

**Village of Westhampton Beach
Board of Trustees Meeting
Thursday, February 2, 2023 at 5:00 P.M.**

PLEDGE OF ALLEGIANCE

RESOLUTIONS:

1. Accept minutes of Board of Trustees Meeting
2. Accept Departmental Reports
3. Approve Warrant for January 2023
4. Schedule Public Hearing Local Law Amendment-Chapter 197-Zoning
5. Schedule Public Hearing Local Law Amendment-Chapter 150-Subdivision of Land
6. Schedule Public Hearing Local Law Amendment-Chapter 161-Taxation
7. Authorize Purchase of Equipment – Public Works Department
8. Authorize Purchase of Equipment – Public Works Department
9. Approve Use of Village Property-St. Patrick’s Day Parade
10. Authorize One Day Peddling Permit
11. Authorize Change Order for Sewer System Construction
12. Accept Proposal-H2M Architects & Engineers
13. Accept Proposal-Cyber Security Insurance Policy
14. Approve Use of Village Property-Westhampton Beach Historical Society
15. Authorize Payment of 2021/22 Assessment Roll Correction
16. Authorize Employees to Attend Training Course
17. Approve Use of Village Property-East End Little League
18. Authorize Use of Village Property-Greater WH Chamber of Commerce
19. Authorize Mayor to Sign Agreement-Property Lease
20. Approve Special Exception Application – WH Equity Group LLC
21. Authorize Use of Village Property-Greater Westhampton Chamber of Commerce

22. Authorize Use of Village Property-Greater Westhampton Chamber of Commerce

23. Authorize Notice to Bidders-Beach Concession

PUBLIC COMMENT

**Village of Westhampton Beach
Board of Trustees Meeting
Thursday, February 2, 2023 at 5:00 P.M.**

PLEDGE OF ALLEGIANCE

RESOLUTIONS:

1. Accept minutes of Board of Trustees Meeting

RESOLVED, that the minutes of the Board of Trustees Meeting of January 5, 2023 and Special Meeting of January 25, 2023 are hereby accepted.

2. Accept Departmental Reports

RESOLVED, that the Treasurer's report, Justice Court, Police Department's and Building Inspector's reports for December 2022, are hereby accepted.

3. Approve Warrant for January 2023

RESOLVED, that the warrant for January 2023 in the amount of \$374,023.23 for the General Fund and \$800,402.11 for the Capital Fund is hereby approved.

4. Schedule Public Hearing Local Law Amendment-Chapter 197-Zoning

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Thursday March 2, 2023, at 5:00 p.m. at the Village Hall, 165 Mill Road, Westhampton Beach to consider a local law to amend Chapter 197 entitled "Zoning" of the Code of the Village of Westhampton Beach.

5. Schedule Public Hearing Local Law Amendment-Chapter 150-Subdivision of Land

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Thursday March 2, 2023, at 5:00 p.m. at the Village Hall, 165 Mill Road, Westhampton Beach to consider a local law to amend Chapter 150 entitled "Subdivision of Land" of the Code of the Village of Westhampton Beach.

6. Schedule Public Hearing Local Law Amendment-Chapter 161-Taxation

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Thursday March 2, 2023, at 5:00 p.m. at the Village Hall, 165 Mill Road, Westhampton Beach to consider a local law to amend Chapter 161 entitled "Taxation" of the Code of the Village of Westhampton Beach to increase the income eligibility for Property Tax Relief.

7. Authorize Purchase of Equipment – Public Works Department

RESOLVED, that the Board of Trustees hereby authorizes the purchase of 1 Dynapac CC900G Asphalt Roller from All Island Equipment Corp. from the Town of Southampton Contract # 2022-829/841 in the amount of \$19,500.00 to be taken from G/L account A5110.2 Equipment.

8. Authorize Purchase of Equipment – Public Works Department

RESOLVED, that the Board of Trustees hereby authorizes the purchase of 1 Ventrac 4520Z Kubota Tractor from Storr Tractor Co. from NYS Contract # PC69682 in the amount of \$36,819.20 plus freight and set-up to be taken from G/L account A5110.2 Equipment.

9. Approve Use of Village Property-St. Patrick's Day Parade

RESOLVED, that the Westhampton Beach St. Patrick's Day Parade Committee is hereby authorized to conduct the Annual St. Patrick's Day Parade on Mill Road to Main Street, subject to weather, on Saturday, March 11, 2023 from 9:00 a.m. to 1:00 p.m. subject to receipt of insurance documents.

10. Authorize One Day Peddling Permit

WHEREAS, Leonard Goldberg has applied for a one-day Peddling Permit to sell novelties during the St. Patrick's Day Parade on Saturday March 11, 2023 pursuant to §128-3 of the Village Code; and

WHEREAS, the Police department has reviewed and investigated the applicant and found no criminal history pursuant to §128-4; now therefore be it

RESOLVED, that the Board of Trustees hereby authorizes a One-day Peddling Permit to Leonard Goldberg effective March 11, 2023 and is subject to the requested documentation being supplied and all other conditions in Chapter 128-10 and 128-11 of the Village codes.

11. Authorize Change Order for Sewer System Construction

RESOLVED, that the Board of Trustees hereby approves a change order for Hinck Electrical Contractors, Inc. for no monetary value for the extension of the contract duration resulting in the completion date of February 17, 2023.

12. Accept Proposal-H2M Architects & Engineers

RESOLVED, that the Board of Trustees hereby approves the proposal from H2M Architects and Engineers in the amount of \$55,000.00 to increase the Construction Administration budget associated with the time extensions granted to Contract G & E for the Westhampton Beach Phase 1 Collection and Conveyance Project past the original contract completion date from G/L account H9900 Sewer Project.

13. Accept Proposal-Cyber Security Insurance Policy

RESOLVED, that the Board of Trustees hereby approves the proposal submitted by Denis A. Miller Insurance Agency in the amount of \$11,090.00 for a Cyber Security Insurance Policy to protect the Village against a Cyber incident, to be funded from A1990 Insurance Account.

14. Approve Use of Village Property-Westhampton Beach Historical Society

RESOLVED, that the Westhampton Beach Historical Society is hereby authorized to use the Great Lawn on Friday July 7, 2023 for set-up with event date of Saturday July 8, 2023 from 10:00 am to 5:00 pm for a Revolutionary War Re-enactment, historic craft demonstrations and food trucks with the change to the fencing as discussed at the January 18, 2023 Trustee work session.

15. Authorize Payment of 2021/22 Assessment Roll Correction

RESOLVED, the Board of Trustees hereby authorizes payment of 2022/23 tax year property tax reduction in the amount of \$1,593.79 to the property owner specified as a settlement of Small Claims as ordered by the NYS Supreme Court.

16. Authorize Employees to Attend Training Course

RESOLVED, that Police Officer Kenneth Bigora is hereby authorized to attend a NY/NJ HIDTA Training in Pomona, New York on March 28-29, 2023. Registration fee of \$250.00, hotel of \$240.00 and travel expenses not to exceed \$200.00 to include gas, meals and tolls to be taken from G/L account code A3120.415 Training.

17. Approve Use of Village Property-East End Little League

RESOLVED, that East End Little League is hereby authorized to use the Great Lawn from March 13, 2023 through June 30, 2023, Monday through Friday from 4:00 p.m. to 7:00 p.m. for games and practices, and organizer will temporarily remove the fencing if requested by the Village.

18. Authorize Use of Village Property-Greater WH Chamber of Commerce

RESOLVED, that the Greater Westhampton Chamber of Commerce is hereby authorized to use the Glovers Lane Park for the annual "Easter Egg and Scavenger Hunt" event on Saturday April 1, 2023 from 11:00 p.m. to 1:00 p.m.

19. Approve Special Exception Application – WH Equity Group LLC

RESOLVED, that the Board of Trustees hereby approves the Resolution of the Special Exception Permit for WH Equity Group, LLC as written and attached hereto.

20. Authorize Mayor to Sign Agreement-Property Lease

WHEREAS, the Village of Westhampton Beach ("Village") owns a parcel of land located at 172 South Country Road, Westhampton Beach, NY 11978 (SCTM No. 900-359-3-47.1) (the "Property"); and

WHEREAS, the Property is located in the Town of Southampton outside of the boundary of the Village; and

WHEREAS, the Property was formerly used by the Village Department of Public Works; and

WHEREAS, the Property has been vacant and undeveloped for many years; and

WHEREAS, in or about the fall of 2021, CVE North America, Inc., a business entity that constructs and maintains solar power facilities, approached the Village about entering into a ground lease for the Property; and

WHEREAS, the Village discussed CVE's proposal at various public meetings; and

WHEREAS, the generation of electricity through solar panels without the use of fossil fuels is of public benefit; and

WHEREAS, under current Town of Southampton zoning regulations, the Property can only be used for open space conservation type uses as it is part of the Quogue East Recreational/Tourism Planned Development District; and

WHEREAS, CVE will have to make application to the Town of Southampton to use the Property for its proposed solar facility, and CVE will be bound to comply with the Town's regulations and any conditions of approval; and

WHEREAS, under the proposed lease with CVE, the Village is reserving to itself approximately three (3) acres of the Property in the event it is required to utilize that Property in the future; and

WHEREAS, the proposed lease, assuming CVE receives the appropriate approvals, will generate income to the Village from the Property; and

WHEREAS, the Board of Trustees have carefully analyzed the proposed lease in its final form and determined that it is in the best interest of the Village and its citizens to enter into the lease.

NOW, THEREFORE, BE IT RESOLVED that the Village has agreed to enter into the lease between the Village and CVE North America, Inc. in its current form, a copy of which is on file with the Village Clerk subject to the use approval to CVE from the Town; and that the Board of Trustees authorizes the Mayor to execute the lease between the Village and CVE North America, Inc. in its current form and sign any documents reasonably related thereto.

21. Authorize Use of Village Property-Greater Westhampton Chamber of Commerce

RESOLVED, that the Board of Trustees hereby authorizes the Greater Westhampton Chamber of Commerce to use the Village sidewalks on Saturday and Sundays from April 22 and April 23, September 30 and October 1, and October 7 thru October 9 from 10:00 am to 5:00 pm for the annual sidewalk sales sponsored by the Chamber of Commerce; 1 panel of sidewalks must remain clear for pedestrians.

22. Authorize Use of Village Property-Greater Westhampton Chamber of Commerce

RESOLVED that the Board of Trustees hereby authorizes the Greater Westhampton Chamber of Commerce to use Main Street from Library Avenue to Moniebogue Lane on Saturday April 22, 2023 with a rain date of April 23, 2023 from 11:00 a.m. to 4:00 p.m. with set-up at 9:00 am and break-down from 5:00 for the Greater Westhampton Beach Spring Festival.

23. Authorize Notice to Bidders-Beach Concession

RESOLVED, that the Village Clerk-Treasurer is hereby authorized to post a Notice to Bidders for the Village of Westhampton Beach Rogers Beach Concession for the 2023 summer season.

PUBLIC COMMENT

ADJOURN

DATED: February 2, 2023

Elizabeth Lindtvit
Village Clerk-Treasurer

**RESOLUTION OF APPROVAL OF
THE SPECIAL EXCEPTION PERMIT FOR
WH EQUITY GROUP, LLC**

WHEREAS, WH Equity Group, LLC (formerly Patio Gardens III) (hereinafter, "Applicant"), is the reputed owner of real property located at 12, 22 & 80 Montauk Highway and 11 Old Riverhead Road, , Westhampton Beach, New York 11978, which is designated on the Suffolk County Tax Map as Nos.: 905-4-1-22.1, 23, 26.3 and 30.1; and

WHEREAS, Applicant has submitted an application to the Board of Trustees for a special exception permit, to allow Applicant to construct 45 dwelling units in 17 buildings (6 townhouse groupings, 9 duplex with attached garages, 2 singles with attached garages) with a private community building, swimming pool, an on-site sewage treatment plant, and associated site improvements all to serve as a multifamily development community; and

WHEREAS, under Section 197-81.A of the Village Code, no special exception application for a multi-family residence can be granted without approval by the Planning Board of the site plan; and

WHEREAS, Applicant filed a site plan application with the Village Planning Board in connection with the project; and

WHEREAS, the site plan application underwent several months of review by the Planning Board that included an extensive traffic impact review as part of the Planning Board's compliance with the State Environmental Quality Review Act (SEQRA); and

WHEREAS, during the SEQRA review, the Board of Trustees was an involved agency; and

WHEREAS, the SEQRA review concluded with the lead agency Planning Board's adoption of a conditioned negative declaration as its determination of significance, on September 8, 2022; and

WHEREAS, upon completion of the SEQRA review process, the applicant requested that the Planning Board approve the site plan on a preliminary basis only, to enable Applicant to proceed to the special exception portion of the application, knowing that Applicant would be required to return to the Planning Board to complete the final site plan review if and when the Board of Trustees approved the special exception; and

WHEREAS, the Planning Board adopted a preliminary site plan determination dated October 13, 2022, in which the Planning Board conditionally approved the site plan on a preliminary basis, but noted in its decision that the site plan was based on the assumed full yield of 45 units and that the project details could not be finalized until after the Board of Trustees made a determination on the special permit and, specifically, as to whether to allow the requested density; and

WHEREAS, the Planning Board separately adopted a "Report and Recommendation" dated October 27, 2022, in which the Planning Board provided a recommendation relating to the special exception application; and

WHEREAS, in the Report and Recommendation, the Planning Board reported that, although the site plan met the basic site plan requirements of the Village, the Board remained concerned over the maximum density proposed and the applicant's compliance with affordable housing requirements and thus recommended consideration of a reduction to 41 units; and

WHEREAS, pursuant to Village Code Section 197-76, the Board of Trustees, following a public hearing, has the power to approve, disapprove, or approve with conditions an application for a Special Exception permit for uses that are specifically provided for in Chapter 197; and

WHEREAS, the subject property is located primarily in the Village' HD Hotel District zoning district which, under Section 197-16.3 and the Table of Use Regulations of the Village Code, allows for multi-family residential projects as a special exception use; and

WHEREAS, a small portion of the subject property, along Old Riverhead Road, is located in the B-2 zoning district, where multi-family residential residences are not permitted, but the site plan has been designed so as not to locate any of the residential units on the B-2 zoned property, which has also been excluded from the yield calculations;

WHEREAS, the Board of Trustees held a public hearing on the application beginning at the Board's November 2022 regular meeting and continuing to the Board's January, 2023 regular meeting, during which the Board heard public comments from the applicant's representatives and the public; and

WHEREAS, during the course of the public hearing, the Board members raised concerns relating to the affordable units, specifically with respect to the originally-proposed size of the seven affordable units, which were significantly smaller than the average size of the 38 market-rate units being proposed, and with respect to their distribution throughout the development; and

WHEREAS, in response to the Board's concerns, the Applicant amended the plans to increase the sizes of the seven proposed affordable to an average of 1,570 sf, which is 78% of the average size of the market rate units (2,011 sf), and to redistribute the affordable units throughout the development; and

WHEREAS, an additional issue that was raised and requested by the Board was for the Applicant to relocate the Depot Road entrance farther to the north, to create more separation from Montauk Highway; and

WHEREAS, the applicant complied with this request, s evidenced by the modified site plan submitted on December 29, 2022; and

WHEREAS, the final plans for which the Applicant seeks a special exception include the "Overall Site Plan" (sheet C-103) prepared by PW Grosser Consulting Engineer and Hydrogeologist, P.C., dated December 29, 2022, and the "Rendered Site Plan" prepared by BLD Architecture, dated January 5, 2023 (hereafter, collectively, the "Final Plans");

Now therefore be it

RESOLVED that the Board of Trustees, having deliberated on the application and the testimony presented at the public hearing and other public comments received from the public, and the materials presented by the Applicant, hereby adopts the following Findings and Conclusions as its determination on the Applicant's special exception permit application:

FINDINGS and CONCLUSIONS

1. The application is deemed complete for purposes of rendering a decision on the special exception permit.
2. With respect to unit yield, the Board finds as follows:
 - a) Under § 197-80.3.F of the Village Code, the maximum density of any multi-family development is as set forth in § 197-81B, which proscribes a limit of 6 units per acre for the HD district. For this parcel, excluding the B-2 zoned portion thereof, the maximum yield under this formula would be 45 units. The Applicant is proposing 45 units, which is therefore within the permitted maximum density under the Code.
 - b) Under § 197-80.3.G of the Village Code, entitled "Yield," the Board of Trustees is required to determine the "permitted yield of multi-family units" after "all applicable requirements" have been applied, "and not simply based on the maximum density as determined in Subsection F of this section."
 - c) The Board of Trustees has considered the applicable requirements of the Village Code that impact yield and has concluded that the requested yield of 45 units is consistent with those requirements. Although the Planning Board recommended a reduction of the yield to 41 units, such a reduction of yield would result in a reduction of the number of affordable units from 7 affordable units to 5 affordable units. The provision of affordable units is a benefit to the public, and the applicant has been responsive to this Board's request to increase the size of the affordable units and redistribute them throughout the site. No evidence was presented to the Trustees that a reduction of the permitted yield by four units would serve the public health, safety, and welfare. Therefore, the Board finds that a reduction of the permitted yield by four units is unwarranted under the circumstances of this application.
3. With respect to the affordable units, the Board notes that the Final Plans, as modified from the original plans, appear to satisfy the requirements of § 197-80.3 of the Code, subject to final review by the Planning Board to ensure that the affordable units are physically integrated into the design of the development and shall be distributed in the same proportion as all other dwelling units in the development. The Board notes that during the process, it requested that the affordable units be redistributed, and that the size of the affordable units be increased. The applicant complied with each of these requests as evidenced by the modified site plan.

4. Although the issue of traffic has been addressed by the Planning Board in the SEQRA negative declaration and found not to rise to the level of a significant adverse impact, the Village notes that it will consider the installation of a digital speed sign on the Village owned side of Depot Road.
5. The Board finds that the requirements of §197-79 of the Code are met, including that the proposed special exception use “will not prevent the orderly and reasonable use of the adjacent properties or of properties in the surrounding area or impair the value thereof,” “the safety, health, welfare, comfort, convenience or the order of the Village will not be adversely affected by the proposed special exception use and its location,” and “the special exception use will ... promote the general purposes and intent of this chapter.”
6. The Board also has considered the requirements of § 197-80 of the Code and finds that the proposal does not raise any concerns that are incapable of being mitigated through the conditions and modifications described herein and as customarily adopted by the Planning Board as part of its site plan review.

THEREFORE, the Board approves Applicant’s request for a special permit to the extent of 45 dwelling units in 17 buildings (6 townhouse groupings, 9 duplex with attached garages, 2 singles with attached garages) with a private community building, and swimming pool, with an on-site sewage treatment plant and associated site improvements collectively to serve as a multifamily development community, all subject to the completion of the site plan review process by the Planning Board, and subject to all conditions as the Planning Board may reasonably deem appropriate. Provided the final plans are substantially in conformance with the Final Plans approved herein, Applicant shall not be required to obtain a modified Special Exception Permit. In the event further substantial modifications are made, as determined by the Building Inspector, Applicant shall be required to obtain a modified Special Exception Permit to reflect those changes prior to issuance of a building permit.

DATED: February 2, 2023