

**Village of Westhampton Beach
Board of Trustees Meeting
Thursday, November 2, 2023 at 5 p.m.**

PLEDGE OF ALLEGIANCE

WINDMILL PRESENTATION

PUBLIC HEARING:

Special Exception Application – 145 Main Street

RESOLUTIONS:

1. Authorize Notice to Bidders
2. Accept Minutes of Board of Trustees Meetings
3. Accept Departmental Monthly Reports
4. Approve Warrant for November 2023
5. Authorize Snow Removal Agreement with Village of Westhampton Dunes
6. Authorize Use of Village Property-East End Hospice
7. Authorize Use of Village Property-HUGS, Inc.
8. Authorize Employees to attend Conference
9. Authorize Employees to Attend NYS Unmanned Aircraft Systems Preparation Course
10. Authorize Town of Southampton Property Improvement
11. Authorize Change Order for Sewer System Construction
12. Authorize Payment of 2022/23 Assessment Roll Correction
13. Appoint Part Time Police Officer
14. Authorize LL # 10 of 2023
15. Authorize LL # 11 of 2023
16. Authorize LL # 12 of 2023
17. Authorize Fee Schedule for LL # 12 of 2023
18. Authorize Waiver to SLA

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PUBLIC HEARING:

Special Exception Application – 145 Main Street

RESOLUTIONS:

1. Authorize Notice to Bidders-John Adams Dix Windmill Restoration

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

2. Accept minutes of Board of Trustees Meeting

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

3. Accept Departmental Monthly Reports

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

4. Approve Warrant for October 2023

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 is hereby approved.

5. Authorize Snow Removal Agreement with Village of Westhampton Dunes

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.

6. Authorize Use of Village Property-East End Hospice

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.

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

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.

8. Authorize Employees to Attend Operation Sentry Conference

RESOLVED, that Chief Steven McManus and Sergeant Kevin Klokel 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 of \$572.00, some meals are 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.

9. Authorize Employees to Attend NYS Unmanned Aircraft Systems Preparation Course

RESOLVED, that Kevin Klokel, 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 DHA, some meals are provided at no cost, other meal allowance and travel expenses not to exceed \$700.00 per person to include gas and tolls from G/L account code A3120.415 Training.

10. Authorize Town of Southampton Property Improvement

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.

11. Authorize Change Order for Sewer System Construction

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.

12. Authorize Payment of 2022/23 Assessment Roll Correction

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.

13. Appoint Part Time Police Officer

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.

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

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.

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

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.

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

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.

17. Authorize Fee Schedule for Chapter 51 "Towing"

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.

18. Authorize Waiver to SLA

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.

PUBLIC COMMENT

DATED: November 2, 2023

Elizabeth Lindtvit
Village Clerk-Treasurer

