

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

Resolutions:

MOTION TO ADD-ON RESOLUTION

Trustee Kametler made a motion to add-on a resolution to tonight's agenda. Seconded by Trustee Tucker.

RESOLUTION CONCERNING ADVICE FROM THE VILLAGE ATTORNEY

Motion by Trustee Kametler:

WHEREAS at the January 12, 2010 meeting of the Board of Trustees the Village Attorney made reference to certain rules of procedure in existence that had been adopted by a previous BOARD OF TRUSTEES, and

WHEREAS in a legal opinion written by the Village Attorney dated January 6, specific reference was made to certain rules of procedure in existence that had been adopted by a previous BOARD OF TRUSTEES, and

WHEREAS on November 6, 2009 a specific request was made to the Village Attorney for answers regarding such rules of procedure, and

WHEREAS in the opinion of the BOARD OF TRUSTEES there was a significant and unwarranted delay in the production of such rules of procedure which were not provided until February 18, 2010, and

WHEREAS upon review of the rules of procedure that have now been disclosed the BOARD OF TRUSTEES is of the opinion that it is evident that the procedures that have been employed by the MAYOR in preparing the agenda and a number of determinations made during a meeting of the BOARD OF TRUSTEES concerning whether a majority of the BOARD OF TRUSTEES could move to strike matters from a meeting agenda were plainly wrong and plainly contrary to the rules of procedure that the Village Attorney previously cited, and

WHEREAS, it is the opinion of the BOARD OF TRUSTEES that the rules of procedure require that agenda items must be submitted at least one week prior to the regular meeting, and should such items be submitted after that deadline, they may only be placed on the agenda with the consent of the majority of the Village Board, and

WHEREAS, it is the opinion of the BOARD OF TRUSTEES that the final agenda is to be distributed to all members of the BOARD OF TRUSTEES no later than 4:00 pm two days prior to the regular meeting; and

WHEREAS the Village Attorney, then in possession of the rules of procedure, advised the BOARD OF TRUSTEES that a majority could not reasonably advance the business of the

Village of Westhampton Beach so long as the MAYOR elected to place previously concluded business on the agenda, and

WHEREAS it is the opinion of the BOARD OF TRUSTEES that the Village Attorney publicly endorsed or otherwise supported violations of the rules of procedure of the BOARD OF TRUSTEES and thereby substantially impaired the proper functioning of the BOARD OF TRUSTEES, and

WHEREAS the BOARD OF TRUSTEES is mindful that the Village Attorney was appointed by the Mayor, the BOARD OF TRUSTEES is also aware that legally the Village Attorney represents the entire BOARD OF TRUSTEES, and

WHEREAS the RULES OF PROFESSIONAL CONDUCT as it pertains to Attorneys Admitted to the Practice of Law in the State of New York as published in Title 22 of the New York Code of Rules and Regulations (NYCRR) section 1200.13(b) provides:

"If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action or intends to act or refuses to act in a matter related to the representation that (i) is a violation of a legal obligation to the organization or a violation of law that reasonably might be imputed to the organization, and (ii) is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization."

THEREFORE BE IT RESOLVED that the Village Attorney is directed to prepare a privileged written opinion which shall advise the BOARD OF TRUSTEES concerning:

1. Whether a majority of the BOARD OF TRUSTEES, upon a motion duly seconded, to strike matters placed on the agenda may strike such matters from the agenda; and
2. Whether there is a prohibition against adding any matter to the agenda for a BOARD OF TRUSTEES meeting on a date less than one week before a regular meeting, except upon the approval of the majority of the BOARD OF TRUSTEES; and
3. Whether the MAYOR has the legal authority to disregard a duly adopted resolution of the BOARD OF TRUSTEES directing that previously suspended Police Officers be restored to the full duties they performed prior to such suspension; and instead direct that the Police Officers be placed on restricted duty without diminution of salary, which results in a reduction of services to the residents of the Village of Westhampton Beach to which the BOARD OF TRUSTEES, and the taxpayers of this Village, are entitled in accordance with the terms of duly negotiated contract with the collective bargaining unit that represented said officers.

and be it further

RESOLVED each of the three legal opinions rendered will cite all legal authority that forms the basis of such opinions and further shall cite any other legal authority that is contradictory or inconsistent with the legal opinion he has rendered; and be it further

RESOLVED that the written opinion of counsel shall be provided to the BOARD OF TRUSTEES on or before March 18, 2010 to be delivered contemporaneously by e-mail to each member of the BOARD OF TRUSTEES unless a member of the BOARD OF TRUSTEES requests delivery of the opinion in writing in which case such writing be delivered only after delivery by e-mail has been effected; and be it further

RESOLVED that the Village Attorney is hereafter directed to be present at the meetings of the BOARD OF TRUSTEES to provide such privileged legal advise as may be requested by the BOARD OF TRUSTEES; and be it further

RESOLVED that the Village Attorney shall not offer legal advise in public upon any question unless and until after a specific legal question has been presented to him upon a motion duly made, seconded, and passed calling for that opinion; and be it further

RESOLVED that should a minority of the BOARD OF TRUSTEES desire legal advice from the Village Attorney, the BOARD OF TRUSTEES will reasonably accommodate such

request in an Executive Session to be convened at a time not inconvenient to completion of the orderly business of the BOARD OF TRUSTEES, and

RESOLVED that all legal opinions of the Village Attorney are privileged and shall not be disclosed to any person who is not a member of the BOARD OF TRUSTEES, unless and until such privilege has been waived upon a motion passed by the BOARD OF TRUSTEES; and it is further

RESOLVED that the BOARD OF TRUSTEES will reconsider these procedural restrictions that have been hereby adopted at such future time when the BOARD OF TRUSTEES is confident that the representation provided by the Village Attorney will be in the interests of the entire BOARD OF TRUSTEES, and not a product of partisan political calculation.

Seconded by Trustee Levan.

Village Attorney Hermon Bishop remarked that he wished to have discussion on this resolution before it is passed. He said I resent this resolution. I think this is an atrocious resolution insulting my integrity, my professionalism. I think that the individuals who wrote this resolution have a lot of nerve. I've never, never broken the code of professional responsibility. I've submitted memorandums to this Board to the extent that ethics allow me to do so and I for one would like to know who prepared this resolution because I don't know whether the Board members as a whole discussed this resolution at all and this is obviously prepared by somebody who has some minimal legal training and therefore, I think the Board has a right to know who did this.

Trustee Levan asked are you going to call for a vote, Conrad. She said she had seconded it.

Mr. Bishop said we have a right to discuss it.

Mayor Teller said we have a right to discuss it before we vote.

Trustee Levan asked if anyone else on the Board had anything to say.

Deputy Mayor Birk said this is the first time I saw this, so this is the first time I've seen this, so I'm not aware of this.

Mr. Bishop said in addition, I'm just going to say I cannot be bound by time deadlines set by this Board. I have matters that I'm handling for this Village. I have four Boards that I represent and I'm not going to be bound by a time deadline. Any time any Board member wants an opinion from me, all they have to do is call me up and I give the opinion to the extent that I can under the rules of professional conduct. There have been inquiry as to certain matters and I have advised this Board on every single request that is given to me. This is an outrageous resolution. I think you ought to be ashamed of yourselves.

Deputy Mayor Birk asked what lawyer prepared this, Jim.

Trustee Kametler asked what?

Deputy Mayor Birk asked what attorney prepared this.

Mayor Teller asked what lawyer is responsible for this, who paid for this.

Trustee Kametler said I didn't pay those lawyers for this.

Mayor Teller said no, we don't have a lawyer then.....

Trustee Kametler said I didn't write that.

Mayor Teller said I must say this is the first time I've seen it. I've been with Bo and asked him for an opinion not too long ago. He told me he could not do it due to professional ethics. It involved the whole Board. The Board was arguing with me. He could not give me an opinion. I also went to our labor attorney for the same thing. He could not give me an opinion because it was directly for me and not for anybody else. He couldn't do it because

of professional ethics. Both of them said that. I went out and hired my own attorney and I got my answers at that time. This has not been directed to me in any way, shape or form. I've got four other resolutions that were delivered, but that is neither here nor there. It was not delivered to me.

Trustee Levan said it was an add-on.

Trustee Tucker said that is correct. It was an add-on.

Deputy Mayor Birk asked are we going to find out. Do we know who the attorney was?

Trustee Tucker said and it is very important, because we have rules of procedure that you had referred to as stated in there, Bo, and legal opinions are valued at the proper place and time. You are an un-elected appointee and this Board just doesn't want your personal opinions to just come out at any time. At the last meeting you told us at first that you weren't allowed, that we, you know, you didn't write the resolutions that were added on by the Mayor. Then, you said you think we should vote on them. Well, the rules of procedure that you took months to get us state clearly in there the opposite of that, that by a majority of the Board voting, they can strike anything from the meeting, a resolution, by a majority of the Board voting.

Mr. Bishop said that is totally false. The rules of procedure have been filed with this Village for decades.

Trustee Tucker said that is correct and those are the ones you.....

Mr. Bishop said I gave you a memorandum that referenced those rules and procedures. When you asked me for a copy of those rules of procedure, I gave them to you.

Trustee Tucker said that is correct.

Mr. Bishop said they were available for you, so don't say I took months to give them to you. The second issue is.....

Trustee Tucker said wait a second, you gave them to me two weeks ago.

Mr. Bishop said you e-mailed me and I sent them to you, right after you asked for them and you said thank you.

Trustee Tucker said but Bo, the issue is that the rules.....

Mr. Bishop said there's only one issue that..... I don't want to discuss..... I am not directed to offer legal advice in public upon any question unless you ask for that legal advice. Number one, if you're going to do something that I think is illegal and is not proper, I am not going to be sued for malpractice because I can't say to you that this, I don't advise that you do or do not do something. I don't know who prepared this, but it is disgraceful. The person who prepared this, number one was not appointed by this Board. That person has no, in my opinion that person has no relation, client/attorney relationship with this Village, this Incorporated Village. Therefore, if he gives advice to the Village and prepares documents for the Village, there would be no recourse if this Village would have against them for malpractice or other negligence, because he has no duty, no responsibility. He also has no duty in attorney/client privilege. So, whatever information specifically, confidential information given to this individual is not necessarily protected by attorney/client privilege. It should not even be given to him without the Board agreeing to do so. That's a legal opinion.

Trustee Levan asked does that have to do with that whole thing with Toomey, the information of Conrad's.

Mr. Bishop said the Toomey information, Conrad obtained an opinion from an outside attorney based on facts, I believe that were in the public record and that opinion was never released to the public. That was for his own purposes.

Trustee Levan said he referred to it.

Mr. Bishop said I'm going to tell you, I'm going to tell you right now. You have seven resolutions where you, I received two days ago and they consisted of four resolutions, eighteen pages long; I received them two days ago. I haven't had time to research them, obviously. They have labor law issues that have to be researched. The reading of those resolutions, in my opinion, will subject this Village to substantial liability. There have been two notices of claim filed against this Village and those resolutions call for the disclosure of certain information that would impact on this Village. And, in addition, the information, the reading of the resolution itself would result in substantial injury to this Village.

Deputy Mayor Birk asked Bo, who wrote those. Who drew up those four?

Mr. Bishop said I think the Board should be informed who wrote those four resolutions that were eighteen pages long and whether that person, we know that person hasn't been appointed by this Board, so that person doesn't represent this Board. So, this is a shadow attorney who has no responsibility to this Village and no responsibility to this Board as a whole. And, yet, this Board comes up with these resolutions and I don't recall any meetings that were held with respect to these resolutions and how these four resolutions can all of a sudden come up without any discussion among the Board members respecting the content of those resolutions. You have two notices of claim that have been filed against this Village. The reading of those resolutions will adversely impact on those claims that are being made. In addition, I wasn't going to go into this but I'm going into it now and I want it on the record. In addition, the notices of claim deal with information that is specifically referenced in those resolutions. Those resolutions should be reviewed by the counsel who is going to represent this Village. NYMIR is the insurance company that represents this Village. They appoint counsel, they not only insure the Village, they appoint counsel to represent the Village and that attorney should review those four resolutions that are on the agenda. In addition, the District Attorney should review those resolutions as well, because they may impact on pending and current criminal proceedings. In addition, the labor attorney should review those resolutions before they are read, because there are several areas of law, not provisions of law, that are called into question and before this Board and I am advising the entire Board this. Nobody is going to stop me even if a majority votes tonight don't speak, I'm still going to speak. These opinions should be obtained by counsel; these resolutions should be reviewed by counsel prior to the reading of them.

Trustee Levan said the seven resolutions.....

Mr. Bishop said there are four resolutions.

Trustee Levan said I'm talking in the past, that Conrad put on in the afternoon of a meeting instead of under the rules and regulations that you have to have it on a week ahead of time and unless a majority of the Board agrees to having it go on earlier. You felt that those should be read even though we had not seen them before nor had we had time to discuss with counsel on those. Why was that okay then?

Trustee Tucker said that's our problem, Bo. That's what the problem is, Bo.

Mr. Bishop read the rules and regulations regarding resolutions. He said it may be that I made a mistake if that occurred. I didn't know when the resolution was put on, when it was put on the agenda. I have no notes as to that, but I follow the rules of procedure to the best that I can. If I made a mistake as to being a day late or whatever it was, then I will take responsibility if that particular item was not followed. However, these rules and regulations have not been followed by this Board since they were adopted in 1997. But, we will make sure that they are followed to the letter from now on.

Trustee Tucker said these are the rules of procedure that you referred to in your legal document to us.

Mr. Bishop said yes, it was one sentence. I said that you could find the answer pursuant to the rules of procedure. Do you want me to read them now; I'll give it to you.....

Trustee Tucker said no, I have the memo. I don't need you to read the memo, but that is what you had stated as of these rules of procedure that you referred to. So, when we finally got these rules of procedure a couple months later, at the last meeting you had told

us that we weren't able to do something that we were attempting to do and in terms of wanting to.....

Mr. Bishop asked where does it say, tell me what section I told you.....

Trustee Tucker said resolutions and local laws. Resolutions cannot be removed from the agenda of a regular or special meeting without a motion adopted by a majority vote of the Board of Trustees. That's what we did. The majority of the Board voted.....

Mr. Bishop read the rules.

Trustee Tucker said it's number five.

Mr. Bishop said you want to remove resolutions from the agenda, fine. Remove them from the agenda by a majority of the Board.

Trustee Levan said there are resolutions that are put on here that weren't put on in a timely manner for the third month in a row.

Mr. Bishop said well, you have resolutions that were put on two days before the meeting.

Trustee Levan said that is correct, because it says.....

Trustee Tucker said that was with the consent of the majority of the Board, all four Trustees.

Trustee Levan said all four Trustees agreed to put those on.

Deputy Mayor Birk said I've got to jump in there that.....

Mr. Bishop said if that's the way you want to run the Village government, that's fine with me. I represent the Board as a whole and.....

Trustee Levan said we would like to do it by the rules of procedure.

Mrs. McGinnis said I don't have the rules. She said those rules were adopted by a Board in 1997 and it was used then, but it was never used by prior, so I don't know, I was unaware that those rules..... Those were the only rules we adopted ever and once preceding that, but.....

Mr. Bishop said I just became aware of them myself.

Mrs. McGinnis said in a working practice we've never used them. You've all been here for many years. The prior administration for eight years never employed these.

Trustee Levan said wait a minute. I had questions about rules and procedures and I went to see Bo and asked him for them in November.

Mrs. McGinnis said we can do them. You should adopt those.

Mr. Bishop said you never, you asked me for three questions. I gave you a memorandum on those.....

Trustee Levan said two months later.

Mr. Bishop said I told you what was occurring. You did not have a problem when it was.....

Trustee Levan said I called you every ten days and said when am I getting it. I even asked you when I was going to get it as of.....

Mr. Bishop said you are untruthful.

Trustee Levan replied I am not.

Mr. Bishop reiterated you are untruthful.

Trustee Levan asked did I call you and ask you if I could get a Christmas present.

Mr. Bishop said you asked me and I told you exactly what was happening.

Trustee Tucker said hold on.

Trustee Levan said come on, Bo.

Mayor Teller asked does anybody else have something to say on this.

Mr. Speir said it's a question at the Board, right. The question was asked who prepared this memorandum.

Mayor Teller said yeah, we didn't get an answer.

Mr. Speir asked why.

Mayor Teller said you can ask that at the.....

Trustee Levan said he made a motion, I seconded it.

Mayor Teller said okay and took a vote on the motion as follows:

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

Accept minutes of Board of Trustees Meetings

Motion by Trustee Tucker:

RESOLVED, that the minutes of the Board of Trustees Meetings of February 4th and Special Meeting of February 11th, 2010 are hereby accepted.

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

Accept Departmental reports

Motion by Deputy Mayor Birk:

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

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

Approve 2008/09 Financial Statements

Motion by Trustee Kametler:

RESOLVED, that the 2008/09 Financial Statements for the Village and Justice Court audit prepared by Lundy & Company, are hereby approved.

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

Authorize Dunn Engineering Rate Schedule

Motion by Trustee Levan:

RESOLVED, that the amended Dunn Engineering rate schedule is hereby approved effective February 2010.

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

Refer Liberty Gas Services Special Exception Application to Planning Board

Motion by Trustee Tucker:

RESOLVED, that the special exception use application submitted by Liberty Gas Services to establish a retail propane gas business at 26 Old Riverhead Road, is hereby referred to the Village Planning Board.

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

Approve 2010 Marina Rate Schedule

Motion by Deputy Mayor Birk:

RESOLVED, that the attached 2010 Marina Rate Schedule is hereby approved.

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

Schedule 4/1/10 Public Hearing on 2010/11 Tentative Budget

Motion by Trustee Kametler:

RESOLVED, that the Village Clerk-Treasurer is hereby authorized to publish and post a Notice of Public Hearing for the 2010/2011 Tentative Budget to be held on April 1, 2010 at 7:00 p.m. at the Village Hall.

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

Approve East End Little League use of Great Lawn

Motion by Trustee Levan:

RESOLVED, that the East End Little League is hereby authorized to use the Great Lawn for baseball practices and games for the 2010 season from March 1st through to July 1st.

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

Approve Five Borough Bicycle Club use of Village Marina

Motion by Trustee Tucker:

RESOLVED, that the Five Borough Bicycle Club is hereby authorized to use the Village Marina as a rest stop during the Annual Montauk Bicycling event to be held on Sunday, May 16th from 6 a.m. to 6 p.m. and to install portable restrooms.

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

Approve “Annual Movie Night” on the Great Lawn

Motion by Deputy Mayor Birk:

RESOLVED, that the Town of Southampton Parks & Recreation Department is hereby authorized to hold the “Annual Movie Night” on the Great Lawn on Monday, July 26th between 6:00 p.m. and 11:00 p.m.

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

Trustee Tucker said I move once again to strike these next seven resolutions from the agenda based on the fact that in our possession we have the rules of procedure of the Village of Westhampton Beach and these resolutions were not legally placed on the agenda at the Work Session. They weren't on there on the agenda one week prior and there was no motion for consent to suspend these requirements that had been adopted by the majority of the Board. Trustee Levan seconded the motion.

Mr. Bishop asked if there is a discussion on this motion.

Deputy Mayor Birk asked did you ever get word from Zuckerman that these could go on, well, I take that back.

Mayor Teller said I have something to say as your Mayor. I intend to always do the right and best thing for our Village. March 8, 2009 a police officer reported to the Chief of Police that his personally owned firearm had been taken from his locker in the Police Department.

Mr. Bishop said you can't discuss that. You cannot discuss.....

Mayor Teller said I am not discussing anything further, that's the field report.

Mr. Bishop said you can't discuss anything that is under investigation or charges respecting any police officers or any other employee. I'm sorry. Otherwise, you can say what you wanted to say. You just can't discuss those two things.

Mayor Teller said I'm not discussing anything further. Since that date, three members of the Village Board have systematically attempted to interfere with what they deemed a botched internal investigation in an attempt to demean the Chief of Police in continuous public meetings. These three Trustees have called for an independent investigation. It was undertaken by the Suffolk County Department of Internal Affairs, delivered to the Chief of Police and Village Board. Upon receiving the written report these Trustees questioned the voracity and quality of the report. Based on an independent IA report, the Chief filed the charges as directed by the Police Department rules. The majority of the Board questioned that action and passed a resolution ordering the Chief of Police to withdraw the charges and also reinstate both officers to full duty restoring any back pay lost. I have steadfastly maintained that the Trustee's actions were not the proper way to handle this matter and not in the best interest of the Village. I received labor counsel's written opinion and resulting from that opinion the improper resolutions passed by the majority of the Board should be rescinded. His opinion is in position of the Trustees and the recommendation should be followed. I further state if the Board does not concur with the following of our own New York State Village Law and New York State Civil Law, I recommend they tender their resignations immediately.

Trustee Kametler said first of all, we asked for the investigation. I'm not discussing anything, Bo, that hasn't been discussed before. You agreed to do this investigation. You agreed that when the report came in, we would sit down as a Board and discuss the results of the investigation. But, you took it upon yourself, you and Mr. Chief, to suspend the officers without discussing it with the Board. We have not to this day sat down as a Board and discussed this. So, therefore, I'm not going to give you any of my vote for a hearing

officer. I'm still waiting for you to sit down with me and discuss it. You refused. This is not a monarchy, this is a democracy.

Mayor Teller said I've been in the office every day.

Trustee Kametler said oh, here we go. You tell me you're not going to discuss it. How many times do I have to ask you?

Mayor Teller said come in.

Trustee Tucker said I think we've all come in plenty to talk to you about it, Mr. Mayor.

Mayor Teller said you and I have talked about it so many times that I'm blue in the face.

Trustee Tucker said that's correct. Well, I'll tell you what, the Board has a right to advance its business and repeated inclusion and last minute posturing by you, when did that report come in you're talking about from the labor attorney?

Mayor Teller responded it came in at 9:00 this morning.

Trustee Tucker said okay, and had you requested that this Board even authorize the research of that report.

Mayor Teller asked am I not allowed to talk to our Village Attorney or am I not allowed to talk to the labor attorney in the normal course of business.

Trustee Tucker said that was not the question. We had gotten a request, as a Board, for the labor attorney to research and to authorize payment and research for that, of which we declined for the various reasons we had explained to you, which had some personnel issues that we can't really discuss and then, miracu..... You've been asked by several people here over the past few meetings if that had been accomplished or we had done it and in fact, as of last meeting, you stated, I believe Mr. Speir asked you Mr. Mayor last Wednesday if you had been in touch with the labor attorney. He asked Mrs. Levan first and then he asked you and you said no. Now, all of a sudden.....

Mr. Speir said Mr. Tucker, a point of correction. I asked if a meeting had been scheduled. I asked that also a month ago. That was all I asked, had a meeting been scheduled.

Trustee Tucker said so, had a meeting been scheduled? But, our thing was the information that you were requesting, it wasn't even the meeting that was being scheduled. I stand to be corrected, Dean. And, you said no and miraculously today, a letter appears from the labor attorney this afternoon or maybe it was this morning, appears from the labor attorney all of a sudden with information on there that you asked questions of. You didn't even give us the courtesy of asking us if we had any questions for the labor attorney that would pertain to helping resolve some of the issues here. First of all, I disagree with the interpretation of some of that advice. Simply put, the Mayor and the Chief of Police are supposed to do what the Board of Trustees direct. You're supposed to, according to the law, you're supposed to supervise the Police Department and subordinates, but what that really means is based on what the majority of the Board of Trustees requests and proposes and passes resolutions and laws.....

Mr. Bishop asked would you like my opinion on this matter or do I need a majority of the Board to speak.

Trustee Tucker said I'm still talking and no, I would not like that. If you would like to discuss it with us in Executive Session, if you have some things to talk to us, because Bo, you know what, the last few times when you told us we were doing illegal things such as pulling agenda items off and what not, now we find out that's different. So, if you want to discuss that stuff with us, I'd be more than happy to get your opinions in Executive Session.....

Mr. Bishop said no, you want to just go in and state what you think the legal opinion is.

Trustee Tucker said we would like your opinion.

Mr. Bishop said would you want to be the legal counsel to the Board and provide the Board what is permitted and what isn't and what occurred and what the law is.

Trustee Tucker said well, I'd certainly read the rules of procedure that I gave out to the rest of the Board before I started telling them they can't do things in public.

Trustee Kametler said Bo, I have a question.

Mr. Bishop said sure. First of all, do I have permission to speak?

Trustee Kametler said you have permission because I'm sure everybody on the Board is going to want to know the answer to this. Are we or are we not Police Commissioners?

Mr. Bishop said in my opinion, you are not the Police Commissioners. You can only be a Board of Commissioners under Article 3 of the Village law. The Commissioners of any Board are appointed by the Mayor, subject to approval by the Board of Trustees. If Trustees were to be on this Board, there can only be two. This was submitted to you in a memorandum by me when you asked me about forming a Police Board of Commissioners. You've told me you want to waive attorney/client privilege to answer that question. That was the question that was asked then and I answered it then and I'm answering it now.

Trustee Kametler asked do you want to add to that, Hank.

Trustee Tucker said according to Village law, we sit as the Board of Police Commissioners, so.....

Mr. Bishop said cite me chapter and verse.....

Trustee Tucker said I'll tell you what; I'll get you a copy of that, Bo.

Mr. Bishop said I'd appreciate you doing that.

Mayor Teller asked Joan, did you make any resolution to withdraw these police resolutions.

Trustee Kametler said I believe Hank did.

Trustee Levan asked which ones, yours.

Mayor Teller responded yes.

Trustee Levan said yes, Hank made the motion and I seconded it.

Trustee Tucker said one other thing Mr. Mayor. I will cite something from the Village law. Section 8-804 does provide specifically for the investigation of charges of misconduct and it's been expressed.....

Mr. Bishop said read the entire section, Mr. Trustee, read the entire section. Read 8-804.1.

Trustee Tucker said I don't have the whole copy in front of me.

Mr. Bishop said I'm surprised that you would be reading a section of law that you want to provide to the public and to this Board when you don't even have the entire provision before you.

Trustee Tucker said Mr. Bishop, this is the kind of thing that we are talking about. If you have some issues with us that you'd like to discuss, we as a Board look up to you for advice and if you're our attorney and you're supposed to be giving us advice, if you knew you had these resolutions two days ago like you said, you had a problem with them, did you call any of us and tell us you had a problem with them two days ago or three days ago.

Mr. Bishop said did you call me and tell me that you were going to prepare these resolutions and put them on an agenda. Did you contact me or did you have some other

shadow attorney prepare these resolutions and spring them on the Board and on me without any time to research them.

Trustee Tucker said we didn't spring them on anybody.

Mr. Bishop said the amount of research that goes into those resolutions. You're asking me a question; I'm going to answer it. The amount of research that has to go into those resolutions is substantial. It requires expert labor law advice. It requires in this case, advice from the District Attorney. It requires research from me and to just all of a sudden prepare eighteen page, four memorandums, and four resolutions is wrong. It's just wrong and that's what you do, sir. You provide resolutions at the last minute to this Board and then you complain about the legal advice that isn't given.

Trustee Tucker said you know something, Bo, that's exactly what's been happening with us. We submitted these ahead of time as a Board.

Mr. Bishop said today.

Trustee Levan said which we are allowed to do.

Mr. Bishop said you are allowed to do it, but you can't expect when I'm working on a Supreme Court case for the Village for you to spring this on me. You have no concept of what legal work is about. You don't have a clue.

Trustee Levan said the Mayor springs them on us. Do you feel the same way about that?

Mr. Bishop said then you can table them.

Trustee Tucker said we tried. You said that we weren't allowed to.

Trustee Levan said we told you and you said we weren't allowed to.

Mr. Bishop said you can make a motion to table; anybody can make a motion to table any motion. As a matter of fact, I would recommend you make a motion to table those four resolutions that you have until proper research is done.

Trustee Levan asked how many months would that take.

Mr. Bishop said hire independent counsel if you're not satisfied with me; hire independent counsel to do it. In fact, if you're going to prepare resolutions like this, you should hire independent counsel to prepare this.

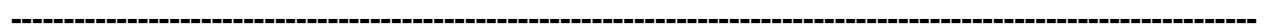
Trustee Levan said correct.

Mayor Teller said a motion was made by Hank, seconded by Joan to remove the following seven resolutions from the agenda:

- Rescind Resolution Re: Withdrawal of Police Disciplinary Charges
- Rescind Resolution Re: Reinstatement of Police Officers
- Authorize Hearing Upon Written Charges
- Appoint Hearing Officer to conduct a hearing of Police Disciplinary charges
- Approve transcription/stenographic services for Police disciplinary hearing
- Authorize suspension of employee pending hearing Re: disciplinary charges
- Authorize suspension of employee pending hearing Re: disciplinary charges

The vote was as follows:

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



Direct Police Chief to report on imposition of Command Discipline & prohibit imposition of Command Discipline by Police Chief & Village Mayor

Motion by Trustee Tucker:

WHEREAS it is essential for the protection of this community that command discipline be imposed from time to time for acts and omissions of members of the Westhampton Beach Village Police Department, and

WHEREAS it is essential that command discipline be imposed in a manner commensurate with such acts or omissions, and it is important that such discipline be uniformly applied to all members of the Police Department, and

WHEREAS recent events have mandated that the proper administration of command discipline be reviewed, and

WHEREAS it is essential that the BOARD OF TRUSTEES must remain fully apprised of such facts and circumstances which indicate whether the Police Department is operating properly and

WHEREAS it is the duty of the BOARD OF TRUSTEES to consider improvements to the operation of the Police Department and receive such recommendations concerning the optimal functioning of the Police Department, and

WHEREAS in accordance subsection 1 of section 8-804 and section 4-412 of the New York State Village Law the BOARD OF TRUSTEES serves as a Board of Police Commissioners,

THEREFORE BE IT RESOLVED THAT The Chief of Police for the Westhampton Beach Village Police Department is directed to provide to the Village Clerk, no later than March 24, 2010, a copy of every report, record, memorandum, writing, or note, authored by him or any subordinate in the Police Department which evidences the imposition of command discipline on any Member of the Police Department of the Village of Westhampton Beach for the period beginning on January 1, 2010 through March 4, 2010; and be it further

RESOLVED that such writings will be filed with the Village Clerk together with a copy of this resolution bearing the Chief of Police's original signature as provided at the bottom hereof indicating that he has made diligent search of the records of the Village of Westhampton Beach Police Department, and indicating that the attached records, if any, constitute all of the records responsive to this directive; and be it further

RESOLVED and ORDERED that BOTH the Chief of Police and the Mayor are hereby prohibited from imposing command discipline upon the members of the Police Department for any act or omission, but are instead directed to prefer in writing such charges as warranted serving a copy of the charges upon the offending officer, and immediately filing a copy of such charges with the Village Clerk; and be if further

RESOLVED that the Village Clerk shall immediately inform each and every member of the BOARD OF TRUSTEES, by contemporaneous e-mail, that charges against a member of the Police Department have been preferred and have been filed; and be it further

RESOLVED that the Chief of Police shall cause a copy of this resolution to be provided to each member of the Police Department; and be it further

RESOLVED that the MAYOR is directed to serve a copy of this RESOLUTION upon the Chief of Police no later than 3 days after said RESOLUTION has been adopted by the BOARD OF TRUSTEES, and the MAYOR shall cause the Chief of Police to acknowledge his receipt of a copy of the RESOLUTION by signing such acknowledgement at the bottom hereof; and be it further

RESOLVED that the MAYOR is directed to immediately file with the Village Clerk the acknowledgement so executed by the Chief of Police; and be it further

RESOLVED that the Village Clerk shall immediately inform each and every member of the BOARD OF TRUSTEES, by contemporaneous e-mail, that such acknowledgment has been filed; and be it further

RESOLVED that the Village Clerk shall immediately, upon receipt from the Chief of Police of records provided by the Chief of Police in response to this resolution, shall immediately inform each and every member of the BOARD OF TRUSTEES, by contemporaneous e-mail, that the records have been filed by the Chief of Police; and be it further

RESOLVED that THE CHIEF OF POLICE IS HEREBY ADVISED THAT IF HE, AS WELL AS ANY SUBORDINATE OFFICER, DESIRES TO SPEAK WITH COUNSEL PRIOR TO PRODUCING SUCH RECORDS, OR MAKING SUCH FILINGS then the Chief of Police shall immediately report such fact in writing to the Village Clerk with the identity of the individual requesting time for the advice of counsel, and the Village Clerk shall upon receipt immediately advise each and every member of the BOARD OF TRUSTEES, by contemporaneous e-mail, and the BOARD OF TRUSTEES will thereafter make reasonable accommodation for such person to receive the advice of counsel prior to the act of production of said records, and be it further

RESOLVED that all records produced and all filings made pursuant to this resolution shall be held as privileged material in accordance with the New York Civil Rights law 50-a(1) pending the assessment of such records and filings by the BOARD OF TRUSTEES concerning the extent to which such records are to be disclosed as a public record.

Mayor Teller said I would like to say in regards to this resolution that it is a violation of the New York State Taylor Law. It is part of the PBA's rights as a union and you cannot unilaterally take it away, suspend it or do anything else without permission of the PBA or a memorandum with the PBA. Number two, it does not confer nor do those two sections of law you quote, direct you as Police Commissioners that I can find. This is a voluntary matter between the police officers and the Chief of Police and it can only be handled if the officer volunteers. It is a way to handle minor disciplinary charges to the Board and they would have to be handled as a full blown Article 75 under the Civil Service Law of any other violation. Command discipline is a totally different way to handle minor disciplinary problems. It is voluntary and limits the punishment and after six months the records are usually destroyed.

Deputy Mayor Birk said I want to make a motion to strike the rest of these off this agenda and the rest of the meeting.

Trustee Tucker asked based on what.

Deputy Mayor Birk responded based on the input from my attorney that we're getting into, we're coming into ground that we shouldn't be coming into.

Trustee Tucker said actually this.....

Deputy Mayor Birk said Hank, let me finish, hang on a second.

Trustee Tucker said sure.

Deputy Mayor Birk said I asked you yesterday, I talked to Bo and I asked you who is this attorney who wrote this stuff up and you can't give me that and I think the people, we all represent the people that are sitting and looking at us and I think they would want to know the information you are bringing up, what lawyer is giving you guys this information.

Trustee Tucker said well, this is the same way that our Mayor was attorney and he wrote some of the resolutions and the same way he referred to Vincent Toomey, who was legal counsel in this Village at one point, but he got let go by the Village for problems that occurred in a case that is very, very similar to this and the Notice of Claims we got today are eerily similar to what had occurred back then in that trial, in those hearings, excuse me. In those hearings, part of the problem is, we, it cost this Village hundreds of thousands of dollars and it took a really long time and this Board, in my opinion, I'll speak for myself right now, I think it's our duty to inquire about information and things that are happening at the

Police Department. It's our duty to know prior to us just saying no problem, let's just go out and hold hearings and let's spend the taxpayer's money and.....

Mayor Teller asked is it your duty to violate the Taylor law with the PBA or do you have a memorandum of agreement.

Trustee Tucker asked and whose legal opinion is that. Is that yours?

Mr. Speir said read the Taylor law.

Trustee Tucker said I know the Taylor law.

Mayor Teller said it's the Taylor law. I already know that.

Trustee Tucker said well, you've been citing a lot of laws to us, some that you wrote and you got information from Vincent Toomey. He was an attorney for the Village that was let go and you want us to.....

Ms. Schweibish asked what about Toni-Jo's question, who wrote that for you.

Trustee Tucker said excuse me, you would like us to, Vince Toomey wrote some of it.....

Mayor Teller said Vincent Toomey was let go because a new Board took over.

Trustee Tucker said I respectfully have to tell you, Mr. Mayor, that there were, we don't....

Mayor Teller said it's in the record. I know the record. I was there.

Mr. Bishop said just for the record, Mr. Toomey is a very reputable attorney who has a great deal of expertise in labor law and I don't believe that he should be slandered or, I withdraw that statement, not slandered, that he should be besmirched the way that he has been. In addition, Mr. Zuckerman, Richard Zuckerman is a nationally renowned labor law expert who has volumes, does treatises on labor law and disciplinary matters and he is probably one of the best, not only in the state but in the northeast of the United States.

Trustee Levan said that's good to know because that's who wrote our original resolution.....

Mr. Bishop said and he didn't have the right information when he gave you the opinion. Did you read the second opinion? Did you read the second one?

Trustee Tucker said we can discuss that in Executive Session if you would like, but to start sitting here now, something that came today and to start throwing out what was in something today from a privileged and confidential, I'm not willing to waive my rights on that, so I don't want to discuss that now.

Deputy Mayor Birk said I want to get back to my motion about scratching the rest of these other three items on the agenda.

Mayor Teller said no, we've got a motion on the table right now, but....

Deputy Mayor Birk said anyone want to second it.

Trustee Kametler asked scratching it for what.

Mr. Bishop asked is there a motion to table, is there a motion to strike, what is your motion.

Mayor Teller said motion to table all four, right.

Deputy Mayor Birk said yeah.

Trustee Kametler asked, to Executive Session, is that what you.....

Deputy Mayor Birk said I didn't say Executive Session.

Mayor Teller said I would say these all.....

Mr. Bishop said excuse me for telling you my opinion, but you can go into Executive Session to discuss these matters because it does relate to disciplinary matters. So, if you wish to go into Executive Session to discuss those resolutions, you can do so.

Trustee Tucker said actually they relate to inquiries about information from the Police Department that pertain to us making an informed, intelligent decision about how we should go forward in terms of what the Mayor is looking to do.

Mr. Bishop said I gave you my opinion on this.

Trustee Tucker said I see nothing wrong with the Board of Trustees wanting to be informed because the last time this Village went through a huge lawsuit it cost this Village hundreds of thousands of dollars and it was never settled. It was settled out of court is actually what happened.

Deputy Mayor Birk said I got a second on my motion.

Trustee Tucker said and Mr. Mayor, with all due respect, you were the Chief of Police during that, so to take your legal advice now is not necessarily in the best interest of this Board.

A member of the audience said that's not nice.

Trustee Tucker asked what's not nice.

Deputy Mayor Birk asked do we have a second, are we going to vote on it Conrad or not.

Mayor Teller said I second it, but we've got a motion on the table.

Deputy Mayor Birk said you got a second. Are you going to ask who is in favor?

Mayor Teller said I've got a motion in favor of passing the direction of the Chief of Police to report on imposition.....

Trustee Tucker said that's not what the resolution.....

Deputy Mayor Birk said my motion was to get these off, table them.

Mayor Teller said there is a motion to table these four resolutions.

Mayor Teller seconded the motion. The vote was as follows:

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

Mayor Teller said okay, we have a motion on the table and seconded directing the Chief of Police to report on command discipline. This resolution has been, we've been advised by our attorney, that it should not go forward. I'm telling you that it is a violation of the Taylor law.

Trustee Tucker asked so, why didn't you even discuss it yesterday. Why didn't you discuss it, you've said nothing to me.....

Mayor Teller said I just spent a whole day just looking over these resolutions and I had other things to do besides, but that's wonderful, why didn't you call this morning when you got your e-mail to me. Who said, she said, don't worry about it.

Trustee Tucker said unbelievable.

Mayor Teller asked for a vote on the resolution to direct the Chief of Police to report on the imposition of command discipline, prohibit the imposition of command discipline by the Police Chief and Village Mayor. The vote was as follow:

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

Deputy Mayor Birk explained I can't support anything where I don't know where it's come from, what attorney wrote them and had any discussion with this, so I'm a firm no.

Mr. Speir asked aren't these the resolutions that your Village Attorney said twenty minutes ago shouldn't even be read.

Mayor Teller said please, we're still doing our normal business. We'll have a.....

Trustee Kametler said so, let me get this straight. We're gonna pass resolutions and they're not even going to be enacted, basically, like everything else that we've passed in the past, correct.

Mayor Teller said you're passing them.

Trustee Kametler said no, but we've passed resolutions in the past where you just said don't even worry about it, we're not doing it, right.

Mayor Teller said I am not going to obey an illegal resolution. I'm the duly elected Mayor of this Village and I will not follow an illegal resolution that I know that is illegal.

Trustee Kametler said so, what we'll probably have to do then, Conrad, is get a judge to decide.....

Mayor Teller said get a court order. We'll probably have to go to court, if you want to pay for it.

Trustee Kametler said then we should..... So, basically we should just table everything and then go to court and see if we can pass resolutions up here as a Board.

Mayor Teller said you can pass resolutions, but legal resolutions.

Victor Levy said the content has to be legal, is that what you're saying.

Mayor Teller said so, if you wish to table them, do I hear a motion.

Trustee Levan said he wasn't making a motion, he was making a comment.

Mayor Teller said okay, make a comment.

Trustee Kametler said let's ask the whole Board. How do you feel? Should we table and get a court order to enact our resolutions or should we continue on?

Trustee Tucker said I think this information is important for us to know so we can make an intelligent decision as a Board going forward, whether we're to spend taxpayer money as well as if we're, you know, what the circumstances surrounding all the information we knew, as we've repeated many times that the Mayor knew before, during and after. Some unfortunate things were printed in the newspaper, but there are a lot of other circumstances that surround it. It's personnel issues, should not be played out in public. Already we've been served by these officers and despite what some of you might have been heckling before, it's a real serious issue that it does resemble the Verbeeck case that occurred many years ago and this Mayor, this Chief of Police was a Trustee at the time, this Mayor was the Chief of Police at this time. There are people that spoke at the last meeting about us that were Trustees to give us advice and at this point in time we need this information. We're entitled to it as a sitting Board here to make the best possible decision. If there is legal advice that you'd like to give us, give it to us in Executive

Session. You're still yet to sit and meet with us like Jim said and discuss anything to do with this case.

Mayor Teller said let's put the Verbeeck case in perspective. We had two full hearings, two different hearing officers, two different labor attorneys. On the first one, he was reduced in rank. On the second one, he was dismissed from the Police Department. The third one, he filed a Civil Rights suit which was settled out of court by our insurance company, which I or the Chief of Police or the Village Clerk have no way to stop it, interfere with it or even ask them to do it. That is only up to the insurance company. We had a jury trial and during the trial he accepted the money and he went away. It was his choice.

Trustee Tucker said so, we lost and the Village had to pay.

Mrs. McGinnis said the insurance company paid.

Trustee Tucker said and it was the way that it was directed and brought into a hearing and as I sit up here and I'm responsible to the people.....

Mayor Teller said there was no violation of anything in any of the hearings.

Trustee Tucker said that's because it was settled out of court.

Mayor Teller said no, there were no violations, he never appealed it. He immediately went to a federal court. He didn't appeal the dispositions. He had two attorneys at the first hearing, a private detective.....

Trustee Tucker said you want to talk about the hearing officers. You want to get into that now; you want to discuss the hearing officers.

Mayor Teller said the hearing officer was a retired Suffolk County Police Commissioner. The second one was a retired Judge.

Trustee Tucker said and if I'm not mistaken, they said that out of deference to you, knowing you for twenty-five years and being on the Chief's Commission with you, that due to that fact, that's how they made that ruling.

Mayor Teller said I think if you look into the record that he acknowledged that he knew me, he was on the Chief's of Police Association, Suffolk County Chief's, at the same time I was and that was strictly bringing it up on the record.

Trustee Tucker remarked we won the battle, we lost the war and it cost this Village a lot of money and now is not a time.....

Mayor Teller said we didn't lose any war. You haven't been around long enough to go to war.

Deputy Mayor Birk said getting back to the business of today, Hank, as police liaison these issues have to do with the police. Have you sat down with the Chief to try and get this information?

Trustee Tucker said no, the Mayor has already told us that Trustees aren't allowed to go and talk to employees and tell them what to do according to the law, that only the Mayor is allowed to do that.

Mayor Teller responded no, I never said that. The only one that can give orders to the employees is the Mayor. Any Trustee that is liaison with any Board can talk to any employee.

Trustee Tucker asked and the Board of Commissioners is not allowed to do that either?

Mayor Teller stated there is no Board of Commissioners. There never has been one for well over twenty years. You produce the law in its entirety and I will accept it if it says that. I can't find it.

Trustee Tucker said okay, Bo said before that actually we could have two people and.....

Mayor Teller said if the Board in its entirety wants to.....

Mr. Bishop said do you want me to correct your statement, Mr. Tucker or would you not want me to speak, because I said.....

Trustee Tucker said it's that type of attitude, Bo, that we don't want up here. You're here to represent us.

Mr. Bishop said your kind of attitude is also not very good, sir. Your attitude of accusing people of things they don't do and blasting the Mayor when he hasn't done anything wrong. Your attitude is called into question as well. What I said and I will repeat, for a commission to be formed in this Village, whether it be police or otherwise, it is my opinion, it falls under Article 3 of the Village Law. Members of the commission are appointed by the Mayor, subject to approval by the Board of Trustees. If there are Trustees on the commission, I believe the number limited is two. I can further research that for you if you would like me to do that or you can just say that you're a Board of Commissioners.

Trustee Tucker said I don't know, Bo, you just ranted but that is what I said. I said that you said that two people could be the Police Commissioner.

Mayor Teller said two people and three outsiders and I would also be a member of the commission.

Trustee Tucker said that is correct, okay, and what have you been doing the past few times that you've been re-elected.

Mayor Teller said I've been working with every member of.....

Trustee Tucker asked what have you done with the Police Commissioners.

Mayor Teller said there are no Police Commissioners.

Trustee Tucker responded you appointed three of us as Police Commissioners.

Mayor Teller said no, I did not. I appointed three on the negotiating team, you were the liaison.

Trustee Levan said no, you appointed Hank a Police Commissioner.

Trustee Kametler said there are minutes on that.

Trustee Tucker said Mr. Mayor, you appointed many of us as Police Commissioners. I'm just stating the facts.

Mr. Bishop said you were appointed liaison to the Police Department.

Trustee Levan said and, Police Commissioner.

Mayor Teller said no such an animal.

Mr. Bishop asked Mrs. McGinnis to respond.

Mrs. McGinnis said it's a liaison appointment. There was no resolution for.....

Trustee Tucker said Kathy, hold on a second.

Mrs. McGinnis said I know. He just asked me.

Trustee Tucker said if you'll reflect back at the minutes and you'll see what it says in there.

Mayor Teller said I know what the minutes say.

Mrs. McGinnis explained it's the Organizational Meeting. We do it every year; it's not appointing a Board of Commissioners. It's appointing the budget, the insurance affairs and Police Commissioners, but it doesn't mean that you're a.....

Trustee Tucker said at the last Organizational Meeting the Mayor appointed me as a Police Commissioner, as a police liaison, it's in the minutes. He appointed Toni-Jo as a Police Commissioner. He appointed himself as a Police Commissioner. And, he appointed the three of us to labor negotiators.

Mayor Teller said in no way did I appoint myself as a Police Commissioner. No way did I appoint Toni-Jo as a Police Commissioner. The three of us are the negotiators.....

Trustee Tucker said that's simple, we'll look at the minutes and then.....

Mayor Teller said look at the minutes, read them any way you want. You apparently read certain things any way you want to listen.

Trustee Levan said well, it's in black and white.

Mayor Teller responded it's neither here nor there. If we're not going to withdraw these motions, then move them on.

Mr. Speir said speak again, Mr. Bishop, before the cat jumps out of the box.

Mr. Bishop said I've already said on the record what I have to say and I can't do anything.....

Mr. Speir said no, but it's coming out of our pockets.

Mr. Bishop said they can either follow whatever legal advice they want or they don't have to. They are not required to follow legal advice.

Deputy Mayor Birk said Bo, may I ask you a legal opinion.

Mr. Bishop said yes.

Deputy Mayor Birk asked if the Board decides to go forward with these, am I allowed to step out of the room so if and when we go to court I don't have to answer anything on this.

Mr. Bishop said if you're concerned about liability, you should state clearly that you are opposed to this resolution, that you want no part of it and you are firmly against this resolution and you can state your reason why. If it's based on legal reasons, you can state it's based on what I believe are legal reasons.

Deputy Mayor Birk said I would like to state for the record that I don't know who wrote these legally. I have never met the person.

Mayor Teller said you have to wait until they come up.

Deputy Mayor Birk said I'd prefer not to hear them. I don't want to deal with them later.

Mayor Teller asked are you going to read them.

Trustee Levan said yes.

Deputy Mayor Birk but, if I have to as a Trustee, I'll sit here.

Trustee Kametler asked so, you don't want to read them.

Deputy Mayor Birk responded I said that earlier. I wanted to table them earlier. I haven't changed my mind. I was just asking Bo that going forward legally....

Mayor Teller said when it comes up, you.....

Mr. Bishop said you can do a blanket motion to table the resolutions.....

Deputy Mayor Birk said I did and it got voted down.

Mr. Bishop said alright, so, there's a resolution. You have a second on the resolution.

Mayor Teller said and we voted.

Deputy Mayor Birk said we voted and it got voted down.

Mayor Teller said three to two.

Trustee Levan said we voted no.

Deputy Mayor Birk said no, Conrad and I voted yes to table them and you three voted.....

Trustee Levan said we're talking about when we passed the first one. You...

Deputy Mayor Birk said correct, thank you, that's correct.

Direct Police Chief to issue a report on the loss, destruction, or failure to preserve video/audio evidence

Motion by Trustee Levan:

WHEREAS a certain matter was referred to the Internal Affairs Bureau of the Suffolk County Police Department (Hereinafter referred to as "IAB") for investigation, and

WHEREAS such an investigation is only as reliable as the information that has been provided to that investigative body, and

WHEREAS the subject matter of that investigation involved the suspected theft of firearm from a locker in the Police Department of the Village of Westhampton Beach which had been assigned to a police officer, (Hereinafter referred to as "Officer X"), and

WHEREAS one police officer (Hereinafter referred to as "Officer A") was suspected by Officer X based only upon past acrimonious relations and one police officer (Hereinafter referred to as "Officer B") was present and on duty that day, and

WHEREAS a complete investigation of such suspicions would have included a review of digital video and/or audio recordings of the locker and locker room in question, and

WHEREAS a complete investigation of such suspicions would have included a review of digital video and/or audio recordings of the parking lot of Village Hall and of Officer X's vehicle as parked there on March 8, 2009, and

WHEREAS the relevant digital video and/or audio recordings were neither in the possession nor control of Officer A or Officer B, and

WHEREAS it is the understanding of the BOARD OF TRUSTEES that the relevant digital video and/or audio recordings were never provided to IAB and were never reviewed by IAB, and

WHEREAS it is the understanding of the BOARD OF TRUSTEES that the relevant digital video and/or audio recordings have been failed to be preserved, lost or destroyed, and

WHEREAS a citizen was arrested on September 7, 2009 (Hereinafter referred to as "Citizen K") and charged with, among other things, the crime of Driving While Intoxicated, and

WHEREAS it is the understanding of the BOARD OF TRUSTEES that the vehicular stop and subsequent arrest of this citizen was recorded by digital video and/or audio recorders, and

WHEREAS it is the understanding of the BOARD OF TRUSTEES that approximately 4 minutes of the digital video and/or audio recordings of this September 7th stop and arrest of Citizen K have been failed to be preserved, lost or destroyed, and

WHEREAS the failed to be preserved, lost or destroyed digital video and/or audio recordings pertain to a pending criminal case against Citizen K, and

WHEREAS the failed to be preserved, lost or destroyed digital video and/or audio recordings pertain to Officers A and B who, contrary to prior RESOLUTION OF THE BOARD OF TRUSTEES, have been placed on restricted duty by the MAYOR TELLER and the CHIEF OF POLICE, RAYMOND DEAN, and

WHEREAS the BOARD OF TRUSTEES is mindful that previously, when the current MAYOR was the Chief of Police for the Village he was involved in a dispute with a uniformed officer of the Village of Westhampton Beach, Thomas G. Verbeek; and

WHEREAS the circumstances of the Verbeek-Teller dispute are a matter of public record and described by the Hon. Leonard Wexler presiding in the Eastern District of Federal District Court in great detail in his decision dated August 21, 2001 and reported at 158 F.Supp 267; and

WHEREAS the BOARD OF TRUSTEES is mindful that the current CHIEF OF POLICE, RAYMOND DEAN, was a VILLAGE TRUSTEE when the current MAYOR, CONRAD TELLER, was CHIEF OF POLICE, and

WHEREAS the sworn allegations of Thomas G. Verbeek made against RAYMOND DEAN, as then Trustee, were never adjudicated on the merits, but were dismissed upon grounds of qualified immunity granted by law to Village Trustees; and

WHEREAS the sworn allegations of Thomas G. Verbeek against CONRAD TELLER which included perjury were never resolved at trial, but instead the Village paid a substantial settlement to Thomas G. Verbeek; and

WHEREAS RAYMOND DEAN, as then TRUSTEE OF THE VILLAGE, endorsed and supported the actions of CONRAD TELLER, as then CHIEF OF POLICE; and

WHEREAS a copy of the decision of the Hon. Leonard Wexler has been appended hereto to provide a recitation of allegations contained therein; and

WHEREAS the MAYOR now has ordered Officer A and Officer B to be placed upon restricted duty, and claims he has the right to do so in his capacity as MAYOR, and

WHEREAS the BOARD OF TRUSTEES is mindful that Officers A and B and Citizen K have important rights in their employment, reputation, and liberty, and

WHEREAS the BOARD OF TRUSTEES is mindful that the residents of this Village have a right to expect competency in all Police Department personnel and supervisory personnel, and

WHEREAS the past conduct attributed to CONRAD TELLER by Thomas G. Verbeek resulted in substantial liability to this Village, and

WHEREAS in accordance subsection 1 of section 8-804 and section 4-412 of the New York State Village Law the BOARD OF TRUSTEES serves as a Board of Police Commissioners,

THEREFORE BE IT RESOLVED that the Chief of Police for the Westhampton Beach Village Police Department is directed to provide to the Village Clerk, no later than five days after service upon him of copy of this RESOLUTION, a copy of every report, record, memorandum, writing, or note, authored by him or any subordinate in the Police

Department which relates to the failure to preserve, loss or destruction of digital video and/or audio evidence with respect to the investigation of the March 8, 2009 matter involving Officer X, and which relates to the failure to preserve, loss or destruction of digital video and/or audio evidence with respect to the arrest of Citizen K; and be it further

RESOLVED that such writings will be filed with the Village Clerk together with a copy of this resolution bearing the Chief of Police's original signature as provided at the bottom hereof indicating that he has made diligent search of the records of the Village of Westhampton Beach Police Department, and indicating that the attached records, if any, constitute all of the records responsive to this directive; and be it further

RESOLVED that, no later than the close of business on March 24, 2010, the Chief of Police is directed to file with the Village Clerk a written report to the BOARD OF TRUSTEES which shall have a title page:

**REPORT OF THE FAILURE TO PRESERVE, LOSS OR DESTRUCTION
OF DIGITAL VIDEO AND/OR AUDIO EVIDENCE**

Filed With the Village Clerk in Accordance with
The Resolution of the Board of Trustees dated March 4, 2010
Submitted for filing by RAYMOND DEAN, Chief of Police
This Report is Exempt from Disclosure
Under the Freedom of Information Law
Based Upon Public Officer's Law section 87(2)(e)
Pending Review of the BOARD OF TRUSTEES.

and be it further

RESOLVED that this report will explain the circumstances attendant to the failure to preserve, loss or destruction of the digital video and/or audio evidence relevant to the March 8, 2009 and September 7, 2009 matters that are the subject of this resolution and such report shall include the names of all people who had possession, access, or control to access of such digital video recordings; and be it further

RESOLVED that the MAYOR is directed to serve a copy of this RESOLUTION upon the Chief of Police no later than 3 days after said RESOLUTION has been adopted by the BOARD OF TRUSTEES, and the MAYOR shall cause the Chief of Police to acknowledge his receipt of a copy of the RESOLUTION by signing such acknowledgement at the bottom hereof; and be it further

RESOLVED that the MAYOR is directed to immediately file with the Village Clerk the acknowledgement so executed by the Chief of Police; and be it further

RESOLVED that the Village Clerk shall immediately inform each and every member of the BOARD OF TRUSTEES, by contemporaneous e-mail, that such acknowledgment has been filed; and be it further

RESOLVED the Village Clerk shall immediately inform each and every member of the BOARD OF TRUSTEES, by contemporaneous e-mail, when the REPORT OF THE FAILURE TO PRESERVE, LOSS OR DESTRUCTION OF DIGITAL VIDEO AND/OR AUDIO EVIDENCE has been filed; and be it further

RESOLVED that all records produced and all filings made pursuant to this resolution shall be held as material exempt from disclosure pursuant to Public Officer's Law section 87(2)(e) pending the assessment of such records and filing by the BOARD OF TRUSTEES concerning the extent to which such records are to be disclosed as a public record.

Seconded by Trustee Tucker.

Mayor Teller said I would like to make a statement on this. This resolution impacts two active criminal investigations. Has this been run by the District Attorney? I do not believe the Chief of Police can produce these tapes at the current time. I would also digress, is the

Board aiding and abetting the defense attorney in both of these cases. He's one and the same. Have the resolutions been prepared by attorney Keahon.

Trustee Tucker said we wouldn't do that, that's ridiculous.

Mayor Teller asked has the labor attorney reviewed them. Has the Village Attorney had the chance to review them? It took me all day as a layman just to get through them.

Trustee Tucker said I don't know, business that occurs in the Village.....

Mayor Teller said I haven't finished yet. I'm pausing. I have to get a breath, I'm older, you know. Under the guise of questioning the competency of the Village Police Department by the Board, I would say this is just another way for the Board to try and screen their own incompetence in the entire matter. Is the Board shilling for that defense attorney? You also claim that the resolution meets the standards under NYS Police Officer's Law 87-2E. These records are currently exempt from FOIL. As far as I'm concerned, I believe I would leave that up to my FOIL officer, but once released from law enforcement records, they become records of the Trustees, which are not exempt as far as I'm concerned. For this alone and the interference in two active police cases, I would absolutely say no. He asked if anybody else wished to say anything.

Trustee Levan asked do you want to call for a vote.

Mayor Teller said the resolution has been seconded, all those in favor. The vote was as follows:

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

Direct Police Chief to issue copies of any & all records concerning firearm lost or stolen on or about March 8, 2009

Motion by Trustee Kametler:

WHEREAS it is essential for the protection of this community that every firearm possessed by a member of the Westhampton Beach Police Department be properly registered and properly recorded both in the records of the Westhampton Beach Police Department and that the ownership of all such firearms be properly reported to the superintendent of the state police, and

WHEREAS paragraph (a) of subdivision 12-c of section 400.00 of the New York State Penal Law requires that every police officer employed by the Village of Westhampton Beach who possesses a firearm under an exemption to the licensing requirements of the Penal Law must promptly report in writing to his employer the make, model, caliber and serial number of each such firearm he possesses, and

WHEREAS the same provision of law requires that every such police officer employed by the Village of Westhampton Beach must also, within ten days of the acquisition or disposition of any such weapon, furnish such information to the Village of Westhampton Beach the name and address of the person from whom the weapon was acquired, and

WHEREAS paragraph (b) of subdivision 12-c of section 400.00 of the New York State Penal Law requires that the Chief of Police for the Village of Westhampton Beach shall promptly forward a report to the superintendent of the State Police of the information reported by such Police Officer, and

WHEREAS, on or about March 8, 2009, a Police Officer of the Village of Westhampton Beach (Hereinafter referred to as "Officer X") reported to the Police Department, that a certain firearm had been either lost or stolen, and

WHEREAS, paragraph (a) of subsection one of section 400.10 of the New York State Penal Law requires that any police officer who suffers the loss or theft of a weapon shall within twenty-four hours of the discovery of the loss or theft report the facts and circumstances of the loss or theft to a police department or sheriff's office; and

WHEREAS, paragraph (b) of subsection one of section 400.10 of the New York State Penal Law requires that when a police officer reports the theft or loss of a firearm the officer or department receiving such report shall forward notice of such theft or loss to the division of state police via the New York Statewide Police Information Network and

WHEREAS the notice of loss or theft shall contain information in compliance with the New York Statewide Police Information Network Operating Manual, including the caliber, make, model, manufacturer's name and serial number, if any, and any other distinguishing number or identification mark on the weapon, and

WHEREAS in accordance subsection 1 of section 8-804 and section 4-412 of the New York State Village Law the BOARD OF TRUSTEES serves as a Board of Police Commissioners,

THEREFORE BE IT RESOLVED THAT The Chief of Police for the Westhampton Beach Village Police Department is directed to provide to the Village Clerk, no later than the close of business on March 18, 2010, a copy of every report, record, memorandum, writing, or note, authored by him or any subordinate in the Police Department concerning the firearm that was reported lost or stolen on or about March 8, 2009; and be it further

RESOLVED that such writings will be filed with the Village Clerk together with with a copy of this resolution bearing the Chief of Police's original signature as provided at the bottom hereof indicating that he has made diligent search of the records of the Village of Westhampton Beach Police Department, and indicating that the attached records, if any, constitute all of the records responsive to this directive; and be it further

RESOLVED that the MAYOR is directed to serve a copy of this RESOLUTION upon the Chief of Police no later than 3 days after said RESOLUTION has been adopted by the BOARD OF TRUSTEES, and the MAYOR shall cause the Chief of Police to acknowledge his receipt of a copy of the RESOLUTION by signing such acknowledgement at the bottom hereof; and be it further

RESOLVED that the MAYOR is directed to immediately file with the Village Clerk the acknowledgement so executed by the Chief of Police; and be it further

RESOLVED that the Village Clerk shall immediately inform each and every member of the BOARD OF TRUSTEES, by contemporaneous e-mail, that such acknowledgment has been filed; and be it further

RESOLVED that the Village Clerk shall immediately, upon receipt from the Chief of Police of records provided by the Chief of Police in response to this resolution, shall immediately inform each and every member of the BOARD OF TRUSTEES, by contemporaneous e-mail, that the records have been filed by the Chief of Police; and be it further

RESOLVED that, in addition to the foregoing, should the Chief of Police have any reasonable cause to believe that Officer X at any time possessed a firearm that was not properly registered to Officer X; or that any firearm owned or possessed by Officer X at any time had not been properly entered in the records of the Westhampton Beach Police Department; or that Officer X had otherwise violated any law, rule or regulation relating to possession of a firearm, the Chief of Police shall immediately file a written report, signed by him, with the Village Clerk, and the Village Clerk will thereupon notify the BOARD OF TRUSTEES, by contemporaneous e-mail, of this filing; and be it further

RESOLVED that THE CHIEF OF POLICE IS HEREBY ADVISED THAT IF HE, AS WELL AS ANY SUBORDINATE OFFICER, DESIRES TO SPEAK WITH COUNSEL PRIOR TO

PRODUCING SUCH RECORDS, OR MAKING SUCH FILINGS then the Chief of Police shall immediately report such fact in writing to the Village Clerk with the identity of the individual requesting time for the advice of counsel, and the Village Clerk shall upon receipt immediately advise each and every member of the BOARD OF TRUSTEES, by contemporaneous e-mail, and the BOARD OF TRUSTEES will thereafter make reasonable accommodation for such person to receive the advice of counsel prior to the act of production of said records, and be it further

RESOLVED that BOTH the Chief of Police and the Mayor are hereby prohibited from agreeing to or imposing any command discipline for any act or omission until such authority is restored, and

RESOLVED that all records produced and all filings made pursuant to this resolution shall be held as privileged material in accordance with the New York Civil Rights law 50-a(1) pending the assessment of such records and filings by the BOARD OF TRUSTEES concerning the extent to which such records are to be disclosed as a public record.

Seconded by Trustee Levan

Mayor Teller said again, this is a resolution that is illegal. The Board members know that this weapon was recovered in less than twenty-four hours. This is an open police investigation. It is a matter for the District Attorney's Office and the necessity for these records to be produced to the Village Board is outside their scope of duties. I also find in this resolution that both myself and the Chief of Police are prohibited from agreeing to impose command discipline. Again, the right of the Chief to utilize command discipline is a contractual right of the PBA. I do not have the right to do any command discipline nor do I have any right as an individual, other than the immediate supervision of police officers and employees. I don't have the right to discipline until after a hearing or as a Board.

Trustee Tucker said but you had the right to suspend them with pay and send them home without discussing it with the Board at all.

Mayor Teller said I don't need to discuss it with you. I did it; if I'm wrong sue me in court. This paragraph is an attempt to show that the Chief of Police and myself would try to nullify any findings of a violation of NYS law concerning the registration of firearms. I find that appalling myself. I have never had a problem in all my years as a police officer or as a Chief of Police with the registration of firearms. I have seen paperwork where a report has been lost, a report has been a little bit late coming in, but I have never seen a problem that you're describing. The fact is I believe one Trustee came into my office and says "the weapon, it's a throw away, it's got no serial number, it's got this, it's got that". I've heard BS in my lifetime but that was a good one. Alright, I've made my objections. Tony, do you have any objections to it?

Deputy Mayor Birk said I just want to put for the record that I wasn't the Trustee that said that.

Trustee Kametler said well, you were the Trustee that signed on the dotted line to read these tonight.

Deputy Mayor Birk said that's correct, Jim, until I could not get who the attorney was that prepared these and I had no conversation with him on these. That's absolutely correct, Jim. I was in favor of getting these on, but I can't conscientiously with my, go forward with these without knowing who the attorney is that drew these up and Bo gives me the legal opinion, I have tonight's comment, too from Bo that, all the opinion he's given me I highly respect. I'm not an attorney and we're going down muddy waters. I will go into muddy waters if need be if it's in the best interest of this Village, but I will not get involved with something where I don't even know who's writing this. It could be anybody.

Mayor Teller asked do I hear a second.

Seconded by Trustee Tucker.

Mayor Teller asked all those in favor and all those opposed. The vote was as follows:

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

Direct Police Chief to issue a report on investigations of Penal Law Offenses

Motion by Trustee Tucker:

WHEREAS, the members of the Police Department are required to investigate complaints of offenses that have been committed in Village of Westhampton Beach, and

WHEREAS it is essential for the BOARD OF TRUSTEES to remain fully apprised of such facts and circumstances which indicate whether the Police Department is operating properly and

WHEREAS it is the duty of the BOARD OF TRUSTEES to consider improvements to the operation of the Police Department and receive such recommendations concerning the optimal functioning of the Police Department, and

WHEREAS this RESOLUTION requiring this FIRST REPORT OF INVESTIGATIONS covers a period of time in excess of one year, this first report has been limited to PENAL LAW OFFENSES, and does not cover offenses described by other laws of New York State, and has been so limited in order to expeditiously provide for review by the BOARD OF TRUSTEES, and

WHEREAS in accordance section 4-412 of the New York State Village Law the BOARD OF TRUSTEES serves as a Board of Police Commissioners,

THEREFORE BE IT RESOLVED that The Chief of Police for the Westhampton Beach Village Police Department is directed to file with the Village Clerk a FIRST REPORT ON INVESTIGATIONS OF PENAL LAW OFFENSES; and be it further

RESOLVED that this FIRST REPORT ON INVESTIGATIONS OF PENAL LAW OFFENSES shall cover the period from January 1, 2009 to March 4, 2010 (Hereinafter referred to as "THE REPORTING PERIOD"); and be it further;

RESOLVED that this FIRST REPORT OF INVESTIGATIONS OF PENAL LAW OFFENSES shall be filed with the Village Clerk no later than the close of business on April 21, 2010; and be it further

RESOLVED that this FIRST REPORT ON INVESTIGATIONS OF PENAL LAW OFFENSES shall be limited in scope to a review of "offenses" as that term is defined in subsection 1 of section 10.00 of the Penal Law of New York State, as further limited to offenses that are defined by the New York State Penal Law, and excluding such offenses not defined by the New York State Penal Law (Hereinafter referred to as "PENAL LAW OFFENSES"); and be it further

RESOLVED that this FIRST REPORT ON INVESTIGATIONS OF PENAL LAW OFFENSES shall include the following information in the format described as follows:

There shall be a cover page titled:

*FIRST REPORT ON INVESTIGATIONS OF PENAL LAW OFFENSES
For the Reporting Period from January 1, 2009 through March 4, 2010
Filed BY RAYMOND DEAN, Chief of Police
In Accordance with
BOARD OF TRUSTEES RESOLUTION ADOPTED MARCH 4, 2010.
This Report is Exempt from Disclosure
Under the Freedom of Information Law
Based Upon Public Officer's Law section 87(2)(e).*

The report shall be divided into two sections.

CRIMINAL ACTIONS COMMENCED

The First Section shall be reported under the heading "CRIMINAL ACTIONS COMMENCED." The first section shall cover all CRIMINAL TRANSACTIONS, as that term is defined by subsection 2 of section 40.10 of the New York State Criminal Procedure Law (Hereinafter referred to as "CRIMINAL TRANSACTION(s)") allegedly committed within this jurisdiction that resulted in the commencement of a criminal action in which a PENAL LAW OFFENSE was charged and the report will indicate the disposition of such case, if any.

The CRIMINAL TRANSACTIONS that are the subject of this section shall be reported in chronological order based upon the date of the alleged CRIMINAL TRANSACTION with the oldest reported first and proceeding to the most recent, and each shall be identified by Central Complaint Number(s)

The CRIMINAL TRANSACTIONS that are the subject of this section shall be described, and the names of all members of the Police Department involved in each investigation and supervision of each investigation, and the names of any civilian witnesses shall also be included.

With respect to each CRIMINAL TRANSACTION reported in this section, the Chief of Police shall review the charges initially filed and determine: whether there was reasonable cause to believe that any one or more greater offenses had been committed that were not initially filed (Hereinafter referred to as "UNDER CHARGED"); and whether offenses were initially filed that were NOT supported by reasonable cause (Hereinafter referred to as "OVER CHARGED"); or whether the charges initially filed were proper in all respects (Hereinafter referred to as "ENDORSED AS PROPERLY CHARGED.") The Chief of Police shall indicate such assessment with respect to each CRIMINAL TRANSACTION by indicating as follows: "UNDER CHARGED" or "OVER CHARGED" or "ENDORSED AS PROPERLY CHARGED."

With respect to each CRIMINAL TRANSACTION reported in this section that the Chief has reviewed and has indicated that the action when commenced was initially either UNDER CHARGED or OVER CHARGED, he shall provide an explanation for such determination together his assessment of the charges that should have been filed.

With respect to each CRIMINAL TRANSACTION reported in the section, the Chief of Police shall review each case, and shall indicate whether the investigation of such CRIMINAL TRANSACTION was made in accordance with best practices and performed in a timely and diligent manner, and if, in the Chief of Police's professional opinion, the investigation WAS made in accordance with best practices and performed in a timely and diligent manner he shall indicate this fact with the declaration: "ENDORSED AS PROPERLY HANDLED"; or "ENDORSED AS PROPERLY HANDLED TO DATE"

With respect to each CRIMINAL TRANSACTION reported in this section for which the Chief of Police has "ENDORSED AS PROPERLY HANDLED TO DATE" the Chief of Police shall indicate those avenues of investigation that are currently being, or expected to be, pursued and the anticipated date when all such avenues of investigation that have currently been identified will have been exhausted.

With respect to each CRIMINAL TRANSACTION reported in the section CRIMINAL ACTIONS COMMENCED for which the Chief of Police does NOT indicate with the declaration that the case was "ENDORSED AS PROPERLY HANDLED" or "ENDORSED AS PROPERLY HANDLED TO DATE" the Chief of Police shall indicate this fact with the declaration "IMPROPERLY HANDLED."

With respect to each CRIMINAL TRANSACTION reported in this section which the Chief of Police has determined was IMPROPERLY HANDLED he shall indicate the errors, omissions, or failures that were made and will indicate what corrective action can be taken, if any.

The conclusion of this section shall provide the total number of: CRIMINAL ACTIONS COMMENCED during the REPORTING PERIOD; CRIMINAL ACTIONS COMMENCED

during the REPORTING PERIOD and ENDORSED AS PROPERLY HANDLED; CRIMINAL ACTIONS COMMENCED during the REPORTING PERIOD and ENDORSED AS PROPERLY HANDLED TO DATE; CRIMINAL ACTIONS COMMENCED during the REPORTING PERIOD and determined to have been IMPROPERLY HANDLED; CRIMINAL ACTIONS COMMENCED during the REPORTING PERIOD and ENDORSED AS PROPERLY CHARGED.

CRIMINAL TRANSACTIONS THAT HAVE OR MAY HAVE BEEN COMMITTED IN WHICH NO CRIMINAL ACTION HAS BEEN COMMENCED

The Second Section shall be reported under the heading: "CRIMINAL TRANSACTIONS THAT HAVE OR MAY HAVE BEEN COMMITTED IN WHICH NO CRIMINAL ACTION HAS BEEN COMMENCED"

In this Second Section all CRIMINAL TRANSACTIONS involving PENAL LAW OFFENSES that have been committed, or may have been committed, in the Village of Westhampton Beach that came to the attention of any member of the Police Department, which have NOT resulted in the commencement of a criminal action will be reported by the Chief of Police.

The CRIMINAL TRANSACTIONS that are the subject of this section shall be reported in chronological order based upon the date of the CRIMINAL TRANSACTION with the oldest reported first and proceeding to the most recent, and each shall be identified by Central Complaint Number(s), if any.

The CRIMINAL TRANSACTIONS that are the subject of this section shall be described, and the names of all members of the Police Department involved in each investigation, and supervision of each investigation, and the names of any civilian witnesses in each shall be included.

With respect to each CRIMINAL TRANSACTION reported in this section, the Chief of Police shall review each investigation, and shall indicate whether the investigation of such CRIMINAL TRANSACTION was made in accordance with best practices and performed in a timely and diligent manner, and if, in the Chief of Police's professional opinion the investigation WAS made accordance with best practices and performed in a timely and diligent manner he shall indicate this fact with the declaration: "ENDORSED AS PROPERLY HANDLED"; or "ENDORSED AS PROPERLY HANDLED TO DATE"

With respect to each CRIMINAL TRANSACTION reported in this section for which the Chief of Police has NOT made a declaration that the case was "ENDORSED AS PROPERLY HANDLED" or "ENDORSED AS PROPERLY HANDLED TO DATE" the Chief of Police shall indicate this fact with the declaration "IMPROPERLY HANDLED."

With respect to each CRIMINAL TRANSACTION reported in this section for which the Chief of Police has "ENDORSED AS PROPERLY HANDLED TO DATE" the Chief of Police shall indicate those avenues of investigation that are currently being, or expected to be pursued and the anticipated date when all such avenues of investigation that have currently been identified will have been exhausted.

With respect to each CRIMINAL TRANSACTION reported in this section which the Chief of Police has determined was IMPROPERLY HANDLED he shall indicate the errors, omissions, or failures that were made and will indicate what corrective action can be taken, if any.

The conclusion of this section shall provide the total number of CRIMINAL TRANSACTIONS THAT HAVE OR MAY HAVE BEEN COMMITTED IN WHICH NO CRIMINAL ACTION HAS BEEN COMMENCED and the total number of such CRIMINAL TRANSACTIONS: ENDORSED AS PROPERLY HANDLED or PROPERLY HANDLED TO DATE; and IMPROPERLY HANDLED.

On the Last Page of the Report the Chief of Police shall make the following endorsement:

I RAYMOND DEAN, Chief of Police of the Westhampton Beach Village Police Department, in the exercise of my supervisory duties, have filed this report consisting of _____ pages with the Village Clerk and have made it as comprehensive and complete as possible to the best of my abilities.

Dated: April _____, 2010

RAYMOND DEAN, Chief of Police

and be it further

RESOLVED that the MAYOR is directed to serve a copy of this RESOLUTION upon the Chief of Police no later than 3 days after said RESOLUTION has been adopted by the BOARD OF TRUSTEES, and the MAYOR shall cause the Chief of Police to acknowledge his receipt of a copy of the RESOLUTION by signing such acknowledgement at the bottom hereof; and be it further

RESOLVED that the MAYOR is directed to immediately file with the Village Clerk the acknowledgement so executed by the Chief of Police; and be it further

RESOLVED that the Village Clerk shall immediately inform each and every member of the BOARD OF TRUSTEES, by contemporaneous e-mail, that such acknowledgment has been filed; and be it further

RESOLVED that the Village Clerk, upon receipt from the Chief of Police of FIRST REPORT ON INVESTIGATIONS OF PENAL LAW OFFENSES For the Reporting Period from January 1, 2009 through March 4, 2010, shall immediately inform each and every member of the BOARD OF TRUSTEES, by contemporaneous e-mail, that the report has been filed by the Chief of Police; and be it further

RESOLVED that the report filed pursuant to this resolution shall be Exempt from Disclosure under the Freedom of Information Law based upon Public Officer's Law section 87(2)(e).

Seconded by Trustee Kametler.

Mayor Teller said I would like to make a statement on it. This report requested by the first section of this resolution already exists as reported monthly to the State of New York, annually to the State of New York, monthly to the Board and is subject to FOIL. You're asking the Chief of Police to request to put every name of the officers involved and civilian witnesses to be identified in each case and investigation given to the Board in a written report. I would ask for what legal reason. That the Chief upon review will identify if the indicated criminal charge was correct and not downgraded to change the required statistical report mandated by state law. The overcharge, undercharge is a matter for the District Attorney who has the ultimate responsibility for Penal Law charges in the courts. That office is entirely responsible after the arrest. In my entire career I have never heard, maybe once or twice, where they griped that the matter was overcharged and they downgraded it. Normally the District Attorney downgrades most of them. I would think that this Board would have conferred with our labor and Village attorneys as to the ramifications of a resolution of this type. You're asking the Chief of Police to divulge in writing possible errors in a case, open leads, possible dates when they may be concluded, all of which I believe is illegal. On the second section the Board is requesting the Chief of Police to identify in a written report all criminal transactions including Penal Law offenses that have been committed or may have been committed in the Village of Westhampton Beach that come to the attention of any member of the Police Department, which have not resulted in the commencement of a criminal action. I don't know if he's got a Ouija board or he's got a round globe on his desk. The Village rules require a police officer to report any crime. If he doesn't report it, who knows about it? I don't, the Chief don't, it's pretty vague to me. This report would be subject to FOIL. I don't care what anybody says, I read the FOIL law. I would further say as a Chief of Police of thirty years and I'm not sticking up for the Chief

in this, I find it's just an excuse to harass a sitting Chief. All of us would like to know all of our crimes in our jurisdiction, but in thirty years I never knew every crime that was in my jurisdiction. Again, I strongly recommend that this resolution be reviewed by the labor and Village attorneys for legality, FOIL rules and if this Board has the legal authority to request this information along with the three other resolutions. I think all four of them are an abomination. They are asinine, ridiculous. I've said my say. Toni.

Deputy Mayor Birk said I have nothing to add. I've said my, I've said enough tonight.

Mayor Teller asked has the matter been seconded.

Trustee Levan seconded the motion.

Mayor Teller asked all those in favor. The vote was as follows:

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

Approve warrant for March 2010

Motion by Deputy Mayor Birk:

RESOLVED, that the warrant for March 2010 in the amount of \$233,968.94 for the general fund is hereby approved.

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

Trustee Tucker said you just read a speech there and I have to tell you that these resolutions are to examine some misfeasance and perhaps serious malfeasance in the Police Department, specifically destruction of evidence, potentially the loss or destruction of critical digital video or audio which.....

Mayor Teller said I would strongly advise you to shut up.

Trustee Tucker said Mr. Mayor I let you speak and I would like to speak.

Mayor Teller said I understand that, but you're saying, you're implying that evidence has been lost, evidence has been altered.

Trustee Tucker stated I'm not implying that. I would just like to find, as a Board we need to find out what transpired so we don't lead us down another path of another hearing that is just.....

Mayor Teller said a million two hundred some thousand.

Trustee Tucker said a million two hundred thousand. That's correct, which you've told me are kangaroo courts.

Mayor Teller said it was well worth the money spent to get rid of him. Enough said by me or I'll be back in federal court with him shortly.

Trustee Tucker said we're not going to be doomed to repeat those errors of the past though, so I don't know why you have a problem with us looking at all the information that we need to look at in order to properly take us into making decisions on where we go with this.

Mayor Teller said if based on all our conversations, you don't understand where I'm coming from, you never will. I thank you.

Trustee Tucker said part of that reason is as the Mayor you still feel that you supervise employees and subordinates and that the Board has no power, whether we vote on resolutions or whether it is for you to suspend officers with pay even after we've listened to the labor attorney and heard what they've had to say to us and we sit there, we get advice; it was written up; you presented it to us.....

Mayor Teller asked does the Chief of Police have the immediate right to suspend somebody and take his weapon and badge.

Trustee Tucker said that's not the issue. You suspended them with pay.

Mayor Teller said I'm just asking. I suspended them because I am responsible for the conduct of the Police Department and I am not going to.....

Trustee Tucker asked did you discuss it with the Board at all, whatsoever.

Mayor Teller said there was no necessity.....

Trustee Kametler said Conrad, personally, if you would have discussed it with us, I would have said suspend them without pay. You gave those guys a thirty day vacation, okay.

Mayor Teller said no, I didn't give them a thirty day vacation. You did.

Trustee Kametler said yeah, you did. You suspended them with pay.

Mayor Teller said you did.

Trustee Kametler said no, I did not. You told them to go home and we're going to pay you for thirty days.

Mayor Teller said three months, we've got resolutions on here that you know what they say, you're.....

Trustee Kametler said look, I've been with you a long time. Sometimes we knock heads, but most of the times we can get our point across. You sent those guys home for thirty days with pay.

Mayor Teller said I suspended them.

Trustee Kametler said that's not a suspension.

Mayor Teller said I suspended them and I'd do it again.

Trustee Kametler asked with pay?

Mayor Teller said that's the only way. I can't take their pay. I'm not allowed to. Only the Board can take the pay.

Trustee Tucker said you're not allowed to spend taxpayer's money by sending people home with pay for thirty or forty-five days.

Mayor Teller said there are certain allegations.....

Mr. Speir said it's 131 days now, Hank, and you guys are the ones.....

Mayor Teller said excuse me, gentlemen, we haven't gone to the public discussion yet. There are certain allegations that have been made privately and publicly impugning on the reputation of two officers and right now I will not allow them on the road. Maybe they will be this way for the next twenty years, I don't know. I probably won't be here.

Public Discussion

Jean Schweibish, said I guess if I had to title this whole thing, I haven't been to meetings in a while, I would say that there are certain members on the Board that I am about to say are

clueless, because I'm hearing things that just make no sense whatsoever. I work in Mr. Bishop's law office, as some people here know, as the Board certainly knows. To listen to Trustee Tucker or Ms. Levan expect information to come out of a law office as if somebody was ordering a cheesecake so that you want your order at 2:00 if you order it for the next day - it doesn't work that way, it just doesn't work like that.

Mr. Bishop asked why, Jean? It's only a part-time job.

Ms. Schweibish said I know. It's a part-time job, that's what Frank Costanza seems to think. There is a lot that goes on in that office, but if somebody has something to ask Bo, if it's the Mayor he comes in, if it's Toni-Jo she comes in. I've even seen Mr. Kametler there. I have never seen you there Hank at all and if Joan comes in she's usually either asking for something for the hospital up in Riverhead.....

Mr. Bishop said you can't discuss anything having to do with this Village in our office.

Ms. Schweibish said I'm not discussing anything that has to do with the Village.

Mr. Bishop said I'm just letting you know.

Ms. Schweibish said I'm just saying, people come in to talk. Bo's office is always open. He will stop what he was doing if you come in. That's what I'm seeing here by way of the issue here seems to be for you Jim, for you Hank, for the missing Ms. Levan wherever she is, is something to do with the way that the process is being handled and if all of this is about process, then you guys need to have more conversation with each other about process. But, what you are doing here is just insane. You are trying to do legal things. You're not an attorney, Hank, you make cheesecake. Jim's a retired cop, he's not an attorney. Conrad's not an attorney either, but he does have experience because he's been in the police force and he does know that part of the law. Why is it that you won't tell the community here or the community that's watching, who it is that wrote these four resolutions that your Village Attorney told you, advised you not to read tonight. You could go and talk about it in Executive Session. You could talk about it and it could come up at the Work Session of the next meeting. But, why you would do this without even telling people who wrote this, because we don't even know if it is an attorney. Maybe it's a paralegal, maybe it's a notary public. Who the hell knows? Maybe you cobbled it together from some television show you were watching, because that is what it sounds like. You may think that what you are doing is right, but you really ought to get back to what I said in the beginning. You're clueless and that's the way you're coming across in the community. And, unfortunately, it's not just about appearances. It's about what you're doing to the Village as a whole. If you want to do something for the community, allow the investigation to go forward the way it's supposed to without interfering. It's not your role. You're not supposed to know everything that's going on and control everything - and it's not a dictatorship. You're accusing Conrad of that and yet, the three of you are trying to do this. You just can't do it this way. This is not the process and if Joan - who's not here again, I don't know why she's not here - if she has to turn to Mr. Bishop.....

Mayor Teller said she asked to leave early, she had to leave.

Ms. Schweibish said had to leave early? Okay, well that's fine, because I hate to address things when she's not here, but if she has to turn to Mr. Bishop and say if the Mayor did this, we can do it - you sound like children. I mean, it's just, I just don't understand it. I haven't spoken in quite some time because of the fact that I am in the Village Attorney's office and I'm not talking about anything that anybody here couldn't get up and say as well because it's evident on the face of it. I think that maybe, Hank, you and Joan have a problem because you're used to running the Board at the library behind closed doors and you're used to doing it.....

Trustee Tucker said Jean, Jean, hold on. I've listened to you speak. That's not fair of you at all. First of all, I have been in your office on many occasions. I have sat down. I've said hello to you. I've sat down with Mr. Bishop, with Bo on many occasions.

Ms. Schweibish said not so.....

Second of all, if you're going to start with me about the library, I've never held any meeting in private with the library at all, whatsoever, ever. It doesn't work that way, Jean, so if you don't know what you're talking about.....

Ms. Schweibish said it's not a public library, it's a free library. I don't know what I'm talking about?

Trustee Tucker said yeah, if you don't know what you're talking about. Every single meeting we've ever had has been open to the public and been advertised and nothing has been ever done behind closed doors like what you just accused me of.

Ms. Schweibish said I'm just saying that you and Joan are used to working with each other on the library.....

Trustee Tucker said no, you said behind closed doors.

Ms. Schweibish said well, you know, I have to say the same thing about what's going on here because there are things that are obviously going on, that on the whole, that even your Village Attorney doesn't know about. I'm going to go back again to ask what people here in the audience have asked, what people on the dais have asked, who wrote this? I think that the community has a right to know who wrote these things. Where is it coming from and why can't you tell us? What's the big deal? What is the big secret?

Trustee Tucker said it's not, everybody in this community isn't as happy as you are stating, okay, so.....

Ms. Schweibish said Toni asked you for the information and you went all around it and you brought out all sorts of things from the past and all sorts of other things, but you're not addressing the issue. Jim, are you aware who wrote this? Do you even know? I mean, Toni signed it; I guess she had some conversation with you guys that she thought.....

Deputy Mayor Birk said I had a conversation with Hank on Monday. He and I talked Monday and after I, it seemed like on the face of things after our discussion that these seemed okay. When I got them Tuesday, I was questioning them and then when I asked, when I realized I don't know who the attorney is, I called Hank to ask Hank who wrote these because I represent the Village. I'm a Trustee, I'm not a lawyer. I take Bo's advice. I take Rich Zuckerman's advice on things as our labor attorney and make my decisions based on fact from the conversations with them. When I asked Hank who wrote these, you know, I would like to know before I go forward with anything because I don't want to end up myself, personally, in the slinger getting sued.

Ms. Schweibish asked and you didn't get an answer?

Deputy Mayor Birk said I did not get an answer. Bo Bishop asked me and.....

Ms. Schweibish asked Jim, do you know?

Trustee Kametler replied I don't know who wrote these. But, I have to tell you, I've been trying to get the Mayor to sit down with this Board and discuss this. Since he wouldn't do it, I read it and it seemed like something that I was willing to sign on to put out as a resolution, because I want to sit down with this Board and discuss this. I feel it's our right. It's what we need to do.

Ms. Schweibish said you've got a Village Attorney, you've got labor counsel and you don't listen to them?

Mayor Teller said we've had two setups and two withdrawals to sit down with the labor attorney.

Trustee Kametler said I did not cancel those.

Mayor Teller said I didn't say you did, but they implied that you did.

Ms. Schweibish said and I don't understand why it is that you've got.....

Trustee Kametler said it's pretty tough when I'm not even in the Village.

Mayor Teller said I understand that.

Trustee Kametler said I've been asking you, I asked you after the last meeting, when are we going to sit down. You said you're taking care of it, you're working on it. That was your last response to me.

Mayor Teller responded, and twice we've scheduled a meeting and twice it's been adjourned.

Deputy Mayor Birk said bottom line, Jean, we still don't know who drew these up, that is correct.

Ms. Schweibish (addressing Trustee Tucker) said I don't understand why. If you won't say who, say why you won't say who.

Trustee Tucker said well, it's the substance of the information that we need though, Jean, I mean with all due respect....

Ms. Schweibish said no, no, no, no.

Trustee Tucker said yes, yes, yes.

Ms. Schweibish said you're not answering the question.

Trustee Tucker said well, at this point in time the person that.....

Ms. Schweibish asked is there an agenda there?

Trustee Tucker asked, is there what?

Ms. Schweibish asked does this person have an agenda?

Trustee Tucker responded no, they care about the Village. That's their agenda.

Ms. Schweibish asked if they care about the Village, then why don't they step forward and talk with the Village Attorney and the labor counsel and the District Attorney. If they care so much, why are they doing it secretly?

Trustee Tucker explained that as Trustee there are a lot of things, I've said this before, that have happened prior to these things that have transacted during and after that we have knowledge of that we are not allowed to discuss in public and gathering up some of this information will help us make intelligent decisions as to which way to go forward. I as a Trustee do not want to go back to the days of past where, how much did it cost Mr. Mayor?

Mayor Teller responded one million, two hundred and some thousand dollars.

Mrs. McGinnis added that included the attorney; that was what the insurance company paid.

Trustee Kametler said but, our rating goes up.

Trustee Tucker said it's not only that money. We're looking for justice as a Board where I have to sit down and vote on whether we, if I have to sit down and vote on something, I want to be informed about it.

Ms. Schweibish said if this community has got to be confronted with this kind of stuff, then they should know who it is that's writing it.

Trustee Tucker said I hear you.

Ms. Schweibish said you hear me, but you're not answering me.

Trustee Tucker said that's correct.

Ms. Schweibish asked why?

Mayor Teller said apparently there's no answer, Jean.

Ms. Schweibish said I look to the community then to demand an answer and if this person can't answer it then I think it would be a good idea for you to be removed, quite frankly.

Trustee Tucker asked what, for not giving up the name of an attorney?

Ms. Schweibish responded we don't even know if it is an attorney. You're asking somebody that's outside of this community to write something for this community and put it before this community, but you won't tell the community who that is, very devious, very devious.

Trustee Tucker said we did it in public.

Ms. Schweibish said you did nothing in public.

Trustee Tucker said yes, we did.

Ms. Schweibish said you read the product, but you didn't say who produced it.

Trustee Tucker said Jean, you know, never mind.

Jeanne Speir, 256 East Main Street, said we've spent a few hours here, I'm Jeanne Speir. I would like to talk about things like the six deer I have to wait for to cross Beach Road so I can get home at night instead of rehashing this stuff over and over and over again and I can't sound as articulate as Jean, the other Jean, but my question is who is the attorney. It had to be an attorney. That was attorney words.

Trustee Kametler said yeah, one of them I couldn't even pronounce.

Mayor Teller said you didn't do bad, Jim.

Trustee Kametler said I tried.

Mrs. Speir said Mr. Tucker, I'm asking you.

Trustee Tucker said point your questions towards the Mayor, please.

Mrs. Speir asked Mr. Mayor, can you ask.....

Mayor Teller said he declines to answer.

Mrs. Speir said alright, so you decline to answer.

Mayor Teller said and I don't know.

Mrs. Speir said thank you.

Mayor Teller responded you're very welcome.

Victor Levy, 58 Beach Road, said I'm curious, too, as to who wrote it, but my reason may be 100% financial as a taxpayer in the Village with two pieces of property here and that's that you read a set of resolutions that your attorney advised you not to read. So, obviously you received contrary legal advice. If, in fact, the Village is exposed or involved in a lawsuit for the causes of action that Mr. Bishop indicated were filed are now supported by the reading of these resolutions, I think it is the right of the Village residents to know who has

exposed us to this liability which Mr. Bishop seems to think has increased liability by having read the resolutions. And, obviously on second thought, Mrs. Birk decided it was and I almost thought for a few minutes Mr. Kametler seemed a little uncomfortable, but I may be misreading his body language. So, once again Mr. Tucker, why, was there any exchange of money to have these resolutions drawn up? Was there some promise of a Village job or Village money for these resolutions? Or, if they were done pro bono, who wrote them and who has now had the hand in exposing the Village to additional liability?

Mayor Teller said I believe that he declines to answer.

Trustee Tucker said as I stated before.....

Mayor Teller said he declines to answer.

Mr. Levy said he will not answer. One other quick question I have. In your discussion you referred to Mr. Toomey. Is your indication that Mr. Toomey was responsible or at least partially responsible for the results in the Verbeeck case, is that what you're saying? Because that's what your implication is clearly. Is that what you're saying, Mr. Tucker?

Trustee Tucker said no, I said that he was a Village Attorney and.....

Mr. Levy said for labor matters.....

Trustee Tucker said he was a Village Attorney and he was released by the Village and it was during this hearing process that that occurred.

Mr. Levy said that wasn't quite what you said.

Trustee Tucker said okay, well I have to wait for the minutes if you're going to want me to say exactly what I said. But, you know what, you heard, the minutes will be available, you'll hear what I had to say and that's what I said tonight and I stick by what I had to say. And, also the resolutions, we're trying.....

Mr. Levy said let's see what Mr. Toomey thinks of your questions, of your comments.

Trustee Tucker said excuse me, we are trying to protect this Village from serious lawsuits as well. Now, maybe you can sit up here and say that you already know that everything we've done is wrong, but I still maintain that this information is important information for this whole Board to have, to look at and go forward before we take any actions.

Mr. Levy said Hank, I understand what you're saying and I can't argue with you one way or the other, but I would believe based on my experience as a Village Trustee for six years and having been around two different Village Attorneys at that time and watched other things that have gone on in the Village, that there is a good possibility that you have exposed the Village to some liability here. And, I'm trying to figure out why would the motion to table this and listen to it in Executive Session, which I think clearly you were allowed to do, I think Mr. Bishop – I don't want' to put words in his mouth, but my guess is you pretty surely could have done this in Executive Session, had a discussion and not read them tonight and not exposed the Village to this liability. I'm trying to figure out why you were hell-bent to get it done tonight, not two weeks from now. That's all.

Mayor Teller explained for the record, Vincent Toomey was our labor attorney during the first case of my disciplinary charges against a member of the Police Department. He brought that to a successful conclusion. The man was demoted. There was a change of Board and they changed labor attorneys.

Mrs. McGinnis said that's what happened.

Mayor Teller said he's an excellent labor attorney.

Dean Speir, 256 East Main Street, said Mr. Bishop, you and I are not likely to take in a ball game and go for a beer afterwards, but I certainly shared your sense of outrage earlier,

disgraceful. I would like to know, Mr. Mayor, if Mr. Tucker will articulate the reasons for his reticence in naming the author of the resolutions.

Mayor Teller said I think he's shown through three or four other people that he's not going to divulge who the attorney is.

Mr. Speir said I understand that. I'd like him to articulate why he's not going to divulge that.

Mayor Teller asked Trustee Tucker do you wish to answer that.

Trustee Tucker explained this Board took some actions that we voted on as a majority of the Board and we seek opinions.....

Mr. Speir said sorry sir, that's not responsive to the question.

Trustee Tucker said excuse me, I'm answering your question. You know what, I was answering your question, but now I'm going to have to tell you if you have a question for the Mayor, ask the Mayor right now.

Mr. Speir said I posed a question but you weren't responsive to it.

Trustee Tucker said you didn't let me speak. You didn't let me finish.

Mayor Teller said he's not going to answer.

Mr. Speir said so, he's not going to answer anything. Reference has been made by both Mr. Tucker and I believe, Mr. Bishop, tonight about actions, recent actions that the Board has been noticed, have been undertaken against the Village where the Village is named. Could we get some specifics on that?

Mayor Teller said I'll leave that up to our learned attorney.

Mr. Bishop asked, you want my opinion?

Mayor Teller said I'd appreciate it.

Mr. Bishop explained they are public records filed with the Village Clerk's office. There is a notice of claim by the two police officers involved in the investigation.

Mr. Speir asked Officers A and B as opposed to Officer X.

Mr. Bishop said I don't know who K is, I don't know who A is, I don't know who B is. K may stand for Kabot, I, you know.....

Mr. Speir said just a wild-assed guess, right?

Mr. Bishop said if I could speak to the attorney who wrote it, I might be able to figure it out.

Mr. Speir said the question unfortunately I couldn't ask Mrs. Levan because she decamped, about a meeting with the Village labor attorney, has one been scheduled, has one been requested by the Board.

Mayor Teller said no. It has not been requested by me as of this particular hour and has not been requested by the Board.

Mr. Speir said okay. I have one final question of Mr. Kametler. You were a witness in at least one of the actions pertaining to the Verbeeck case, were you not?

Trustee Kametler said I believe so.

Mr. Speir asked was that the disciplinary hearings or was that the civil litigation?

Trustee Kametler responded I don't remember. It could have been the first or second, probably the first.

Mr. Speir asked if it was in a court or was it in front of a hearing officer.

Mayor Teller said in all probability, it was all three times.

Mr. Speir said okay, thank you.

Peter Lehmann, 82 Brook Road, said I would just like to know as to those two lawsuits that were filed today, can you go into a little of what they're saying, what their claim is.

Mr. Bishop said they are making claims under Section 1983 which is a federal lawsuit involving civil rights. There are also allegations, not allegations, excuse me, claims with respect to slander, libel, there's a whole litany of things. If you want a copy of the notice of claim, it is available at the Clerk's Office.

Victor Levy asked to speak again, just one quick question. You mentioned that there was a, I think I heard some mention but it was back and forth, is there, over the months there was a claim by the Trustees of certain information or advice they had gotten from Mr. Zuckerman, Richard Zuckerman and then there was some indication here that there might be some other advice that you had gotten, that Conrad has gotten from Mr. Zuckerman. Is any of that, is there contrary advice, the same advice, what kind of advice.

Mr. Bishop said he's asking whether or not there has been advice.

Mayor Teller asked can I say that I've.....

Mr. Bishop said you just can't talk about the substance of the advice without.....

Mayor Teller said I did receive a written report from him at 9:00 this morning.

Mr. Levy asked, from Mr. Zuckerman?

Mayor Teller responded yes.

Mr. Speir asked if that has been shared with the other members of the Board.

Mayor Teller responded, yes it has.

Mr. Levy asked does it have any effect on how the Village is proceeding with the hearings that were proposed on the officers.

Mayor Teller said I would believe the memorandum is confidential to the Board and I would not be at liberty to disclose it.

Mr. Levy said okay, thank you.

Shirley Eckart, 162 Mill Road, said again we'd like to ask the question again for everybody out here that would love to know, again, and we'll keep it up until we find out who wrote up these things here.

Mayor Teller said Shirley, I don't know. Jim does not know and Hank does not wish to disclose.

Trustee Tucker said it's a fair question.

Mrs. Eckart said it deserves an answer.

Trustee Tucker said it's a fair question, but I would respectfully ask that I would talk to the attorneys and.....

Mayor Teller asked what attorneys?

Trustee Tucker explained there were attorneys. They had forty some odd years of experience between themselves and we didn't do it without discussion with any attorneys.

Mrs. Eckart said I do feel that there is something else behind all of this that is going on with you three. There must be something else that you're going for. Would you like to be Mayor?

Trustee Tucker explained we're trying to protect the Village; that's what we're doing.

Mrs. Eckart said it sounds like you want to be Mayor. Thank you.

Jackie Bennett, Parlato Place, said I was born and raised in Westhampton Beach. I was on the Zoning Board for eight years and on the Westhampton Library Board for ten. I've never seen a Board hijacked like this one is being done here and I hope at the next election we throw the bums out. Thank you.

Deputy Mayor Birk said Jackie, you scare me, I'm up. Please don't throw me out.

Chris Bean, Westhampton Beach, said I just wanted to say in public what my feelings are. There are a lot of people that hide behind modems and make their comments and they think they're important, but they're not. The thing is, is to get up here and participate. Tonight we've seen good participation and I appreciate that. I would ask Mrs. Levan if she knew who the attorney was, but she had to leave because she was parked in a handicapped spot and didn't want to get a ticket.

Trustee Tucker said you know what, Chris, listen....

Mr. Bean said I'm talking here. You just wait a second, then I'll finish.

Trustee Tucker said Chris, her best friend passed away.

Mr. Bean said okay, but I'm telling you, she was in a handicapped parking spot, just to let you know. The thing is, I've served on a Board in this Village for twenty-three years. I've never seen anything like this tonight. To go over the head of the attorney and to go underneath, I think, in certain senses, violates the New York State Open Meeting Law. I think there were secret meetings among certain individuals on this Board with attorneys. That is illegal and I think the District Attorney should investigate it.

Trustee Kametler said I'm glad you came up to the podium. I've been sitting up here six years and this is the third time I've seen you at any Board meetings.

Mr. Bean said I'm concerned now. For years it ran itself. We had good people, not knuckleheads.....

Trustee Kametler said maybe if you feel that you can do a better job then you can run for a position, because.....

Mr. Bean responded I don't want the job. I have a good job.

Trustee Kametler said you've come for three meetings now, so I'm getting concerned.

Mr. Bean said I've been here for twenty-three years on that Board. The last time I missed a meeting was in 1996. You guys hide when you don't like what's going on.

Trustee Kametler said believe me, I wasn't hiding. Jim Kametler doesn't hide.

Mr. Bean said you hid.

Trustee Kametler said I didn't hide.

Mr. Levy said maybe you were looking for a possum.

Trustee Kametler said Vic, let's talk about the possum. You know what.....

Mayor Teller said hey, hey, hey, come on. He made a motion at 9:16 p.m. to adjourn the meeting. Seconded by Trustee Tucker and unanimously approved. 4 Aye, 0 Nay

Respectfully submitted,

Christine Owen
Deputy Clerk