

**Village of Westhampton Beach
Board of Trustees Meeting
Thursday October 7, 2021 at 5:00 p.m.**

PLEDGE OF ALLEGIANCE

PUBLIC HEARING:

Special Exception Application-Outdoor Tables, Haskell's Seafood

Special Exception Application-Outdoor Tables, LT Burger, West

Acceptance Humphrey Street Cul-de-sac Dedication

LL # 6 of 2021 Chapter 73 " Cannabis"

LL # 7 of 2021 Chapter 197-63 "Site Plans"

LL # 8 of 2021 Chapter 143 "Sewers"

RESOLUTIONS:

Appoint Police Chief

Accept minutes Board of Trustees Meetings

Accept Departmental Monthly Reports

Approve Warrant for October 2021

Authorize Renewal of HVAC Annual Service Agreement

Accept Proposal-Mulco Inc.

Authorize Use of Village Property-Greater WH Chamber of Commerce

Authorize Use of Village Property-Live Your Cor, Beach Cleanup

Appoint Part Time Justice Court Clerk

Refer Special Exception Application for LT Burger Outdoor Music to Planning Board

Authorize Purchase of Equipment for Public Works Department

Authorize Purchase of Equipment for Public Works Department

Authorize Payment of 2020/21 Assessment Roll Correction

Adopt Business District Planning Study Update

Adopt Local Law No. 5 of 2021

Adopt Additional Outdoor Seating - Flora Restaurant

Authorize Study of Special Events and Tent Regulation

PUBLIC COMMENT

ADJOURN

EXECUTIVE SESSION

**Village of Westhampton Beach
Board of Trustees Meeting
Thursday October 7, 2021 at 5:00 p.m.**

PLEDGE OF ALLEGIANCE

PUBLIC HEARINGS:

Special Exception Application-Outdoor Tables, Haskell's Seafood

WHEREAS, Haskell's Seafood, 77A Main Street has applied for an Outdoor Tables and Chairs permit pursuant to Section 196-2 of the Code of the Village of Westhampton Beach, to allow the placement of three (3) 4-seat tables with attached benches, and eight (8) 2-seat cafe tables at the premises; and

WHEREAS, the applicant submitted a sketch plan of the location, and photographs of the design, of the proposed tables and chairs (hereinafter, the "Outdoor Tables and Chairs Plan"); and

WHEREAS, the application was referred to the Village Planning Board on July 14, 2021, and by memorandum dated August 27, 2021, stated that it has no objection to the application provided that certain conditions are met; and

WHEREAS, a public hearing was held on the application on October 7, 2021, pursuant to section 196-3(D) of the Village Code; and

WHEREAS, it appears from the sketch plan and Planning Board report that the application satisfies the conditions of section 196-2(B) of the Village Code; now therefore,

BE IT RESOLVED that the application for an Outdoor Tables and Chairs permit pursuant to Section 192-2 of the Village Code is granted to allow the placement of three (3) 4-seat tables with attached benches, and eight (8) 2-seat cafe tables in accordance with the Outdoor Tables and Chairs Plan, subject to the conditions set forth in section 192-2(B) of the Village Code and the following:

- I. No substantial deviation from the Outdoor Tables and Chairs Plan shall be allowed without further approval of the Board of Trustees;
- II. This permit shall be in effect until November 15, 2021 pursuant to section 196-2(B) (10) of the Village Code, unless previously revoked, and the applicant shall be required to follow the renewal provisions set forth in section 196-4 of the Village Code for future outdoor tables and chairs in subsequent seasons.

Special Exception Application-Outdoor Tables, LT Burger, West

WHEREAS, LT Burger, West, 1115 Main Street has applied for an Outdoor Tables and Chairs permit pursuant to Section 196-2 of the Code of the Village of Westhampton Beach, to allow the placement of four (4) tables with attach benches at the premises; and

WHEREAS, the applicant submitted a sketch plan of the location, and photographs of the design, of the proposed tables and chairs (hereinafter, the "Outdoor Tables and Chairs Plan"); and

WHEREAS, the application was referred to the Village Planning Board on July 20, 2021, and by memorandum dated August 19, 2021, stated that it has no objection to the application provided that certain conditions are met; and

WHEREAS, a public hearing was held on the application on October 7, 2021, pursuant to section 196-3(D) of the Village Code; and

WHEREAS, it appears from the sketch plan and Planning Board report that the application satisfies the conditions of section 196-2(B) of the Village Code; now therefore,

BE IT RESOLVED that the application for an Outdoor Tables and Chairs permit pursuant to Section 192-2 of the Village Code is granted to allow the placement of four (4) tables with attached benches in accordance with the Outdoor Tables and Chairs Plan, subject to the conditions set forth in section 192-2(B) of the Village Code and the following:

- I. No substantial deviation from the Outdoor Tables and Chairs Plan shall be allowed without further approval of the Board of Trustees;
- II. This permit shall be in effect until November 15, 2021 pursuant to section 196-2(B) (10) of the Village Code, unless previously revoked, and the applicant shall be required to follow the renewal provisions set forth in section 196-4 of the Village Code for future outdoor tables and chairs in subsequent seasons.

Acceptance of Humphrey Street Dedication

WHEREAS, in connection with the subdivision of lands owned by Avidor Group, LLC and Jonmar Group, LLC, the map entitled "Avidor Group, LLC" was filed in the office of the Suffolk County Clerk on December 18, 2019 as map. No 12181; and

WHEREAS, a portion of said subdivision map resulted in the creation of a cul-de-sac and extension of Humphrey Street (hereinafter, the "Humphrey Extension"); and

WHEREAS, Humphrey Street is a Village-owned road that, prior to the subdivision, terminated at a dead end (with no cul-de-sac) and that did not comply with the current New York State Fire Code requirements for fire apparatus roads; and

WHEREAS, the Humphrey Extension, if incorporated into Humphrey Street, would result in an improvement to Humphrey Street because it would create a turn-around that complies with the New York State Fire Code; and

WHEREAS, the owners of the subdivision lands opted to design the Humphrey Extension to Village road specifications, and said design was presented to and approved by the Village's Department of Public Works, the Village Engineer, and the Village Planning Board; and

WHEREAS, in connection with the subdivision, the owners irrevocably offered the Humphrey Extension for dedication to the Village; and

WHEREAS, subsequent to the filing of the aforesaid subdivision map, the Humphrey Extension was constructed in accordance with the approved specifications thereof, subject to the inspections of the Village's Building Department and Village Engineer; and

WHEREAS, the completed Humphrey Extension has been inspected by the Department of Public Works, which has confirmed that the Department is in a position to maintain the Humphrey Extension; and

WHEREAS, the current owners of the Humphrey Extension have requested that the Village accept the dedication of the Humphrey Extension and have prepared a deed of dedication and associated documents to facilitate the transfer of ownership of the Humphrey Extension to the Village; and

WHEREAS, a public hearing was duly noticed and held to consider the acceptance of the Humphrey Extension on October 7, 2021; and

WHEREAS, the Village's acceptance of the ownership and control of the Humphrey Extension will serve a significant public purpose and benefit and will be in the best interest of the Village; now therefore be it

RESOLVED that the Village of Westhampton Beach accepts the offer of dedication of the Humphrey Extension, as depicted on the subdivision map entitled "Avidor Group, LLC" that was filed in the office of the Suffolk County Clerk on December 18, 2019 as map. No 12181, and described in the deed of dedication dated July 9, 2021, from Premier Home Sales Inc. to the Village of Westhampton Beach; and be it further

RESOLVED that the Mayor of the Village of Westhampton Beach is authorized to sign such necessary forms and documents to effectuate the recording of the deed of dedication in the Office of the Suffolk County Clerk; and be it further

RESOLVED that the Humphrey Extension shall hereafter be incorporated into and added to the existing Village road known as Humphrey Street, shall hereafter be deemed a Village road, and shall hereafter be subject to all laws and regulations applicable to public streets and highways of the Village of Westhampton Beach.

Adopt Local Law No. 6 of 2021

WHEREAS, this Board has advertised a local law enacting the addition of Chapter 73 (Cannabis) to the Village Code; and

WHEREAS, pursuant to New York Cannabis Law §131, the State of New York granted the authority to the Village to opt-out and thereby prohibit the issuance of licenses for, and the operation of, retail cannabis dispensaries and/or on-site cannabis consumption establishments in the Village.

WHEREAS, a public hearing was held on October 7, 2021; and

WHEREAS, all persons present at the meeting have had an opportunity to speak on behalf of or in opposition to the proposed Local Law, or any part thereof; and

WHEREAS, the Village Board has determined that said action is classified as an Unlisted action pursuant to the New York State Environmental Quality Review Act ("SEQRA") and a short form environmental assessment has been prepared and a determination made that such action will not have any significant adverse effect on the environment; now therefore, be it

RESOLVED, that a determination is hereby made by this Board that the proposed addition of Chapter 73 (Cannabis) to the Village Code will not have a significant adverse effect on the environment and a negative declaration pursuant to SEQRA is hereby issued; and be it further

RESOLVED, that after due deliberation the Board of Trustees of the Village of Westhampton Beach is hereby adopting said Local Law as Local Law No. 6 of 2021, as advertised and attached, and is therefore opting out and thereby prohibiting the issuance of licenses for, and the operation of, retail cannabis dispensaries and/or on-site cannabis consumption establishments in the Village, and be it further

RESOLVED, pursuant to the provisions of Cannabis Law § 131, this local law is subject to a permissive referendum and thus may not be filed with the Secretary of State until either (a) the applicable time period has elapsed to file a petition for a referendum, and no such referendum has been timely filed, or (b) if such a petition has been timely filed, a referendum has been conducted approving this local law, and be it further

RESOLVED, after one of the applicable time periods has elapsed the Village Clerk is directed to enter said Local Law in the records of the Village; and to give due notice of the adoption of said Local Law to the Secretary of State.

RESOLUTIONS:

Appoint Police Chief

RESOLVED, that Steven J. McManus is hereby appointed to the position of Police Chief effective October 7, 2021 in accordance with Suffolk County Department of Civil Service rules and procedures from Certified Eligibles List # 21SR428.

Accept Minutes of Board of Trustees Meetings

RESOLVED, that the minutes of the Board of Trustees Meeting of September 2, 2021 and Special Meeting of September 22, 2021 are hereby accepted.

Accept Monthly Reports from Departments

RESOLVED, that the Police Department, Justice Court and Building Inspector's reports for September 2021 and the Treasurer's report for August 2021 are hereby accepted.

Approve Warrant for October 2021

RESOLVED, that the warrant for October 2021 in the amount of \$250,749.61 for the General Fund and \$222,248.99 for the Capital Fund is hereby approved.

Authorize Renewal of HVAC Annual Service Agreement

RESOLVED, that the annual renewal of labor and inspection service agreement for October 1, 2021 to September 30, 2022 with Dynaire Service Corp. for the Village Hall HVAC system at a cost of \$8,000.00 is hereby renewed.

Accept Proposal-Mulco Inc.

RESOLVED, that the Board of Trustees hereby accepts the proposal from Mulco Inc. in the amount of \$13,400.00 for the Boiler Replacement project in the DPW vehicle maintenance building to be taken from G/L account code A5110.403 Highway Barn.

Approve Use of Village Property-Greater Westhampton Chamber of Commerce

RESOLVED, that the Greater Westhampton Chamber of Commerce is hereby authorized to have closed and use Main Street from Library Avenue to Moniebogue Lane on Sunday October 10, 2021 from 10:00 a.m. to 5:00 p.m. with set-up starting at 9:00 a.m. for the Annual Harvest Festival and signs as per the "Sign Guidelines" established by the Village Board of Trustees.

Approve Use of Village Property-Live Your Cor

RESOLVED, that Jack Clark as applicant for Live Your Cor is hereby authorized to use the Village Marina on Monday October 11, 2021 from 10:00 a.m. to 8:00 p.m. with set-up starting at 8:00 a.m. for a beach clean-up and charity reception and signs as per the "Sign Guidelines" established by the Village Board of Trustees.

Appoint Part Time Justice Court Clerk

RESOLVED, that Kristen Gionta is hereby appointed as a part time Justice Court Clerk at a rate of \$22.00 per hour not to exceed 17.50 hours per week in the Justice Court effective October 19, 2021 to be funded from G/L account A1110.102 Court Clerk P/S.

Refer Special Exception Application for LT Burger Outdoor Music to Planning Board

RESOLVED, that the Special Exception Application submitted by LT Burger, West for Outdoor Music, located at 115 Main Street and identified by Suffolk County Tax Map # 905-11-2-22 is hereby referred to the Village Planning Board for review.

Authorize Purchase of Equipment for Public Works Department

RESOLVED, that the Board of Trustees approved the purchase of various new radio equipment including license and installation from Suffolk County BOCES Contract in an amount not to exceed \$19,000.00 on April 14, 2021 and,

WHEREAS, there is a need for 2 additional radios and associated equipment in the amount of \$1,269.00; NOW THEREFORE BE IT RESOLVED that the Board of Trustees hereby approves the purchase of the additional radios and equipment to be taken from G/L account A5110.2 DPW Equipment.

Authorize Purchase of Equipment for Public Works Department

RESOLVED, that the Board of Trustees hereby approves the purchase of 1 EQ276517 20" Floorcare Biz X20B Floor Scrubbing machine in an amount not to exceed \$2,870.00 to be taken from G/L account A5110.2 DPW Equipment.

Authorize Payment of 2020/21 Assessment Roll Correction

RESOLVED, the Board of Trustees hereby authorize payment of 2021/22 tax year property tax reduction in the amount of \$9,435.85 to the property owners as specified by the Supreme Court as a settlement of Small Claims as ordered by the NYS Supreme Court.

Adopt Business District Planning Study Update

WHEREAS, the Board of Trustees of the Village of Westhampton Beach conducted a study of the business districts within the Village; and

WHEREAS, the Board engaged the services of Nelson Pope Voorhis to assist in the preparation of the study; and

WHEREAS, Nelson Pope Voorhis prepared a study entitled, "2017 Village of Westhampton Beach Business Districts Planning Study" (the "Study"); and

WHEREAS, the aforesaid Study was updated in August 2021; and the purpose of the Study was to update the portion of the Village's Comprehensive Plan involving the Village's Business Districts; and

WHEREAS, the Village has a Comprehensive Plan as such term is defined in Section 7-722 of the New York Village Law; and

WHEREAS, the aforesaid Study is a Type I action under the State Environmental Quality Review Act ("SEQRA"), Article 8 of the Environmental Conservation Law, and the Board of Trustees caused a Long Environmental Assessment Form ("LEAF") Parts 1, 2 and 3 part 3 Attachment to be prepared and determined that there are no significant adverse impacts from the Study; and

WHEREAS, due notice was heretofore given of a public hearing to be held on August 5, 2021, concerning the Study and the Study was available for viewing by the public during regular business hours in the office of the Village Clerk; and

WHEREAS, the public hearing on the Study was held on August 5, 2021 and September 2, 2021, and the Board of Trustees afforded all interested persons an opportunity to be heard at the public hearing; and

WHEREAS, certain changes were made to the Study as a result of comments made at the public hearing; and

WHEREAS, pursuant to Section 293-m of the General Municipal Law and Sections A14-14 through A14-25 of the Suffolk Administrative Code, the Study was referred to the Suffolk County Planning Commission; and

WHEREAS, the Study is referred to as the "Village of Westhampton Beach Updated Business Districts Comprehensive Plan"; and

WHEREAS, pursuant to a resolution dated September 1, 2021, the Suffolk County Planning Commission approved the "Village of Westhampton Beach Updated Business District Comprehensive Plan," and in said resolution, the Suffolk County Planning Commission referred to certain matters that the Village should or may want to consider, which matters are incorporated herein by reference.

NOW, THEREFORE, be it RESOLVED that the Board of Trustees of the Village of Westhampton Beach hereby adopts the Village of Westhampton Beach Updated Business Districts Comprehensive Plan as part of its Comprehensive Plan; and the Village Clerk is hereby directed to file all papers constituting the Village of Westhampton Beach Updated Business Districts Comprehensive Plan in the office of the Village Clerk and with the Suffolk County Planning Commission.

Adopt Local Law No. 5 of 2021

WHEREAS, the Board of Trustees, as the legislative body of the Village of Westhampton Beach, is empowered to enact local laws pursuant to the provisions of Article 9 of the New York State Constitution, the Village Law, and the Municipal Home Rule Law; and

WHEREAS, a proposed Local Law has been prepared to amend the portion of Chapter 197 (Zoning) entitled, “197 Attachment 1 Business Districts, Hamlet Commercial/Residential District, and Hotel District Table of Use Regulations” in order to change the classifications of certain uses therein and add certain uses thereto; and

WHEREAS, the proposed Local Law, in final form, has been on the desks or tables of all the members of the Board of Trustees for seven calendar days, exclusive of Sunday; and

WHEREAS, the proposed amendments were part of the “2017 Village of Westhampton Beach Business Districts Planning Study updated in August 2021, and were considered and reviewed under the State Environmental Quality Review Act (“SEQRA”), as prescribed for Type I actions in 6 NYCRR § 617 and the Board of Trustees adopted a Negative Declaration under SEQRA on September 2, 2021; and

WHEREAS, due notice has been heretofore given of a public hearing to be held on August 5, 2021, concerning the adoption of the proposed Local Law, which Local Law was available for viewing by the public during regular business hours in the Office of the Village Clerk; and

WHEREAS, the public hearing was held on August 5, 2021 and September 2, 2021 and all interested persons were afforded an opportunity to be heard at said public hearing; and

WHEREAS, the Board of Trustees has carefully considered the proposed Local Law during the seven-day period; and

WHEREAS, this Board deems it in the public interest to adopt the proposed Local Law, to be effective immediately upon filing with the Secretary of State of the State of New York (the “Secretary of State”).

NOW, THEREFORE, be it RESOLVED that the Board of Trustees of the Village of Westhampton Beach hereby enacts and adopts Local Law No. 5 of 2021, a copy of which is annexed hereto, a local law amending the portion of Chapter 197 (Zoning) entitled, “197 Attachment 1, Business Districts, Hamlet Commercial/Residential District, and Hotel District Table of Use Regulations” to change uses therein and add certain uses thereto; and that the Board of Trustees of the Village of Westhampton Beach authorizes the Mayor to sign the Local Law annexed; and that the Board of Trustees of the Village of Westhampton Beach hereby authorizes the Village Clerk to certify the Local Law annexed as a true and correct enactment adopted by this Board and to forward it in proper form to the Secretary of State for filing.

Adopt Additional Outdoor Seating - Flora Restaurant

WHEREAS, WHB Kitchen LLC d/b/a Flora (hereafter, “applicant”) has applied for a permit under Chapter 196 to allow the addition of seating adjacent to its restaurant at 149 Main Street, located on 161 Main Street, on property of J & C Realty Group (hereafter, “owner”); and

WHEREAS, the applicant and owner have also filed site plan applications with the Village Planning Board to allow for the area in question, on owner’s property, to be licensed for use by the applicant in connection with the applicant’s restaurant, as an outdoor dining area; and

WHEREAS, said applications include surveys and proposed site plans of the two parcels and an executed license agreement authorizing the use of the subject area of the 161 Main Street property by the applicant in conjunction with its restaurant; and

WHEREAS, the applicant has been advised by the Planning Board that the process for review of the proposed outdoor dining area will require a full site plan review of both 149 Main Street and 161 Main Street, and will require review by the Suffolk County Department of Health Services and that, pending completion of those processes, no outdoor dining may be conducted on the 161 Main Street property by the applicant; and

WHEREAS, the applicant seeks only permission to maintain a passive seating/lounge area, with no dining, or dining/drinking services in this seating area; and

WHEREAS, under Section 196-2 of the Village Code, the Trustees may approve a permit for outdoor chairs and seating subject to the enumerated requirements and conditions therein; and

WHEREAS, one of the requirements of Section 196-2 of the Village Code is that the proposed outdoor seating “shall be located on the establishment’s property”; and

WHEREAS, because the proposed outdoor seating technically will not be located on the same parcel of property on which the applicant’s restaurant is located, but the area of the adjacent parcel at 161 Main Street is being licensed for exclusive use to the applicant, the applicant has requested that the Trustees waive the technical requirement that the seating “be located on the establishment’s property”; and

WHEREAS, the Village has recognized the unique circumstances affecting restaurants since the beginning of the COVID pandemic and the declaration of a state of emergency by the State of New York, and the desire to have more outdoor seating to maximize social distancing and minimize the likelihood of the spread of the virus, and the Village has implemented temporary measures during the pandemic to accommodate these unique circumstances; and

WHEREAS, the Village Planning Board, which is in the process of reviewing the site plan modifications that would (if approved) allow permanent outdoor dining in the subject area of the 161 Main Street property, expressed no objection to the temporary allowance of a seating/lounge area (with no dining or drink service) in the same area; now, therefore, be it

RESOLVED that the Village Board of Trustees hereby grants the requested waiver and approval of the outdoor seating on the 161 Main Street property, subject to the following conditions:

- a) This approval only relates to the proposed outdoor seating on the 161 Main Street property, as depicted on the plans included with the application to the Trustees. Only movable tables, chairs and service counters may be permitted in the outdoor seating area. A service bar or other similar structure shall be prohibited.
- b) No dining, or food/drink service shall be permitted within the approved outdoor seating area on the 161 Main Street Property.
- c) All garbage and other refuse must be adequately provided for. No garbage or trash shall be allowed to accumulate in the area of the outdoor seating or any area adjacent thereto.
- d) The outdoor tables, chairs and benches area will not interfere with or prevent the orderly and reasonable use of adjacent properties nor impair the peace and comfort of adjacent properties.
- e) No outdoor music or entertainment shall be allowed in the subject area.
- f) This outdoor seating permit shall expire on December 31, 2021.
- g) The waiver of the requirement that the outdoor seating be located on the same property as the establishment is expressly conditioned on the applicant continuing to pursue the site plan modification applications diligently and in good faith.
- h) No renewal of this permit shall be granted for the 2022 season unless and until the matter is referred to the Planning Board and the Planning Board confirms that, in its opinion, the applicant has been pursuing the site plan modification applications diligently and in good faith.
- i) The permit shall be subject to all other requirements of Chapter 196, including the provisions for revocation of outdoor seating permits set forth in Section 196-2(B)13 of the Code.

Authorize Study of Special Events and Tent Regulation

WHEREAS, temporary or movable tents are regulated by the Village of Westhampton Beach in Chapter 167 (Tents) of the Village Code; and

WHEREAS, a permit from the Mayor is required to install, use or maintain a tent under Chapter 167; and

WHEREAS, currently Section 167-5 of the Village Code limits three tent permits per calendar year for the same property; and

WHEREAS, the Board of Trustees is contemplating the adoption of a proposed Chapter 83 to the Village Code to regulate and provide for special events; and

WHEREAS, the Board of Trustees intends to evaluate the regulation of tents as part of a proposed Chapter 83 of the Village Code; and

WHEREAS, part of the evaluation will be to determine whether there should be limits on the number of tent permits per calendar year as currently set forth in Section 167-5; and

WHEREAS, the Board of Trustees has determined that during its evaluation of a proposed Chapter 83 of the Village Code, the limitation on the number of tent permits contained in Section 167-5 should be suspended.

NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees shall study and evaluate the regulation of tents as part of its consideration of a proposed Chapter 83 of the Village Code to regulate and provide for special events; and that, as part of this study, the limitation of three (3) tent permits per year for the same property as set forth in Section 167-5 of the Village Code is suspended until January 1, 2022, or such earlier date as determined by the Board of Trustees.

PUBLIC COMMENT

ADJOURN

DATED: October 7, 2021

**Elizabeth Lindtvit
Village Clerk-Treasurer**

EXECUTIVE SESSION