

The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Thursday, February 4, 2010 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.

Public Hearing:

Cablevision Franchise Agreement

Mayor Teller asked if anyone would like to address the Board regarding this issue.

Village Attorney Hermon Bishop explained that right now we have a prospective agreement. This has been going on for quite some time, not only with cablevision but with the Town of Southampton. The main issue is that the Town wanted the Village to pay \$9,000 in order for the Village to use their PEG, their Public Education and Government Channel 22 to televise the Board meetings. The Village didn't feel it should do that or should have to do that and because of that, we've been negotiating through Cablevision and the Town of Southampton to resolve this issue. The cable is only required to provide the Village with the PEG programming. They are not required to put it on any particular channel, so to comply with the rules and regulations of the Public Service Commission, they were going to allocate Channel 20, which is a somewhat obscure channel and has unusual programming on it so it wasn't really to the benefit of this Village to do that if they could avoid it. Therefore, most people, residents look at Channel 22 and that is where all of the municipalities are televised. So, a recent occurrence, the Town agreed to allow the Village to be able to be programmed on Channel 22, in return for which Cablevision allowed them to increase their franchise fee from 4% to 5%. Now, the agreement is only that they would allow each Village one Board meeting. If any Village wants to have more than one Board meeting, then they have to negotiate with the Town for that extra Board meeting. They are going to televise the one Board meeting of each Village an occasional number of times. It hasn't been specified how many times that is. I just spoke with Ms. Gilroy and was told we might be addressing that question because Trustee Tucker raised it at the last Work Session and I think it is a good question. I don't know that we can have the Town establish a certain number of times, number of broadcasts that the Village would be entitled to and as Ms. Gilroy's letter indicated that the Town, there could be negotiations between the Village and the Town on that.

Ms. Gilroy felt the big breakthrough, as Mr. Bishop said, since we were here during the summer months, we were trying to figure out alternatives and what we would do to enable the Village to air their Board meetings; the breakthrough was that we were able to facilitate discussions with the Town so that it would enable talking to them, what kind of an agreement can we come to, to enable the Village to work with SEA-TV and the Town to put it on and it seemed as if the new administration and one of the Councilwomen in the Town were very willing to say, okay, let's re-look at this picture. What they talked about first, because some Villages take many more meetings and use and produce many more programs than some other Villages. So, the spirit of what the agreement was, okay, the Board meetings of the Villages and this really would be for all of the Villages because it doesn't specify specifically Westhampton Beach, we would, the SEA-TV would air the first Board meeting, the Village Board meeting, that would be aired and that would be allowed without any assessment. If you choose to then do your Planning Board meetings, if you choose to do other Board meetings or you want individual programming, once it became used for more than that, then they would go ahead and they thought they had to assess it

because of the additional administrative costs that may be involved. So, there was never a specific saying there would be three times, four times, five times, but I do think that discussion should be a very amicable discussion. The door is open; they are agreeing to add the meetings. So, it will just be sitting and working with them for time slots and saying how many times.

Mr. Bishop said the other highlights of the agreement are that the standard installation will go from 150 feet from the house to street to 300 feet without any additional charge and also the Village will obtain a one-time \$10,000 access grant. Also, there is a 10% discount for senior citizens who are 62 years and older and own property and are the head of household. He said other than that, I think that covers pretty much.....

Ms. Gilroy responded I think that does. We did allow through the ten years if the Village chooses not to opt for a franchise fee, that you do have the ability left in there over the ten years if you choose, you can opt into it. So, we had to lock the language in there so you did not have to go back to the Public Service Commission for that. Upon approval of that, you have the ability to do that and we also are providing the installation of a free monthly, one cable modem free for the Village, Optimum online internet service into the Village - Village Hall or whatever location of the Village you choose to put that. We're also adding that on.

Trustee Levan commented it's been a long time coming.

Deputy Mayor Birk said we've gone from hot weather to freezing weather.

Ms. Gilroy said that's right, it has been.

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

Motion by Trustee Tucker:

WHEREAS, the Village of Westhampton Beach entered a Franchise Agreement with CSC Acquisition-NY, Inc. (Cablevision), which was subsequently confirmed by New York State, and

WHEREAS, Cablevision has constructed, operated and maintained the cable television system pursuant to the terms of its previous franchise agreement and in accordance with the rules and regulations of the Federal Communications Commission and the New York State Public Service Commission, and

WHEREAS, on August 6, September 3, October 1, November 5, December 2, 2009 and February 4, 2010, the Village held public hearings affording due process to review the application and the terms of the proposed Franchise Agreement, and

WHEREAS, the agreement complies with the standards of the New York State Public Service Commission and will be submitted to that agency for formal certification, and now THEREFORE:

BE IT RESOLVED, That this Board grants a non-exclusive cable television franchise to Cablevision and authorizes the Village Mayor to execute such agreement with it as approved by the Village Attorney, and

BE IT FURTHER RESOLVED, that the Village Attorney shall coordinate with Cablevision to file the franchise certification application with the New York State Public Service Commission for its approval.

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

Trustee Tucker thanked Ms. Gilroy for all the work she did in getting this and fighting for our Village. He said we appreciate that.

Ms. Gilroy said thank you. I think that worked out well with the Town, so we were able to

smooth that over and get that done. She said thank you and thank you again to Kathy McGinnis and to Mr. Bishop for all the work and the communications and the e-mails to get it done. We appreciate it.

Mayor Teller said thank you. We'll see you in ten years.

Resolutions:

Accept minutes of Board of Trustees Meetings

Motion by Trustee Tucker:

RESOLVED, that the minutes of the Board of Trustees Meetings of January 7th and Special Meeting of January 12th, 2010 are hereby accepted.

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

Dean Speir, 256 East Main Street, asked where is January 7th. He asked what meeting of January 7th. What meeting was there of January 7th?

Village Clerk Kathy McGinnis explained it says it in the resolution because there were documents and things stated and we did have somewhat of a meeting. We just didn't have a quorum to vote on, so, it is appropriate to have minutes.

Accept Departmental reports

Motion by Deputy Mayor Birk:

RESOLVED, that the Treasurer's report for December 2009, Justice Court, Police Department's and Building Inspector's reports for January 2010, are hereby accepted.

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

Approve Musnicki Change of Zone Request

Motion by Trustee Kametler:

WHEREAS, applicant is the owner of a 21,937 square foot vacant lot on the west side of Old Riverhead Road in the Hotel Zoning District; and

WHEREAS, applicant has petitioned the Board of Trustees of the Village of Westhampton Beach for a change of zone from the Hotel Zoning District to B-3 Zoning District; and

WHEREAS, a public hearing has been held relative to this application and all persons in favor or opposed had an opportunity to be heard; and

WHEREAS, the Suffolk County Planning Commission has determined that this application is a matter for local determination and that there is no apparent significant county-wide or inter-community impacts; and

WHEREAS, the Board of Trustees resolves that this action is subject to Article VIII of the Environmental Conservation Law (SEQRA), that it has reviewed applicant's EAF Part 1 and it appears that this action is an unlisted action; and

WHEREAS, Part 2 of the EAF has been prepared by the Board of Trustees, and it does not appear that the proposed action will result in any significant impact on the environment; and

WHEREAS, such a zone change is commensurate with the recommendations of the Village’s 2006 Business District Comprehensive Plan Update.

IT IS HEREBY RESOLVED, that this Board determines that it is lead agency for purposes of this action, this action is an unlisted action, that it will not result in any significant impact on the environment, and accordingly issues a negative declaration; and

IT IS FURTHER RESOLVED, that this application is approved, and the Zoning Map of the Village of Westhampton Beach last adopted May, 2007, is hereby amended to reflect same.

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

Rescind 2009/10 property tax on Suffolk County properties

Motion by Trustee Levan:

WHEREAS, the County of Suffolk has acquired two properties identified by SCTM#’s 905-9-1-26 and 905-12-1-37 through tax enforcement; and

WHEREAS, these properties were acquired before the Village’s taxable status date, therefore be it

RESOLVED, that these properties are declared tax exempt and the 2009-10 real property tax levy in the amount of \$557.02 is hereby rescinded.

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

Authorize 2010 St. Patrick’s Day Parade, Saturday, March 13th 12 noon

Motion by Trustee Tucker:

RESOLVED, that the St. Patrick’s Day Parade Committee is hereby authorized to hold the 2010 St. Patrick’s Day Parade on Saturday, March 13th @ 12 noon starting at the corner of Mill Road and Oneck Lane, proceeding south on Mill Road to Main Street and ending at the reviewing stand; and be it further

RESOLVED, that the St. Patrick’s Day Parade Committee is hereby authorized to hold a carnival on the Great Lawn on Saturday, March 13th during and after the parade from 12 noon until 5 p.m.

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

Approve 2010 Cystic Fibrosis Foundation “Walk/Run” – June 5th Village Marina

Motion by Deputy Mayor Birk:

RESOLVED, that the Cystic Fibrosis Foundation is hereby authorized to use the Village Marina for the 2010 Walk/Run on Saturday, June 5th from 7:00 a.m. to 3:00 p.m.

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

Authorize Bldg. employees (2) to attend certification training conference

Motion by Trustee Kametler:

RESOLVED, that Code Enforcement Officer Bridget Napoli and Building Permits Coordinator Kerry Rogozinski are hereby authorized to attend the 2010 Finger Lakes 35th Annual Building Officials Conference in Hilton, New York on March 15-18, 2010 at a total cost per person of \$694.00 for registration, lodgings, meals and travel expenses.

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

Trustee Tucker asked to be recognized. He said I see that the next seven items on the agenda are concerning a personnel matter that can't legally be addressed in a public meeting, so it is for that reason that I move to strike each of those agenda items from the agenda. He said I would gladly second your motion to enter into Executive Session at the conclusion of this meeting, so that we can act in conformity with the law. So, I move to strike those seven resolutions from the agenda tonight.

Trustee Levan seconded the motion.

Mark Raynor, 35 Bridle Path, said I don't think it is personnel if names aren't mentioned. He asked for a clarification on that.

Mayor Teller said this is a Board matter.

Mr. Raynor said, I know, but if his name is not mentioned, then it is not a personnel matter, correct.

Mayor Teller said he would leave that up to Mr. Bishop. He said I don't believe it's a personnel matter.

Mr. Raynor said if you don't specifically mention an individual, it's not a personnel matter.

Trustee Tucker said most respectfully, I must insist that personnel matters and that is what this is concerning, these resolutions being addressed in Executive Session as we have done in the past on your advice, Bo, as well.

Mr. Bishop said I don't give legal advice in public unless the Board asks me to do so.

Trustee Tucker said I feel that's a place for Executive Session to discuss these items.

Trustee Levan said I second the motion.

Mr. Raynor asked can the public ask the Village attorney if it is a personnel matter. I mean if you are not specifically mentioning an individual, it is not a personnel matter. You can discuss anything, but once you mention a name, then it becomes personnel.

Trustee Levan said Hank made a motion, I seconded. Do we want to take a vote? How do you want to handle it?

Mr. Bishop said let me discuss the procedure. You have a resolution on the calendar. It's a resolution to rescind a prior resolution. That is appropriate. There is nothing wrong with that resolution. You can vote against it. But, you can't go into Executive Session based on the overall term "personnel". It is a violation of the open meetings law. You have to say what exactly you are going into Executive Session for. Then, you can make a motion to go into Executive Session. But, a resolution that is on the calendar, there is nothing in the rules of procedure of the Village with respect to public meetings that says you can just make a motion to remove it. You can vote against it. You can not second it. But this is a resolution to rescind an existing resolution. The resolution is a matter of public record, so I don't see why the resolution can't be read, then discussed and voted on.

Trustee Tucker responded if the Mayor would like these resolved, then there needs to be

discussion on them. If you take a vote on them and they don't pass, then they are not resolved and they've been on the agenda many times and it's time that we discuss it and decide as a Board what to do.

Mr. Bishop said absolutely. You can't vote on the resolution until there is opportunity for all the Board members to fully discuss it. You cannot, I caution you, you cannot go into the substance of any disciplinary charges or accusations. You cannot have any discussions with respect to any investigative matters written which are not open to the public. I am referring specifically to the investigative report that involves these resolutions.

Deputy Mayor Birk said the Trustees.....

Mr. Bishop said you can read the resolution. You can have discussion on the resolution if you wish to do so and then you can vote, not second the resolution, vote against it or take whatever action you feel is appropriate.

Deputy Mayor Birk said that as Trustees we do not have the power or authority to direct anyone in the Village what to do, is that correct Bo.

Trustee Tucker said so, now you're discussing.....

Mr. Bishop said that was a question, that's a too open ended a question. I don't know what exactly you are referring to. I would suggest you go resolution by resolution and if you want to have discussion on it, you can. If you don't want to have discussion on it, you can just vote on it. That's entirely up to the Board.

Deputy Mayor Birk explained that comment was based upon the resolution we're looking at, to rescind.....

Trustee Tucker stated it was based on the seven resolutions.

Trustee Levan said it was on all seven.

Deputy Mayor Birk said we're looking at the one we have on our table in front of us that we don't have the authority to direct anyone to do anything, only the Mayor has that power.

Trustee Kametler said it's on all seven.

Mayor Teller said there are eight of them.

Trustee Kametler said we'll talk about it. We'll table it and discuss it.

Mayor Teller said let's go ahead with them. This has nothing to do with personnel. This is strictly a matter of duties of the Chief of Police, the duties of the Board. We're not making any names of any officers or.....

Trustee Tucker said you've had them on. At times, you've had names on. So, we want to make sure that before.....

Mayor Teller said there are no names on these.

Trustee Tucker said not on these. But, we just want to make sure that we are not heading down a dangerous path of litigation. You getting a letter from your own attorney is not necessarily enough for, in my opinion, for a Board acting on behalf of a Village to go by. So, all I'm saying is.....

Mayor Teller said all my attorney did was confirm what I already thought and already know. Section 804 of the Village law does not confer on you the right to order the Chief of Police to withdraw charges.

Trustee Tucker said that is your opinion, also.

Mayor Teller said well, I can read and write sometimes I think but, we also have our own department rules and regulations that.....

Trustee Tucker asked what year those were from.

Mayor Teller responded 1964.

Trustee Tucker asked have they been changed since then.

Mayor Teller said there have been a couple of modifications to them, but they have not been changed since then that I know of other than uniforms, different.....

Trustee Levan said 46 years.

Trustee Tucker asked the Mayor, what did you say about those.

Mayor Teller said Article 30 gives the Chief of Police, mandates the Chief of Police to file disciplinary charges and it also mandates that the Board schedule a hearing or hold a hearing.

Trustee Levan said there were parts of, I don't want to get into the privileges of you and your attorney, there were parts of that memo that did give the Board some leeway here and I think that is something that we have to discuss in an Executive Session with you, Conrad.

Mr. Raynor said no, it's public, open meeting law.

Mayor Teller said I think it's all public, myself.

Trustee Levan said I'm not so sure about that.

Mayor Teller said I'm pretty well sure of that. You're telling me that Section 30 doesn't say what it says.

Trustee Levan said I don't have it right in front of me, but there were sections there that were very ambiguous.

Mayor Teller said most laws are ambiguous.

Trustee Levan said that is correct. She asked Bo, what are you saying.

Mr. Bishop said I am saying the items that allow you to go into Executive Session there is also, you can under certain circumstances go into Executive Session if you wish, for counsel advice with respect to a Zoning Board decision or a Planning Board decision. As I've said, you can do that. You must be careful in doing it. If the Board wants to render a decision such as it had rendered on Musnicki, you can go into Executive Session to obtain legal advice as to ramifications of deciding for or against that resolution. But, this is a resolution. These resolutions that are on the agenda and you cannot make a motion to remove them from the agenda. You can go into Executive Session to discuss one of the eight items, one of the items can regard disciplinary matters. But, this is a resolution to withdraw a prior resolution and that resolution is a public resolution, then there is nothing wrong with doing that. I notice in the language there is some additional information about citing Section 30. I don't know if that language is exact. I didn't prepare these resolutions. But, to the extent that this is a resolution to withdraw or to rescind a previous resolution, I would say that they can be heard. Voice the resolution, you can state the resolution and you can discuss the resolution with the proviso that I just outlined and then you can vote in favor or against after the discussion on it.

Trustee Levan said but, you're saying that you're not sure that what is in this one resolution is correct. So, how would we vote on it?

Mr. Bishop said I'm not saying you have to vote on it.

Trustee Tucker remarked you're our counsel here and you can't even advise us on if what's in here is proper or correct. We haven't sat with an attorney and discussed these resolutions, if they are proper or correct or indeed what the Mayor said or if there are some issues regarding them, so.....

Mr. Bishop said let me address that. Number one, I don't believe this is the first time these resolutions have been on. Second, the last time that these resolutions were on, the Board wanted to obtain counsel to determine whether or not you wanted to reconsider the resolutions that are being asked to be rescinded. Since that time, you have not met with counsel, for whatever reason. So, these are resolutions, I think they can go forward, they can be heard and that there can be a consideration by this Board to rescind the prior resolutions. That is my position.

Trustee Tucker said you are leaving us without counsel at this point in time on these, okay. You're leaving us without counsel on these. We were advised by our paid labor counsel of this Village, who was appointed by resolution, I believe the whole Board had voted to hire this labor counsel and we sat and he gave us advice on what to do. He prepared resolutions. Those resolutions were prepared, read and voted on and the majority of the Board voted on, based on the actions of our labor counsel. Now, with due respect, the Mayor didn't like how we voted or what our labor counsel obviously advised all of us, it wasn't just some of us sitting there. It was all of us sitting there in the room. And, now we are being told, and yes they've been on before. I know these aren't on here first and we had a problem with them then. Now, we're being told that what we were advised by our labor counsel isn't correct. Well, so, at this point in time how are we supposed to properly discuss or answer these if the counsel that we paid as a Board, as a whole Board, told us something different than you are putting on here. Were these resolutions prepared by our labor counsel, that advised the whole Board as to what our options were?

Mayor Teller responded some of them were.

Trustee Tucker said some of them were, okay, did you share that with us at all, that our labor counsel – I didn't get anything from him or have any discussion with him about these resolutions for us to be able to vote on. When did that come up, was that.....

Mayor Teller said they've been on the agenda....

Trustee Tucker said that wasn't my question. My question was when did you meet or discuss with labor counsel that there was a change in his opinions on what he told this whole Board as to what we could do or couldn't do.

Mayor Teller said the labor counsel prepared the transcription and stenographic services and suspension of employees, the hearing officer and he picked the hearing officer's name.

Mr. Bishop said you shouldn't go into a conversation with counsel unless the Board waives attorney/client privilege.

Trustee Tucker asked then how can we discuss it here.

Mr. Bishop said because this is a resolution to rescind the prior resolution. You don't have to necessarily discuss what counsel told you or didn't tell you, but you certainly have the right to rescind a prior resolution. There is nothing that prohibits you from reconsidering a prior resolution which these resolutions appear to be doing.

Trustee Tucker asked then what's wrong with asking to table it so we could all be better prepared. I think the point of, the fact that we have not, where did these resolutions come from.

Mr. Bishop said they are the same resolutions that.....

Trustee Tucker said no, no, not those three that he just read, the other resolutions.

Trustee Levan said all of them.

Mayor Teller stated they came from me.

Trustee Tucker said they came from you. Okay, well I think in a matter that is pretty serious and we're talking about some pretty serious legal issues for the Village here, I think that this Board deserves to fully vet, even though they've been on a few times, I

understand that, but we have yet to meet for various reasons with labor counsel. There's gotta be better than you just putting these on there with your legal opinion on here. That's not what a Board's responsibility really is. I think that we should, like I said, I'd be glad to discuss those issues at the Executive Session.

Mayor Teller commented you've said three times in public that you were going to meet with labor counsel. Every time we schedule it, we don't.

Trustee Tucker said I never stated that.

Mayor Teller said I know, nobody stated it.

Mr. Bishop said you did on January 12, 2010. Actually, both you and Trustee Levan both said that we should meet with Zuckerman. Trustee Levan said I think we need to meet with Zuckerman. That's what is in the minutes of the January 12th meeting that you just approved and Trustee Tucker said okay.

Trustee Levan said well, at that meeting, Toni wanted to call for an Executive Session immediately and we said we couldn't do it without labor counsel and there was also an issue with when he could meet and how much preparation he had to do prior and one of the issues that came up was that we should all talk about what we wanted to accomplish before we have him out at so many hundreds of dollars an hour researching and we haven't had an opportunity to do that.

Trustee Tucker added that is a very important part of it.

Trustee Levan said that's right.

Trustee Tucker added what happened was, it wasn't just meeting with him. We actually tried to meet with him. He said it was a holiday. He wasn't going to be prepared. He wasn't going to have enough time to be prepared for that meeting. So, we said okay, if he's not going to be prepared, what's he gonna tell us, the same thing he already advised us on when we passed resolutions in the past already. He wasn't prepared to discuss any of this, that's for sure. He said he needed to do research. In fact, you sent us an e-mail, Kathy, that requested.....

Mrs. McGinnis said he wanted an authorization to do it.

Trustee Tucker said for further research, but that was after the meeting already.

Mrs. McGinnis said that was to set up the meeting for the upcoming week, but maybe you want to do something tonight to authorize it.

Trustee Tucker said so, that is still not resolved and here we are tonight.....

Mrs. McGinnis asked do you want to authorize it. Maybe that's what you should do is authorize that and then we can go ahead and set the meeting up.

Trustee Tucker responded well, I think we have some issues to discuss.....

Trustee Kametler asked why are we authorizing him to research that.

Trustee Tucker said that is what we need to discuss in Executive Session.

Trustee Kametler said the Board has never authorized him to do anything in the past. He's done it and that's the way it's always been.

Trustee Levan said on certain expenditures yes, we have.

Mayor Teller said this is a dispute between Board members and Mr. Zuckerman cannot do it for an individual and he needs a Board resolution to do the research for the entire Board on this matter. So, we sent you e-mails. You sent back that you did not wish to authorize him, so here we sit with a pile of resolutions that we've got to.....

Trustee Tucker replied that you wrote. I don't think we should really be handling.....

Mayor Teller said I've written resolutions quite a few times.

Trustee Tucker said yeah, but not legal resolutions. You're not representing this Board as our labor attorney.

Mayor Teller said no, I'm not. I'm just trying to settle a matter where we have two officers that I will not, in my official duties, allow to do full duty. We've been dragging this on now for three months. You've been bouncing and jumping from side to side to get out from doing the proper thing for the Village.

Trustee Tucker said be careful what you say.

Mayor Teller said just a moment. I'll be careful what I say.

Trustee Tucker reiterated be careful what you say.

Mayor Teller said yes I will. I'll probably be in court tomorrow or the next day. It doesn't matter to me.

Trustee Tucker said well, that's what we're trying to avoid here is the court.

Mayor Teller said I know we are. But, we're also superseding the Chief of Police's duties and under department rules and regulations whether they're 1964 or 1940, they're still legally in effect. We've used them before. We are waiving these charges without hearing any evidence whatsoever. We're trying to push them under a rug. I don't think you have to have Clarence Darrow come down here or have Bo or Zuckerman to tell you what the right thing to do is follow our own rule.

Trustee Levan said Conrad, we met with Zuckerman in December. We spent an hour and a half with him.

Mayor Teller said I know we did.

Trustee Levan said he told us what we could do, what we couldn't do and he wrote the resolutions. So, now we're going to hire him to un-write the resolutions. I think before we spend anymore time and money with him, we as a group have to say what do we really want him to answer so he's not researching pie in the sky anymore.

Mayor Teller said well, you want to answer him that the Chief of Police has the lawful duties to prefer charges, that the Board must schedule a hearing; the Board cannot dump these charges.....

Trustee Levan responded that is not what he told us.

Mayor Teller said I don't care what he told us.

Trustee Tucker said you shouldn't be discussing that here, what the attorney told us, that's dangerous.

Deputy Mayor Birk said when I spoke to the attorney on the 16th

Mayor Teller said the charges are out there. The Chief of Police has done them; the department rules say we should have a hearing. You're trying to dismiss these charges or bury them without hearing evidence or proof and that we must do.

Deputy Mayor Birk said the conversation I had with Richard Zuckerman, the labor attorney.....

Trustee Levan said Toni, Toni, no, no.....

Mr. Bishop said you cannot state the substance of conversations you had with counsel unless the Board agrees to waive attorney/client privilege. Absent their waiving

attorney/client privilege, you can't discuss any conversations you had with counsel.

Deputy Mayor Birk asked even my sole conversation.

Mr. Bishop said I'm sorry, that's the rule. The rule is you can't discuss matters, what you said to an attorney and what the attorney said to you. Those things you can't discuss. If, based on conversation you act in a certain way, that can be discussed, but you can't discuss the substance, the words used.

Mayor Teller said now, if we want to schedule a hearing.....

Mr. Bishop said to be honest with you, I'm going to take the position that I don't have a problem with these resolutions. One resolution is citing Section 30, which is a public document. The second resolution deals with rescinding a resolution that was passed by the Board. The third resolution was a resolution to rescind another resolution that was passed by this Board and another resolution is appointing an attorney. The next resolution is authorizing legal counsel and..... I'm going through the resolutions. There is a resolution to authorize a suspension. There is another resolution authorizing the suspension of Employee B. There is another resolution adopted on October 1st placing Trustee Tucker in charge of all interactions with Village labor attorney, that that be rescinded. And, that is the resolutions. I don't see any problem with reading the resolutions, that there be discussions within the confines that I spoke of and that they either be voted down or approved.

Rescind Resolution Re: Withdrawal of Police Disciplinary Charges

Motion by Mayor Teller:

Resolved, that the Board of Trustees hereby rescind the resolution adopted on December 2, 2009 directing Chief of Police Raymond Dean to withdraw disciplinary charges dated November 10, 2009 against two (2) Police Officers as contrary to Village Rules & Regulations Section 30 as follows:

A member of the department, who in the performance of his official duties, acts in such a manner that the Chief of Police or superior officer of that member deems him/her to be incompetent in the performance of his/her duties, or while on or off duty, engages in any misconduct that would tend to bring discredit on the member, of other members of the department, shall be subject to disciplinary action by the Village Board of Trustees, after a hearing upon written stated charges.

Mr. Bishop asked if there was any discussion. Seconded by Deputy Mayor Birk and voted on as follows:

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

Rescind Resolution Re: Reinstatement of Police Officers

Motion by Mayor Teller:

RESOLVED, that the Board of Trustees hereby rescind the December 2, 2009 resolution directing Police Chief Raymond Dean to reinstate two (2) Police Officers to the Village payroll and their full duties as contrary to the law. The Village Chief of Police does not have the legal right or authority to perform these actions, only the Board of Trustees can do so, after the hearing process has been completed.

Seconded by Deputy Mayor Birk and voted on as follows:

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

Authorize Hearing Upon Written Charges

Motion by Mayor Teller:

RESOLVED, that based upon the written charges filed by Chief of Police Raymond Dean dated November 10, 2009 against (2) Police Officers, the Board of Trustees of the Village of Westhampton authorize a disciplinary hearing to be conducted upon written charges pursuant to the provisions of Section 75 of the Civil Service Law and Section 30 of the Village Rules and Regulations.

Seconded by Deputy Mayor Birk and voted on as follows:

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

Appoint Hearing Officer to conduct a hearing of Police Disciplinary charges

Motion by Mayor Teller:

RESOLVED, that the Board of Trustees of the Village of Westhampton Beach authorize the appointment of Stephen Bluth, Esq. as the hearing officer to conduct a hearing with respect to disciplinary charges which have been filed against two Village employees at a rate of \$1,600.00 per diem.

Seconded by Deputy Mayor Birk and voted on as follows:

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

Approve transcription/stenographic services for Police disciplinary hearing

Motion by Mayor Teller:

RESOLVED, that the Board of Trustees hereby authorize legal counsel to use Five Star Reporting for transcription/stenographic services relating to the Police Department disciplinary charges, at the per page cost of \$3.45 for transcription or \$4.25 for stenographic services plus associated fees pursuant to Suffolk County Contract # SS-041709.

Seconded by Deputy Mayor Birk and voted on as follows:

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

Authorize suspension of employee pending hearing Re: disciplinary charges

Motion by Mayor Teller:

RESOLVED, that the Board of Trustees of the Village of Westhampton Beach hereby authorize the suspension (including without pay for up to 30 days) of this employee "A" effective December 3, 2009 and pending the determination of those charges.

Seconded by Deputy Mayor Birk and voted on as follows:

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

Authorize suspension of employee pending hearing Re: disciplinary charges

Motion by Mayor Teller:

RESOLVED, that the Board of Trustees of the Village of Westhampton Beach hereby authorize the suspension (including without pay for up to 30 days) of this employee "B" effective December 3, 2009 and pending the determination of those charges.

Seconded by Deputy Mayor Birk and voted on as follows:

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

Rescind Resolution Restricting Interactions with Labor Attorney

Motion by Mayor Teller:

RESOLVED, that the Board of Trustees resolution adopted on October 1, 2009 placing Trustee Tucker in charge of all interactions with the Village Labor Attorney is rescinded due to the fact that it contravenes Village Law 4-400(c)(i) and New York Civil Service Law wherein any restrictions on the Village Mayor's ability to confer or seek advice from the Village Labor Attorney would be illegal.

Mr. Bishop asked if there was any discussion. Seconded by Deputy Mayor Birk and voted on as follows:

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

Trustee Kametler said he wanted to point out he didn't even know why that was on there because we never said that you could never confer with the labor attorney. That was never the intention and you know it. We talked about there were too many Board members, myself not included of course, were calling the labor attorney at a high rate of salary for him. We had spoken about that, Mr. Mayor, and you thought it was a good idea that only one person would be the contact person. I think it got a little convoluted and I'm glad we could get it straightened out here tonight.

Mayor Teller said we've got to have a little humor.

Approve 2010 WHB "Farmers Market"

Motion by Trustee Levan:

RESOLVED, that The Greater Westhampton Chamber of Commerce is hereby authorized to use the Village parking lot situated at Mill Road and Glovers Lane to hold a Farmers

Market on Saturday mornings from 7:30 a.m. to 2:00 p.m. commencing on April 13th through to December 11th, 2010.

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

Hampton Synagogue Special Exception Determination

Motion by Trustee Tucker:

RESOLVED that the attached Special Exception Determination to convert a single-family dwelling, previously designated "Rabbi's house" to offices on the second floor and meeting hall on the first floor which will provide limited kosher catering at private events associated with services or events sponsored by the applicant is granted subject to the conditions set forth therein.

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

Approve warrant for February 2010

Motion by Deputy Mayor Birk:

RESOLVED, that the warrant for February 2010 for the General Fund in the amount of \$178,607.22 is hereby approved.

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

Public Discussion

Irene Barrett, 27 Notamiset Road, Quiogue, asked regarding this Hampton Synagogue Special Exception, does this include weddings, Bar Mitzvahs and all that kind of stuff.

Mr. Bishop said there is a condition in there that says there can be no commercial catering on the premises.

Ms. Barrett said I will tell you that last summer, I was there, because I asked the people going in. There were two weddings and it was commercial catering because I saw the trucks. So, I know there is commercial catering in there.

Mr. Bishop responded that commercial catering relates to an organization that hires their building out for catering and should there be an event where congregants of the church or business organization decide to hold social activities, the courts have been steadfast and very clear in this respect that municipalities cannot infringe upon that. In fact, there was a federal law that prevents the Village from imposing substantial burden on free exercise without there being a governmental interest, which is a very hard thing to prove, and that the restrictions that were used for that governmental interest be the least restrictive possible. So, that is what this Board is faced with on all the decision making respecting the synagogue. The Board has to follow the law. This resolution and the determination does follow the law and with respect to commercial catering, Mr. Houlihan has had to deal with issues like that in the Town of Southampton and this is basically the way that municipalities treat it, as long as they are not hiring out their building for commercial use.

Ms. Barrett said when you look at this, first they had kitchens that they weren't allowed to use, then the Town approved it. That's number one. First it starts out as a single family house. I've been here forty years. Then it becomes the synagogue. Then it becomes, they have no parking. They have dumpsters. None of the things that are allowed in that thing. Now they are approved for a commercial kitchen. So, now we now have offices where the Rabbi never lived now becoming offices. Now, we have a catering service, no

parking. They are parked up and down Brook Road all in the Suffolk County National Bank every single weekend and that's not commercial when you have a wedding and you bring in a caterer, that's not commercial catering.

Mr. Bishop said no.

Trustee Levan said there were a lot of restrictions put in. We had two hearings and Jim Hulme represented them and we asked a lot of questions and they agreed to all of the restrictions we put on.

Ms. Barrett asked who was going to monitor them, those weddings.

A member of the audience said you.

Ms. Barrett said me and then Mr. Houlihan is going to tell me that there is no wedding, but I have pictures of the wedding.

Dean Speir 256 East Main Street, said I would like to compliment Mr. Kametler in his rare moment of lucidity in seconding that entirely sensible motion. I wish you had come to your senses about six or seven resolutions earlier. You did say to me, did you not Jim, downstairs after the Work Session a week ago that you wanted to see this resolved.

Trustee Kametler said I do.

Mr. Speir said your actions tonight do not convey that impression.

Trustee Kametler asked what did I tell you before I said I want to see it resolved. Do you remember, because I do.

Mr. Speir asked Trustee Kametler to refresh his memory.

Trustee Kametler said I will, I'll refresh your memory. This Board has not sat down and discussed this incident and the charges that were filed against the two members of the Police Department at all. I feel very strongly we need to sit down and discuss this and the Mayor refuses to do that because he says it is too late for that. But, we've never had an opportunity to do that and I feel as, really, an elected member of this community that I need the information from the Mayor and he wrote these things himself. We had information from our labor attorney that we pay all this money to. He wrote those resolutions, now he wants to rescind them with his own. I need to sit down as a Board and discuss this and I'm still waiting to do that.

Mr. Speir said okay, so you're just talking about.....

Trustee Kametler said I'm talking about this whole thing here tonight.

Mr. Speir said just these resolutions.

Trustee Kametler said absolutely. We need to sit down and talk about them.

Mr. Speir said okay, because you started out by saying you wanted to see these charges, sit down and discuss the charges.

Trustee Kametler said well, I meant the resolutions.

Mr. Speir said well, when last we left, Mrs. Levan, you indicated at the Work Session and also at the makeup meeting of January 12th, that you wanted to expeditiously meet, you didn't use that word, that's my word; but, the indication was you wanted to get on with the meeting with Mr. Zuckerman. I understand, not formally but from the conversation that was going on earlier this evening on the Board, you haven't done that yet.

Trustee Levan responded no, we have not.

Mr. Speir asked why.

Trustee Levan explained because I feel we should really talk about exactly what we want him to research.

Mr. Speir asked have you made an attempt to sit down with the others in Executive Session and do that.

Trustee Levan said no, I have not.

Mr. Speir asked why.

Trustee Levan responded I haven't. I've sent an e-mail stating what I think we should do and I haven't gotten an answer from Conrad about it. I think it's the Mayor's place to call the Executive Session and we can all discuss it.

Mr. Speir said yet you don't think it's the Mayor's place to put these resolutions on the calendar.

Trustee Levan said not when I don't have legal information on them, no, I do not.

Mr. Speir stated you've already gotten an opinion from your own Board attorney this evening in front of all of these people that he felt, his legal opinion as your Village attorney, that the resolutions were proper, that they weren't revealing any inappropriate information.

Trustee Levan said he felt we could put them on the agenda and vote on them yes or no. He did not write any of them as you stated.

Mr. Speir asked do you think you're going to get to this soon. This is running into money. We're not quibbling about pennies here, Joan. We're talking about a chunk of money. When are you going to get to it?

Trustee Levan said I don't know. We'll talk as a Board and figure out when we will.

Mr. Speir asked when will you talk as a Board. I'm putting you right under the gun here because to listen, to sit here meeting after meeting and say we're going to do this or we're going to do that or we need to do this and not have you do it, I would like something a little more solid.

Trustee Levan said we met with him back in December and in the month of January we did not. When Conrad is ready to sit down with the other Board members and discuss what exactly we want to give to Zuckerman to answer and when we can do it, I'll be happy to be there.

Mr. Speir said so, you're putting this on the Mayor as being obstructionist.

Trustee Levan said no, I'm saying when he's ready to sit down with all of us, let's go over what we want to accomplish at that meeting. What are the questions? You know, you can ask a question several different ways. I think we should do it all together.

Mr. Speir said it would seem that you asked your questions in such a way that you got the results that you wanted last fall.

Trustee Levan said that's not true.

Mr. Speir said I want to know how can you in good conscience with the fiduciary interests of the Village in mind, how can you let this thing go on like this. Essentially, you've crippled the Police Department.

Trustee Levan said I don't think we've crippled the Police Department, no, I do not.

Mr. Speir said really. You've got two guys who are essentially duplicating the, because they're not allowed out of the station, they're on restricted duty, so the best they can do is duplicate the services of the dispatchers.

Trustee Levan said we passed a resolution to put them back on full duty.

Mr. Speir said but you can't do that. Didn't you just understand what was determined here?

Trustee Levan said it was written by our labor attorney. That resolution was written by our labor attorney, read at an open, given to everyone at an open meeting.

Mr. Speir said I don't think Mr. Bishop is going to allow you to answer this, but.....

Trustee Levan said that's all I'm going to say. That's all I'm going to say. I answered....

Mr. Bishop said the resolution that Trustee Levan has been speaking of is public record. This was a resolution that she is saying was prepared by counsel. I don't think that violates attorney/client privilege if that's where you're going.

Mr. Speir said no, I was going to ask her what was the question she asked that elicited that answer.

Mr. Bishop said she cannot answer that without the entire Board waiving attorney/client privilege. You're asking her to state what an attorney told her.

Mr. Speir said I understand that. Will the Board do that?

Trustee Levan said no.

Trustee Tucker said no.

Trustee Tucker said no.

Mr. Speir said you are spending a lot of our money for what. What are you spending our money for on this, Mrs. Levan.

Trustee Tucker said we're actually trying to save the Village money.....

Mr. Speir said I didn't ask you, Mr. Tucker, I asked Mrs. Levan. First of all, I did not ask you.

Trustee Tucker said first of all, you don't have to snap back at me here, okay.

Mr. Speir said we do that all of the time, you and I Hank, so I'm asking Mrs. Levan.

Trustee Levan asked what was the question.

Mr. Speir said the question is what are you spending our money for, what purpose?

Trustee Levan said I'm trying to save some money. Instead of having meetings with the attorney ten different times in a given month and listening to the same thing, I would like to have one meeting and get it resolved.

Mr. Speir asked how do you expect that you can get this resolved without a disciplinary hearing, either exonerating the charged police officers or finding the charges have substance.

Trustee Levan said we passed a resolution.....

Mr. Speir said I'm not talking about that. I'm asking how are you going to do it.

Trustee Levan answered based on what our attorney told us we could do, period. That's the answer. You can read the resolution. It's in the December meeting. That was written by our labor attorney.

Mr. Speir said I know, but I think it's important which Mr. Bishop says you can't do without the whole Board's approval and you're declining to find out what question you asked that elicited the answer that you wanted.

Trustee Levan said the answer that we.....

Mr. Bishop said I just want to make a statement. You cannot discuss.....

Trustee Levan said I'm not going to discuss it.

Mr. Bishop said you cannot state the words that the attorney said to you or what you said to the attorney unless the Board waives attorney/client privilege.

Mr. Speir said and they've already indicated that they are not inclined to do that. I would just like to know when this is going to get resolved and when you're going to free up the.....

Trustee Levan said I hope quickly.

Mr. Speir asked could you put a time frame on that.

Trustee Levan responded no, I cannot.

Mr. Speir said thank you.

Mark Raynor, ex-Village Trustee, 35 Bridle Path, said I think it is pretty disgusting that the majority of the Board is sitting up here saying that they are trying to save us money. You have two officers that are collecting a salary that aren't on the road. Meanwhile you don't meet with the labor attorney who is going to charge you \$100 an hour. That makes no sense.

Trustee Levan said it is \$250.

Mark Raynor said \$250. They're making \$180,000 to sit downstairs and do nothing. If they're disciplinary charges, it should have been done the following week with the labor attorney. You're paying him. He works for you. You call him. He should be here the next day. If he's not here the next day, you get somebody else.

Trustee Tucker said so, maybe that's, maybe we have issues with that.

Mr. Raynor said then fire him and get somebody else. But, this has been going on for three months. You pay them \$180,000. You pay the dispatchers \$150,000. Where are we saving money?

Trustee Tucker said they were suspended with pay and sent home without the Board's knowledge at all, whatsoever, okay. So, for starters we didn't start off by spending all this money that you're talking about.

Mr. Raynor said you're still paying their salaries.

Trustee Tucker said I didn't hear you complaining about that portion of it.

Mr. Raynor said they're still collecting their salaries, correct.

Trustee Tucker said they were sent home prior to us having any idea. There was a resolution to bring them back to work. If the Mayor and the Police Chief chose to not put them on full duty as we requested for the time being, well, they are going against the resolution. So, we're not the ones that are holding them back from doing their job at all.

Mr. Raynor asked what do you think the Village is going to be liable for if one of these officers is out on the road and those disciplinary charges come up against him in a court that, you don't think this Village is going to be opened up for more of a lawsuit?

Trustee Tucker responded if the charges were legally dropped as to the advice of our labor counsel discussed to the whole Board in a meeting, then.....

Mr. Raynor asked but why are you waiting.

Trustee Kametler said Mark, according to the Mayor, the officers aren't on the road because they have been accused of lying.

Mr. Bishop said you can't discuss the substance of any.....

Trustee Kametler said what I will say to you is that the last time this Village has answered a question like this it cost this Village a lot of money, okay.

Mr. Raynor said I was on the Board at the time.

Trustee Kametler said I know exactly what you mean.

Mr. Raynor said but if you don't meet with your labor attorney and have the hearing, you don't know if it is ever going to get that far, Jim. You've been dragging it for three months. It should have been done the second week that it was done. Why are you waiting? It makes no sense.

Trustee Kametler said I'm willing to sit down with the Mayor. I just explained that to Mr. Dean Speir.

Mr. Raynor said you guys have the majority on the Board. You can meet any time you want. You can call the meeting. You don't have to wait for the Mayor. It's disciplinary charges against an individual. You have that right to do that. Maybe you guys should read the law more.

Trustee Kametler said listen Mark, we've passed resolutions up here. The Mayor has totally went against that. We asked for a report, we got a report. We asked to see the report and talk about the report as a Board, but never got the opportunity. He just jumped on board and did what he wanted and he says it's too late to do anything about it. Now we have to.....

Mr. Raynor said well, if you don't agree with him, you vote against him.

Trustee Kametler asked what do you think we did tonight.

Mr. Raynor replied you have the majority. You should have met with the labor attorney a long time ago.

Trustee Kametler said I thought we did; that's why we passed all those resolutions. He wrote them. The man that this Village pays as a labor attorney actually wrote those resolutions. We didn't make, Conrad wrote his own, we didn't write, we didn't make up ours. We got them written by the labor attorney.

Mr. Raynor asked that all disciplinary charges should be dismissed.

Trustee Kametler said that he said we could do that as a Board.

Mr. Bishop advised you cannot discuss what an attorney said to you unless you want to waive privilege, you can't do that.

Mr. Raynor said well, I just think it's been way too long and you're not saving money if it's \$250 an hour. It should have been spent a long time ago. Thank you.

Deputy Mayor Birk said my discussion with a labor attorney made me change my vote because the information that I got seemed to be in the best interest of moving this whole process forward. So, when I was commenting about changing my mind, I did change my vote because from the information I had that was the best move to do for the Village and the residents and everybody to get this process going forward. I sit here as the minority.

Trustee Tucker said you didn't vote. You weren't at that meeting. You didn't even vote. You weren't even at the meeting.

Deputy Mayor Birk said correct, Hank.

Trustee Tucker said you just said.....

Deputy Mayor Birk said when we did that day that we had the meeting with the information that we got, I was the majority with the rest of you and then after that, the discussion I had with our labor attorney, the information that I received from the labor attorney allowed me to change my mind to go with the hearing process to get these things cleared and moved forward, not to stand still.

Trustee Tucker asked did you share that information with the Board.

Deputy Mayor Birk said I did. I did, last January 7th and you guys didn't want to hear it. I did, I did, Hank. I told you about my conversation with Zuckerman and I did share it with you, but none of you seemed to want to hear it.

Trustee Levan said you never shared any of that with us.

Deputy Mayor Birk said yes I did, Joan, back in Conrad's office January 7th. Don't tell me I didn't. I know what I said.

Trustee Kametler said we're still waiting to hear from a convention you went to. We asked you for a report. We're still waiting for it.

Deputy Mayor Birk said you're never gonna get that, Jim.

Trustee Kametler said well, okay.

Carol Matthews, 61 Brittany Lane, said let's go back to the beginning of this whole mess. Has the Chief the right to suspend an officer who he feels has done something wrong?

Mayor Teller responded he can suspend, he can write charges up.....

Ms. Matthews asked why did Mr. Tucker say that the Board had no meeting to suspend these gentlemen.

Mr. Bishop said you are going into areas of law....

Ms. Matthews said I thought the Chief was in charge of the department. He's in charge of his men. He knows what the rules and regulations and the laws are. I'm sure he wouldn't suspend these two gentlemen if he didn't suspect something was not right.

Mayor Teller said he didn't suspend them. I did.

Ms. Matthews said you suspended them.

Mayor Teller said correct.

Ms. Matthews said then wasn't there an internal affairs investigation done.

Mayor Teller replied I can't go into that.

Mr. Bishop said you can say there was an investigation. You just can't talk about the substance.

Ms. Matthews said I just asked if one was done.

Mayor Teller said there was one done.

Ms. Matthews asked if that was done by Suffolk County, which is a neutral....

Mayor Teller said that is correct.

Ms. Matthews said they came back with their report. So, was that all read by the Board and they still couldn't decide whether to move forward for a hearing and all this disagreement occurred. I mean, that doesn't make sense. You're elected officials. You sit here. You know what the law is, you don't know what the law is, then you find out. Then use common sense and go in the right direction. It just doesn't make sense how you sit up here and you bicker back and forth. Nobody is picking on you. We are residents. We pay taxes. We want our Village to run correct. This has to end. It really does. It's ridiculous. It's a bad mark on the Village and on who is running the Village and that's all of you, believe me. I also would like to ask Mr. Bishop about the synagogue. They're fully exempt. They pay no taxes and you're letting them do all this stuff and it's all related to religious activities.

Mr. Bishop said I'm not letting them do anything.

Ms. Matthews said I didn't mean you personally, but the Village.

Mr. Bishop said the Village is following the state and federal cases that relate to religious uses and social activities that are associated with religious uses and that is the crux of their decision. It is based on an analysis of cases by Second Circuit Court of Appeals and by the Court of Appeals of the State of New York which discuss what religious use is and how municipalities are limited to a substantial extent in regulating religious houses.

Ms. Matthews said but, that's a thin line.

Mr. Bishop said the fact that they are tax exempt is an indication that they are a religious use, otherwise we wouldn't give them the tax exempt status. But, on top of that, their conduct alone and the activities that they presented to the Board at the public hearing indicated that all of the uses that they were asking for were religious uses.

Ms. Matthews said but, red flags were going up all along all these years. They built the house for the Rabbi to live in. He never lived in it. The attorney was here for the Special Exception about the dumpster. Where is that dumpster? Right smack in the parking lot, nothing is done there. I just think as an exempt property and there is a thin line that they can go over, but the Village has got to be aware that there is something going on there and you've got input from all the neighbors. There's something going on.

Chris Bean, Westhampton Beach, said he wanted to thank everybody for showing up tonight. He said the last time we came all these resolutions were on board. You guys had a month to know that they were coming up. You had a month to have Executive Sessions. What I suggest you do is that you all here tonight have an Executive Session, find out whatever goals, whatever stuff you want to get done and meet with an attorney if you have to, hire somebody and then have a hearing. Give these men a fair hearing. Right now, everybody knows who they are whether you've said it or not and their name is mud because of it, because of your inaction. Let's clear it up. Every one of you have read the investigative report from Suffolk County. Several of you have told me you've read it and I think that it's time for a hearing, talk to an attorney, arrange a hearing, get this thing over with so we can move on. I'm embarrassed when I have to go to places and people say, "Oh, you're from Westhampton Beach, I see what's going on there". Let's end it tonight, go downstairs, have an Executive Session, finish this thing off and move on with the hearing.

Dean Speir said I have to point out to Mr. Tucker that you omitted something in your recitation of the facts as you recollect them in talking about costs that there was a motion on in the meeting last November, I believe it was, to, I'm sorry December, to suspend the unnamed officers without pay preparatory to a disciplinary hearing. That would have gotten the Village off the time clock on that. Then you guys dump that. Why? You know, whatever you did, you did. But, let's not forget that that was one of the things that you did

when you're talking about you know, what you wanted to do and how you wanted to do it and it's costing the Village money. There was a month's worth of salary and benefits that you could have saved the Village while moving towards, as Mr. Bean said, clearing these guys' names or else getting them off the force.

Trustee Tucker asked are you talking about the January 7th meeting.

Mr. Speir said no you weren't here. We were.

Trustee Tucker asked but, is that the meeting you were referring to, it was on that agenda.

Mr. Speir said no, no, no. I'm talking about the December meeting where you introduced a peremptory resolution.....

Trustee Tucker said hold on, that's not how that occurred. We explained that to you already, but that is not how that occurred with that resolution. Those resolutions that were on that day of that meeting had not been discussed by us at all whatsoever. Those were put on the agenda by the Mayor and solely by the Mayor. We had not discussed those at all. In fact, that day we had an Executive Session with our labor counsel and that is the first time when we discussed those resolutions and any other resolutions and it is our labor counsel at that meeting that gave us advice and that is how the Board voted that night. We didn't slip any resolutions on that night. Mr. Mayor, you could speak to that. The Mayor, based on that Executive Session with the whole Board and himself, rescinded the resolutions that he had put on there and added the resolution on there that came out of the discussion with labor counsel.

Mr. Speir said I don't think you rescinded them. I think you removed them from the agenda.

Trustee Tucker said excuse me, that's correct. He removed them off and that was something the Mayor did. That wasn't something that we added on, because I know you said here we added on resolutions, why can't the Mayor add on resolutions. We had not done that. That was from a duly conducted meeting of the whole Board and that's what came out of the meeting.

Mr. Speir said but you carried that on. That wasn't on the agenda.

Trustee Tucker said that didn't come, the agenda was not created. The agenda shouldn't have been created without that on there. As Mr. Bean just said, we met with labor counsel before the meeting, that afternoon a couple hours prior we did. That's when that.....

Mr. Speir asked who sets the agenda.

Trustee Tucker said who sets the agenda. That's an interesting question that you asked that.

Mr. Bishop explained that the agenda is set by the Village Clerk at the direction of the Mayor.

Trustee Tucker said the Mayor presides over meetings and.....

Mr. Bishop said I'll say it one more time.

Mr. Speir said listen to your attorney.

Trustee Tucker said Mr. Bishop, excuse me, Mr. Bishop.

Mr. Bishop said do you not want me to respond or

Trustee Tucker said no, I don't want you to respond. He's talking to me, so I didn't ask you to respond.

Mr. Speir said and you're dissembling, knowingly or otherwise, the Mayor sets the agenda or the Village Clerk sets the agenda at the direction of the Mayor, not the Trustees.

Trustee Tucker said the Mayor presides over meetings, okay, and Trustees can add anything on to the agenda the same way the Mayor can add anything on to the agenda.

Trustee Levan added yes, they can.

Mr. Speir said you carried on a resolution essentially nullifying the resolutions that the Mayor had on the agenda. You carried that resolution on.

Trustee Tucker explained the Mayor did that, that night.

Mr. Speir said no, Mr. Tucker, that was done by you and Mr. Kametler.

Trustee Tucker reiterated no, the Mayor did that, that night.

Mr. Speir said let's go to the video tape. He removed them because the carry-on resolution you made essentially nullified.....

Trustee Tucker said it wasn't the carry-on resolution that we made.

Mr. Speir said it wasn't on the agenda.

Trustee Tucker said that is correct. There was not time to change the agenda. We requested that it would be on the agenda for that evening and the Mayor chose to do it that way. Is that correct Mr. Mayor?

Trustee Levan said yes, you took them off Conrad.

Mayor Teller explained we adjourned the Executive Session to open it at the regular meeting and you produced the resolution at that time. I had the resolution, my resolutions on the agenda and I took them off.

Deputy Mayor Birk said I was not here.

Trustee Tucker said I think that was the Executive Session.

Trustee Levan said I think you're talking about two different meetings.

Mayor Teller said that could very well be.

Peter Lehmann, 82 Brook Road, said that every day when I go to Town I pass on Griffing Avenue a house that was burned down and I think it was Mr. Guldi's house. Is there anything in the Village code or can the Building Department do something because I consider it an eyesore and also it's a safety issue, I think. Because, if I was a kid, a twelve year old kid, when I was twelve years old, I would have been in there looking around to see what it looks like. So, to me.....

Mr. Speir said it's called an attractive nuisance.

Mr. Lehmann said yes, so, to me it looks like it's a dangerous situation. Is there anything that we can do to get that either re-built or knocked down?

A member of the audience said that a piece of the plywood is pulled off the bottom, too, because I walk the dogs by there. So, the kids could get in.

Building Inspector Paul Houlihan said after the fire we had to see the building was secured and we've done that. If there is a piece of plywood that fell off, we'll go down there and take a look at it and we can make sure that they keep it secure. It's not in danger of collapse and as long as they have it secured, it's not a danger to anyone as long as it is secured tightly. I believe the last conversation that we had about that building, I believe the banks are taking it back and I'm not exactly sure who has ownership at this point in time. So, we have secured it and we have made sure that no one can get in it and we'll double

check that and we'll monitor it closer to make sure that no windows there are open. But, there is nothing right now that I can do to have the building torn down.

Mr. Lehmann asked if there was any code in the Village that says you have to keep your property looking nice like, you can't let the grass grow, you can't have your chimney fall down on your front lawn and leave it there for six months. Are there any rules like that?

Mr. Houlihan explained we do have a housing maintenance with the grass and we have been up there, there's been snow on the ground recently, but I'll go take a look at it and see where it sits and we'll keep a closer eye on that. But, as far as removing the building, there is nothing I can do to make him remove it yet. But, to be perfectly honest with you, I believe it is owned by a bank at this point. So, we're hopeful that we can get them to do something with it shortly.

Mr. Lehmann said so, if my house burns down and I want to just board up the windows and then walk away from it, it's going to sit like that for the next twenty years.

Mr. Houlihan responded no, I think at some point we'll be looking at that and we'll be discussing that with them, but can we get it done in a six month period. I don't think so, no.

Mr. Lehmann said you just told us you can't do anything because he's following the rules and now you're telling us you can do something.

Mr. Houlihan said no, he's following rules that he has it boarded up.

Mr. Lehmann said in five years from now, if it is still like that, it's just going to be like that.

Mr. Houlihan said no, I don't think it will be like that five years from now. But, within a year's time period, yes, it often takes longer than that. I can take a look at it.

Irene Barrett said that Turchin's house on Church Street was like that for years, for years.

Mr. Lehmann said I don't understand. You're telling me the Village can't do anything or the Village can do something.

Mr. Houlihan said I'm telling you that the code allows us, the NYS Building Code, to board it up and make sure that it is secure and not a hazard. No, the state building code doesn't give us the authority to come in, in a specified time period after a fire, and have a house removed unless it is in imminent danger of life safety. And, it's not that right now. We will go there and check and make sure that the plywood doors and windows continue to be boarded up and sealed so it is not a hazard. We have looked at that. If someone has torn off a piece of plywood, we'll make sure that it is corrected right away.

Mayor Teller said this house is also subject to a number of investigations.

Mr. Lehmann said I understand that. I'm just getting.....

Mayor Teller said we can only do so much. I've already asked him if we could tear it down. We can't do that. We've made sure the logs that were out front were picked up and stuff, but there is only so much we can do with this piece of property at this time.

Mr. Lehmann asked have you been past there recently. There is a chimney across the whole front lawn. It looks ridiculous.

Mayor Teller said yes, I'll grant you that. I go down that street pretty regularly.

Irene Barrett asked if she could just clarify something with Mr. Bishop. On the fact of the commercial, not the commercial, but the activities of the Temple, are you telling me that they can have Bar Mitzvahs and they can have weddings and they can have catered services there during the year. How about if they have non-members who come in there, which I know they do, and have weddings and have catered wedding receptions.

Trustee Levan suggested I think you should read the conditions.

Ms. Barrett asked will they be enforced. If, in fact, that I come and I say I know there's a wedding there, when there's a tent joining the Synagogue and joining the reception area. I have pictures of the tent on my camera. You're telling me that there is no wedding there and no commercial activity and I'm called a liar.

Mr. Bishop said I think they have the right to have a wedding at the Synagogue.

Ms. Barrett asked what about the reception.

Mr. Bishop said whether or not they have social activities that are related to religious uses, a government municipality is extremely limited as to the regulation of that. This decision follows the limitations the municipality has. There are certain things that you don't like about the Synagogue and I understand that and other people may even share that. However, there are certain limitations that this Board has with respect to regulating the things that you would like to have regulated. The Board will and has followed the law in both this decision and other decisions.

Ms. Barrett said I want to correct that. There are not things; I'm not picking on the Synagogue. What I'm saying to you is they were given every exemption that this town can give them; one for dumpsters, two for parking, three for commercial, for putting in a commercial kitchen in a residential area. It's not that I don't like them. It's what they've been granted and how they abuse it. Every time they come to a meeting and I'm here, they tell you they're going to do this and every single time they don't do it. To get their approval, they say it.

Elyse Richman, 78 Rogers Avenue, said I'm a member of the Synagogue. My son, who is right over there, will be Bar Mitzvah'd at the Synagogue in three years and you're welcome to come (indicating to Ms. Barrett).

Ms. Barrett said I've already been there.

Trustee Kametler asked will there be a tent.

Ms. Richman responded there might be a tent, a band and a tent, but no catering.

Mayor Teller said you'll have the permit from the Building Department.

Chris Ruggles, Westhampton Beach, said I just need to clarify a couple of issues for myself because I've been basically listening to everything that's been going on. How does the Board run? Is there a uniform vote and the majority rules or not? I just want that simple answer.

Trustee Levan responded majority rules.

Mr. Ruggles said so, majority rules.

Mr. Bishop explained it isn't that the majority rules and everything that a majority wants can be done. There are certain duties that the Mayor has. There are certain duties that the Village Clerk has. There are certain duties that the Police Chief has and even though you may be a majority of the Board, you can't necessarily infringe on the statutory rights of the other officer, such as the Mayor. So, it isn't that a majority of the Board.....

Mr. Ruggles said can I just stop you for a second. Maybe I mis-said what I.... As far as a resolution is concerned and a vote is taken. Does the majority carry the vote?

Mr. Bishop said it depends on the resolution. If the resolution doesn't infringe on those things that I just spoke about, then the majority would carry. If there is a dispute between one resolution having force and effect and a dispute on the other side that it doesn't have force and effect, then you get into an impasse.

Mr. Ruggles said then that would basically necessitate an Executive Session.

Mr. Bishop said it would necessitate something.

Mr. Ruggles said so, then I did understand it correctly. When you come to loggerheads, eventually an Executive Session has to come or discussion has to be formed and a resolution to this problem has to occur.

Mr. Bishop said well, no it can continue the way it is and there is nothing, if you're saying, I'm not sure, I can't give public legal advice.....

Mr. Ruggles said I'm not asking you to. I was just trying to figure, I mean, I understood that the labor attorney gave resolutions and a vote was taken. Did I mis-interpret that?

Trustee Levan said that is correct.

Mr. Ruggles said so, the labor attorney evaluated what Suffolk County gave him, saw the result of Suffolk County, the labor attorney.....

Mr. Bishop said you don't know what the labor attorney did or didn't do.

Mr. Ruggles said again, that's fine and I didn't understand, so, the labor attorney issued resolutions.....

Mr. Bishop said no, the labor attorney, what was stated so far and that is all that can be stated is the labor attorney discussed matters with members of the Board, from that resolutions were formulated and passed.

Mr. Ruggles said okay and there was a vote taken on those and they were passed.

Mr. Bishop said that is correct.

Mr. Ruggles said and no action was taken on that or was that the final say on what was done. I mean, if there is a resolution from the labor attorney that addressed these issues and it was voted on and there was a finalization from that, what happened.

Mr. Bishop said are you asking me?

Mr. Ruggles said the Board in general, I don't care; I just, maybe I'm misunderstanding what's going on.

Mayor Teller said I believe the resolutions are illegal and improper and they infringe upon my official duties as Mayor and I'm challenging them. So, we're at loggerheads right now between them.

Mr. Ruggles said that's fine, I just want to understand that it's okay that you guys, meaning the Mayor and Toni to have a difference of opinion and to take a majority vote and say we're going to re-analyze this. But, if the majority says that they've got a problem with it and they want to re-analyze it, there's a problem with that. So, it's okay for the issues to be addressed.

Mayor Teller said Chris, you're losing me.

Mr. Ruggles said there were resolutions that were addressed. They were voted on. You took exception to it and you decided that you didn't want to do it, but if they take exceptions to what you did, that's a problem.

Mayor Teller said no, what I'm saying is.....

Mr. Ruggles said okay, so you need an Executive Session to handle this.

Mayor Teller said certain things we can't discuss in Executive Session or in public. What I say is I objected to their resolutions that they passed. I researched the law. I went and got an independent attorney to check my review and I believe we've got illegal resolutions on

the board. We did not factor in that the Chief of Police, we've got a Section 30 in our antiquated rules and regulations that are 1964 that gives him certain responsibilities that he has to do and it gives the Board certain regulations that they have to do of certain rules and this is derived from a section of the Village law that the Board back in the sixties gave to the Police Department. And, I believe that the labor attorney missed it, forgot it or we didn't ask him the right questions and we got an answer. I still have two police officers that I will not put on the road and we've got to resolve the problem. It's quite simple. A disciplinary matter is boiler plate, the charges, the hearing, the resolutions to suspend or not suspend, the resolutions to have a hearing officer, stenographer, that's boiler plate.

Mr. Ruggles said I understand, but as far as the Board is concerned, I mean I would like to think that an elected official would take the time to investigate it and know what they were voting on before they voted on it.

Mayor Teller said I think we all know what we're voting on.

Mr. Ruggles said it doesn't sound that way, but that's okay.

Mayor Teller said it might not sound that way.....

Mr. Ruggles said I've been sitting here listening to this and it doesn't sound like, there's three varied opinions that aren't quite sure as to what exactly they're voting on before they throw their vote and I don't want any politician voting without knowing what they're voting for and I would think that in the United States everybody out here who values the United States would want their politician to know what they were voting on.

Mayor Teller said Chris, I have no doubt that we all know what we're voting on.

Mr. Ruggles said okay.

Mayor Teller asked if anyone else would like to address the Board. There being no further response he made a motion at 8:33 p.m. to adjourn the meeting. Seconded by Trustee Birk and unanimously approved. 4 Aye, 0 Nay

Respectfully submitted,

Christine Owen
Deputy Clerk