

The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Thursday, September 3, 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 stay standing for a moment of silence in memory of Chester Morris, former Village Trustee.

Public Hearings:

Cablevision Franchise Agreement

Mayor Teller announced that the Board was going to hold over the Cablevision Franchise Agreement hearing because certain information had not been furnished to the Village Attorney. He then made a motion to hold this hearing over to the October 1st meeting for public input. Seconded by Deputy Mayor Birk and unanimously approved. 4 Aye, 0 Nay

Local Law Re: Terminate assessing unit status

Village Attorney Hermon Bishop explained that this was a local law the purpose of which is to terminate the Village as a tax assessing unit and to transfer those functions to the Town of Southampton. The intent is to eliminate unnecessary duplication of measures and to also prevent the confusion that exists by reason of having two tax assessment date procedures, one in the Town and one in the Village. To eliminate unnecessary duplication, if we were to change the law, we would no longer have two dates for tax grievance - in the Town it's in May and in the Village it's in February. There would no longer be two dates to file a complaint in Supreme Court for a small claims action or tax certiorari, because they would use only one date. He said this has caused a lot of problems, having these two dates. First, many of the residents are not really here in February when they have to file the complaint, the grievance application in the Village. If we were to change this, the date would be changed to May. In addition, the Village would not have to file its own roll. We would use the Town's roll, we would use their assessor. The Town assessor is actually on record as the Village assessor now and as far as the residents are concerned, they would not be confused in having to file a grievance with the Village and a grievance with the Town. He said that as it stands now, if you want to grieve your taxes, you have to file in both places. He felt it was not just residents that were confused about this, there was an attorney that was confused by it and was very mad at him because she didn't file a grievance with the Village, although she filed one with the Town. As a result, she got a reduction in her assessed valuation on ten large properties in the Town, but then was angry that she was not able to get a refund from the Village and the reason was that she never filed it in the Village. He felt this would eliminate all of that confusion. He said that all of the assessing functions would be transferred to the Town. Many of the assessing functions already are handled by the Town. We presently have a system where we use the Town's assessed roll. We still have a Board of Review, but that Board of Review is very limited in the scope of its duties. It can't reduce the assessed valuation as much as it would like to. On Grievance Day the Town Assessor or the Assistant Town Assessor is there and he has to have grounds for the reduction of the assessed valuation of each property. He thought there were good reasons to adopt this law.

Village Clerk Kathy McGinnis introduced John Valente, who was representing the Southampton Town Assessor Ed Deyermond, saying he was here to answer any

procedural questions the Board or the public might have. She said he had been here for the Village's Grievance Day and he had conducted the informal sessions that were conducted here before Grievance Day. She said he had also conducted the informal sessions for the Town of Southampton that they had held in our building for their Grievance Day, so he was very familiar with Westhampton Beach.

Mr. Valente said that Ed Deyermond sends his regrets as he could not make it here tonight because he was on vacation in Florida. He said that Mr. Bishop had covered almost all of the points he was going to say this evening and he felt he had done a great job. He explained that this was really more of an administrative change than an evaluation change. He thought that was something we could remember. The values are going to stay the same. You are already getting values from the Town of Southampton from us. We help you process those values by having hearings with us and there is a huge amount of confusion with dates here. He said he had sat at this table listening to folks concerned about their assessments and we always have to make sure that they file both here in Westhampton Beach and then they have to trot over to Southampton to appeal their assessment there by May 19th, which is the Grievance Day and sometimes folks get that confused as Mr. Bishop says and they don't file on time. He said it was possible currently under the present situation that some of you get a reduction here in Westhampton Beach and possibly not get one there, just because of the confusion, or the other way around. They get an increase or they leave the assessment here and the reduction there. The key point he wanted to make in addition to it being just an administrative change, is that they are going to continue to offer the support of the Town of Southampton. They are going to come to meetings here, have Grievance Day here with meetings in May and April so you can listen and have a chance to have your hearings and your grievances heard as opposed to having to drive to Hampton Bays or Southampton, none of that is going to change. He said they are also going to have a liaison, perhaps himself, who will work with the Board of Trustees and the Clerk and Deputy Clerk and help them with any sort of administrative functions that they may need help with as well as evaluate any questions they might have, so those things are not going to change either. He said it was a matter of paperwork change. The last point he wanted to make had to do with the State of New York. He said there is a huge impetus on the part of the State of New York to combine services. He said you have probably seen this on television, Governor Patterson has been talking about combining services. It is called "sharing services". He said there are grants being offered for that activity. Sharing services has been encouraged by the Office of Real Property Services and Mayor Teller received a letter on April 19th encouraging him to do this action that we are talking about this evening, to combine the units so there is no longer a separate assessing unit here in Westhampton Beach. He said that Southampton will become the umbrella for you folks. What the Office of Real Property Services says is that almost three-quarters of the Villages in the State of New York have combined with towns, they no longer function independently or separately. He said it allows the Villages to adopt the roll just as they have in the past but under a single date under standard valuation procedures. One of the points, there are statistical tests that are being done all of the time by the Town of Southampton on all the values here in Westhampton Beach, your offices here are not geared to do that. You don't have a statistician on staff; we have a statistician on staff in Southampton. You don't have folks that can submit reports to the State of New York on a regular basis and interact and interface with them. This will help you to do that as opposed to keeping it on a separate basis. He said those are his comments and if anyone has questions, he is here to answer them.

Dean Speir, 256 East Main Street, said that as it stands now and has been, if you grieve in February within the Village, your tax bill comes out in June with payment on July 1st. He asked if you move it now to consolidate to avoid the duplication in services and the grievance hearing would be in May, will that then be reflected if you are successful in your grievance, will that then be reflected in the bill the next month or is it going to be.....

Mrs. McGinnis said it was important to mention that this year we were behind and from now on we are behind anyway, no matter if we give up our grievance or not, we will use the assessment that was finalized by the Town that you would be paying your December first half of the year on. She said we have found that when we are the first ones with a new assessment, it is really a disaster for the Village. So, we will continue to be behind, which is what we were this year and what we traditionally had been until we had gone through the town-wide reassessment. That is not going to change. She said if you notice this year, if you came to Grievance Day there were very few people here, the number that they got

from us was not a surprise because they were basically using that number when they were paying the tax bill that they received from the Town in December that reflected that same assessment and now that assessments are at full value it is very realistic for people to understand what they are being assessed for, it is not that 4%.

Mr. Speir said his question had to do with the timing of this. He said if you grieve in May, if your Grievance Day is May 19th, then you are not going to see this reflected in your Village tax bill for over thirteen months.

Mrs. McGinnis said that was exactly right and just on the reverse that would have been the same situation here this year, too. This year there really weren't any changes. We took the number that the Town had finalized in July and there were very few grievances and that is what you paid your tax bill based on. So, we are always going to go back to being behind the Town.

James Going, 22 Oneck Road, asked if the Village was going to issue a refund retroactively.

Mrs. McGinnis replied we wouldn't need to because we won't be giving you a new assessment. It will be the Town's assessment, which you will have just gotten from the Town and you would have just paid your tax bills on that. You would be paying your May tax bill, which would be your second half on the same assessment that we are going to be sending you a bill for June and that is what we did this year. There were very few differences. She said we will be like a school district; we will have the number that the Town sets and that is it. We will know early on and people can focus on May.

Carol Matthews, 61 Brittany Lane, asked if the Village of Westhampton Beach still has to create a tentative assessment roll, a final assessment roll and a tax roll or is that all going to go under the jurisdiction of the Town of Southampton.

Mr. Valente responded it would be a function of the Town of Southampton.

Mrs. Matthews asked if they used the state equalization rate or the residential ratio.

Mr. Valente said we are at 100% assessment here, so it really is not an equalization rate, for the most part, that is why the statistics are done, so we'll be at 100% of valuation.

A member of the audience asked when you grieve your taxes, from the taxpayer's point of view the worst possible outcome that your request is denied, would the Town ever say now that we have looked at everything, we think you are under assessed; your taxes should be higher, thanks for coming by.

Mr. Valente said if you do come in for a grievance, you always run that risk. It is rare that that happens, but he has had people at a hearing that come in and say, geez, you forgot my addition on the back of my house and in all fairness to them and to everybody else, we have to make the correction, but that is rare and you always run that risk. He said if someone points out to them that their neighbors are under-assessed for some reason, we review the whole neighborhood to be fair to everyone. He said their work is audited by the State of New York and they are very carefully watched. It is not like it used to be twenty or thirty years ago where people just put down numbers on a piece of paper perhaps and do some calculations with a calculator and try to figure out formulas. It is very sophisticatedly based, it is very audited and if we make an error in statistics then we don't meet the standards of the State of New York and therefore, the Town of Southampton does not receive funding. There is a state grant the Town has been receiving for the past three or four years, almost five years, now which encourages them to maintain these proper statistics in fairness and equity.

Mrs. Matthews asked if they are denied, do you advise them to go to Small Claims Court.

Mr. Valente answered yes, we do, that is a process and we produce papers for them to file with steps in which they can file that procedure.

Mrs. Matthews said she was wondering how if someone says to you, you didn't assess my

rear addition, that you could go and raise it from that without sending out a building inspector and having a building permit filed.

Mr. Valente said that would be up to the building department, very often that does happen that we would alert the building inspector's office that there might be a violation.

Mrs. Matthews said you would have to report it to them.

Mr. Valente responded it was their obligation to report it, yes.

Trustee Tucker explained that we have been working closely with the Town the past couple of years on this and watching ever since they changed the assessment to 100% of assessed value to make sure that we worked out any kinks possible these past few years. We could have done this last year and we opted to hold on to being an assessment unit for one more year and we have worked with John Valente as well as with Ed Deyermond and the Town for the last three years and we have come to the end of the line where there is really not any more benefits for us to be an assessing unit. We still have say, we can still go to the Town, if any residents come to us and have a problem with their assessed value, we could go to the Town and discuss it with them the same way we have been able to do it now, so there is really no longer any benefit. As Mr. Bishop and Mr. Valente have spoken, all it did was serve to confuse most residents. He felt that Mr. Speir had gotten caught up in that quagmire when we didn't follow the Town's roll where he went and grieved and his assessment was changed by the Town, but we had already had to submit our roll up to the State, so you weren't able to take advantage of that. He thought that Mr. Speir knew already that that was a problem. He said that is why they have chosen to follow the Town. This way there are no problems because we have to file to the State earlier than the Town has to, so by doing that we take the roll that comes in July, we take the numbers from the Town in July and that is what will go for the taxes next year. So, we are always behind, some cases it might work out to an advantage where your assessment might go up but you will be using July's numbers, so you'll have another year of lower taxes and in some cases it might work the opposite way, but either way it is going to either go up or it usually doesn't go down, but either way it is going to go up at some point in time and we will actually be slower if the assessment does rise, so it is actually an advantage.

Mrs. Matthews asked Mr. Valente if the Town has any other Villages that they do the assessing for besides Westhampton Beach.

Mr. Valente responded that the only folks who have not joined us have been Quogue and Sag Harbor and Quogue is currently on their third public hearing on this issue and they in all likelihood will adopt, joining us. Sag Harbor, due to a legal matter, may not be able to in the near future. They are split, as you may know, between the East Hampton side and then there is the Sag Harbor side which is then encompassed by Sag Harbor, which makes it more confusing from a separation of taxable status dates, as well as this issue of combining Villages and Towns.

Mrs. Matthews asked if the Town has enough personnel to handle all this work.

Mr. Valente said sure, we have been doing a lot of it anyway, but yes, we do.

Mrs. Matthews asked how the Town of Southampton is paid to do this work.

Mr. Valente said that was a good question. He did not really know the answer to that one.

Mrs. McGinnis said that we have a contract with the Town. She said we have had it actually since 1994.

Mrs. Matthews said she knew they were not going to do it gratuitously for us.

Mrs. McGinnis explained that what they are doing for us, they are going to continue to do, it is pretty much the same contract. The difference is that we have had the last fourteen or fifteen years an extra step for them because we hold a Grievance Day, but from the start to the finish, they have been our assessors. She said we use their computer system, they print up our bills, that whole system has already many years ago been turned over to the Town, so the last piece is just this holding the separate Grievance Day and the Town has

been very gracious with that in providing us with the personnel to be here to help us.

Mrs. Matthews said she follows this very closely because she works for the Village of Lindenhurst and Mr. Valente said we were all 100% assessed, but not all areas are 100% assessed, Southampton Town is but the Village of Lindenhurst is not.

Mrs. McGinnis felt it was a lot easier for the public to understand their assessment. She thought it makes things.....

Mrs. Matthews said it can get very difficult and touchy at times.

Mr. Valente ended by saying that as Mrs. McGinnis says, you remain to have the benefits of us coming over here anyway, you still have the local benefits of us coming to say hello and review your assessments here, but the administrative functions will be transferred now to Southampton Town if you go forward with this decision.

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

Firehouse Pizza Outdoor Tables Permit

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

Lisa Bartolomeo from Kelly & Hulme, Esqs., said they represent Firehouse Pizza. She explained that they were requesting outdoor dining which falls under the Village code section 196-1 and going through each element of the code, she believes the applicant meets all of the requirements to obtain the outdoor dining permit. She said the applicant leases a storefront in a commercial building that is located at 196 Montauk Highway in the B2 District. It operates a pizzeria restaurant and they would like to maintain three picnic tables at the side of the restaurant. A garbage receptacle will be placed outside and maintained when the store is open for business. The restaurant is open Sunday through Thursday 11 a.m. to 10 p.m. and Friday and Saturday from 11 a.m. to 11 p.m. The dining area will not interfere with the reasonable use of the adjacent properties. It is to the side of the building in an area that would ordinarily be dead space. It is not used by any of the other stores in that chain of stores. The outdoor dining will not impair on the peace and comfort of the adjacent properties. There is no wait service. Also, the tables have been there for actually over three years. She said their client leased the property almost three years ago and the tenant prior to his taking the lease had the tables there, so their client is just attempting to legalize this. She believed the applicant meets all of the conditions under 196-1 of the code. She said they had brought this before the Planning Board and they had no objection to it.

Trustee Tucker asked if there are any lights out on the side there where people sit at night.

Ms. Bartolomeo did not believe so.

Mr. Bishop asked if the landlord had any objection to this.

Ms. Barolomeo indicated he did not and said the landlord authorized the application.

Mayor Teller asked if anyone had any questions.

Deputy Mayor Birk said she didn't have any questions, just a comment that it would be nice in the future, like Ms. Bartolomeo said, the previous owner of the spot or tenant of the spot put them out there, they have been out there a while, this existing tenant had it. It is too bad this couldn't have come sooner but it is out there.

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

Motion by Trustee Tucker:

The applicant has applied for an outdoor dining permit, pursuant to the provisions of Chapter 196 of the Zoning Code of the Village of Westhampton Beach at the above premises located in the B-2 Zoning District. The application was referred to the Planning Board, and the Planning Board recommended approval of the outdoor dining permit on July 23rd, 2009.

A public hearing was held before the Board of Trustees on September 3, 2009, at which time applicant produced testimony and exhibits in compliance with the provisions of Chapter 196 of the Zoning Code. Based on the information submitted, this Board grants approval of the permit, subject to any conditions or limitations set forth by the Planning Board of the instant application.

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

Hampton Coffee Outdoor Tables Permit

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

Lisa Bartolomeo, from Kelly & Hulme, Esqs, said she was appearing for the applicant. She said this falls under Section 196-1 of the code and she believes this applicant meets the requirement of the code. She said the applicant leases space within a commercial bank building in Bridgehampton National Bank, which is located at 194 Mill Road and they are located in the B1 District and it operates as a coffee shop. They would like to maintain four tables and sixteen chairs located to the eastern side of the building. A garbage receptacle is located outside and maintained during business hours. The dining area will not interfere with the reasonable use of the adjacent neighbors as the location of the tables and chairs is alongside the building and not in the path of any entrance to the building. The outdoor dining will not impair the peace and comfort of the adjacent neighbors. The location of the tables is in between the building and a busy road. Since the coffee shop opened in 2005, it has had the benefit of a special exception permit for two tables and eight chairs and it hopes that the Village approves the four tables and sixteen chairs. She said they have actually put out all four tables and as far as we are aware, there have been no incidents reported or objections on the number of tables and the number of chairs. This went before the Planning Board and the Planning Board had no objections to this application.

Trustee Kametler asked when her client had applied for the extra tables and chairs.

Ms. Bartolomeo replied it had been last month.

Trustee Kametler asked how long have they had the extra two tables and eight chairs out in front of the store.

Ms. Bartolomeo said she believed they put them out in June.

Mayor Teller asked if anyone else would like to speak or if they had any questions. There being no response, he made a motion to close this hearing. Seconded by Trustee Tucker and unanimously approved. 4 Aye, 0 Nay

Motion by Deputy Mayor Birk:

The applicant has applied to amend their outdoor dining permit, pursuant to the provisions of Chapter 196 of the Zoning Code of the Village of Westhampton Beach at the above premises located in the B-1 Zoning District. The application was referred to the Planning Board, and the Planning Board recommended approval of the outdoor dining permit on July 23, 2009.

A public hearing was held before the Board of Trustees on September 3, 2009, at which time applicant produced testimony and exhibits in compliance with the provisions of Chapter 196 of the Zoning Code. Based on the information submitted, this Board grants

approval of the permit, subject to any conditions or limitations set forth by the Planning Board of the instant application.

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

Starr Boggs Outdoor Music Permit

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

James Going, Esq. of Westhampton Beach said he had just been retained in this, but he had been told the proper applications were filled out and the information that was requested with the application was submitted. He said this, to his knowledge he had been told, was the first time they had ever been required to apply for this permit. They have had music there for years and no permit was ever requested, so they respectfully ask the Board to grant the application.

A member of the audience asked if the music would be the same as it is now where it stops at 11:00 p.m.

Mayor Teller said yes, it was.

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

Motion by Trustee Kametler:

The applicant has applied for an outdoor music permit, pursuant to the provisions of Chapter 196 of the Zoning Code of the Village of Westhampton Beach at the above premises located in the B-1 Zoning District. The application was referred to the Planning Board, and the Planning Board recommended approval of the outdoor dining permit on July 23rd, 2009.

A public hearing was held before the Board of Trustees on September 3, 2009, at which time applicant produced testimony and exhibits in compliance with the provisions of Chapter 196 of the Zoning Code. Based on the information submitted, this Board grants approval of the permit, subject to any conditions or limitations set forth by the Planning Board of the instant application.

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

Resolutions:

Accept minutes of Board of Trustees Meetings

Motion by Trustee Levan:

RESOLVED, that the minutes of the Board of Trustees Organizational Meeting of July 6, 2009 and Special Meeting of July 22, 2009 are hereby accepted.

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

Accept monthly Reports from Departments

Motion by Trustee Tucker:

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

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

Authorize Notice of Bid Opening for municipal buildings cleaning contract

Motion by Deputy Mayor Birk:

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and post a Notice of Bid Opening to be held on Wednesday, October 7, 2009 at 11:00 a.m. at the Village Hall for the Municipal Buildings Office Cleaning Services contract pursuant to the bid specifications.

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

Schedule public hearing on Mill Road Plaza Special Exception Permit

Motion by Trustee Kametler:

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Thursday, October 1, 2009 at 7:00 p.m. at the Village Hall on a Special Exception permit application submitted by Mill Road Plaza, LLC., for a contractors administrative office at the premises located at 170 Mill Road and identified by SCTM # 905-12-1-36.

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

Schedule public hearing on Ronald Fabian Special Exception Permit

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 Thursday, October 1, 2009 at 7:00 p.m. at the Village Hall on a Special Exception permit application submitted by Ronald Fabian to install a mini spa at the premises located at 64 Old Riverhead Road and identified by SCTM # 905-2-2-7.

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

Accept proposal for fencing for a Vehicle Impound Yard

Motion by Trustee Tucker:

RESOLVED, that the proposal submitted by Fence Master to install fencing for a vehicle impound area at the DPW facility at a cost of \$10,300.00 is hereby accepted.

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

Accept proposal for regulations for Solar Collection & Wind energy systems

Motion by Deputy Mayor Birk:

RESOLVED, that the proposal submitted by KPC Planning to prepare regulations for the installation of solar collection and wind energy systems at a cost of \$3,500.00 is hereby accepted.

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

Approve warrant for September 2009

Motion by Trustee Kametler:

RESOLVED, that the warrant for the general fund for the month of September 2009 in the amount of \$245,005.24 is hereby approved.

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

Public Discussion

Garcia, owner of Garcia Unlimited on Main Street, a clothing and jewelry store, brought up the issue about amplifiers on Main Street along with another subject he would go into after. He said he really objects to having two by two square amplifiers on separate merchant's fronts for music on Saturday night. He thought it was kind of an invasion on public property and the people walking around. He thought having fighting and dueling bands in three separate locations, it is about a city block if you think about it, on Main Street and we have Beach Bakery, Shock and Wetter or Not that have these amplifiers out. He said they were on tripods and there was no reason to have such amplification on Main Street. He enjoys music; he feels it is beyond any reason to have that kind of amplifying in a nice Village like Westhampton Beach. He said there was an occasion this summer in August when a concert was called for in front of Beach Bakery by a certain house of worship here. He thought it was a little ridiculous when you can't walk through the sidewalk and had to go out into the street to pass a group of people that had brought chairs and are standing in parking spaces. It limits traffic to other merchants in town and you could hear this music blocks away. You could hear it across the bridge in Quiogue; he had been told by people that live there. He thought it was a little obnoxious and sad because he really loves this town and walking through it on a Saturday night when he sees chalk marks in front of stores like Shock where kids have written all over the street and passing groups of people in front of stores that you cannot walk through. He felt that was an invasion on most people's right to do business in town. He said the other thing he would like to discuss is to bring up the subject of traffic on Main Street. He said his store is right on Moniebogue and across from the theater and people are constantly making U-turns there and going fast through the streets with no policeman giving moving violation tickets there. He saw a woman last Saturday, he believed, turn into the street and a car just went right in front of her, almost hit her right by the theater there going onto Sunset. He really felt we should have some kind of policeman there that can give moving violation tickets, because if you want to make money on tickets, we have lost a lot of money this past summer because he has seen nothing but violations on the street and it is very dangerous on top of it. So, he would really like that addressed, if possible, and he thought that having amplifiers, going back to the music, he thought music was great and wonderful but he felt when you have amplifiers all over the street, it takes away from the Village. He said it looks like Coney Island out there on a Saturday night.

Trustee Levan said she thought they have to review the amplification laws, she totally agrees with him.

Garcia said he thought the permits have to specify and people should have their permits revoked if they go beyond. He said he could hear music at his store from Simon's Bakery, quarter to eleven they ramp it up and you can hear the music all the way down the street.

He knows when he went to Family Counseling galas, if we went a minute over the police were there, because the people want the music down.

Trustee Kametler asked if he had called the Police Department to make a complaint.

Garcia said he had not. He said that on that one big occasion, Trustee Levan came down and she went when all the people were standing out in the street, they brought chairs out to sit for a concert. He thought there are public spaces like the green if people want to get a permit to use St. Mark's, he didn't know how that works, but he thought it should be in a public place if you want a concert, not Main Street in front of a merchant's store. He thought that was a little bit over the top.

Trustee Kametler said he agreed with that, but in order for anything to happen you have to call the Police Department.

Garcia said the police were there.

Trustee Kametler said then to call the Building Department. He said that is the formula that we had put in place for music on Main Street.

Mr. Bishop explained that it has to be a public officer charged with enforcing the code, so even though you may call a Trustee, you need a public officer to go there and tell them to turn it down or to tell them that there is a violation on the property that does not...

Garcia said they were, they were....

Mr. Bishop said if you call them, though, then we have a record of it, the Building Department has a record of it and if they do it two times we can issue a violation. Once they get two violations, we can revoke their music permit.

Garcia said the other thing was, he was told by a merchant on Main Street that she called twice in one night and they would not report it and he guessed they did not have a system to measure the decimal amount.

Mr. Bishop said you don't have to have a decimal reading under our outdoor music code. He said it was called a reasonable man standard, a reasonable person with normal auditory sensitivities, that is the standard that has been upheld by the Appellate Term. So, you don't even need a decimal meter, you need to make a complaint, tell them it is too loud, they will go there and they will tell them to turn it down.

Garcia asked why do they need amplifiers. If you are entertaining your own little store, let's say I want to have music and I hire a guitar player, maybe a vocalist or a little keyboard, why do I have to have amplifiers that everybody else has to hear, like across the street or down the block.

Trustee Kametler said that was the million dollar question, they have been trying to figure this out now for years.

Garcia asked then why do you have the amplifiers.

Mr. Bishop said if you have an electric keyboard, though, wouldn't you want to hear them.

Garcia said whatever, do you understand what I am saying, why do you have to have two feet by two feet amplifiers on the street in three different places. He asked if they didn't think that was a little bit much for a small Village.

Trustee Kametler said Garcia had made a statement that one of the other stores called the Police Department twice and they didn't come.

Garcia said no, they came, but they said they were not writing it up. He said you can speak to the person; it was Erin at Sydney's. He said he was told that today.

Trustee Kametler said we'll speak to the Chief of Police here.

Police Chief Ray Dean told Garcia to give him the complainant and the time that they called and he would certainly look it up.

Garcia said that Erin told him that tonight about 5:00.

Chief Dean asked what date she called.

Garcia responded he did not remember exactly what day, but she did tell him he could use her name and say that she did call. She complained and it was not written up and they told her, from what he understands, she was told that they were not going to write it up. That is what he heard. He said this is not me saying it.

Chief Dean said he would call her and get it straight from the horse's mouth.

Deputy Mayor Birk told Garcia that when the Board adopted this law, we worked for you as a merchant and for the residents of this Village. She said when we adopted this law we were very confident that with the process in place, if there were complaints, people would make the complaints to the police to get the documentation, because as Mr. Bishop just said, if there are a couple of complaints we can get that violator in here and make a determination that you're done.

Garcia said we don't even have police to make sure that people don't make all these U-turns in the street.....

Deputy Mayor Birk said we do, we have the TCO's, but we also have part-timers and full-timers and the Chief can address that.

Garcia said the TCO's, the traffic control people that give tickets; they can't give moving violation tickets, that is what he understood.

Deputy Mayor Birk said they aren't allowed to, but.....

Trustee Kametler said they could write it under the Village ordinance. They give the Village the money for that ticket if they write it under the Village code.

Garcia asked why they don't know that.

Trustee Kametler said they should.

Garcia said that as far as he knows they don't know, as he has spoken to them about it.

Trustee Kametler suggested that maybe they need to be retrained.

Deputy Mayor Birk thought that Chief Dean could answer that for Garcia.

Garcia said he doesn't know why they don't know it. He asked Chief Dean why they don't know they can give a ticket for a moving violation.

Chief Dean explained a Traffic Control Officer cannot give a ticket for a moving violation. He said they know that they can't.

Garcia said that Trustee Kametler said they can give it on a.....

Trustee Kametler said the part-timers and the full-timers can write it under the Village ordinance.

Chief Dean said only a Police Officer can issue a traffic ticket. A Traffic Control Officer can issue a parking summons.

Trustee Kametler said they can write it under the Village ordinance and the Village will get the benefit of that fine, totally, correct me if I'm wrong.

Chief Dean said a Traffic Control Officer is not a peace officer and cannot.....

Trustee Kametler said a part-time Police Officer through the Suffolk County Police Academy and a full-time.....

Mayor Teller said he was talking about a traffic code.

Trustee Kametler explained that he was just saying Chief Dean wants more part-time officers in that area so they can write the tickets and they can write those tickets under the Village ordinance.

Chief Dean said they certainly can.

Garcia said we used to have a policeman on the corner of Moniebogue and Main Street sitting in the car that would catch people and we used to have John, tall with a moustache, very nice, he used to really get down on them on Saturdays when he was there and give tickets out for these violations, but this summer we really, today, yesterday, the day before, you can't believe what goes on with the U-turns and the turning in that area. He said a lady was almost run over the other day.

Deputy Mayor Birk asked if he was saying we need more of an either part-time or full-time presence on Main Street to see about these U-turns.

Garcia said the ticket givers are on, but there is no one that can do the stopping of the cars that are actually moving and that is the problem.

Trustee Levan asked what is happening when the theater lets out, because he is right there.

Garcia said that sometimes, we haven't been open as much as we used to, but there is a cop there to watch out at night. He said he was talking about during the day, he is there anywhere from 10:30 to 7 during the week and it is constant U-turns, especially this year, more than ever.

Chief Dean strongly urged Garcia that if he sees violations, to give the Police Department a call. He said it is a little difficult to address it Thursday night if this has taken place three or four days ago.

Garcia said they are gone by then. If you see a person do it, they are gone, they are gone in two minutes, they just do it, they think it's their right of way and it is constant.

Chief Dean asked him to please call the Police Department the next time.

Trustee Kametler said they would see if they can't get someone down in that area to be there more often.

Dean Speir, 256 East Main Street, addressed this to the Village Clerk, Kathy McGinnis, saying that in the last couple of meetings there have been questions about the challenges in the June election and he knows that the Village Attorney prepared a letter for the Attorney General and he believed, the Board of Elections. He asked if anything had been heard back on that.

Mr. Bishop said the letter actually went to the New York Conference of Mayors and Municipal Officers and the State Board of Election, not the Attorney General.

Mr. Speir said he standed corrected. He asked if there had been a response.

Mr. Bishop indicated yes.

Mr. Speir asked if he could share that response.

Mr. Bishop said it was a four or five page letter, so.....

Mr. Speir asked if he could abstract it.

Mr. Bishop explained that basically they said number one, individuals that have two residences and who go back and forth and register in two locations during the course of the year, that is a violation of the election law. They also seem to indicate that the election procedure followed was appropriate.

Mr. Speir said he was more interested in the questions raised regarding the challenges.

Mr. Bishop said you really have to look at the letter, because they specifically answered the questions and there were fifteen or eighteen questions that were asked and they answered them ad seriatim. He said you would have to look at the letter, you asked for a summary and that is a basic summary.

Mr. Speir asked, so there were no violations by Mayor Teller or himself and the objections they filed.

Mr. Bishop responded no, you have a right if you are properly at the polls to file a challenge and the procedure followed, in their opinion, from what he read of the letter, was appropriate.

Trustee Kametler asked if there was anything in there about people living in rent stabilized apartments in Manhattan voting out here.

Mr. Bishop said they could really lose their rent stabilized apartment because if they are registered out here, it is not their primary residence in the city, so no they did not address that issue specifically, but they did say that individuals who have two domiciles and register in two places during the course of the year, that is a violation of the election law.

Trustee Kametler asked what would be the outcome of that violation.

Mr. Bishop explained it would be a grounds for challenge, somebody could file a challenge affidavit under a section of the election law Article 5 and the Board of Elections would look into it and would possibly remove them from the rolls. He said any other action, he could not speculate as to what happens if they violate election law, anything other than that he is not going to speculate.

Trustee Tucker asked if Mrs. McGinnis or Mr. Bishop had shared this information with.....

Mr. Bishop said he did not know if Mrs. McGinnis had gotten it. He had received it in his office.

Mrs. McGinnis said the Village Hall had not received any formal....they didn't get anything yet. She asked if Mr. Bishop had received anything in the mail.

Mr. Bishop said they sent it to him and he would forward it to the Village Hall, he had gotten the hard copy.

Mrs. McGinnis asked if he had received anything from the Board of Elections.

Mr. Bishop indicated he had not received anything from the Board of Elections. He said he would call them and see what the status is or even if they will answer it.

Mrs. McGinnis said she hopes they do.

Mr. Bishop agreed.

Trustee Tucker stated that in essence the Board hasn't seen that yet, but Mr. Bishop has those copies, so he is paraphrasing that.

Mr. Bishop responded he had just received it, so this was his summary.

Mayor Teller said his copy had not come through yet.

Mr. Speir asked if that would be available under a FOIL request.

Mr. Bishop said it would, it has to be stamped in at the Village Hall tomorrow.

Mrs. McGinnis said we didn't get a copy.

Trustee Tucker said that based on what took place in the last election though, answering the question of whether things were conducted properly or not, that is really the small part of the question. He said the question of how we can make sure we do not ever disenfranchise any voters that come to our Village that want to vote legally, that is the question that we need to answer out of all this and how we can assure that that doesn't happen.

Mr. Bishop remarked there was a presumption that people were disenfranchised but they seem to be saying that they weren't.

Trustee Tucker said if people felt that way, even if the air of that is out there, that is something that should be looked at and we should do everything in our power to make sure that it is not. He said he is not saying it is or it isn't, it is very important that people do not feel that way.

Mr. Bishop felt it was important you follow the election law.

Trustee Tucker asked if Mr. Bishop was suggesting that the residents don't have that right.

Mr. Bishop said the residents have the rights under law and that is one opinion as to what the law was. As he said, there were fifteen to eighteen questions asked. They answered those questions and they basically said, from his understanding from reading the letter, that the procedure undertaken was correct. Nobody, in his opinion, was disenfranchised.

Trustee Tucker said that maybe the procedures are correct, but maybe there is a better way we can inform our residents as to what their rights to vote are or what will transpire if they are.....We have quite a number of residents that fall under the category that live in, have multiple houses and they pay taxes our here, they pay taxes at another house and if they are legally allowed to switch their registration to vote out here and they show up on the day of the election and they are given fifteen questions or two or ten, whatever the procedure is, who controls that procedure.

Mr. Speir interrupted saying Mr. Bishop just said that they are not allowed to.....

Trustee Tucker said excuse me, I am speaking.

Mr. Speir said but, you are acting on a fallacy. Mr. Bishop.....

Trustee Levan indicated that Trustee Tucker has the floor.

Trustee Tucker said if there was anything that we could do to change how we do that procedure to make it much more clear, especially if someone comes in, that is everybody's right is to vote and we have to make sure that whatever we do we make sure that we do everything in our power to have the procedure just so.

Trustee Levan asked what about the thirty days.

Mr. Bishop explained that as long as you are registered within thirty days you can register.....

Mayor Teller said you can register, but that doesn't make you legal.

Mr. Bishop said those are two issues, one is whether you are properly registered and second is whether you are a qualified voter. He said that what was submitted to the State Board of Elections and the NYCOM was all of the questionnaires that have been used by this Village in the last thirty years and they had no problem with any of those questionnaires.

Trustee Tucker said no one was looking to find fault in the what or how.

Mr. Bishop said I'm not debating with you.

Trustee Tucker said the goal of why Mr. Bishop sent out those letters was multi-purposed in my mind. It was so we could fix the process and make it better for our residents, anyone that wants to vote, it is very simple. He said it is not looking to find fault in who did what wrong and how and why. That is not what it is all about here. We had a situation and the gentleman standing up here, he challenged sixty-four people's right to vote, okay. Now, is he going to in the next election challenge five hundred and fifty people's right to vote. He walked into Village Hall five minutes before, he sat with the Mayor, five minutes before the election occurred and he submitted sixty-four names of our residents. That to me, if that is the only possible way that we can accept it and we have to accept that by law, so be it and fine, but if there is something that we could do about it or a procedure that we can change as a Village, we have the authority, then that is what I am looking to learn out of this process and my fellow Trustees are, as well.

Mr. Bishop suggested he review the letter and get a better sense before.....

Trustee Tucker said he has been waiting for it.

Mr. Bishop said it just came in. He said he had assumed since a copy was sent to him that the Village Clerk also got a copy, but.....

Mrs. McGinnis said no, she had not received it.

Trustee Kametler asked if there weren't supposed to be sixty-four different forms for each person. He said that was the thing he got confused on.

Mr. Bishop said no.

Trustee Kametler asked if all of these people can be on one form.

Mr. Bishop said yes and you can just be at the poll and object as a poll watcher. You can have your list sitting in front of you and say I challenge this person, what is the grounds, residency and then the procedure has to take place. There was also a subsequent conversation with NYCOM with respect to the right of the Village Clerk to give the oaths to submit the questions and they said and I believe correctly so, under Article 15 of the Village law, the Clerk has the right and, in fact, the duty to do so. So, there were a lot of questions answered and.....

Trustee Levan asked if they answered all of them.

Mr. Bishop said they put some of the questions together in a heading and then proceeded to discuss.....

Trustee Tucker said so, we have some more work to do on this topic, that's all, so we have to review the letter, we have to get the other letter, we have to review it, we have to sit down and discuss it and share that with the residents.

Mr. Bishop said that was right.

Trustee Levan said we have only received an answer to the one, so we have to wait for the second.

Mr. Bishop said that was correct. The State Board of Elections is the second.

Mr. Speir told Trustee Tucker that he did not really mean to interrupt him before, but he felt he was sailing off on a fallacy there. He said he did not call him on this at the July meeting when this subject came up and you said well, we're going to do something about that. He asked him what about state law do you think, as a Trustee in the Village of Westhampton Beach, you can do something about.

Trustee Tucker responded he could do something about better informing our residents about what to expect if someone like Mr. Speir was going to take a roll, a tax roll, and say

anybody that registered from January on, I'm going to challenge their right to vote. Not because you had any particular reason that those people on that list.....

Mr. Speir said that Trustee Tucker was making an assumption.

Trustee Tucker asked Mr. Speir if he wanted to share with us now, all sixty-four people, what.....

Mr. Speir said he didn't really have to because, he thinks if he understands Mr. Bishop correctly, he was validated by the New York Conference of Mayors.

Trustee Tucker said you said I made an assumption, so tell me what it was then.

Trustee Kametler asked if this was an official opinion or an unofficial opinion.

Mr. Bishop said this was the NY Conference on Mayors and Municipal Officers, so.....

Trustee Kametler said they use a lawyer and sometimes he gives an unofficial opinion.

Mr. Bishop responded that two attorneys worked on this, but they don't have official or unofficial because they are not a department of the state, so.....

Trustee Kametler said so, we are waiting for the other one to come back?

Mr. Bishop said yes.

Trustee Kametler said so, it is really not cleared up at this point.

Mr. Bishop said we sent it to two people. He was not saying it is cleared up. He was just saying, you asked what the letter said, you asked me to summarize it and that is what I did.

Deputy Mayor Birk said that voting is a legal right for all of us that we as a municipality need to make sure we follow the law and as an individual who is voting, we need to understand the law, so it is a very, both sides of the fence.

Trustee Tucker told Mr. Speir I think that it is important with voting that if you are going to take a step of challenging people, I asked you a question and you told me I made an assumption. Why don't you share with us why you challenged those particular sixty-four voters?

Mr. Speir replied that he thought he had addressed that in July, number one and number two, he thought if you really want to do something about this, Mr. Tucker, as you told everybody two months ago, then maybe you can do something about it in the Village Views newsletter and state for the people that are interested with potential multiple addresses, he suggests you would review the letter from NYCOM and then when the other letter comes back from the State Board of Elections have Mr. Bishop tell you exactly what it means in clear language and then put that in your newsletter, that is something the Trustees can do.

Trustee Tucker said definitely. We might even send out a special letter. He said you brought up a situation that people have been challenged in the past, but in this particular case the way it worked, it was offensive to many people, the way it was challenged by you and the Mayor, the way those challenges came about and how quickly. They weren't sure what to do, people aren't necessarily attorneys, they show up to vote and they are given questions and they don't know what to do. If that is something at all in our control, I know it's state law that you are allowed to do certain things, but state law doesn't say that you must do all of those things and his question to Mrs. McGinnis and Mr. Bishop after that was, it's simple, we live in a Village where a lot of the people fall under the category of those sixty-four people that have multiple residences. Are you next year going to challenge five hundred and fifty people if you think the election is not going to go the way that you want it to go, where does it end. That is something I think is worth looking at, newsletter, yes, letters, we are going to look at all of that stuff, so thank you for sharing your input with us.

Carol Matthews recalled that she was a poll watcher that day and she has to say that a lot of respect was given each and every one that was challenged. They went to two girls at one table before they even got to us where they pressed the lever. They were handled magnificently, very calm and quiet, nothing was loud, no one even knew they were being challenged. Mrs. McGinnis came up, took them downstairs into her office, they came right back up and voted. There were very, very few that did not vote and she thinks this Village Board and the Village itself should be very proud of the Village Clerk you have here, the way she operates.

Mayor Teller asked if anyone else would like to address the Board. There being no further response Trustee Tucker made a motion at 8:00 p.m. to adjourn the meeting. Seconded by Trustee Levan and unanimously approved. 4 Aye, 0 Nay

Respectfully submitted,

Christine Owen
Deputy Clerk