

MEETING HELD JULY 16, 2012

A meeting of the Board of Trustees of the Village of Port Chester, New York, was held on Monday, July 16, 2012 at 6:30 P.M., in the Court Room of the Police Headquarters Building, 350 North Main Street, Port Chester, New York, with Mayor Dennis Pilla presiding.

Present in addition to Mayor Pilla, were Trustees Daniel Brakewood, Bart Didden, and Luis Marino.

It should be noted that Trustees Saverio Terenzi, Joseph Kenner and John Branca were absent.

Also present were Assistant Village Manager/Director of Code Enforcement, Christopher Steers; Village Attorney, Anthony Cerreto; Village Treasurer, Leonie Douglas, Director of Planning and Development, Christopher Gomez and Deputy Village Clerk, Jacqueline Johnson.

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On motion of Trustee Didden, seconded by Trustee Brakewood, the meeting was declared opened at 6:38 p.m.

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES:
ABSENT: Trustees Terenzi, Kenner and Branca

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MOTION FOR EXECUTIVE SESSION

At 6:40 p.m., on motion of Trustee Brakewood, seconded by Trustee Marino, the Board of Trustees adjourned to an executive session for consultation with Village staff regarding law enforcement of places of entertainment.

AYES: Trustees Brakewood, Didden, Marino and Mayor Pilla
NOES: None
ABSENT: Trustees Terenzi, Kenner and Branca

No action was taken in executive session.

At 7:10 p.m., on motion of Trustee Marino, seconded by Trustee Brakewood, the executive session was closed and the public portion of the meeting was reopened.

AYES: Trustees Brakewood, Didden, Marino and Mayor Pilla
NOES: None
ABSENT: Trustees Terenzi, Kenner and Branca,

AFFIDAVIT OF PUBLICATION AND NOTICE OF PUBLICATION RE:

Public Hearing: Comprehensive Plan and the Zoning Amendments and Amendments to the Village Official Zoning Map Implementing the Comprehensive Plan.

The following Public Notices were duly published in the Journal News and the Westmore News on June 29, 2012, certified by Cecilia Hernandez, Principal Clerk of the Journal News and Angelina Brescia, Office Manager of the Westmore News.

PUBLIC NOTICE
Village of Port Chester
Comprehensive Plan, Zoning Amendments and Amendments
to the Village Official Zoning Map Implementing the Comprehensive Plan

NOTICE IS HEREBY GIVEN that the Board of Trustees of the Village of Port Chester, New York, will hold a public hearing on Monday, July 16, 2012, and August 6, 2012 at 7:00 p.m. or as soon thereafter in the Village Justice Court Courtroom, 350 North Main Street, Port Chester, New York, to consider the advisability of adopting the Comprehensive Plan and a local law amending Chapter 345 of the Code of the Village of Port Chester with regard to zoning amendments and amendments to the Official Zoning Map implementing the Comprehensive Plan.

An electronic copy of the Comprehensive Plan and local law can be downloaded from the Village's website www.portchesterny.com (located on the Home Page "Where do I go for?" section at the Public Hearing July 16, 2012 link). Paper copies of the Comprehensive Plan and local law are available for viewing at Village Hall, 222 Grace Church Street, Port Chester, N.Y. 10573 and the Port Chester-Rye Brook Library, 1 Haseco Avenue, Port Chester. For information, please call (914) 937-6780. Interested persons will be afforded the opportunity to be heard.
Dated: June 26, 2012

On motion of Trustee Didden, seconded by Trustee Marino, the public hearing was declared open.

Mr. Frank Fish from BFJ Planning presented to the Board and to the public the overall vision of the Comprehensive Plan.

Mayor Pilla asked if there was anyone who would like to speak in favor or against the Comprehensive Plan.

Ms. Goldie Solomon commented that as a citizen, historian and tax payer, the consultants the Village hired do not know anything about the Village of Port Chester and the Village cannot afford more residential properties. Ms. Terry Berlingo commented that there should be more public notification about the meetings and asked several questions regarding the Comprehensive Plan. Mr. Anthony Gioffre, Esq. representing Starwood Capital commented regarding the old United Hospital site. Mr. Reavis commented regarding Village negotiations with developers and how the new development will impact the traffic patterns and parking on the street. Ms. Bea Conetta commented about the Comprehensive Plan process and congratulated the Board and Comprehensive Plan Committee with their progress.

Further questions and comments were heard from the following people regarding the Comprehensive Plan and code enforcement policy: Mr. Montoya; Ms. Carol Guss; Mr. Michael James; Ms. Hillary Louis; Mr. Ron Luiso; Ms. Kathleen James; Ms. Heather Paul; Mr. Chris Pirro; and Mr. Sal Moralino.

Mayor Pilla thanked everyone for coming out and stated that the next public hearing will be on August 6, 2012.

On motion of Trustee Didden, seconded by Trustee Marino, the public hearing was adjourned to August 6, 2012.

PRESENTATION

1. Use of Village property adjacent to downtown shoppers' parking lot.

Mr. Frank Blasi of B & H USA Grill spoke regarding the proposed lease agreement. There was also a discussion with Mr. Cerreto, Mr. Steers and the Board on how the proposed lease agreement should be treated. The Board asked staff to come back to the Board with a proposed lease agreement.

PUBLIC COMMENTS

Mayor Pilla asked if there was anyone from the audience who would like to make any comments.

Ms. Goldie Solomon commented about Port Chester being a diverse community and Port Chester’s current economic status.

Ms. Bea Conetta commented regarding the old United Hospital site, Starwood Capital, and the code enforcement policy.

Mr. Aldo Vitagliano, P.C. commented regarding the rezoning process and also submitted his comments in writing to the Board of Trustees for the record. Please see insert “A”.

RESOLUTIONS

RESOLUTION

On motion of TRUSTEE Didden, seconded by TRUSTEE Marino, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, by letter dated June 27, 2012, Capital Enterprises, Inc. d/b/a the Capital Theater, which was subsequently forwarded to the Village Clerk, the Village has been advised that an application will be made to the New York State Liquor Authority for approval of substantial alteration to premises located at 149 Westchester Avenue; and

WHEREAS, unless waived applicants for liquor licenses are required to provide 30-day advance notice to a municipality so that it may provide comment to the Liquor Authority; and

WHEREAS, the Police Department and Building Department have since advised that it has no objection to same. Now, therefore, be it

RESOLVED, that the Board of Trustees has no objection to the application of Capital Enterprises, Inc. d/b/a the Capital Theater, 149 Westchester Avenue, for approval of a substantial alteration to the subject premises; and be it further

RESOLVED, that the Village Clerk be directed and authorized to provide a certified copy of this resolution to the State Liquor Authority.

Approved as to Form:

Anthony Cerreto
Village Attorney

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

RESOLUTION

On motion of TRUSTEE Didden, seconded by TRUSTEE Marino, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, by letter dated June 27, 2012, Capital Enterprises, Inc. d/b/a the Capital Theater, which was forwarded to the Village Clerk, request has been made to continue and expand the use of the existing sidewalk vault on the Broad Street frontage of the premises located at 149 Westchester Avenue; and

WHEREAS, such request is made as part of ongoing renovations being made to the theater; and

WHEREAS, Board action would formalize an apparent long-standing special use of the sidewalk. Now, therefore, be it

RESOLVED, that the Board of Trustees hereby grants permission in the form of a revocable license to Capital Enterprises, Inc. d/b/a the Capital Theater to continue and expand the use of the existing sidewalk vault on the Broad Street frontage of the premises located at 149 Westchester Avenue, subject to such terms and conditions as may be imposed by the Village Manager or his designee.

Approved as to Form:

Anthony Cerreto
Village Attorney

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

RESOLUTION

DONATIONS TO REPLACE AND RESTORE WORLD WAR II PLAQUES IN LYON PARK

On motion of TRUSTEE Brakewood, seconded by TRUSTEE Didden, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, countless Village residents have laid their down their lives in the honor of this country; and

WHEREAS, in memorial to their ultimate sacrifice, plaques had been placed on trees in Lyon Park with the veteran's name, date and place of death, and

WHEREAS, over the years many of these plaques have went missing or are in state of disrepair; and

WHEREAS, correspondence has been received by Richard Cuddy dated June 27, 2012 whereby he and friends have proposed to donate funds to replace these plaques; and

WHEREAS, it is proposed that the Village provide assistance to this effort by having the Department of Public Works place all plaques in a cement base at the foot of the trees so as to rightfully preserve the memory of the fallen veterans, and

WHEREAS, the Park Commission has recommended this noble endeavor; and

WHEREAS, Board action is required to accept the generous donations of Richard Cuddy and friends of the Lyons Park Project on the conditions above-described. Now, therefore, be it

RESOLVED, that the Board of Trustees of the Village of Port Chester hereby accepts commends Richard Cuddy for his leadership role in honoring those residents who have fallen defending their country; and be it further

RESOLVED, that the Village Treasurer is authorized to accept and record said donations in the Trust/Agency Funds, Donation – World War 2 Plaques, line 3.3.76.

Approved as to Form:

Anthony Cerreto
Village Attorney

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

RESOLUTION

REPLACEMENT OF ROOF AT BUSH HOMESTEAD

On motion of TRUSTEE Marino, seconded by TRUSTEE Didden, the following resolution was tabled by the Village of Port Chester, New York:

WHEREAS, the wood roof at the Bush Homestead is in urgent need of replacement; and

WHEREAS, the Village obtained technical assistance for the New York Historic Preservation Office (SHPO) for guidance as to this work; and

WHEREAS, the Village sought proposals from qualified roofing contractors; and

WHEREAS, Cabrera Home Improvement, Inc. submitted the lowest proposal in the amount of \$34,400; and

WHEREAS, the work will be done consistent with New York State guidelines for historical buildings; and.

WHEREAS, the contractor’s background and references are all favorable. Now, therefore, be it

RESOLVED, that the Village Manager is hereby authorized to enter into an agreement with Cabrera Home Improvement, Inc., 105 Pearl Street, Port Chester, New York, for the replacement of the wood roof at the Bush Homestead, in the amount of \$34,400, payment to be made from Capital Fund – project, Police & Village Owed Building Improvement a/c 5.1620.400.2007.0068.

Approved as to Form:

Anthony Cerreto
Village Attorney

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

RESOLUTION

BUDGET AMENDMENT – DEA FUNDS
REMOTE ACCESS TO RECORDS MANAGEMENT SYSTEM

On motion of TRUSTEE Marino, seconded by TRUSTEE Didden, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the Police Chief recommends the use of DEA Funds to purchase additional software for remote report writing capabilities for six (6) marked patrol vehicles for a total cost of \$9096.03. The breakdown is as follows: \$7000 from vendor Steamboat Data Systems, Inc., 20 Paddlewheel Court, Waterford, NY 12188 for software and licensing; \$1096.03 for purchase of Dell computer to add additional capabilities to current system from New York State contract number 83AEA; and \$1000 for IT installation from contracted IT company Dyntek. Now, therefore be it

RESOLVED, that the Board of Trustees of the Village of Port Chester, New York hereby authorizes the Village Treasurer to modify the 2012-13 General Fund Budget as follows:

GENERAL FUND

Balance Sheet:

| | | |
|--------------|----------------------|--------------|
| 001-001-0695 | Deferred Revenue DEA | \$(9,096.03) |
|--------------|----------------------|--------------|

Revenues:

| | | |
|---------------|---------------------------|------------|
| 001-0001-2613 | Use of Deferred DEA Funds | \$9,096.03 |
|---------------|---------------------------|------------|

Appropriations:

| | | |
|---------------|------------------|------------|
| 001-3120-0200 | Police Equipment | \$8,096.03 |
|---------------|------------------|------------|

Appropriations:

| | | |
|---------------|-------------------|------------|
| 001-3120-0411 | Computer Services | \$1,000.00 |
|---------------|-------------------|------------|

Approved as to Form:

Anthony Cerreto
Village Attorney

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

RESOLUTION
BUDGET AMENDMENT – DEA FUNDS
TASER EQUIPMENT

On motion of TRUSTEE Marino, seconded by TRUSTEE Didden, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the Police Chief recommends the use of DEA Funds to purchase three (3) new Taser model X26 weapons to replace the existing due to exceeded service life from vendor Taser, 17800 North 85th Street, Scottsdale, AZ, 85255-9603 for a total cost of \$2,421. Now, therefore be it

RESOLVED, that the Board of Trustees of the Village of Port Chester, New York hereby authorizes the Village Treasurer to modify the 2012-13 General Fund Budget as follows:

GENERAL FUND

Balance Sheet:

| | | |
|--------------|----------------------|--------------|
| 001-001-0695 | Deferred Revenue DEA | \$(2,421.00) |
|--------------|----------------------|--------------|

Revenues:

| | | |
|---------------|---------------------------|------------|
| 001-0001-2613 | Use of Deferred DEA Funds | \$2,421.00 |
|---------------|---------------------------|------------|

Appropriations:

| | | |
|---------------|------------------|------------|
| 001-3120-0200 | Police Equipment | \$2,421.00 |
|---------------|------------------|------------|

Approved as to Form:

Anthony Cerreto
Village Attorney

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

RESOLUTION
BUDGET AMENDMENT – DEA FUNDS
BALLISTIC VESTS

On motion of TRUSTEE Marino, seconded by TRUSTEE Didden, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, twelve (12) of the Police Department ballistic vests assigned to individual officers have reached or exceeded the five (5) year recommended service life, and the total replacement cost is \$6,916.44, and

WHEREAS the Police Chief recommends that DEA Funds be used to purchase six (6), \$3,458.22 of the twelve (12) new ballistic vests from NYS vendor, contract number PC64783, Buckshollow Emergency Equipment Corp., 15 Secor Road, Mahopac, NY 10541, for a total cost of \$6,916.44, the remaining 50% is already budgeted in FY 2012-13 Police Department, General Fund . Now, therefore be it

RESOLVED, that the Board of Trustees of the Village of Port Chester, New York hereby authorizes the Village Treasurer to modify the 2012-13 General Fund Budget as follows:

GENERAL FUND

Balance Sheet:

| | | |
|--------------|----------------------|--------------|
| 001-001-0695 | Deferred Revenue DEA | \$(3,458.22) |
|--------------|----------------------|--------------|

Revenues:

| | | |
|---------------|---------------------------|------------|
| 001-0001-2613 | Use of Deferred DEA Funds | \$3,458.22 |
|---------------|---------------------------|------------|

Appropriations:

| | | |
|---------------|------------------|------------|
| 001-3120-0200 | Police Equipment | \$3,458.22 |
|---------------|------------------|------------|

Approved as to Form:

Anthony Cerreto
Village Attorney

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

RESOLUTION
SENIOR NUTRITION TITLE III-C1 and NSIP

On motion of TRUSTEE, Marino seconded by TRUSTEE, Didden the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

RESOLVED, that the Village Manager be and is authorized to enter into an agreement with the County of Westchester for the Older Americans Act and New York State Community Services for the Elderly Act, for Title III-C1 for \$52,278.00 and Nutrition Services Incentive Program (NSIP) for \$23,814.00 to cover the programs provided by the Village of Port Chester for period covered January 1, 2012 through December 31, 2012.

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

RESOLUTION
SENIOR NUTRITION TITLE III-C2 and NSIP

On motion of TRUSTEE, Marino seconded by TRUSTEE, Didden the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

RESOLVED, that the Village Manager be and is authorized to enter into an agreement with the County of Westchester for the Older Americans Act and New York State Community Services for the Elderly Act, for Title III-C2 for \$8,637.00 and Nutrition Services Incentive Program (NSIP) for \$2,282.00 to cover the programs provided by the Village of Port Chester for period covered January 1, 2012 through December 31, 2012.

Approved as to Form:

Anthony Cerreto
Village Attorney

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

RESOLUTION
SENIOR NUTRITION TITLE III-B

On motion of TRUSTEE, Marino seconded by TRUSTEE, Brakewood the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

RESOLVED, that the Village Manager be and is authorized to enter into an agreement with the County of Westchester for the Older Americans Act and New York State Community Services for the Elderly Act, for Title III-B for \$17,245.00 to cover the programs provided by the Village of Port Chester for period covered January 1, 2012 through December 31, 2012.

Approved as to Form:

Anthony Cerreto
Village Attorney

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

RESOLUTION
SENIOR NUTRITION SNAP & NSIP

On motion of TRUSTEE, Marino seconded by TRUSTEE, Didden the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

RESOLVED, that the Village Manager be and is authorized to enter into an agreement with the County of Westchester for the Older Americans Act and New York State Community Services for the Elderly Act, Supplemental Nutrition Assistance Program (SNAP) for \$32,614.00 and Nutrition Services Incentive Program (NSIP) for \$13,563.00 for period covered April 1, 2012 through March 31, 2013.

Approved as to Form:

Anthony Cerreto
Village Attorney

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

**SEQR DETERMINATION OF SIGNIFICANCE
NEGATIVE DECLARATION
RESOLUTION OF THE VILLAGE OF PORT CHESTER
BOARD OF TRUSTEES**

July 13, 2012

License agreement between the Village of Port Chester and the Port Chester Soccer Club, Inc. to administer the Village's recreation soccer program at Columbus Park.
Section 142.47 Block 1 Lot 34

WHEREAS, the Village of Port Chester Board of Trustees ("Village") seeks to enter into a formal public-private license agreement with the not-for-profit Port Chester Soccer Club, Inc. ("Club") to administer the Village Recreation Department's Soccer Program ("Program").

WHEREAS, the agreement states that the Club will solely and exclusively undertake all aspects of the program, including youth and adult soccer, for a period of one year commencing on July 18, 2012 and ending on July 18, 2013 at Columbus Park, more specifically known and designated as Section 142.47 Block 1, Lot 34; and

WHEREAS, the project is defined as an Unlisted Action; and

NOW THEREFORE BE IT RESOLVED, that pursuant to Part 617 of the SEQR Regulations, the Village of Port Chester Board of Trustees hereby designates itself as the Lead Agency for the SEQR Review of this Unlisted Action, and in this capacity will conduct an Uncoordinated Review.

BE IT FURTHER RESOLVED, that pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law, the Lead Agency has determined that the proposed Unlisted Action will not have a significant effect on the environment for the reasons enumerated in the attached Negative Declaration Form.

Approved as to Form:

Anthony Cerreto
Village Attorney

On the motion of TRUSTEE Didden, seconded by TRUSTEE Marino, it was adopted by the following vote:

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

RESOLUTION

AGREEMENT WITH PORT CHESTER SOCCER CLUB INC.

On motion of TRUSTEE Didden, seconded by TRUSTEE Marino, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

RESOLVED, that the Village Manager be authorized to enter into an agreement with Port Chester Soccer Club Inc., 22 Soundview Street, Port Chester, New York 10573 for the Village's Recreation Department Soccer Program for fiscal year 2012-2013 in the amount of \$31,000.

Approved as to Form:

Anthony Cerreto
Village Attorney

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

DISCUSSIONS

1. March 2013 Election & Voter Education Program Coordinator (Bilingual).

Mayor Pilla commented that the Village Manager, Christopher Russo, as well as he, did receive responses for the position of Voter Education Program Coordinator (Bilingual).

2. Zoning and Code Enforcement Amnesty Workshop follow-up.

Mayor Pilla stated that there will be a work session for the zoning and code enforcement amnesty program on August 6 and August 20, 2012 at 6:00pm.

3. Sewer Rent Project status update.

Mayor Pilla stated that this discussion will be deferred to the August 6, 2012 meeting.

4. Bulkhead follow-up.

Mayor Pilla stated that this discussion will be deferred to the August 6, 2012 meeting.

5. Downtown Parking.

Mayor Pilla commented about G & S and their change request regarding the parking management plan.

6. Starwood Capital workshop follow-up.

Assistant Village Manager/Director of Code Enforcement Mr. Christopher Steers said that he will meet with Starwood Capital and will come back to the Board with an update.

7. Property Maintenance.

Trustee Didden commented regarding the property on 48 Irenhyl Avenue.

VII. CORRESPONDENCE

The Deputy Clerk presented correspondence from the residents of Glendale Place requesting permission for traffic and the following roads be blocked between the end of Glendale Place and Leicester Street as well as the end of Glendale Place and Clermont Avenue for a Block party to be held on Saturday, July 21, 2012 from 2:00pm to 8:00pm. The Board referred the correspondence to staff.

The Deputy Clerk presented correspondence from Saint Peter's Episcopal Church requesting permission for a procession of 50 to 70 people on Saturday, August 25, 2012 at 4:00pm to celebrate St. Mary the Virgin, The Assumption beginning from 466 Westchester Avenue and ending by entering the church through Smith Street. The Board referred the correspondence to staff.

The Deputy Clerk presented correspondence from Centro Bolivian requesting permission to place a banner across Westchester Avenue and Main Street to advertise the Bolivian Culture Parade to be held on Sunday, August 26, 2012. The Board referred the correspondence to staff.

The Deputy Clerk presented correspondence from Port Chester Council of Community Services requesting permission to place a banner across North Main Street and Westchester Avenue to announce Port Chester Fest from July 18th to August 4th 2012. The Board referred the correspondence to staff.

PUBLIC COMMENTS AND BOARD COMMENTS

Public Comments:

Mayor Pilla asked if there was anyone from the audience who would like to make any comments.

Mr. Ceccarelli commented regarding the old United Hospital site and Starwood Capital.

ADD-ON RESOLUTION

The Director of Planning and Development, Christopher Gomez stated that he received a referral letter from the Village of Rye Brook regarding four (4) affordable housing units for 525 Ellendale Avenue. Mr. Gomez stated that the Village of Rye Brook will be having a public hearing on July 24, 2012. Mr. Gomez asked the Board permission to draft a letter to all interested parties regarding the Village of Port Chester's remarks to this matter.

The following add-on resolution was motioned by TRUSTEE Didden, seconded by TRUSTEE Marino, granting permission to the Director of Planning and Development, Christopher Gomez to draft a letter on behalf of the Mayor and Board of Trustees to the Village of Rye Brook regarding the property on 525 Ellendale Avenue, Rye Brook, NY.

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

RESOLUTION
VILLAGE OF RYE BROOK AFFORDABLE HOUSING
FOR 525 ELLENDALE AVENUE

On motion of TRUSTEE Brakewood, seconded by TRUSTEE Didden, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the board has taken a consistent position that the construction of Fair and Affordable housing so proximate to the Village of Port Chester border does not meet the *spirit* of the affordable housing agreement to provide for more integrated neighborhoods within the Settlement's 31 eligible communities ; and

WHEREAS, on July 24, 2012, the Village of Rye Brook Board of Trustees is holding a public hearing to accept oral and written comments on the matter; now, therefore, be it

RESOLVED, that the Village of Port Chester Board of Trustees authorizes the Mayor to submit written comments on this matter to the Village of Rye Brook; Honorable Robert Astorino, Westchester County Executive; Sean Donovan, Secretary of Housing and Urban Development (HUD); and James Johnson, Federal Housing Monitor.

Approved as to Form:

Village Attorney

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES: None
ABSENT: Terenzi, Branca, Kenner
DATE: July 16, 2012

Board Comments: There were no Board comments.

At 11:13 p.m., on motion of Trustee Didden, seconded by Trustee Marino, the Board of Trustees adjourned to an executive session to discuss a particular person(s) for the position of Village Clerk and property acquisition negotiations.

No action was taken in executive session.

At 11:30 p.m., on motion of Trustee Marino, seconded by Trustee Didden, the executive session was closed.

AYES: Trustees Brakewood, Didden, Marino, and Mayor Pilla
NOES:
ABSENT: Trustees Terenzi, Kenner and Branca

Respectfully submitted,

Jacqueline Johnson
Deputy Village Clerk

LAW OFFICES
OF
ALDO V. VITAGLIANO, P.C.
ATTORNEY AT LAW

150 PURCHASE STREET - RYE, NEW YORK 10580-2136

(914) 921-0333

FAX: (914) 921-0796

E-mail: avvpc@verizon.net

ALDO V. VITAGLIANO*

*Also admitted in Fla. & Conn.

ANGELO A. GUGLIELMO**

**Also admitted in Conn.

July 16th, 2012

Hon. Dennis Pilla, Mayor and
Board of Trustees
Village of Port Chester
222 Grace Church Street
Port Chester, NY 10573

Re: Rezoning Hearing

Mayor and Board of Trustees:

I am unable to attend tonight's continued Public Hearing in connection with major rezoning amendments under consideration by your Board. I write to make sure an important concern is not overlooked. I have seen no proposed zoning text amendment that might allay my fears, but I admit that I have not been completely attentive to the current undertaking.

Port Chester's Zoning Code, has an important pressure relief valve for non-conforming properties, specifically Section 345-13 which states in (A) "lawfully permitted uses of land and building and structures existing at the time of this Regulation may be continued... Said uses, buildings and structures shall be deemed nonconforming uses." The remainder of the Section includes restrictions on expansion of the use, and more importantly in (C) (3) allowed that "If no structural alterations are made, a non-conforming use of a building may be changed to another nonconforming use which, in the opinion of the Board of Appeals, either by general rule adopted on request by the Building Inspector or on a specific finding on appeal of a particular case, is of the same or of a more restricted nature."

This important safety net has been eviscerated by the draconian and restrictive policies of the current Building Department officials with their zero tolerance. The result has been claims by the Acting Building Inspector that interior non-demising walls are structural alterations which would prevent use of the pressure relief of 345-13 (C) (3). Fortunately, in Zoning Board case 2011-0005 *in that case alone*, the interpretation was rejected.

What was not rejected was the Acting Building Inspector's position that absent 100% perfect paperwork for permits and certificates of occupancy, a business was not legally non-conforming and could not avail itself of the relief mechanism offered therein.

The zero tolerance is extremely troubling, and may in fact serve to immediately destroy perceived or owned real property rights of hundreds of businesses and landowners. Consider the

two businesses such identified in that Zoning Case that lacked permits to conduct business as an Auto Detailing use in a C-2 zone, (copy of memo attached) or one of the many businesses that lack proper paperwork. If I am correct, I believe I heard the Acting Building Inspector state at a public Board of Trustee meeting that 95% of businesses or properties in the Village of Port Chester proper paperwork.

Unless the new code recognizes that whatever authority the business was operating under, could continue in some way upon passage or adoption of the new code, those business could only operate upon passage by procuring a use variance, something that under the law is virtually impossible to do. When we combine this strict interpretation with a regimen of fines, the Village, in my opinion, has engaged in an unconstitutional taking, and will likely be subject to expensive litigation and likely damage awards.

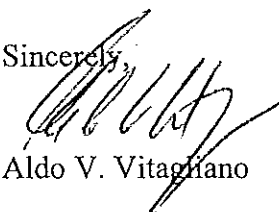
No time period is provided for businesses to check their paperwork and even more importantly, if the prior use they succeeded to did not have their proper paperwork, and therefore in the eyes of the Acting Building Inspector was illegal, they will never be able to legalize existing businesses, and must immediately cease operation and confirm or risk fines.

The dollars and cents impact on businesses, if I am correct, is staggering. Zoning Case 2011-0005 involved a potential new business taking over from a believed to be valid legal non-confirming use. Yet the Acting Building Inspector stated that "Based on the records found for the listed address. . . staff has found no lawfully established non-confirming uses at this location/address." It was only after our office provided proof of prior Zoning Board action and building permits, that the Acting Building Inspector amended his findings.

Serious study and attention must be paid to the impact the current rezoning effort will have on all existing businesses impacted by its passage, including those with perfect paperwork, and those without.

Thank you.

Sincerely,



Aldo V. Vitagliano