

MINUTES OF A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE VILLAGE OF MAMARONECK HELD ON MONDAY, JANUARY 14, 2008 AT 7:30 P.M. IN THE COURTROOM AT VILLAGE HALL, MAMARONECK, NEW YORK

PRESENT:	Mayor	Kathleen Savolt
	Trustees	Thomas A. Murphy Toni Pergola Ryan John M. Hofstetter Randi Robinowitz
	Village Manager	Leonard M. Verrastro
	Interim Village Attorney	Steven Silverberg
	Police Chief	Edward Flynn
	Clerk-Treasurer	Agostino A. Fusco
ABSENT:		None

On motion of Trustee Murphy, seconded by Trustee Ryan:

WHEREAS, the Westchester Day School (“WDS”) commenced an action against the Village, the Zoning Board of Appeals and certain present and former members of the Zoning Board of Appeals (collectively “Defendants”) in the United States District Court for the Southern District of New York (“District Court”) entitled Westchester Day School v. Village of Mamaroneck et. al., and

WHEREAS, by Opinion and Order, dated March 2, 2006, the Court ruled in favor of WDS and against Defendants on both WDS’s claim under the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. 2000cc, et seq. (“RLUIPA”), finding that Defendants “substantially burdened WDS’s religious exercise without a compelling government interest exercised in the least restrictive means,” and on WDS’s claim under the All Writs Act, 28 U.S.C. 1651, finding that “the ZBA’s denial of the Application was so contrary to the evidence and to the equities as to be arbitrary and capricious”, and

WHEREAS, the Village appealed the decision to the United States Court of Appeals for the Second Circuit Court (“Circuit Court”) and in a decision dated October 17, 2007 the Circuit Court affirmed the decision of the District Court and found “the record convincingly demonstrates that the zoning decision in this case was characterized not simply by the occasional errors that can attend the task of government but by an arbitrary blindness to the facts”, and

WHEREAS, the Village is now faced with either seeking leave of the United States Supreme Court to permit an appeal of the decision of the Circuit Court, proceeding with a hearing on WDS’s claim for damages or settling the claims of WDS, and

WHEREAS, only a very small percentage of cases are accepted by the United States Supreme Court for review on appeal and based upon the facts of this case and the extensive findings of the District Court and Circuit Court this Board believes it is a virtual impossibility that the case would be accepted by the United States Supreme Court to permit an appeal by the Village, and

WHEREAS, even if an appeal to the United States Supreme Court were allowed there is no guarantee of success and this Board believes, based upon the facts of this case and the extensive findings of the District Court and Circuit Court that reversal of the Circuit Court decision by the Supreme Court, even in the unlikely event that it permitted an appeal to proceed is a virtual impossibility, and

WHEREAS, during the time period an application to the Supreme Court would be pending the Village would continue to incur substantial additional attorney's fees and WDS would increase its claims for damages due to delay and for its attorneys' fees, and

WHEREAS, through October, 2007, when the Circuit Court Decision was rendered, the Village had already expended over nine hundred thousand Dollars of attorneys' fees in unsuccessfully defending against the claims by WDS, and

WHEREAS, the District Court has scheduled a hearing on damages and attorneys' fees for WDS on March 31, 2008, and

WHEREAS, the District Court has already indicated that elements of the damages sought by WDS could include increased construction costs, lost funding, reduced student enrollment and attorney's fees, and

WHEREAS, WDS has advised the Village that if the hearing on damages is to proceed, WDS will seek damages in the amount of approximately twenty-two million dollars, including over three million dollars in attorneys' fees alone, and

WHEREAS, on February 7, 2002, the Zoning Board of Appeals issued WDS a "negative declaration" under the implementing regulations of the State Environmental Quality Review Act (the "Negative Declaration"), relating to the construction of the building at issue in the lawsuit ("WDS Hall") and the other related site improvements on the WDS's property and the Negative Declaration, based upon a ruling of the District Court, is still in full force and effect and is binding on all involved agencies of the Village, including the Planning Board, and

WHEREAS, by resolution dated April 6, 2006 and filed in the office of the Clerk of the Village on April 13, 2006, the Zoning Board of Appeals, in compliance with the mandatory injunction issued by the District Court, "unconditionally" approved and granted a special permit for WDS Hall and other related site improvement on the Property (the "Approval") and the Approval is still in full force and effect, and

WHEREAS, the Religious Land Use and Institutionalized Persons Act ("RLUIPA) the statute under which the Village has been sued, permits the District Court to grant "appropriate relief against a government", and

WHEREAS, WDS has made a settlement offer to the Village, and

WHEREAS, this Board finds that, while we believe WDS cannot prove the claim for all of the twenty-two million dollars, the settlement offer by WDS is several million dollars less than we believe WDS may be able to prove as damages and provides WDS other relief which it is otherwise entitled to and/or could, at a hearing on damages, potentially convince the District Court to grant as part of the “appropriate relief” afforded a litigant under RLUIPA, and

WHEREAS, the decision of the Circuit Court has left this Board with little in the way of viable options, and

WHEREAS, this Board believes that continuing the litigation will be a further drain on the resources of the Village and a distraction of Village officials from the important work of the Village that must be done to improve the lives of our residents and protect their safety, while affording little likelihood of a better result for the Village and exposing the Village to greater expense and liability, and

WHEREAS, the circumstances this Board has been placed in as a result of decisions of prior boards leave us with limited options and we recognize the need to control as much of the outcome of this litigation as we can in order to reduce the potential for a catastrophic outcome for the Village, and

WHEREAS, this Board believes that the settlement proposal, while much more than any of us would like to agree to, affords the Village the best opportunity to avoid a judgment for damages that could potentially cause crippling financial harm to the Village, the Village’s bond rating and ultimately to the residents and taxpayers of the Village, it is

RESOLVED, this Board hereby approves the proposed settlement with Westchester Day School and authorizes our attorneys, Silverberg Zalantis LLP, to execute a Stipulated Judgment on Consent, Stipulation of Discontinuance and general releases in substantially the same form as attached, on behalf of the Village and Zoning Board of Appeals, and authorizes Silverberg Zalantis LLP to make minor corrections and adjustments to all those documents, with the approval of the Mayor.

Trustee Robinowitz stated: “This is a very sad day for the Village. It took five years to reach this point and it is very sad that a private religious school was denied the right to build on their own land. It did not make sense. The Board is here to make the tough decision, to settle the suit or potentially bankrupt the Village. The concern was that if the full force of their injury came down upon the Village, it would have been severe. The school was injured and I apologize to them on behalf of the Village. This Board is doing their best to make amends to the school and to the residents of the Village. It was the failed policies of past boards and their hired attorneys that led us to this point. The Board has to go forward and put this behind us. The school is entitled to build on their property to the best of their ability.”

Trustee Ryan stated: “There were opportunities to resolve the Westchester Day School matter without cost to our taxpayers. AND the majority of members of the Board of Trustees who then sat at this dais chose to reject those opportunities and instead to spend upwards of \$900,000 of taxpayers’ dollars on legal fees.

The Court used words like “arbitrary and capricious” and phrases like “blindness to the facts” to describe the Zoning Board of Appeal’s denial of the Westchester Day School’s application. AND the majority of members of the board of trustees who then sat at this dais chose not to listen to the Court.

It has now fallen on the members of this Board of Trustees who now sit at this dais to take inventory of where we were, where we are, and where we must go. It has fallen on the members of the Board of Trustees who now sit at this dais to resolve a matter that happened on someone else’s watch. AND the individuals who now sit at this dais and who now represent the residents of this Village have accepted that responsibility and have worked hard to bring this matter to resolution.

Steve Silverberg, the Village’s current attorney and Messrs. Joel Haims and Stanley Bernstein, attorneys for the Westchester Day School, have expended great effort to craft a settlement that is fair to Village residents and to the Westchester Day School. I appreciate their hard work. AND because I truly believe that what we have before us is the best resolution of this lawsuit, one that saves the village from financial bankruptcy I VOTE YES.”

Trustee Hofstetter stated: “This is a very difficult decision for me to make. I think the amount of money to be paid out is very large and the financial impact on the residents and budget will be felt. This Board discovered that there were at least three times when this could have been settled at no cost. In the past, the Village deferred to previous Village attorneys who charged over \$900,000 to continue litigating this case. They did not resolve the problem, but simply bought time, leaving me and my colleagues here to clean this up. We are at the point where we have a settlement for \$4.75 million in front of us and while it is a lot of money, it is a fraction of the \$22 million in damages WDS claims it is owed. While we may have been able to challenge some of their claims to damages, the likelihood of getting those damages reduced to \$4.75 million seemed extremely remote. It is time for both the Village and the Day School to move on.”

Trustee Murphy stated: “This is an extremely tough decision, which the Board did not come about lightly. We weighed our options, and they were not good at all. In the year, John, Toni and I have been on this Board together, we have often been in the position of being the guy who follows the elephant. We are here now and this is the decision we have to make. At the end of the day, citizens have a right to petition their government to make any decision they think is right. The citizens had a right to speak out against this project, but the duty of officials is to hear that but then decide what is best for the whole community. You cannot make decisions based on political expediency. Sometimes you have to tell people no. You have to put your responsibility and integrity before your need to get elected or reelected. If you put politics above integrity, you end up losing both in the end. I believe that is what happened here and why you have five different people sitting here on this Board. As John said, no one wants to hand out \$4.75 million of your, my, everybody here’s money, but the situation has to be looked at realistically. We should not always be at war. It is time for the wars to end. There was a time when there was a good relationship between the Day School and Village and I hope we will have that again.”

Mayor Savolt did not prepare a statement. She did state: “For me, this is a lot more personal. I have now been Mayor for five weeks. This is only my third meeting and as I said in a press interview

right after I took office when asked how I felt when the \$22 million story hit, I said that I felt like I had just been punched in the stomach. It has been a really tough five weeks. Especially the last two weeks. Getting emails at all hours of the day and night from lawyers needing documents turned around quickly meant many long days and sleepless nights as I weighed what was going to be happening here. Until today it was just words on a piece of paper, but when I started to prepare for reading that statement, I realized this is actually happening. This is by far the largest settlement made in the history of the Village and I certainly do not like being a part of it. It is our money and I think of all the things the Village could spend \$4.75 million plus \$900,000 in legal fees on. I came back into public service largely because of this case when I heard rumors that Village officials had made unreasonable demands of the Day School during what the Day School thought were good faith settlement discussions and someone somewhere along the line made a stipulation that noise on the property couldn't be above normal conversation level during construction and that the Day School would have to submit to the Village government the names and addresses of all of their students in order to get their building built. This just made me angry, so when the time came to make a decision about coming back into public life, I found out that these rumors were true and I could not stand for this any longer. I have to do something about this, so here I am doing something about this. I don't like it, but you tough it up and you do it."

Mr. Irving Scharf appeared. He stated that he tried to do something about this but meetings on this were closed. He hopes that this Board will develop a system to make the residents involved in something as complex as this. He feels bad that people have been condemned, but that Trustee Murphy should have made residents aware of what was happening. He feels that the legal staff that urged or demanded that the Board appeal this case be sued for malpractice.

Mr. Glen Tippett appeared. He feels this Board was put in a tough position and did what they had to do. This is a cautionary tale of what happens when committees get involved in arbitrary decisions in zoning and planning matters. You cannot make decisions based on what people want, but what is legally permitted. You cannot change zoning or land use in the middle of the game.

Mr. Norm Rosenblum appeared. He questioned how the money is to be paid out. Mayor Savolt stated that was previously announced and that it would be over a three year period. \$2 million is due within 95 days of the executed agreement and the rest in equal installments over the next two years.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

1. COMMUNICATION TO THE BOARD

Mr. Phil Gramaldi of Hawthorne, NY appeared on behalf of resident Mauro Gabriele. Mr. Gramaldi represents Mr. Gabriele on his proposed subdivision on Highview Street. Mr. Gramaldi reminded the Board that this subdivision was before the Planning Board for approximately one year and that in August, 2006 the Planning Board granted preliminary approval for the eight lots. Within thirty days, Mr. Gabriele was sued by some neighbors in an Article 78 proceeding, which was found in Mr. Gabriele's favor. Mr. Gramaldi has since learned that approximately one month before the case was

decided, the Village changed a subdivision requirement, requiring a 50-foot right of way, rather than a 40 foot right of way. The Planning Board has now gotten two opinions and they believe that the new law should apply even though preliminary approval was granted before this code change. As an applicant can not go forward on a project when there is an Article 78 pending, Mr. Gramaldi was at the meeting to appeal to the Board's sense of fairness and common sense in this case and to let Mr. Gabriele proceed under the former subdivision regulation. He believes that this is not only unfair, but also illegal.

Mayor Savolt stated that normally the Board would not engage in conversation during this communication period, but did ask Mr. Silverberg if they have any standing in a Planning Board decision. Mr. Silverberg stated that the prior Village Attorney issued an opinion to the Planning Board that the current law applies and suggested that they look into whether or not they can grant a waiver. At the last Planning Board meeting, the Chairman asked the Board if anyone would like to entertain granting a waiver and no member made a motion to that effect. He further stated that this is a matter for the Planning Board to decide and the Board of Trustees cannot take any action.

2. APPROVAL OF MINUTES

A. BOT Regular Meeting of September 10, 2007.

Village Manager Verrastro stated that there is a correction on page five. The amount of the budget amendment for the Spruce Street Retaining Wall is \$30,000.

On motion of Trustee Murphy, seconded by Trustee Hofstetter:

RESOLVED that the Minutes of the Board of Trustees Regular Meeting of September 10, 2007 be and are hereby approved, with the change noted by Mr. Verrastro.

Ayes: Hofstetter, Ryan, Murphy

Nays: None

Abstention: Robinowitz, Savolt

B. BOT Public Hearing on Proposed Local Law 8-2007

On motion of Trustee Murphy, seconded by Trustee Hofstetter:

RESOLVED that the Minutes of the Board of Trustees Public Hearing on Proposed Local Law 8-2007 be and are hereby approved, with the changes suggested by Trustee Ryan.

Ayes: Hofstetter, Ryan, Murphy

Nays: None

Abstention: Robinowitz, Savolt

3. AUDIT OF THE BILLS

On motion of Robinowitz, seconded by Trustee Ryan:

RESOLVED that the Abstract of Audited Vouchers listed below, copy being filed with the Village Clerk, be and the same are hereby ordered paid:

General Fund	\$ 907,997.66
Capital Fund	1,058,664.32
Capital Fund	163,636.25
Water Fund	17,955.00
Mamaroneck Health Center	61.51
Meighan Park	49.10
Disability Insurance	895.68
Guarantee & Bid Deposit	<u>18,935.25</u>
	\$2,168,260.37

Mayor Savolt thanked the Clerk-Treasurer's office in their work in going live with the new accounting system. There are a few kinks, some coding issues, which are being worked out. There are legal expenses going back to 2006 included on this abstract, as billing is delayed.

Trustee Ryan stated that most of what is listed under Flood and Erosion Control is going to come back to the Village.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

4. OLD BUSINESS

5. NEW BUSINESS

A. Bond Resolution – Westchester Day School Settlement

On motion of Trustee Hofstetter, seconded by Trustee Ryan:

RESOLVED that the issuance of serial bonds and bond anticipation notes in anticipation of the issuance of such serial bonds of the Village in the aggregate principal amount of up to \$4,800,000, pursuant to the Local Finance Law, in order to finance the settled claim with Westchester Day School is hereby authorized.

Mayor Savolt stated that the bonds are being issued in the amount of \$4.8 million and not \$4.75 million to cover the costs of issuing the bonds.

Trustee Murphy agreed with a statement made earlier by Mr. Scharf that the Village should look to recoup some of the attorney's fees it has paid out and perhaps the Village should try and recruit an attorney who would take this case on a percentage basis.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

B. Transfer of Funds – Spruce Street Retaining Wall

On motion of Trustee Murphy, seconded by Trustee Ryan:

WHEREAS, under date September 10, 2007, the Board of Trustees approved a budget amendment to provide \$30,000 for engineering services for the design of the stabilization of the Spruce Street Retaining Wall; and

WHEREAS, it has now been determined that there is a need to appropriate the remaining balance of \$15,000 into the account listed below:

NOW, THEREFORE, BE IT RESOLVED, that the following transfer be made as provided in Section 5-520 of the Village Law

<u>FROM</u>		<u>TO</u>	
<u>Account</u>	<u>Amount</u>	<u>Account</u>	<u>Amount</u>
A1440.421 Village Engineer Contract Svs.	\$15,000	A5110.421 Highway Dept. Contract Svs.	\$15,000

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

Village Manager Verrastro explained that there is concern that the retaining wall may give way and felt it was in the best interest of the Village to declare this a public emergency and asked that the Board pass a second resolution declaring a public emergency so that the Village can take the immediate steps to permanently repair the retaining wall, sidewalk, curbs and street, due to the serious consequences in delaying this project especially with regard to the County Sanitary Sewer trunk line being in jeopardy.

On motion of Trustee Murphy, seconded by Trustee Robinowitz:

WHEREAS, on December 17, 2007 the General Foreman notified the Village Manager of his serious concerns regarding the Spruce Street retaining wall and the very strong possibility of the road bed collapsing and causing damage to the County sewer main by the wall or roadway collapsing and raw sewage being discharged into the Mamaroneck River and Long Island Sound; and

WHEREAS, the Village was required to retain the necessary contractor to remove the temporary repair to take immediate steps to permanently repair the retaining wall, sidewalk, curbs and street,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees finds and declares there to be a “public emergency” within the meaning of General Municipal Law, Section 103 (4) and that the

Village Manager be and is authorized to perform the emergency repairs to the retaining wall, sidewalk, curbs and street on Spruce Street.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

C. Transfer of Funds – Repair to Harbor Master’s Crane

On motion of Trustee Robinowitz, seconded by Trustee Hofstetter:

In connection with the Harbor Master getting the Pettibone Crane operational for the 2008 boating season, it will require repairs to the transmission as well as hydraulic and other repairs. The cost of the required repairs is estimated to be between \$5,500 and \$6,500, which exceeds the available funds in his automotive repair line.

This crane was bought used approximately 5 years ago. It is approximately 20 years old and is the only crane that the Village has and is used for other tasks throughout the year in conjunction with the DPW, such as cleaning out the floating debris boom at the Ward Avenue Bridge. There is at least one other Village employee who is trained on this crane.

WHEREAS, under date of May 7, 2007, the Board of Trustees adopted the budget of the Village of Mamaroneck, New York for the fiscal year June 1, 2007 to May 31, 2008; and

WHEREAS, it has now been determined that there will be need for additional appropriation in the account listed below:

NOW, THEREFORE, BE IT RESOLVED, that the following transfer be made as provided in Section 5-520 of the Village Law.

<u>FROM</u>		<u>TO</u>	
<u>Account</u>	<u>Amount</u>	<u>Account</u>	<u>Amount</u>
A1999.990	Contingent Account	\$5,500	
		A7230.407	Harbor Master Auto Repairs
			\$5,500

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

D. Schedule Public Hearing – Amend Permit Parking Areas on Bishop Avenue

On motion of Trustee Ryan, seconded by Trustee Murphy:

Due to several issues raised by the Parking Enforcement Officers with regard to enforcing the permit parking requirements on Bishop Avenue, Harry Hazelwood, Traffic and Meter Department has

inspected and measured the parking area and the current signage. Based on his findings, it is proposed that the applicable Village Code sections be amended.

RESOLVED, that a public hearing be scheduled for Monday, February 11, 2008 at 7:30 p.m. to consider proposed changes to Chapter 326, Vehicle & Traffic, Article IV – Permit Parking Areas, Section 326-39 Areas established, with regard to the Bishop Ave. Permit Parking Areas “RR” and “NRR”.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

E. Authorization to Sign Agreement – New Rochelle Yard Waste Transfer Station

This is a back up agreement with the City of New Rochelle for 2008 tipping fees which have been set at \$20.21 per ton of material deposited at their Waste Transfer Station. This is the same amount as last year. Due to the physical restraints of our Village Transfer Station, we are unable to comply with the County’s requirement to utilize open trailers for the loading and delivery of yard waste. Therefore, the Village entered into an agreement with Port Chester and as a backup, the City of New Rochelle.

The County’s tipping fee was \$13.87 per ton and the Village of Port Chester’s was \$19.87 per ton in 2007.

When questioned by Mayor Savolt, Mr. Verrastro stated that commercial gardeners may use the Village’s transfer station, but residents may not. They should contact DPW for the times they may use the station.

On motion of Trustee Hofstetter, seconded by Trustee Robinowitz:

RESOLVED, that the Village Manager is hereby authorized to execute the 2008 Use Agreement between the City of New Rochelle and the Village of Mamaroneck for the disposal of yard waste and fall leaves at the City of New Rochelle Yard Waste Transfer Station.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

F. PRESIDENTAIL PREMARY ELECTION – USE OF MUNICIPAL BUILDINGS

Due to changes in the Election Law, the County of Westchester will now be handling the designation of polling places for the Presidential Primary Election to be held on Tuesday, February 5, 2008 from 5:30 a.m. to approximately 9:30 p.m. The Westchester County Board of Elections has requested the use of the following Village facilities:

It was also decided not to charge the County for use of the facilities.

Volunteers Fire House
Mamaroneck EMS Building
Halstead Manor Fire House

Columbia Fire House
Court Room at Village Hall

On motion of Trustee Robinowitz, seconded by Trustee Murphy:

RESOLVED that the request from the Westchester County Board of Elections for use of the above mentioned Village facilities as polling locations for the Primary and General Elections is hereby granted.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

G. Resolution regarding Grant Priorities for Federal/Local Project

The following is a summary of requests of Federal Funding for local projects – FY2008 which was prepared by the Village Manager and Assistant Village Manager for Congresswoman Lowey’s office after input from several municipal departments.

After discussion by the Board, the following list of priorities was agreed upon:

<u>Project</u>	<u>Estimated Project Cost</u>
1. Rehabilitation & Expansion of storm drains and systems	\$1.0 million (over 5 years)
2. Sewer inflow and infiltration	\$2.5 million (over 3 years)
3. Stream bank restoration	\$250,000
4. New search and rescue fire boat	\$300,000
5. New docks	\$450,000
6. New ambulance	\$150,000
7. New fire truck	\$850,000
8. Bridge rehabilitation	\$200,000
9. New generator and rehab of EMS building	\$ 60,000
10. Sprayground expansion	\$100,000
11. Rehab pedestrian walkway	\$600,000

On motion of Trustee Ryan, seconded by Trustee Hofstetter:

RESOLVED, that the Board of Trustees has reviewed and prioritized a list of local projects to be submitted to the office of Congresswoman Nita Lowey and local matching funds will be made available, if required.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

H. Tax Certiorari – Top of the Ridge

Mayor Savolt announced that this agenda item needs to be tabled as the paperwork needed is not complete.

I. Appointments to Harbor & Coastal Zone Management Committee (2)

Mayor Savolt stated that there have been two resignations in the past month and therefore there are two unexpired terms that need to be filled, expiring December 2008.

The Board thanked the two volunteers who offered to work with the Commission. They also thanked the two members who recently resigned.

On motion of Trustee Ryan, seconded by Trustee Hofstetter:

RESOLVED, that Morton Heilman and Lewis Fechter be appointed to the Harbor and Coastal Zone Commission to fill two unexpired terms, each to expire December 2008.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

J. Resolution to Adopt Meeting Guidelines

The Mayor drafted these guidelines using meeting guidelines taken from the New York Committee of Mayors (NYCOM) and the polling of other municipalities. This was also done in response to comments the Mayor received from residents during her campaigning. These guidelines have been posted on the Village's website and in the Voice of the Village. No comments have been received.

On motion of Trustee Robinowitz, seconded by Trustee Ryan:

RESOLVED that the Meeting Procedures as drafted are hereby adopted.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

K. Renewal of Motel Licenses (Mamaroneck, Vincent & Sons and Toll Gate)

On motion of Trustee Murphy, seconded by Trustee Ryan:

RESOLVED that the Motel License for the Mamaroneck Motel is hereby renewed for a one year period.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

On motion of Trustee Hofstetter, seconded by Trustee Murphy:

RESOLVED that the Motel License for Vincent & Sons is hereby renewed for a one year period.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

Interim Village Attorney Silverberg suggested tabling the vote on the renewal of the Motel License for the Toll Gate Motel to the next meeting as they have been issued violations and a notice to remedy. This will give them the opportunity to remedy these violations and for the code enforcement officer to re-visit the site.

L. Budget Amendment – CHIPS Funds

In order to properly reflect the actual amount of CHIPS Capital Funds to be received and expended this fiscal year, since the actual amount was not known at the time the 2007-2008 Annual Budget was adopted, the Village Manager has asked that the Board approve a budget amendment to estimated revenues and appropriations for the following amount:

Actual amount to be received	\$153,776
Amount per adopted budget	<u>(132,800)</u>
Additional funding	\$ 20,976

The above amount has been expended as part of the 2007-08 street resurfacing program.

On motion of Trustee Murphy, seconded by Trustee Ryan:

RESOLVED that the 2007-2008 Adopted Budget be amended to reflect additional CHIPS Capital Funds of \$20,976 to be reimbursed by the State of New York, which has been expended for the Village’s annual street resurfacing program; and

BE IT FURTHER RESOLVED that the following budgetary accounts be increased to properly reflect the availability of the additional CHIPS fund:

A5100	Estimated Revenues	
A0300	State Aid	
3501	CHIPS Program	<u>\$20,976</u>
A9600	Appropriations	
A5112	CHIPS Highway Assistance Program	
.220	Permanent Improvements	<u>\$20,976</u>

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

M. Village Apron – Radiant Heat System

Mayor Savolt announced that an agenda item has been added. She also stated that if the Meeting Guidelines were previously in place, this would not happen without a vote by the Board.

There was a presentation made during the work session by the Fire Department for an additional item to be added to the new firehouse. It is for a radiant heat system for the apron outside of the firehouse doors, in order to remove snow and ice during winter weather. The Village is at the point in the construction that if this is going to be installed, it needs to be done now.

On motion of Trustee Murphy, seconded by Trustee Robinowitz:

RESOLVED that the Village Manager is hereby authorized to issue a change order in the amount of \$85,000 for the installation of a radiant heat system in the driveway apron and sidewalk at the new firehouse.

Trustee Murphy stated that this was part of the original firehouse renovation project but that bids were not received in time to be part of the originally approved project. Therefore funds for this work are part of the bond taken on this project, so it would not be an added expense but would come out of the contingency fund already in place.

Trustee Robinowitz stated that after hearing the presentation, what at first might appear to be a perk, you realize that in an emergency situation there is no way to remove the potential volume of snow due to the size of the apron, and it is in the best interest of our residents to approve this radiant heat.

Trustee Ryan is concerned with the public walkway on the side of the firehouse if the snow were piled up in this area, which would be the only option if this heating system were not installed.

Trustee Hofstetter stated that if this money was not used it would go against the paying down of the bond. Trustee Hofstetter is concerned with the amount of money being spent recently and because of this, finances are tight.

Mayor Savolt stated that this had come before the previous Board and the general feeling of that Board was perhaps this was a frivolous item, however, the fire department representatives came before the Board this evening with other options for snow and ice removal, which proved that this is not frivolous and was the best option presented.

Ayes: Robinowitz, Ryan, Murphy, Savolt

Nays: Hofstetter

6. REPORT FROM VILLAGE MANAGER

A. File for Record – Retainer Agreement with Joseph Notaro, Village Prosecutor.

A fully executed copy of the Retainer Agreement is on file with the Clerk-Treasurer's office.

B. File for Record – Agreement for Home Delivered Meals for the Elderly

A fully executed copy of the Agreement with Horizon Food Service Corporation is on file with the Clerk-Treasurer's office.

Village Manager Verrastro reported on additional items not on the agenda. The first being calls that his office has been receiving on the 2008 garbage collection and recycling calendar. There was a problem with the printing of the magnets and they should be in the mail this week. The second is that the Street Fair has been scheduled for June 22, 2008. Volunteers are being sought. If anyone is interested, please either contact the Clerk-Treasurer's office or Trustee Robinowitz, who is liaison to the committee.

7. REPORT FROM CLERK-TREASURER

A. File for Record – LISWIC Sixth Annual Report

A copy of this report is on file with the Clerk-Treasurer's Office.

B. File for the Record – Library Vote

A copy of the vote on tax allocation and Trustees elected is on file with the Clerk-Treasurer's Office.

C. File for the Record – Order and Certificate of Confirmation

A copy of the Order and Certificate of Confirmation with Verizon New York, Inc. is on file with the Clerk-Treasurer's Office.

D. File for the Record – Letters of Resignations

Copies of Letters of Resignations of two members of the Harbor and Coastal Zone Commission are on file with the Clerk-Treasurer's office.

8. REPORT FROM VILLAGE ATTORNEY

9. REPORT FROM POLICE CHIEF

Police Chief Flynn reported that between 12/15 and 1/7, there were seven burglaries and one attempted burglary reported in the Heathcote Road/Palmer Avenue area. After investigation by the detective bureau there was an arrest made. Mr. Michael Caldwell of 729 Prospect Avenue was arrested.

10. MINUTES – COMMISSIONS, BOARDS, COMMITTEES

Minutes of the Planning Board of September 5, 2007

Minutes of Planning Board of November 8, 2007

11. COMMUNICATION TO THE BOARD II

Mr. Bob Galvin appeared as Chair of the Planning Board. Approximately 18 months ago they asked to informally review the plans for the new firehouse. He understands that it is for municipal use and they have no jurisdiction, however, there may some issues, i.e. landscaping that they could bring to

the table, as they are doing with the Library. He did have a comment regarding the radiant heat and asked if it will work for major snows. He suggested that in the future an independent engineer be used as a second pair of eyes, as there may be other alternatives. Mayor Savolt stated that they did look at other alternatives and the snow will not accumulate as there are sensors that will turn the system on if the conditions are right for snow.

Mr. Irving Scharf suggested the Board meet with the Flood Mitigation Committee in regard to the grants being applied for with Congresswoman Lowey's office. Mr. Scharf also believes that the new rule instituted that residents cannot speak during the regular meeting takes away their rights and they should be able to comment on legislation being voted on.

Norman Rosenblum inquired if geothermal heating was explored to be used in conjunction with the radiant heating at the firehouse. The Board stated that was one of the options looked at.

Mr. Glen Tippett asked the Mayor, as a member of the Westchester Joint Water works, to update the residents on the water filtration plant court case and what the cost to residents might be. Mayor Savolt stated that the WJWW is a public body and their Board meetings are open to the public. These meetings are held every other Tuesday at 4:30 p.m. The Mayor could not recall if it is the first and third or second and fourth Tuesday, but they are posted on the WJWW's website.

Mr. Mauro Gabriele asked Trustees Ryan, Hofstetter and Murphy the impetus behind changing the Village's Subdivision Right of Way Code. Trustee Hofstetter understands that the previous change from 50 feet to 40 feet was done because of a problem with water run off issues and this would allow for more ground to be covered. Trustee Ryan recalled it had to do with the distance between the street, sidewalk and residents property. Trustee Murphy stated that it was previously changed from 50 to 40 feet to decrease impervious services. However, as it allowed greater density of building, this turned out not to be the case, and was therefore changed back. Mr. Gabriele stated that he believes the impetus behind changing the law was a letter the Board received from three residents. These individuals commenced litigation and lost. Mr. Gabriele began his project when the right of way was 40 feet. He has not asked for any variances and his project results in zero run off, which is in contrast to all of the water running off the site now as it is on rock face. Mr. Gabriele asked the Board to make a statement on this. Mayor Savolt stated that the Board is not in a position to make a statement at this time, however, they will review the history and perhaps come back at a later date and if the Board agrees to put this item (Subdivision Regulations) on a meeting agenda, they will do so. Mr. Silverberg suggested Mr. Gabriele and/or his attorney write to the Board with the specific questions they have. Trustee Murphy asked Mr. Gabriele if he could still develop his property under the new subdivision regulations. Mr. Gabriele stated that he could, after getting additional approvals. However it cannot be developed in the way it was planned under the old law, when it was first approved. Trustee Robinowitz asked Mr. Gabriele if he felt there was a conflict of interest as he was on the Zoning Board of Appeals at the same time he had a land use issue in front of the Planning Board. Mr. Gabriele believes that was asked by Ms. McCrory at a previous Board meeting and he responded that being on television and in the newspapers on a regular basis, as part of the ZBA meetings, he didn't believe it necessary for him to state that he was Chairman of the Zoning Board

at the time. If that was incorrect, he apologized. However, as a resident of the Village he believes he has the same right to appear before a land use board and develop a project as any other resident.

Ms. Mary Lou Greco appeared. She also feels that not allowing residents to speak during the regular meeting, before the Board takes a vote, is denying their right to voice their opinion on what is being voted on. Mayor Savolt stated that the meeting agenda is available the Wednesday before the meeting and anyone who has an interest in speaking on an agenda item may do so before the Board votes as the first part of the meeting is for communication by residents to the Board.

Mayor Savolt reported to the community that the search for a village attorney is being actively worked on and the committee has interviewed several candidates. The Mayor also announced that her email address and phone number have been posted in the Voice of the Village. She heard from two residents of Harbor Heights who are very happy with their sanitation workers. Mayor Savolt commended Pat Dahlgren, Fred Morroco and John Paul for providing such great customer service.

ADJOURNMENT

There being no further business to come before the Board, on motion duly made and seconded, the meeting was adjourned.

PREPARED BY:

RESPECTFULLY SUBMITTED BY:

SALLY J. ROBERTS,
SECRETARY

AGOSTINO A. FUSCO,
CLERK-TREASURER