

**The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Thursday November 2, 2023 at 5 p.m. at Village Hall, 165 Mill Road, Westhampton Beach.**

PRESENT: Mayor Maria Z. Moore  
Deputy Mayor Ralph Urban  
Trustee Rob Rubio  
Trustee Stephen Frano  
Clerk-Treasurer Elizabeth Lindtvit  
Village Attorney – Steven Angel

ABSENT: Trustee Brian Tymann

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**PUBLIC HEARINGS:**

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**Special Exception Application – 145 Main Street**

Motion made by Deputy Mayor to open public hearing, seconded by Trustee Frano and unanimously approved 3 Ayes, 0 Nays. Mayor Moore asked Barry Bernstein, the applicant, to explain his request. Mr. Bernstein explained his application, the original plan for the building was to have an apartment upstairs in anticipation of the sewer system. Mayor Moore thanked Mr. Bernstein for being one of the first to hook up to the sewer. He explained he started with the Planning then Zoning board to receive a variance, he attended the Trustee work session at which time the Board scheduled the public hearing on the special exception application along with the SC Department of Health. Mayor Moore also thanked Mr. Bernstein for the partnership allowing the Village to create a park while the land was vacant. Mayor Moore asked if anyone in the audience or the Board had any questions. Motion made by Trustee Frano to close the public hearing, seconded by Deputy Mayor Urban and unanimously approved 4 Ayes, 0 Nays.

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**RESOLUTIONS**

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**Authorize Notice to Bidders-John Adams Dix Windmill Restoration**

Motion made by Deputy Mayor Urban:

RESOLVED, that the Village Clerk-Treasurer is hereby authorized to publish and post a Notice to Bidders for the Village of Westhampton Beach’s John Adams Dix Windmill Restoration Project.

Seconded by Trustee Frano and unanimously approved 3 Ayes, 0 Nays

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**Accept minutes of Board of Trustees Meeting**

Motion made by Trustee Frano:

RESOLVED, that the minutes of the Board of Trustees Meeting of October 5, 2023 and Special Meeting of October 18, 2023 are hereby accepted.

Seconded by Trustee Rubio and unanimously approved 3 Ayes, 0 Nays

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**Accept Departmental Monthly Reports**

Motion made by Trustee Rubio:

RESOLVED, that the Justice Court, Police Department, Building Department and Treasurer’s Reports for September 2023 are hereby accepted.

Seconded by Deputy Mayor Urban and unanimously approved 3 Ayes, 0 Nays

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**Approve Warrant for October 2023**

Motion made by Deputy Mayor Urban:

RESOLVED, that the warrants for October in the amount of \$356,114.46 for the General Fund and \$747,279.35 for the Capital Fund are hereby approved.

Seconded by Trustee Frano and unanimously approved 3 Ayes, 0 Nays

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**Authorize Snow Removal Agreement with Village of Westhampton Dunes**

Motion made by Trustee Frano:

RESOLVED, that the mayor is hereby authorized to execute an agreement with the Village of Westhampton Dunes for the removal of snow by the Village of Westhampton Beach Department of Public Works employees for an annual fee of \$18,000.00 plus reimbursement of any certified expenses that may exceed said fee, for the time period November 1, 2023 through October 31, 2024.

Seconded by Trustee Rubio and unanimously approved 3 Ayes, 0 Nays

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**Authorize Use of Village Property-East End Hospice**

Motion made by Trustee Rubio:

RESOLVED, that East End Hospice is hereby authorized to use the Village Green on Sunday, December 3, 2023 for the annual Tree of Lights Memorial Service from 2:00 p.m. until 4:00 p.m.

Seconded by Deputy Mayor Urban and unanimously approved 3 Ayes, 0 Nays

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**Authorize Use of Village Property-HUGS, Inc.**

Motion made by Deputy Mayor Urban:

RESOLVED, that HUGS, Inc. is hereby authorized to use Rogers Beach from November 13, 2023 to January 6, 2024, to set up a community holiday tree to serve as a backdrop for Westhampton Beach patrons to visit and take pictures.

Seconded by Trustee Frano and unanimously approved 3 Ayes, 0 Nays

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**Authorize Employees to Attend Operation Sentry Conference**

Motion made by Trustee Frano:

RESOLVED, that Chief Steven McManus and Sergeant Kevin Klokkel are hereby authorized to attend the NY City Police Department’s Operation Sentry Conference in New York City on November 16, 2023. Lodging on November 15, 2023 at a cost of \$572.00, with some meals provided at no cost, other meal allowance and travel expenses not to exceed \$1,000.00 to include gas and tolls from G/L account code A3120.415 Training.

Seconded by Trustee Rubio and unanimously approved 3 Ayes, 0 Nays

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**Authorize Employees to Attend NYS Unmanned Aircraft Systems Preparation Course**

Motion made by Trustee Rubio:

RESOLVED, that Kevin Klokkel, Ryan Lucas and Joseph Loria are hereby authorized to attend the NYS Unmanned Aircraft Systems Preparation Course in Oriskany, NY from November 6, 2023 to November 8, 2023; lodging provided by DHS, Conference Registration provided by DHS, some meals are provided at no cost, other meal allowance and travel expenses not to exceed \$700.00 to include gas and tolls from G/L account code A3120.415 Training.

Seconded by Deputy Mayor Urban and unanimously approved 3 Ayes, 0 Nays

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**Authorize Town of Southampton Property Improvement**

Motion made by Deputy Mayor Urban:

Whereas, Charles McArdle, Superintendent of Highways of the Town of Southampton, has advised the Village that the Town’s Highway Department (HD) intends to erect an equipment storage arc at the Department’s Highway Barn, at 116 Old Riverhead Road, within the Incorporated Village of Westhampton Beach, and

Whereas, Superintendent McArdle has requested that the Village expedite the processing of the building permit for the storage arc in order to allow the HD to protect and secure its equipment in a proper facility, and

Whereas, the Village's Building Inspector has informed the Board of Trustees that, in the absence of an exemption from dimensional zoning regulations and from site plan procedural requirements, any building permit for the storage arc would likely require public hearings and discretionary approvals from both the Village's Planning Board and Zoning Board of Appeals, and thus would delay the issuance of any building permit by at least a few months, and

Whereas, because the Town's HD is a coordinate governmental agency, the Village must determine if the HD is entitled to any immunity from the strict application of the dimensional zoning regulations and from site plan procedural requirements based on the "balancing of public interests" test adopted by the N.Y. Court of Appeals in the case entitled, *Matter of County of Monroe*, 72 N.Y.2d 338 (1988), which test requires the Village to consider a number of factors to determine if the HD's interest in securing its facility and protecting its equipment with the proposed storage arc outweighs the Village's interest in enforcing its dimensional zoning regulations and site plan procedural requirements; now, therefore, be it

RESOLVED, that the Board of Trustees adopts the following findings with respect to the "County of Monroe" test:

The governmental entity that seeks immunity in this case is Highway Superintendent McArdle and the Town's Highway Department, which he oversees. The Board acknowledges that the Town's HD serves an essential governmental function of maintaining the Town's highway system, and Superintendent McArdle is, under the governing laws of the State of New York, an elected public official within the Town of Southampton, which includes residents of the Village of Westhampton Beach.

The particular project at issue is the addition of a structure to protect and secure existing equipment at the HD's facility on Old Riverhead Road. The protection and security of this equipment serves a legitimate and important public interest.

Under the unique facts of this case, the dimensional zoning regulations and site plan procedural requirements would have too adverse of an impact on the HD's project and need for expedited construction without serving a correspondingly high benefit to the Village. The Village's dimensional zoning regulations are indeed important, but in this particular case, the setbacks involve a protective cover within a pre-existing highway department yard, adjacent to a concrete plant. The Village's site plan procedural requirements are also important, but in this case the need for such careful review is tempered by the fact that the proposed structure will not change or intensify the use of the property and that the property is not accessible to the public at large but is only used by HD employees.

Nonetheless, because the site plan procedures would typically include a consideration of vegetative screening to mitigate against visual impacts of the HD's facilities, the Board finds it appropriate to request that the HD include vegetative screening as part of its project; and be it further

RESOLVED, that, based on the foregoing findings, the Board of Trustees directs the Building Inspector to process the building permit application at no cost for the HD's proposed project of erecting a storage arc, without requiring strict compliance with the Village's dimensional zoning regulations and site plan procedural requirements, subject to the Building Inspector's review of the application for compliance with the New York State Building and Fire Code; and be it further

RESOLVED, that the Board of Trustees expressly requests that Superintendent McArdle, in recognition of the Village's acknowledgment of immunity from site plan requirements, install vegetative screening at the HD's Old Riverhead Road facility, to include deciduous trees such as London Planes or Green Vase Zelkova.

Seconded by Trustee Frano and unanimously approved 3 Ayes, 0 Nays

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**Authorize Change Order for Sewer System Construction**

Motion made by Trustee Frano:

RESOLVED, that the Board of Trustees hereby approves change order # 2 (G-CO-02) for W.H.M. Plumbing & Heating Contractors, Inc. Contract G in the amount of \$7,358.83 for additional support grating for SBR.

Seconded by Trustee Rubio and unanimously approved 3 Ayes, 0 Nays

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**Authorize Payment of 2022/23 Assessment Roll Correction**

Motion made by Trustee Rubio:

RESOLVED, the Board of Trustees hereby authorizes payment of 2023/24 tax year property tax reduction in the amount of \$14,546.03 to the property owners specified in the attached as a settlement of Small Claims as ordered by the NYS Supreme Court.

Seconded by Deputy Mayor Urban and unanimously approved 3 Ayes, 0 Nays

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**Appoint Part Time Police Officer**

Motion made by Deputy Mayor Urban:

RESOLVED, that Corey Richard White is hereby appointed as a Part Time Police Officer in the Police Department at an hourly rate of \$30.00 to work as assigned by the Chief of Police effective November 3, 2023 to be funded from G/L account A3120.104 Part Time.

Seconded by Trustee Frano and unanimously approved 3 Ayes, 0 Nays

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**Authorize LL # 10 of 2023 - Amending Chapter 161-21 Entitled "Exemption for Members of Volunteer Fire Departments and Ambulance Service"**

Motion made by Trustee Frano:

WHEREAS, a public hearing was held before the Village Trustees at the Municipal Building, 165 Mill Road, Westhampton Beach, New York, on October 5, 2023 to amend Chapter 161-21, entitled "Exemption for Members of Volunteer Fire Departments and Ambulance Service" of the Code of the Village of Westhampton Beach; and

WHEREAS the Westhampton Beach Fire District held a public hearing on September 5, 2023, the Board of Fire Commissioners would like to confer the partial real property tax exemption benefits of Real Property Tax Law 466-a upon the enrolled volunteer firefighters and ambulance workers residing in the Westhampton Beach Fire District; and

NOW THEREFORE BE IT RESOLVED, that after due deliberation the Board of Trustees of the Village of Westhampton Beach hereby adopts this Local Law as advertised; and be it further

RESOLVED, the Village Clerk is hereby 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.

Seconded by Trustee Rubio and unanimously approved 3 Ayes, 0 Nays

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**Authorize LL # 11 of 2023 - Amending Chapter 91 Entitled "Flood Damage Prevention"**

Motion made by Trustee Rubio:

WHEREAS, a public hearing was held before the Village Trustees at the Municipal Building, 165 Mill Road, Westhampton Beach, New York, on October 5, 2023 to amend Chapter 91, entitled "Flood Damage Prevention" of the Code of the Village of Westhampton Beach; and

WHEREAS, the Suffolk County Planning Commission, via correspondence dated October 30, 2023, determined the proposed amendment to be a matter of local determination; and

WHEREAS, the Building & Zoning Department has found the proposed amendment to be a Type II action under 6 NYCRR 617.5 (c)(33) & (37) (SEQR) without the need for further environmental review.

NOW THEREFORE BE IT RESOLVED, that after due deliberation the Board of Trustees of the Village of Westhampton Beach hereby adopts this Local Law as advertised; and be it further

RESOLVED, the Village Clerk is hereby 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.

Seconded by Deputy Mayor Urban and unanimously approved 3 Ayes, 0 Nays

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**Authorize LL # 12 of 2023 - Amending Chapter 171 Entitled "Towing"**

Motion made by Deputy Mayor Urban:

WHEREAS, a public hearing was held before the Village Trustees at the Municipal Building, 165 Mill Road, Westhampton Beach, New York, on October 5, 2023 to amend Chapter 171, entitled "Towing" of the Code of the Village of Westhampton Beach; and

NOW THEREFORE BE IT RESOLVED, that after due deliberation the Board of Trustees of the Village of Westhampton Beach hereby adopts this Local Law as advertised; and be it further

RESOLVED, the Village Clerk is hereby 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.

Seconded by Trustee Frano and unanimously approved 3 Ayes, 0 Nays

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**Authorize Fee Schedule for Chapter 51 "Towing"**

Motion made by Trustee Frano:

RESOLVED, that the Board of Trustees hereby establishes the fee schedule for Chapter 51 "Towing" as attached, copy is available in the Village Clerk's Office and on the Village website [www.westhamptonbeach.org](http://www.westhamptonbeach.org).

Seconded by Trustee Rubio and unanimously approved 3 Ayes, 0 Nays

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**Authorize Waiver to SLA**

Motion made by Trustee Rubio:

WHEREAS, the Village Board has received an application from the Greater Westhampton Chamber of Commerce to have a Winter Festival on Main Street on Saturday December 2, 2023 with a rain date of Sunday December 3, 2023, the perimeters which are set forth on the map submitted with the application and,

WHEREAS, the Chamber of Commerce has asked the Village Board to waive the Village code chapter 54 Section 1-A to allow open containers within the perimeters, and to assist the Chamber and its participants with an application to the State Liquor Authority to authorize open container alcoholic beverages for this particular event on that day, now therefore be it;

RESOLVED, that the Village of Westhampton Beach agrees to waive the provisions of the open container law as set forth in Chapter 54 Section 1A, and the mayor is authorized to prepare and sign a "Container Letter" as quoted by the SLA confirming that the Village of Westhampton Beach authorizes and approves the use of open containers for this particular event within the perimeters.

Seconded by Deputy Mayor Urban and unanimously approved 3 Ayes, 0 Nays

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**Authorize Special Exception Application**

Motion made by Trustee Frano:

WHEREAS, by Special Exception Permit Application dated May 15, 2023, BMB Enterprises LLC (hereinafter, the “applicant”) requested a special exception permit to allow a two (2) bedroom dwelling unit above a business located at 145 Main Street, Westhampton Beach, New York, SCTM 905-11-2-29; and

WHEREAS, the property is located in the Village’s B-1 zoning district; and

WHEREAS, in the Village’s B-1 zoning district, a dwelling unit above a business may be permitted by special exception of the Board of Trustees pursuant to §197-40.1 of the Village Code; and

WHEREAS, an application to convert second story space into a dwelling unit was made to the Village’s Zoning Board of Appeals and was approved in a determination dated September 21, 2023 subject to certain enumerated conditions; and

WHEREAS, this application is a “Type II” action under the State Environmental Quality Review Act (SEQRA), having been classified as such by the Zoning Board of Appeals in the aforesaid determination; and

WHEREAS, a Public Hearing was duly noticed and held on November 2, 2023, where all interested parties were been given an opportunity to be heard, and

WHEREAS, the Board of Trustees having deliberated on the application finds that, subject to the conditions herein and the conditions enumerated in the determination of the Zoning Board of Appeals dated September 21, 2023, the requirements of Village Code section 197-40.1 have been met; Now, therefore, be it

RESOLVED that, the applicant’s request for a Special Exception Permit for a two-bedroom dwelling unit above a business at 145 Main Street, Westhampton Beach, New York, is hereby approved, subject to the following conditions:

1. Compliance with the conditions contained in the determination of the Zoning Board of Appeals dated September 21, 2023;
2. Submission of all necessary documentation to the Building and Zoning Administrator for approval pursuant to Chapter 141 (Sewers) of the Village Code and receipt of a site plan for sewer connection under said Chapter;
3. The issuance of all required approvals and permits from the Suffolk County Department of Public Works and the Suffolk County Department of Health Services; and
4. Applicant shall obtain final site plan approval from the Planning Board incorporating the foregoing conditions, but nothing herein shall be deemed to pre-empt the Planning Board from reviewing the site plan and imposing such additional conditions as may be reasonable and appropriate.

Seconded by Trustee Rubio and unanimously approved 3 Ayes, 0 Nays

**PUBLIC COMMENT:**

There being no public comment, meeting adjourned at 5:46 pm.

**DATED: November 2, 2023**

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**Elizabeth Lindtvit**  
**Village Clerk**