaware of what he was talking about. She said she had never said that she was doing weddings anywhere. She asked to see a copy of the magazine. After looking over the magazine, she said it was East End Entertainment and it was from the DJ. She asked where it mentioned her.

Mr. De la Fuente said it was a local magazine to help people during the summer.

Deputy Mayor Birk said this was news to her and she had never seen this before.

Mr. De la Fuente said he did not see Trustee Kametler advertising anything there.

Trustee Kametler said he was retired from the business so there was no need to advertise.

Deputy Mayor Birk said she was looking at this, her name and her phone number and she has no idea..... She said it just has listed here Toni-Jo Birk and her cell phone, there is nothing in there and she has no idea why it is there. She said this was the first time in her life she had seen this. She said she does not advertise that she does weddings. She said she wanted clarification while this topic is up that she has been appointed to be able to wed people under the authority as a Trustee as Deputy Mayor within the confines and boundaries of this Village. She reiterated she does not advertise anywhere that she does weddings so, wherever this originated or came from, it was not done with her approval, for the record.

Mr. De la Fuente explained he was trying to make sure that people who have been elected and are doing weddings are not making money on the side.

Deputy Mayor Birk said her authority to marry people is only within these Village boundaries, 2.9 square miles and for the record, she did not know where that advertisement came from.

Mayor Teller said that every one of the requests have to come through the Village Office.

Mr. De la Fuente said he just wanted to clarify that.

Deputy Mayor Birk said she was glad Mr. De la Fuente had brought that to her attention, but she had no idea what it is from and she never, and she said she can count on hands when she has used that word never, she never authorized anybody to put her name on there about doing weddings and that is on the record.

Ralph Folz, Seafield Lane, said the subject he would like to discuss may seem unimportant relative to the investigations that you folks are involved in and the Village politics which are apparent to all and the election protocol, nice job to Mr. Williams. He was guessing that when Westhampton Beach was incorporated way back when, some of the reasons for being an incorporated Village were to better protect residents and to make it a more beautiful place to live. The problem he wanted to talk about is the deer problem that we have in this Village. He said he and his wonderful wife have lived in Westhampton Beach for ten years and the deer problem has gotten worse every year that they have lived here and he thinks it is largely out of control right now. He said they live two blocks from the center of our Village; our property is being destroyed. It seems that everybody and their brother knows someone who has Lyme disease. He said he has to believe and he can't prove this imperially that there are possibly more accidents taking place involving deer in our Village. He said every time he chases deer from his property, he wonders when a car is going to come along and hit the deer he is chasing from his property and fortunately he lives on a quiet road. His question was two-fold. He asked if the Village was planning to do anything to either reduce the deer population or maybe relocate them to the Pine Barrens, that might be a more compassionate thing to do or failing that, he has looked into the possibility of fencing in his property. He indicated he has hedges around his property that are between nine and ten feet tall and any fence that they would put up would be not seen by anyone who is not already on their property and yet he had been told in no uncertain terms by people in the Village that a fence that he would put up that faces the road can't be taller than four feet and fences on the side and rear of his property can't be taller than six feet. He said that as you probably know, those height fences would not deter deer in any shape, manner or form. He asked the Village to do something to reduce the deer population or to ease the restrictions in terms of fencing that you can build at your own expense around your property. He felt it really wouldn't interfere with anyone else's enjoyment of life in this Village.

Trustee Tucker asked if he was also referring to gates in front of the house which can only be four feet high.

Mr. Folz said yes, he knew they could only be four feet high where they meet in the center.

Trustee Tucker felt that would be a concern even if you were allowed to have higher than six feet around the sides and the back; they would still be able to jump over in the front yard. He asked what was the purpose when it was created, the four foot gate.

Building Inspector Paul Houlihan explained the four foot in the whole front yard, the purpose of that was so that people didn't have six foot high fences in the front yard and that was it. It really doesn't take into consideration if you have hedges or trees or anything like that. There are obviously some people who have so much vegetation that you probably couldn't see a fence, but the four foot high in the front yard is a common, not just for this municipality but, he believed, just about every municipality on the east end. He said that some municipalities like Southampton do have a deer fence law where they allow people who are farmers to go to at least eight feet and those are those large eight inch square wire fences that you see. He believed the Town only allows those for someone who is actually cultivating or farming and they don't allow it for residential use, but that is certainly something the Board can look at.

Trustee Tucker asked if someone has ten or twelve foot hedges or even taller in the front of their property and they want to put in the hedges a chicken wire type of a fence.....

Mr. Folz said that this is the type of fencing that he was talking about, not chain link fencing. He said you put this fencing just up against the hedge and a year from now nobody can see it on or off the property, but yet we have regulations that say this can only be four foot high, not seven feet high. It did not make sense to him. He felt we are not a huge Village; have somebody come to someone's house who requests an exception and say okay, in this case you can have a nine foot fence; no one's going to see it on or off your property and we really don't have an objection to that.

Trustee Tucker asked if the Village had given any variances to anybody for fences in bushes.

Mr. Houlihan replied not that he knows of, certainly not in the last eight years and not that he knows of.

Trustee Tucker asked what about the gate issue because that would be fine for hedges, but that still leaves a gate issue you could have, even if there was some way to enable that to be a part of the hedges, then you still are going to have a four foot gate.

Mr. Houlihan thought that just fit into the four foot high fence; obviously if the Village changed the code and went to a six foot high fence then it would make sense to him to make the gate six foot high, but right now it is four foot.

Trustee Tucker asked if it was any fence. He said he had looked at the code actually, but wondered if there was a reason why gates, people usually have gates because they want privacy.

Mr. Houlihan said that gates are usually in the front yard.

Trustee Tucker asked if there is a reason why those were only four feet high; was that just an extension of the fences.

Mr. Houlihan responded it was to keep it low just like the fence is, yes.

Deputy Mayor Birk asked if Southampton Town has the deer fence law.

Mr. Houlihan said that Southampton Town for farmed land, something that is in commercial farming, they have an eight foot law for something that is in agriculture. He said a perfect example to look at that type of fence that has been put up is the plant nursery on the corner of the west side of West End in East Quogue. They go all around it with an eight

foot high fence with the eight inch squares and that would be an example of one of the things the Town does, but that is a piece of property that is in commercial agriculture.

Trustee Tucker explained the Board had actually had broached the subject; we had someone come from New York State and speak in this room here before the residents and the Board and what he instructed us as to what we can and can't do in terms of deer eradication or taking care of the problem. He said we haven't done that in a while, so we should re-visit it. We've had several complaints recently; we just got another letter from a resident this week regarding the deer problem. He felt we should visit it as a Board; it is an issue that does affect us to see, also like the election process like Mr. Williams said, what we can do and can't do. He said that from that meeting there are a lot of misnomers and a lot of things he told us that we are not allowed to do; there are a lot of experimental things we are not allowed to do; properties have to be bigger for culling purposes. He said you could have bow hunters come on the property but they have to be a certain size, which we barely have in our Village. You can't just walk down the street; you have to be responsible for it; you can't do fertilization.

Trustee Kametler said that was incorrect. He said if you get your neighbors all together, then you will have the right amount of space and then you can bring the hunters in.

Trustee Levan said yes, you have to get the neighbors.....

Trustee Tucker said but, it has to be a certain size property and the person that brings it is responsible.

Trustee Levan said that is right, absolutely.

Trustee Tucker said that we should do our homework a little more and examine it a little more.

Mr. Folz asked the Village Trustees to look at the zoning requirements. He said a simple solution in his mind, he will spend the money to beautify his property and make it safer. He asked them to just have some flexibility. He said when he came in to Village Hall and said has there ever been an exception to these height requirements and as we were told tonight, the answer was I've never seen one in all the years that I've been here. He asked can't we have a code that is a little bit flexible that says that this gentleman (Mr. Houlihan), if he visits my property and agrees that a seven and a half foot fence on our property, given the makeup of our property, is not going to be a problem to any other person in this entire Village, why can't we have an exception or a zoning exception.

Trustee Levan said he's right

Deputy Mayor Birk said we could look at that and re-visit that specifically for this and get input from residents as well.

Mayor Teller asked if anyone else would like to address the Board. There being no further response he made a motion at 8:10 p.m. to adjourn the meeting. Seconded by Trustee Tucker and unanimously approved. 4 Aye, 0 Nay

Respectfully submitted,

Christine Owen
Deputy Clerk