

**MEETING HELD FEBRUARY 7, 2011**

A meeting of the Board of Trustees of the Village of Port Chester, New York, was held on Monday, February 7, 2011 at 6:00 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 Saverio Terenzi, John Branca and Luis Marino.

It should be noted that Trustees Bart Didden, Joseph Kenner and Daniel Brakewood arrived after 6:08 p.m.

Also present were Village Manager, Christopher Russo; Village Clerk, Joan Mancuso; Village Attorney, Anthony Cerreto; Village Treasurer, Leonie Douglas; Assistant to the Village Manager, Elisa Sciarabba; Planning Consultant Patrick Cleary; Village Engineer, Dolph Rotfeld and the Director of Code Enforcement, Christopher Steers.

\* \* \* \* \*

On motion of Trustee Marino, seconded by Trustee Terenzi, the meeting was declared opened at 6:05 p.m.

**ROLL CALL**

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

At 6:06 p.m., Trustee Branca made a motion for an executive session for consultation with Special Counsel, Justin Miller of Harris Beach regarding matters pertaining to the Modified Marina Redevelopment Project, Trustee Marino seconded the motion. The Village Manager and the Village Attorney were included in this session.

**ROLL CALL**

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

No action was taken in executive session.

At 7:00 p.m., on motion of Trustee Marino, seconded by Trustee Brakewood, the executive session was closed and the public portion of the meeting was re-opened.

**ROLL CALL**

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

\* \* \* \* \*

Trustee Branca asked the Mayor if he could speak on a matter before the start of the rest of the agenda.

Mayor Pilla recognized Trustee Branca.

Trustee Branca said that a request had come in from a retired Police Officer regarding a Car Show this summer that did not make this agenda. He said that he will be asking later in the meeting for a Special Meeting next week and asked that this matter be place on this upcoming agenda.

Mayor Pilla and the Village Clerk indicated that this request will be on the next agenda.

\* \* \* \* \*

Mayor Pilla said that the executive session that the Board held earlier was regarding the Modified Marina Redevelopment Project and the marina bulkhead. He said that the agenda has a discussion item from the Village Manager regarding awarding the contract for engineering plans and specifications for replacement of a portion of the Marina Bulkhead and that he would ask for a motion to add a resolution to the agenda at this time on this matter for an agreement with the firm Halcrow Engineers, P.C.

There being no objections, Trustee Branca made a motion to add on a resolution on this matter, Trustee Marino seconded the motion.

It should be noted that Trustee Didden had recued himself on this matter and was excused from the meeting at this time.

ROLL CALL

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

AGREEMENT WITH HALCROW ENGINEERS, P.C.  
REGARDING DESIGN/BID DOCUMENTS FOR MARINA BULKHEAD

On motion of TRUSTEE KENNER, seconded by TRUSTEE BRANCA, 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 hereby is authorized to enter into an agreement with Halcrow Engineers, P.C., 22 Cortland Street, New York, New York for the design, plans and specifications and bid documents with regards to the replacement of a portion of the Marina Bulkhead, compensation in an amount not to exceed \$216,080.00, with funding to be from UDAG proceeds.

ROLL CALL

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

\* \* \* \* \*

The Clerk read Affidavits of Publication stating that the following Public Notice was duly published in the Journal News and the Westmore News on January 7, 2011 and January 14, 2011, certified by Florence Bonilla, Principal Clerk of the Journal News and Angelina Brescia, Office Manager of the Westmore News.

PUBLIC NOTICE

PUBLIC NOTICE is hereby given that the Board of Trustees of the Village of Port Chester, New York, will hold a PUBLIC HEARING on Monday, February 7, 2011, at or about 7:00 P.M., in the Village Justice Courtroom, 350 North Main Street, Port Chester, New York, to consider the advisability of adopting a local law to amend, Chapter 345 entitled "Zoning" with regard to pawnshops.

Interested persons will be afforded the opportunity to be heard at this time. The proposed law is available at the Village Clerk's office or online at [www.portchesterny.com](http://www.portchesterny.com)

JOAN MANCUSO  
Village Clerk

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

ROLL CALL

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

NOES: None

ABSENT: None

Mayor Pilla asked Anthony Cerreto, the Village Attorney to introduce the public hearing on this proposed local law.

Mr. Cerreto said with the Board's permission he would ask the Village's Planning Consultant, Patrick Cleary to review this law. He noted that the Board had adopted a moratorium about ninety days ago to consider the advisability of a local law that would establish a zoning classification called pawnshops and find the appropriate districts within the Village to place such establishments with the appropriate safe guards. Mr. Cerreto said that Mr. Cleary has worked hard over this period and has arrived at a recommendation which the Planning Commission has given a favorable recommendation on and that Mr. Cleary would like to address the Board tonight on that issue.

Mr. Cleary said that Mr. Cerreto briefly encapsulated where we are on this quite well noting that at the last Planning Commission's last meeting there was a referral back to your Board with a solution that involves three elements. He said that first element as you know pawnshops are currently undefined in our Zoning Code noting that we have a licensing provision but we do not have any corresponding zoning control so the recommendation to you involves the definition of a pawnshop number one, number two establishes pawnshops as special exception uses with eleven criteria that a pawnshop must comply with in order to be permissible noting that the Planning Commission had recommended a twelfth criteria as well dealing with hours of operation so in total a dozen criteria that would be establish as special conditions and safeguards and finally the establishment of pawnshops as a special exception use in both the M1 and M2 zoning districts. Mr. Cleary said that is the recommendation before you and subject to the public comment you receive during this public hearing that is the action requested of the Board at this time. He said that this is fairly straight forward and have dealt with this on several other uses in the past noting that this technique and approach is common to us and if you have comments about the criteria we would be happy to answer any questions on the criteria. Mr. Cleary stated that the criteria with the exception of the dimensional requirements which have been tailored specifically to our Village that all eleven of those criteria with the exception of the hours of operation come from other communities that have been litigated, tested and upheld in the courts so the criteria while standard fare is

because the nature of the use is somewhat problematic we have elected to use criteria that has been tested.

Mayor Pilla said for the public edification to re-summarize this law that is before us is based on something that is used in other places, it was vetted through our Planning Commission which they favorable approved and they added one additional criteria, the law consists of licensing based on twelve conditions and restricting the place to the M1 and M2 Industrial zones. The Mayor asked if there were any comments from the Board before he opened it up to the public, there was not. He asked if anyone from the audience would like to speak on this proposed law regarding pawnshops. Mayor Pilla recognized Goldie Solomon.

Ms. Solomon said that pawnshops are like used shops noting that the Village has consignment shops which resells used things and what is the big deal that we have commercial businesses and they should be in the commercial zone. She said that is what pawnshops do resell used things.

Mayor Pilla said that Ms. Solomon's question is a good one and will mark it down so we can speak on it in more details with the law.

Ms. Solomon said that we have used shops on Main Street and there are some religions that have shops that sell used products that people bring in that they do not want anymore.

Mayor Pilla read the definition of pawnshops in the proposed law which is a business that lends money based upon the security of pledged goods left in pawn, or is in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, pursuant to the licensing requirements. He asked Mr. Cleary to speak further on this question.

Mr. Cleary said that is the distinction explaining that goods left for pawn means whatever the product is, is left and money is loaned with respect with it. He said that the facility operates likes a bank or a lending institution for a period of time and after that period of time expires and the loan is not repaid the pawnshop reclaims the good and then sells it. Mr. Cleary further said that the selling of the goods is a secondary activity and that the primarily activity is lending money.

Mayor Pilla noted that in a consignment shop to answer Ms. Solomon's question somebody leaves the goods does not walk with money and maybe it sells and maybe it does not and that in a pawnshop somebody leaves the goods get some cash and maybe comes back to paid back loan and retrieve goods.

Mr. Cleary said that is correct and the distinction is currently we would have to include pawnshops as like a consignment shop as a retail store. He said that in fact pawnshops are not a retail store and operates very differently and what we have learned is that pawnshops in certain instances have resulted in certain impacts to communities. Mr. Cleary said that is why we need it in a separate category that we need to distinguish it from a retail store and while at the end of the day there may be retail sales from that facility the primarily operation is lending money.

Trustee Terenzi said that he had provided the Board with an article from Cranes Business specifically about pawnshops and the fact that they seem to find their way into areas that are on the decline and not that it leads to more burglaries in the area but the main purpose of the pawnshop not the main purpose but that people fence stolen goods at pawnshops. He said that there was a great article about two or three weeks ago in this publication which talks about in general, that pawnshops are not favorable businesses for any community. Trustee Terenzi said that he did not know if they could be zoned out or probably put in them in the M1 or M2 zones, which is fine for now but it is not something you want to advertise for the Chamber of Commerce.

Mr. Cleary noted that today it could be allowable on Main Street.

The Mayor asked if there was anyone else from the audience who would like to speak on this proposed law. There was none. He asked if the Board had any additional comments. Mayor Pilla was recognizing Trustee Didden but noted that Beatrice Conetta had indicated that she would like to speak. He recognized Mrs. Conetta.

Mrs. Conetta said that she has spoken out against this type of business before. She said that pawnshops are not good and they can twist and turn it anyway you want and said that if the Board can keep it out of Port Chester then please do so stating that we do not need that here.

Mayor Pilla asked Mr. Cleary if we can restrict entirely or zone it out as it where and if not why not.

Mr. Cleary said that the research that they did we asked the same question and the simple answer would have been to create it as a prohibited use throughout the Village and the legal research we found just so many other of the problematic uses is a direct prohibition without going through the secondary impact analysis which is apparently an extensive evaluation whether is it illegal or not he would leave to counsel but this intermediate step as Trustee Terenzi is indicating is probably the best step in the right direction until we can decide how to move further with these uses. He said as the Board has known we have had a number of uses that fall into this sort of catch all category and it may be prudent at one time to deal with all of them together in terms of the legal aspect of dealing with secondary impacts stating that he does not know if we need to do it piece meal but as long as we are able to deal with it proactively from a zoning perspective he thinks we are controlling the adverse impacts satisfactory right now. Mr. Cleary said that if you look at the criteria they are very rigorous, they are very stringent and they will not result in the kind of pawnshops that you may see on cable television.

Mayor Pilla said that it should be noted that in its current configuration that our M1 and M2 zones that are in place the structures are quite large. He said that whether or not that they would be pursued as rental space for pawnshops that would be for the market to bear.

Ms. Solomon said that if people can not do a pawnshop they may change the name to something else, some kind of commercial business like a use shop or something like that noting that there is no verification and there is no one to go in there to make sure it is not a pawnshop.

Trustee Terenzi said that pawnshops are required to be licensed in New York State.

Ms. Solomon said that if they find that they have to do that they may do something else and that is where the problem is. She said that they may not use it as a pawnshop but as a used store or a commercial store of selling goods or even jewelry under another name and that will happen because there is no verification.

Mayor Pilla said we will have to be vigilant that is true of many other uses that are special exception uses and licensed and we have to direct staff to be vigilant to make sure that all of our land use ordinances are properly enforced. He said that we have code enforcement officers which Mr. Steers leads that are charged to go into commercial properties and multi-family houses to do fire safety inspections and our police do inspections also of public assembly halls and alcoholic beverage control laws so we can make a note to staff to make sure they are vigilant for this please. The Mayor asked if there was anyone else from the audience who would like to speak on this law. There was none. He asked if any of the Board had any comments on this proposed law.

Trustee Didden said that for the Board's information some four months ago when he asked for a moratorium on this issue and a zoning approach he had also shared with the Board at that time that the Village of Port Chester has been regulating pawnshop activities for many years in our Code, Section 206-12 under pawnshops. He said that what we have been doing or had had a law on the books is to protect the consumer because we have been regulating the interest rate that these organizations have been able to charge people that are looking to pawn material for a short term loan. Trustee Didden said that us regulating as a Village pawnshops isn't something new but what we are doing now we would regulate the land use aspect of the pawnshop activity that would give us what he believes is a fully balance approach to the issue.

Mr. Cleary said that we license pawnbrokers but we currently do not deal with pawnshops.

Mayor Pilla asked Mr. Cleary that going forward if the Board could get a written report from him and the Planning Commission's conclusions.

Mr. Cleary told the Mayor and the Board that they have been given these items.

Trustee Brakewood said that he is certainly in favor of this but asked how many pawnshops do we currently have in Port Chester.

Mr. Cleary said he does not believe we have any at this moment.

Trustee Brakewood said that he wanted to underscore that to the people of the Village because as we are discussing this with this urgency in this public hearing you would think we are under assault and have a deluge of hundreds of pawnshops that need our immediate regulation so he wants people to understand that as we currently sit we have zero.

Mr. Cleary told Trustee Brakewood that we do have none but did note that we have had inquiries over the past year from at least two different organizations for these types of establishments.

Trustee Brakewood said that he is in support of this proposal which fits into the better safe than sorry approach but wants people to understand noting that people do drive around

and get a perception that all of these stores are pawnshops stating that they are not pawnshops noting there are no pawnshops right now.

Mayor Pilla asked if there were any other comments from the Board before he asked for a motion to close the public hearing. There were none. He asked for a motion to close the public hearing. Trustee Didden made a motion.

Mr. Cerreto said that before the Mayor takes that action that he had provided a memo to the Board that number one goes with number two stating that number two is a moratorium on this subject noting that he has revised the local law on pawnshops to include that these would be special exception use permits in the M1 and M2 zones from the recommendation of the Planning Commission. He said that we need a further hearing on the local law as amended by him so that it is in final form.

Mayor Pilla said that what we will do then noting that the local law that you are commenting on remains unchanged however the table of uses which is a grid that has x's and o's that this use is prohibited except for the M1 and M2 districts as special exception was not included in the original version as such we need to circulate that version of the local law longer to have additional comments noting that we want to make sure we hear early and often from the public so as such we will take a motion to adjourn the public hearing. He said that we will enact the moratorium.

Mr. Cerreto said that is the second public hearing.

Mayor Pilla said that is correct that the moratorium is the next public hearing and we will revisit this topic on a date certain where we will then hear from the public again and take the final action if it is affirmative.

Mr. Cerreto said that the date of February 22<sup>nd</sup> is fine for the adjournment of this hearing.

On motion of Trustee Didden, seconded by Trustee Brakewood, the public hearing was adjourned to February 22, 2011.

ROLL CALL

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

NOES: None

ABSENT: None

\* \* \* \* \*

The Clerk read Affidavits of Publication stating that the following Public Notice was duly published in the Journal News and the Westmore News on January 7, 2011 and January 14, 2011, certified by Florence Bonilla, Principal Clerk of the Journal News and Angelina Brescia, Office Manager of the Westmore News.

PUBLIC NOTICE

PUBLIC NOTICE is hereby given that the Board of Trustees of the Village of Port Chester, New York, will hold a PUBLIC HEARING on Monday, February 7, 2011, at or about 7:00 P.M., in the Village Justice Courtroom, 350 North Main Street, Port Chester, New York, to consider the advisability of adopting a local law for a thirty day extension of Temporary Moratorium on Pawnshops.

Interested persons will be afforded the opportunity to be heard at this time. The proposed law is available at the Village Clerk's office or online at [www.portchesterny.com](http://www.portchesterny.com)

JOAN MANCUSO  
Village Clerk

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

ROLL CALL

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

Mr. Cerreto said that this proposed thirty day extension of the moratorium regarding pawnshops will give the Board the time it needs to consider the zoning law on pawnshops.

Trustee Branca questioned how it would work if the Board adopted the zoning law on pawnshops at the February 22<sup>nd</sup> meeting and the moratorium would still be in effect.

Mr. Cerreto said that the expiration of the moratorium would coincide with the effective date of the zoning law. There was a brief discussion on this topic between Mr. Cerreto and the Board.

Trustee Didden said that he likes the extension of a 30 day time period for the moratorium.

Mayor Pilla said that the Board does not want to predetermine the outcome of the zoning law.

Mr. Cerreto said that is correct at this time the other law can not be predetermined so this moratorium provides the time the Board needs.

The Mayor asked if anyone from the audience would like to speak on the extension of the moratorium regarding pawnshops. He recognized Goldie Solomon.

Mr. Solomon said that the Board should merge this law with the first public hearing stating that she does not know why we are doing this.

Mayor Pilla further explained the purpose of extending this moratorium. He asked if there was anyone else who would like to speak on this matter. There was none. The Mayor asked for a motion to close the hearing.

On motion of Trustee Didden, seconded by Trustee Brakewood, the public hearing was closed.

ROLL CALL

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



FINDINGS OF BOARD REGARDING  
EXTENSION OF MORATORIUM ON PAWNSHOPS FOR 30 DAYS

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

WHEREAS, although pawn brokers are governed by licensing requirements, the locations of pawnshops is not currently addressed in the Village's zoning regulations; and

WHEREAS, a 90-day moratorium has been adopted so as to consider appropriate land use and other regulations for pawnshops; and

WHEREAS, the Board of Trustees referred the matter to the Planning Commission for their study and report; and

WHEREAS, by resolution dated January 31, 2011, the Planning Commission recommended the adoption of a zoning amendment with regard to the appropriate location and special exception requirements for such use within the Village; and

WHEREAS, the Village Attorney has presented a proposed local law consistent with the Planning Commission's recommendation; and

WHEREAS, a moratorium is appropriate to hold the status quo while the review process continues and pending consideration of such new legislation; and

WHEREAS, the State Environmental Quality Review Act (SEQR) Regulations, namely Section 617.5(c) (30), classifies such a moratorium as a "Type II Action". Now, therefore, be it

RESOLVED, that the Board of Trustees hereby finds and determines that the proposed 30-day extension on the moratorium regarding pawnshops is a Type II Action that is not subject to SEQR review.

ROLL CALL

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

On motion of Trustee Kenner, seconded by Trustee Didden and approved, the following Local Law No.1, 2011 was adopted:

ROLL CALL

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

Be it enacted by the Board of Trustees of the Village of Port Chester, New York as follows:

## **EXTENSION OF THE MORATORIUM ON PAWNSHOPS**

### **SECTION 1. Title.**

This Local Law shall be referred to as “An Extension of the Moratorium on Pawnshops”.

### **SECTION 2. Purpose and Intent.**

Pawnbrokers are regulated under Chapter 206 of the Village Code which provides for a license requirement, with certain restrictions on the operations of such occupation such as a limitation on the interest rate that may be charged for the keeping of a pawn and the length of time a pawn must be held before sale.

However, pawnshops, the physical location where a pawnbroker would operate are not specifically addressed in the Zoning Regulation, Chapter 345 of the Village Code. As a result, there is an issue as to whether a pawnshop would be allowed as a permitted use within the Village.

Pawnshops are generally recognized as having serious objectionable characteristics, particularly when concentrated in limited areas, which often results in deleterious effects on public safety, property values and the use and enjoyment of adjacent areas.

The Village’s consulting planner has advised that some communities have adopted zoning regulations to protect against the adverse secondary impacts associated with pawnshops. The Board finds that a moratorium is the appropriate means of holding the status quo to afford sufficient time to review the Village’s existing land use controls governing pawnshops and consider appropriate amendments to the Zoning Regulation.

The Village Attorney has made request on the New York State Attorney General for an advisory opinion as to the authority of municipalities to impose additional regulations as part of the licensing process.

Therefore, and pursuant to Local Law No 10 of 2010, the Board of Trustees adopted a ninety-day moratorium on pawnshops which is to expire on or about February 9, 2011.

By memo dated December 20, 2010, the Planning Consultant has provided a memo to the Board of Trustees with recommended amendment to the Zoning Regulation with regard to pawnshops. This has been referred to the Planning Commission for a recommendation. The Board has set a public hearing on the zoning amendment for February 7, 2011.

The purpose of this local law is to extend the moratorium for an additional thirty days so as to afford the Board of Trustees sufficient time to consider and deliberate the proposed zoning amendment and /or alternative course of action with regard to this matter.

### **SECTION 3. Moratorium Imposed.**

This moratorium shall extend the ninety-day moratorium on pawnshops for an additional thirty days.

### **SECTION 4. Scope of Moratorium.**

During the effective period of this local law, there shall be a moratorium on all building or alteration permits, certificates of occupancy, or any land use approval by the Planning Commission or Zoning Board of Appeals for a pawnshop.

### **SECTION 5. Hardship Application.**

Should any person aggrieved by this moratorium suffer an unnecessary hardship by the strict letter of this local law, then said person may make written application to the Board of Trustees seeking a waiver of same. For the purpose of this law, unnecessary hardship shall not be mere delay in being permitted to make an application or waiting for a decision on an application during the pendency of the moratorium.

Upon submission of a written application, the Board shall within thirty days conduct a public hearing. At said public hearing, the applicant and all interested parties shall have the right to present evidence and otherwise have the opportunity to be heard. The Board shall grant or deny the application within fifteen days after the close of the hearing.

SECTION 6. Supersession.

The provisions of Village Law, Section 7-712-a, 7-725-a, 7-725-b, and all local laws of the Village of Port Chester, that are in conflict with the provisions of this Local Law are hereby superseded to the extent necessary to give this local law full force and effect.

SECTION 7. Severability

If any section, subsection, sentence, clause or other portion of this Local Law is held to be invalid or unconstitutional by a court of competent jurisdiction, then such decision shall not impair the validity of the remaining portions of this Local Law.

SECTION 8. Effective date.

This Local Law shall become effective upon filing in the Office of the Secretary of State and upon due publication.

BY ORDER OF THE BOARD OF TRUSTEES OF  
THE VILLAGE OF PORT CHESTER, NEW YORK  
DENNIS PILLA, Mayor  
JOAN MANCUSO, Village Clerk

Adopted: February 7, 2011

\* \* \* \* \*

The Clerk read Affidavits of Publication stating that the following Public Notice was duly published in the Journal News and the Westmore News on January 28, 2011, certified by Cecilia Hernandez, Principal Clerk of the Journal News and Angelina Brescia, Office Manager of the Westmore News.

PUBLIC NOTICE

PUBLIC NOTICE is hereby given that the Board of Trustees of the Village of Port Chester, New York, will hold a PUBLIC HEARING on Monday, February 7, 2011, at or about 7:00 P.M., in the Village Justice Courtroom, 350 North Main Street, Port Chester, New York, to consider the advisability of adopting a local law to amend, Chapter 224 entitled "Noise" that would (1) establish a waiver process for construction noise upon application to the Board of Trustees and (2) increase the penalties for violations of this Chapter.

Interested persons will be afforded the opportunity to be heard at this time. The proposed law is available at the Village Clerk's office or online at [www.portchesterny.com](http://www.portchesterny.com)

JOAN MANCUSO  
Village Clerk

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

ROLL CALL

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

NOES: None

ABSENT: None

Mayor Pilla said that this matter came before the Board regarding noise and the waiving of the time period for construction noise noting that we had a very productive discussion with the Board about the conditions, zones and criteria to do the waiving. He told Mr. Cerreto that he did a fine job to incorporate the Board's comments and concerns into the local law that is before us and basically it just gives the Village Manager the ability to waive the 8:00 a.m. start time where he sees fits and it can be rescinded. The Mayor asked if he had summarized this correctly.

Mr. Cerreto said that we should back up a few steps noting this was prompted by a request from a developer at a site downtown along the river asking for a waiver of the time requirements under our noise code. He said that you can not start construction activity between the hours of 8 o'clock in the morning and 8:00 o'clock at night on weekdays and between the hours of 10 o'clock in the morning and 7 o'clock at night on weekends. Mr. Cerreto said the developer was looking for relief as far as an earlier start time and that prompted us to look at the Village Code and propose a more comprehensive solution to the issue and that is what we have in front of us which is on for a waiver process before the Board of Trustees. He said that he thinks that the Board was saying that they rather have the Board make that call as opposed to the Village Manager. Mr. Cerreto said that the law sets forth some very stringent criteria and a process for that to happen as well as a notice provision so if an application is made to you for a waiver the property owners in the vicinity would be notified so they would have the opportunity to be heard before this Board. He said that they also doubled the penalties under the noise code noting that he took the opportunity to look at this code and some of the fines we have and probably will need to be looked at again so he basically doubled the fines to provide for a staggered penalty structure so that the first time someone violates a noise code you could be subject to a fine not to exceed \$250 but the second and other times someone would be penalized much more severely so we have more of a staggered fine penalty structure to encourage compliance and to deter people from violating our noise ordinance. Mr. Cerreto concluded that we know that quality of life is very important throughout the Village so figured that now is as good of time as any to make those changes to our noise code.

Mayor Pilla said that as it may seem somewhat counter intuitive to being construction noise earlier there are certain times that starting an hour earlier will actually end the project completion sooner so the net impact on noise and quality of life will be reduced overall. He said that the Board will look very cautiously on issuing a waiver. The Mayor asked if there was discussion from the Board before opening this to the public.

Trustee Didden asked Mr. Cerreto that the law is written where it states that if a person who violates the provision when we are talking about the fine and does that travel with the contractor who may be going from property to property to property within the Village so if work is being done on Betsy Brown Road and that contractor violates the noise ordinance and then goes to Indian Road and violates the noise ordinance on another site does the escalation move with the contractor.

Mr. Cerreto said that he would take the position that it applies to the property in question. He said that the person who is in violation would be written up that he was engaging in excess to our noise ordinance in particular to that location. Mr. Cerreto said that our Code Enforcement Director, Mr. Steers perhaps had experience in other jurisdictions and how they would apply something similar.

Trustee Didden said that he is interested in what Mr. Steers has to say but when the law is written any person that includes a business, corporation or other. He said that is what his question is.

Mr. Cerreto said that it would apply to a corporation, partnership or private person noting that he believes that it is particular to the location.

Trustee Branca said that if a subject property is designated to a certain contractor and that contractor sub hires for whatever reasons and the person that is being sub hired by that contractor creates the noise problem asking who would get the fine.

Mr. Cerreto said that it would be whoever is in violation if it is the subcontractor they would be in violation. He said that at some point the property owner will be responsible ultimately for all those working for him at his property.

Trustee Branca said that now the property owner would be responsible.

Mr. Cerreto said that we would look to the property owner in the first instance.

Trustee Branca said even though the property owner is not the one creating the noise violation.

Trustee Brakewood said that the property owner did hire the contractor to do the job.

Trustee Branca said that the point is, if there is a subcontractor violating the ordinance the subcontractor who is violating the ordinance should be charge with the fine.

Mr. Cerreto said if the subcontractor is violating our code you are absolutely correct noting that as a practical matter the Village will always look to in the first instant to the owner of the property. He said that the owner of the property has the management control of the premises.

Trustee Didden said that you can also turn that that we are always biting our own instead of biting the contractor.

Trustee Brakewood said that the property owner should sign an agreement with the contractor that says that they will not be violating our laws.

Trustee Branca said that this could be out of the property owners control and that the bottom line is someone has hired people to do work on their property with the point being they may not even be there when the violation has occurred..

Trustee Terenzi said to Trustee Branca that when you take the permit that aren't you the one responsible for the language in the permit. He asked Mr. Steers who is responsible for the language of the permit, the property owner or the subcontractors.

Christopher Steers, the Director of Code Enforcement said that ultimately it would be the property owner and that historically when he has dealt with these situations he has actually cited the property owner and the individual who was actually causing the noise.

Trustee Branca said to Mr. Steers that you do go to both parties.

Mr. Steers said that is correct and generally speaking the property owner would make the contactor make the payment but you have to cite both because ultimately the property owner is at all times the person.

Trustee Branca said that personally he thinks that is unfair to the property owner who has no cause in the problem to the citing. He continued that if someone that the property owner has hired has created the violation then that person should be subject to the fine not the property owner. Trustee Branca stated that in many cases the property owner is just an innocent by-stander in the whole situation.

Mr. Steers said that also historically when he has dealt with these situations in most instances the first occurrence is a warning notice basically so from that point forward the property owner is fully aware if it happens again.

Trustee Brakewood said that is the kind of logic Trustee Branca is playing out the kind of logic that says that landlords are not accountable for overcrowding because they may not have known who was living in their properties. He said that is not the way the Village operates we hold the landlord accountable for overcrowding.

Mr. Steers said that is correct.

Trustee Brakewood continued that we hold property owners accountable for noise that is created by the people they hire to do a job on their behalf.

Mr. Steers said that is also correct.

Mayor Pilla said that 224-4A about the penalties that any person who violates you read person as property owner basically so that is why it is location.

Mr. Cerreto said no that he reads person to read any person of violation and he goes back to the point that ultimately we look to the property owner to be responsible of what happens on their property and if a subcontractor is doing something that is not compliant with our code we will notify the contractor and we will hope that they will stop and be in compliance. He said that if that does not work we will most certainly notify the property owner who is responsible and has charge over the property.

Trustee Branca said his concern is that we do not immediately hammer the property owners stating that he is talking about a noise violation. He said he understands the warning and notice should go to the property owner but since he is not creating the problem that it is being done by the contactor that it is not the property owner's fault does not want the property owner being liable for it.

Trustee Didden said that he can not believe that a contractor or subcontractor that has been in business for any amount of time more than six months hasn't learned as a course of

their business that municipalities in general have noise ordinances and when you can start and stop the operations. He said that the contractor should be the first in line and he likes Mr. Steer's answer that he cites both and normally the contractor pays up. Trustee Didden stated that the beginning of the question was if you have one contractor that moves to different locations like a landscape company does it escalates noting that is where we started with this question and he asked Mr. Cerreto if he is still saying no.

Mr. Cerreto said that it is tied to the property in question.

Trustee Brakewood noted that the waiver itself is tied to a property not to a contractor or property owner so an owner who owns two properties needs two waivers.

Mr. Cerreto said that is correct it would require two notices and two petitions to the Board.

Mayor Pilla asked if there was anyone from the audience who would like to speak on this proposed law regarding a waiver process for construction noise and the penalties regarding noise violations. He recognized Goldie Solomon.

Ms. Solomon said that everything in New York State has to be in writing for it to be legal. She told the Board not to allow any contractor to change the hours because if you do it for one then you will have to do for others. Ms. Solomon said that they must follow the rules and regulations which should not be violated.

Mayor Pilla suggested a top ten frequency asked questions for the Building Department and Code Enforcement Department be placed on the website. He recognized Richard Abel.

Mr. Abel said that he had a question that the waiver is only in the C and M zoning districts on construction noise but does the penalties deals with more than construction noise it is for all noise violations. He said that this law deals with different aspects of this code. Mr. Abel asked what is currently the fee for a penalty.

Trustee Didden said that it is currently \$250 and the law is proposing an increase for additional violations.

Mayor Pilla said that is correct noting that this law does not encumbers the entire noise chapter. He said that the noise law is broad and that the waiver is more specific to the M and C zones and that the penalties for violating the noise ordinance are broad. The Mayor asked Mr. Cerreto if that was correct.

Mr. Cerreto said that is correct and one of the questions that the Board believing it was Trustee Branca who asked a question about whether or not this one violates our code whether the person gets an enhanced penalty if they go on another person's property and does the same thing. He said that he wants to clarify that point because he does not want anyone misled stating that it is a very good point and wants to make sure he understands it so as far as the penalty section he told the Board that he would like to research that section further.

Mayor Pilla said that he is not a lawyer but his read is any person so if a contractor does it somewhere else a second time and we are being told that you cite the owner and that person, that person would get violated a second time.

Mr. Cerreto said that in a situation where you have a landscaper example, stating that a landscaper goes to the Mayor's house for example and is in violation then goes to Trustee Didden's house and does the same thing so the question is whether or not that person should know better by going to the second house that is a good question. He said this question includes the entire chapter of the code. Mr. Cerreto noted that what was before the Board initially was construction noise and he believes it was important that he looked at the penalties noting that the penalty section needs work stating that the fines are much too low and does not give any flexibility to the Village so that is why he looked at the penalty section.

Mr. Abel said that he thinks \$250 for somebody who starts mowing their lawn ten minutes early for whatever reason noting that Mr. Steers had brought up giving a warning first but that is not written in the law so you are talking like the garbage collection it is a \$250 fine if you put your garbage out the wrong day which he thinks is also excessive. He said that he could see a sliding scale and if you are chronic and you do it over and over again then keep raising it. He said make it a \$25 fine, second \$50, third \$100, the fourth \$250 but raise it up over time because it is the poor person who does it wrong once by accident that you are really going to whack and that to him is unfair. Mr. Abel said that you are hurting the residents not just the landscapers but if the landscapers continually do it then they should be whacked noting that is a different type of problem.

Trustee Brakewood noted that when you say any person you want to be careful to consider people who own multiple pieces of property and you could have a noise violation on one piece of property that you own and a noise violation on a second or third or fourth piece of property. He asked so is those second, third and fourth pieces of property adding up with the fines.

Mr. Cerreto said that is a very good question and would like to opportunity to clarify that. He said that is the whole point of a public hearing to get the comments, exchange and views.

The Mayor recognized Linda Turturino.

Ms. Turturino told the Board to make the laws and enforce them that it is not fair if one can do and others can not. She said that Saturday afternoons, Sundays and holidays should be quiet time and spoke about work done in houses near her at all hours. Ms. Turturino said that noise in general being lawn mowers, leaf blowers, roofers, building contractors should be within the time frames established unless it is an emergency. She spoke about project management and her work dealings on this issue. Ms. Turturino said that the residents should be considered first and construction projects starting a few minutes earlier is one thing but when you push the envelope starting at 7:00 a.m. then it may be is 6:30 or earlier is unfair. She said that this began with a request for a project in the downtown noting that there are residential units in the downtown as well and sound does carry.

Mayor Pilla noted that when this proposal was brought to the Board it was that the waiver would be through the Village Manager but changed it so it is through the Board of Trustees.



Trustee Brakewood said that one of the reasons that the Board wanted this authority was not because we did not trust the Village Manager it was because it is a sensitive issue in many cases and there are people who live near a construction site so we wanted to keep it in this Board's hands so we would have a public hearing process before the Board issues any waivers. He continued so if a resolution comes asking for a waiver the public can come and comment on it noting that it is just not an administrative waiver.

Mayor Pilla said that this law has notice provisions also so people who are in the area and may be effective will receive notice. The Mayor asked if there was anyone else from the audience who would like speak on this proposed law. He recognized Bea Conetta.

Mrs. Conetta spoke about the fines and said that this should be charged differently for homeowners than developers/contractors.

Mayor Pilla asked Mr. Steers that the 1<sup>st</sup> offense is not to exceed \$250.00 and asked if it would be an appearance ticket and not a \$250 ticket that it would go before the court.

Mr. Steers said that would be correct that it would be an appearance ticket if there issues on the second violation.

Mayor Pilla asked if it would be the prosecutor who would handle this.

Mr. Steers said that once it enters court that is correct.

Mr. Cerreto said that it would be an appearance ticket process it would be the within the discretion of the court whether or not to impose the fine of \$250 or something less. He said that obviously if it is a notice of violation ahead of it and the owner or the responsible party does not compile the Village would be irresponsible not to seek the \$250 fine. Mr. Cerreto said that if the notice of violation process is followed that people are on notice that there is a violation on their premises and they should correct it. He said that the fine of \$250 is within the jurisdiction of the court.

Mrs. Conetta said that she thinks that is too much for a homeowner noting that she knew one senior who had to pay \$250.00 and that is a lot.

Mayor Pilla said that he does not disagree but wants to understand the discretion how this works and how we can be effective.

Mr. Cerreto said that the fine for the violation is currently \$250.00 and there is no staggered fine structure so if you are penalized more than once you still have the same fine of \$250.00. He said that what this law is proposing to do is to penalize those and deter those who repeatedly violate our noise code that is why you have the doubling and tripling of the fines.

Mayor Pilla said that there is discretion built in for that first fine noting that it says not to exceed so it does not mean it can not be zero or \$50.

Mr. Cerreto said that it could be anything that the judge decides on the discretion. He said that the judge could decide that the matter that this ticket could be dismissed.

Mrs. Conetta said that it has to be in writing because maybe the judge does not like the person in front of them and it could become personal.

Trustee Branca told Mrs. Conetta that to a certain degree he agrees with what she is saying but lets look at the real world if there is a big contractor doing a construction job and

is operating illegal through noise do you think \$250 is going to deter them from starting early or finishing late.

Mrs. Conetta told Trustee Branca that he is right.

Trustee Branca said that if someone gives him a \$250 fine he is hurting as a homeowner and senior citizen.

Mrs. Conetta said that is why she is saying it should be different.

Trustee Branca agreed with Mrs. Conetta saying that the law has too much commonality for the different type of people and their incomes and their backgrounds. He said that he does not know what can be done but asked the Village Attorney to look into it. Trustee Branca said for a homeowner to pay the same price as a multi millionaire contractor on a construction site that it will be the cost of doing business and they do not care. He said that they maybe making five thousand dollars for those extra hours they are allowed to work so why not pay the \$250.00.

Mrs. Conetta told the Board to look into reducing the fines.

Trustee Branca noted that as we get older homeowners can not do the work themselves so they have to go out and hire people so we are subject to them following the rules and regulations and we can not be there all the time. He said that we need to look more deeply into this area.

The Mayor said that he agrees noting that we have to be even and consistent. He said that Trustee Branca's suggestion of not taking action and having Mr. Cerreto look further into the fines and come back to the Board with effective way to differentiate.

Trustee Branca stated that he is just looking for a fair way.

Mrs. Conetta said that big contractors should not be equal to homeowners.

Mr. Cerreto said that he would look further at the penalties and asked if there were any questions on the waiver provision.

Trustee Didden asked if we could have a different fine schedule for the different zones in the Village. He suggested that we could start at a higher number in the commercial zones and lower in the residential zone.

Mr. Cerreto said that it may be possible that we could do it that way but noise is in the eyes of the beholder and at 7 o'clock in the morning on a Saturday and you have power equipment in your neighbor's backyard he is sure you will not be too happy about that either. He said that may be just as bad as having someone driving pilings in our downtown shopping district.

Trustee Didden said that he was going back to what he started with that it seems we are always biting our residents first so he is trying to give the residents a break.

Trustee Brakewood said that every case is unique and that is why the fine is not to exceed \$250.00. He said that the violator has the opportunity to speak to the prosecutor and go before the judge for a reasonable outcome and that is why we have structure in place.

Mayor Pilla said to add unto that there is nothing in this law with the way it is written not to exceed that might stop us from operationally with a fine schedule that is the policy of implementation this.

Mr. Cerreto said that the code is the discrepancy of the judge. He asked the Board for more time to research the comments made tonight and asked that this matter be adjourned to the next regularly scheduled Board meeting.

Trustee Kenner asked if we can not have a policy for residential vs. commercial.

Mr. Cerreto said that perhaps we could make a category for construction noise.

Trustee Kenner said not even to codify it but to have a policy.

Mr. Cerreto said he does not like those types of policies stating since we have a code we should live by the code and if the prosecutor needs in a particular case to advise the court that he would like the fine less than the maximum amount that is the prosecutor's discretion and would like to leave those things in the prosecutor's discretion.

Mayor Pilla said that the public process is very helpful for all us to understand the law and make them as workable as possible. He said that if there are no further comments he would take a motion to adjourn the public hearing and Mr. Cerreto can take the comments received tonight and come back with any recommendations to change the local law if need be and we can revisit this on the 22<sup>nd</sup>.

On motion of Trustee Brakewood, seconded by Trustee Didden, the public hearing was adjourned to February 22, 2011.

ROLL CALL

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

NOES: None

ABSENT: None

\* \* \* \* \*

Mayor Pilla said that he will take public comments at this time then the litigation resolution. He recognized Goldie Solomon.

Ms. Solomon said that taxes are too high and are killing us. She said that regarding the Department of Justice litigation that this community has no discrimination against race, religion or ethnicity. Ms. Solomon said that she has brought up to the Village, Town and County that there is no verification of citizenship noting that you have to be citizen to vote. She spoke about democracy and that she ran for office for a mayoral and trustee seats creating her own party noting that she should have been called to testify at the DOJ hearing.

The Mayor recognized former Trustee Greg Adams.

Mr. Adams spoke on behalf of the Port Chester-Rye NAACP and said that this organization opposes this resolution or future resolutions to appeal the DOJ case. He said that the Town Supervisor's relative is being considered to be hired and will would the money come from to pay for this appeal would it be a reduction of services which we are against. Mr. Adams also asked the Board to make a full acknowledgement of Martin Luther King Day.

Mayor Pilla recognized Heather Paul.

Ms. Paul said that she hates the cumulative voting election system that we are saddle with and wants the one person one vote system for our Trustees election. She also spoke about a safety issue in reference to the G&S shopping complex regarding the lack of security cameras and that she was in an accident there. Ms. Paul said that she is glad that we are

Feb. 7, '11

getting laws in place regarding pawnshops. She said that long range planning for the Village has not been put in place and by time everything is built that is in process we will be left with a large number of empty apartment/residences.

The Mayor recognized Bea Conetta.

Mrs. Conetta said that the prior Board asked G&S to put in cameras at their development and they refused. She then spoke about the DOJ matter saying that the wrong law firm was picked because they were not an expert on this matter. Ms. Conetta told the Board to try to find some other thing to do regarding an appeal because if it wasn't for her and the people of Port Chester we would probably not have had our last election. She said that we have until 2013 and did not understand the rush to consider an appeal but would ask that the Board find another way and that she would circulate a petition. Mrs. Conetta noted that the upcoming March mayoral election is the most important thing and that everyone should vote. She asked the parties to run on the issues only. Mrs. Conetta asked about the adult store that she reported and what has been done on this issue.

Mayor Pilla said that this was in process. He also spoke about the G&S shopping development and that the police do patrol this development. The Mayor recognized the next speaker.

Jackson Chin an attorney from Latino Justice said that looking at the voting rights suit that he would not be for appealing it. He said that we should be moving forward that there may be concerns with the remedy and for the good of this community the Board should not fight this because it would be a losing battle.

The Mayor recognized Tom Kissner.

Mr. Kissner spoke in opposition to appeal the DOJ case. He said that the Village has spent too much on this matter noting that cumulative voting is not popular in the Village but is has served the Village well.

Mayor Pilla recognized Gene Ceccarelli.

Mr. Ceccarelli said that he is on the fence on this issue not knowing all the costs. He said that he is not keen that the attorney being considered for this appeal has the same last name as an elected official of the Town of Rye. Mr. Ceccarelli said that the fair way to vote is one person one vote not grouping votes for one person. He said that the individual who brought this case against the Village did more harm than good tarnishing our reputation. Mr. Ceccarelli said that if money was no object he would be for this appeal but money is an issue noting that our infrastructure needs are greater. He concluded that spending on an appeal may be the right thing to do but at what cost.

Trustee Brakewood asked if the resolution that the public is speaking on could be read by the Clerk.

The Clerk read the resolution for a retainer agreement with regard to appeal of Final Judgment in the matter of United States v. the Village of Port Chester.

Resolved, that the Village Manager be and hereby is authorized to enter into a retainer agreement with the law firm of Jones Day, 51 Louisiana Avenue, N.W. Washington, D.C. in the matter of United States v, Village of Port Chester, compensation to range from \$300 to \$775/hour with a cap of \$225,000, exclusive of disbursements and out of pocket costs; and be it further

Resolved, that on notice of entry of the final judgment of the U.S. District Court, the firm is hereby authorized to file an appeal to the U.S. Court of Appeals on behalf of the Village of Port Chester.

The Mayor recognized Linda Turturino.

Ms. Turturino spoke about noise and that their needs to be better enforcement in residential areas. She said that she agrees with the speakers Mrs. Conetta, Ms. Solomon and Mr. Ceccarelli about the DOJ issue. Ms. Turturino's final comment was regarding the actual hours and overtime of sanitation workers.

Mr. Russo commented on the sanitation workers hours.

Mayor Pilla recognized Richard Abel.

Mr. Abel asked about two resolutions on the agenda to set public hearings one regarding snow and ice removal and the person who was violated would be the property owner or the person doing it and the enforcement of parking on holidays why the law list Washington's Birthday and not Presidents' Day.

Mr. Russo, Mr. Cerreto and Mr. Steers commented on the snow and ice question and Mr. Cerreto stated that Washington's Birthday is the federally listed holiday for Presidents' Day.

\* \* \* \* \*

Mayor Pilla said that since there are so many here regarding the Department of Justice item he would take the last resolution on the agenda under litigation on this matter then the Board would consider the planning resolution with Mr. Cleary and the items for our Village Engineer, Dolph Rotfeld.

The Clerk presented the resolution to retain the firm of Jones Day to appeal the Final Judgment in the matter of the United States v. the Village of Port Chester.

Trustee Kenner made a motion for discussion, Trustee Marino seconded the motion.

Mayor Pilla said that he would turn this over to Trustee Kenner to introduce since he asked for this to be on the agenda.

Trustee Kenner thanked the Mayor for that and stated that he appreciates the comments made by the public. He said that he disagrees with some but wants to give the background of what brought him to this point and hope that some of the members of this Board to a point of appealing this case. Trustee Kenner said that he wants to step back a bit noting that we have been dealing with this issue at least he has for four years now since he has been on the Board knowing that the Mayor and Trustee Brakewood has been dealing with five possible six years. He stated that this is a very difficult issue and everyone shares that and it is a very tough issue noting that it is tough for him. Trustee Kenner said that he has been studying this for a long time now noting that we have been down this road so many times with the appeal of what we should do or should we not do it. He continued that the prior Board that he was on had an opportunity to appeal and we did not have the votes to do it noting that we had at the time someone who could pay for it but the votes were not there. Trustee Kenner said that now we find ourselves in this position stating that it is going to be impending that we are going to have a judgment on this case and once that judgment comes through the clock starts ticking and we have to make the decision. He said that he has

consulted with our Village Attorney and consulted with our Special Counsel and they have all said if you are for an appeal the time to begin is now. Trustee Kenner said that it is up to this Board to rise to the occasion demonstrate some leadership here and make a decision stating that our time is now to make this decision. He continued that he was not in favor of the original decision that got us cumulative voting noting that he appreciates cumulative voting favoring it over districts but he said that at-large is much better. Trustee Kenner said that he does not want to be looking at this thirty years from now that his legacy being on this Board what would happen if we did not appeal this stating that he does not want to be in that position. He said that he believes the at-large system served us well stating that it had it flaws no doubt about it and that we do have a diverse Board now but we have to come back to the decision that was made and was it the right decision and he does not believe that this was the right decision for Port Chester. Trustee Kenner said that he was elected by the people of the Village noting that he did not get a lot of bullet votes he had to do it the old fashion way and get a lot of people to vote for him stating that is how it is done and he did very well across the board. He said that this was not the right decision and time and time again we had information submitted to the Judge in this case looking at the School Board elections where we elected the first African American and first Hispanic that was not included on the record, candidate quality was not included on the record which is unacceptable, it is wrong and that is how elections are decided by the strength of the candidate, by the strength of their campaign and whether people support them what their platform is that's democracy that it how it works. Trustee Kenner said that was not included by this Judge and with an appeal case the entire record will be included and he supports that total. He noted that Trustee Branca makes the point all the time when you look at 2013 the entire Board will be up for election and some people may like the fact that you could have a complete overhaul of this Board but whatever it is it will be a huge disruption because you could potentially have a totally inexperienced Board and that is a risk we are taken. Trustee Kenner said that he is not criticizing the cumulative system so much as he is criticizing this decision that got us to this point and that is why he is fighting this. He said that he is not going to wait any longer for it and appreciates the public's input and appreciates the opinions they have shared with us but he can not stay here and say that he does not want to appeal this stating that he does not want to wait any longer. Trustee Kenner said that this is the education process stating that the debate that we are going to have right here is the education noting that we have our Special Counsel here and there is going to be education on this and this is when we need to have it. He told Mayor Pilla that he appreciates the time.

Trustee Terenzi said that he wants to address the money that has been kicking around on this issue. He said that everyone has seem to be talking about the fact that this \$225,000 will bankrupt the Village or put us in a position where we will not be able to do other things that we want to. Trustee Terenzi said for the public's edification if we do nothing we are going to be looking at approximately \$500,000 to \$600,000 in costs going forward stating where does those numbers come from that we are going to have two elections that are not probably going to cost us as much as the past one because there are some upfront cost that we

have already spent that we probably will not have to spend again but he believes anywhere between \$150,000 to \$200,000 will be spent on the next election and the one in 2016. He also noted that we have a situation where Mr. McLaughlin is in line for \$125,000 because he was the lawyer who represented Mr. Ruiz in the court case so we are looking at \$550,000 if we do nothing. Trustee Terenzi said that if we appeal and we win Mr. McLaughlin does not get a dime and the two elections would only cost us \$20,000 instead of \$400,000 so if you are going to use the argument that this is all about dollars and cents which he knows has been brought up a few times he said that he is not too concerned with that because he fully believes that this Board when it comes to budget time this year we will be fighting very hard for a zero percent increase and reducing the debt like we all ran on. He said that we are all going to fight for that so the bottom line is the money issue is a non argument and Trustee Kenner elude to the fact that cumulative voting hurt our ticket noting that it was proven and the statistics bears out that our ticket had more people actually vote for us physically voted for our ticket based on our campaign and only two of us got in there. Trustee Terenzi said that the way the other gentlemen go in that was the strategy they used and that was a smart strategy for Mr. Branca and Mr. Didden that they went out and they targeted their people as did Gene Ceccarelli he said that he does not know if that is the fair way to go. He concluded that he is anxious for this vote to come up and he will be voting in favor of the appeal.

Trustee Branca said that he has concerns about the current noting that he is not talking about cumulative voting but talking about the current agreement that we have with the Department of Justice as to how our elections are going to be scheduled and run. He continued that he has sat on this Board now for seven months and every decision he makes that there is not a day that goes by when he is making decisions up here. Trustee Branca stated that does he not draw on his experience of twelve years of being an elected official as trustee and mayor fifteen years ago noting that he is concerned when he thinks that in 2013 the entire Village Board is up for re-election. He said to have total, saying this with all due respect noting that there are a lot of qualified people that would probably make great elected officials but to have a full Board without any municipal experience making decisions for this Village is a disaster. Trustee Branca said that there has to be continuity of government there has to be individuals who have had the prior experience. He continued that we are now handling issues that have been on the table before this Board and previous Boards up to four years and how can you ask new elected officials void of municipal experience to come in and do the finalization on those items to pass or deny whatever resolutions come forward without having experience stating that there has to be someone up here that can give them that experience can give them leadership. Trustee Branca said that we are leaving ourselves wide open for that not to happen. He said that he is leaning very strongly to go ahead with the appeal and for that reason only and is also asking if there is someway we could put together an agreement with the Department of Justice to get stagger voting so that you have only a set number of individuals every time their term is up two or three years three trustees one year, three trustees and the mayor the next year as long as there is continuity of government with people of experience. Trustee Branca said that at this point in time he is asking that we delay

this vote tonight and is asking that we meet with our Special Counsel one more time next week finalize it, bring it back to the public noting that he does not think seven or eight days is going to make a difference but does agree that a decision has to be made but he strongly feels that we should explore every avenue possible before we make a decision on this item.

Trustee Kenner stated that the premise behind cumulative voting is you have to have the whole Board at the same time so you can not have a staggered term with cumulative voting.

Trustee Branca said that he does not understand that. He said that he can not see the problem stating that he can not see his term along with Trustees Didden, Kenner and Terenzi terms not being a separate election from the Mayor and Trustees Marino and Brakewood. Trustee Branca said that he does not see the problem.

Trustee Terenzi said that the problem is without the ability of voting for someone six times it dilutes the whole idea of cumulative voting stating that if you go with three and they are running as a team and tell the voters to vote for us twice you are not going to get the effect that you want. He said that the effect that the Judge wanted was minority representation on the Board even though he and Trustee Branca has run about thirty years worth of campaigns and if we had gotten the right person to run on the republican line in the years that we had twelve seats in a roll noting that they had every seat back in the eighties every elected official. Trustee Terenzi continued that the reason why we got these seats is because we had the right issues noting that we were right on taxes, right on development and right on what was good stating that we could have had people that were orange, black or green running with us and they would have won anyway and the proof of the pudding is what we have right now. He said that Mr. Kenner and himself ran on the Republican line on the issues and Mr. Kenner did very well in the last election so you know as well as I know Mr. Branca that back in the day we could have gotten anyone elected because we had the right slate.

Trustee Branca said to Trustee Terenzi to a great degree he agrees with him but at the same time he does not want to pull the trigger yet and say yes or no. He said that he would like one more meeting tabling this until next week so we can discuss it with Special Counsel ask some more questions, do everything in his power to explore the item and we can make a decision that night coming out of executive session and go into public session and make our decision that night.

Mayor Pilla said to Trustee Branca that he would respectfully ask him to hold that motion to table so we can get comments from the other Board members and then he would entertain his motion.

Trustee Marino said that he agrees with you 100% noting that he was the first Hispanic elected but does not like the system of voting. He said that he has lived in Port Chester twenty years and since coming here has been doing things the right way. Trustee Marino said that the only thing he does not like is how we are going to pay for this. He said that he does not see how the taxpayers have to pay and pay and pay again noting that the damage is done and even with an appeal he would like to see to win the case but we do not know if we are going to win with paying out this money. Trustee Marino said he is not saying



this because he wants to run again that has nothing to do with it noting that he got elected because of who he is he believes and while he is sitting here will do the right thing for the Village. He said that is what it is like everyone else we are all trying to do whatever is the best noting that we are talking about jobs and cutting jobs, cutting people and cutting this and that stating that there is no money meanwhile we are going to come up with money to spend on this case. Trustee Marino said that he agrees with you stating that he is behind you that he does not like the system himself.

Trustee Brakewood said that he has been on this Board just shy of five years now along with the Mayor and we have been grappling with this issue for about four and half of those years or maybe a little longer than that. He said that he still remembers when Mayor Logan presented the letter that came from the Department of Justice to the Board and expressed what an outrage this was and how he was hell bent on fighting this tooth and nail. He said that he remembers himself going out and doing homework calling experts and seeing what it was all about and every single one of those experts that he talked to which some of them were former DOJ employees, some of which were University professors, some of which were lawyers all basically said the same thing, don't fight the DOJ, settle, settle with the DOJ that they have all the money, they have all the people, they have all the time and they actually get rewarded for fighting people like us who decide to fight them. Trustee Brakewood said that is what everyone of those experts told me and what did the Village do they went out and hired a litigator who was interested in fighting the DOJ and that is exactly what we did stating that we passed a resolution and remembered saying at the time that this resolution we are passing to hire Mr. Piscionere was the Gulf of Tonkin resolution for the Village of Port Chester to fight the DOJ. He continued that if you do not remember what that was the Johnson Administration got all the authority they needed to fight the Vietnam War when Congress passed the Gulf of Tonkin resolution and it gave them every authorization they needed to go in and that is exactly what happened stating that this Board had no capability to stop or rein in once the whole DOJ effort and people reassured us saying don't worry this won't be that expensive this won't be that big of a deal don't worry about it. Trustee Brakewood said that at the time pointing out Osceola County in Florida fought the DOJ for ten years and spent two million dollars before they finally settled for a district plan. He said that Osceola County is where Disney is and that County had a budget at that time of over eight hundred million dollars a year and the Village of Port Chester has a budget of a little less than forty million dollars a year so how ridiculous is it that we have now spent 1.2 million dollars over the past four and half years retracing the steps of Osceola County almost exactly and he remembers pointing that out to people and they said that couldn't possibly happen here yet we are blindly marching right down the road that they marched down trialing, re-trialing stating that do we not think this is the end when we appeal don't you think they will appeal do you think it will end if we win this appeal. Trustee Brakewood said that Trustee Terenzi's logic sounds like someone going to Foxwoods and to double bound on their bet because they are behind and that is what we are doing with the taxpayers dollars and some of the Trustees up here feels that this issue transcends time and money stating that there

is no issue that we as Trustees face that does not transcend time and money that it is always a limited factor to us noting that we have a very limited staff and when they focus on this issue they are not focusing on another issue. He said that when we spend money on this issue we are not going to spend money on another issue and pointed out that very appropriately Mr. Russo just asked for \$93,000 to buy snow removal equipment for a backhoe, a bobcat and SUV and if you add up all of these items he was incorrect their total is \$158,000 stating that Mr. Terenzi wrote back to him saying if you can find the money somewhere in the budget they he could go for spending the money on that equipment but he is not saying that about the DOJ today so somehow the DOJ takes precedence over the snow removal equipment because this is the most pressing issue before the Village. Trustee Brakewood continued that if we hire at \$750 an hour stating that the benefit of being married to somebody on the School Board is he gets to hear some of the issues that they are confronting and they are getting grief because they just hired an interim Superintendent at \$1,000 a day to run the whole school district for the remainder of the year and that is only backfilling someone's position who was already getting paid that so they are going to pay \$1,000 a day but here we are going to spend over \$750 an hour for somebody to fight the DOJ stating that person is going to make more than Mr. Russo gets paid to run this Village asking if that makes sense. He said that he agrees that he does not like cumulative voting, he did not vote for cumulative voting and he does not want to spend \$200,000 to \$300,000 for the next two elections but thinks this Board needs to get serious we need to hire somebody who will negotiate with the DOJ and finally bring in reasonable solution. Trustee Brakewood said that Mr. Branca is absolutely right that cumulative voting has a fatal flaw that we are all up at once in two year that maybe one of the reasons why they proposed districts for us originally why they generally propose districts and he personally does not see why we should not shrink the size of this Board to five individuals, three trustees each representing three districts a deputy mayor and a mayor that are elected at large. He said that he would support a resolution and would support spending ten, fifteen, twenty thousand dollars to send a good person in to negotiate that type of settlement with the DOJ so we can then move on get back to our \$25,000 elections that are stagger where people are elected again that he can see but not doubling down our bet like going to Foxwoods and trying to gamble our way out of this thing.

Trustee Terenzi told Trustee Brakewood he would like to interject one thing that Trustee Brakewood says it very elegantly and he understands what he is saying. He said that he would not speak for Mr. Branca but said that both come from a different perspective on this thing stating that they both grew up in this Village with no disrespect to the Board members who did not grow up here that they can not express what they feel but he came from an area of town and Mr. Branca came from an area of town that when he grew up it was a very diverse area. Trustee Terenzi said that when he means diverse there was as many black families in his neighborhood as there were white families and he can remember playing on a softball team when he was a kid stating that when he grew up every park had it's own little camp, every school had it own little camp and everybody had a park teacher. He stated that he went to Abendroth Park and we had a softball team and you played against everyone else in

the Town. Trustee Terenzi said that he played on a team one year that from the twelve children on the team he and two others were the only white players on the team and that he did not know the difference between us because we all grew up together and played together. He said for anyone to say that this Town discriminates against anybody noting that since he has grown up here from 1955 growing up in the sixties when all the turmoil was going on with the race problems we did not feel it in Port Chester because we were all one community. Trustee Terenzi continued that one day he added up that we have over twenty seven million dollars worth of assessed valuation in this Village that is related to low income housing, senior housing and will guarantee that this twenty seven million dollars worth of housing probably brings in about three hundred thousand in taxes. He said that if you would have had these properties on the tax rolls they would probably bring in about three million dollars worth of taxes as every single family homeowner, every commercial homeowner in this Village is subsidizing the goodwill of our forefathers that grew up in this Village after the war and in the 50's and 60's that made the decisions to bring this type of housing into this Village and every year the single family homeowners and the commercial properties pay three and half million dollars to make sure that this community is as diverse as any community in the United States. Trustee Terenzi stated that this is not the City of Rye, this is not Rye Brook, this is not Harrison where if a real estate broker even thought renting or selling to a minority they would be out of business so he is tired of this nonsense about what Port Chester hasn't done for its people and he hopes everyone on this Board understands where he comes from and he knows where Mr. Branca comes from because we are from the same side of the street and we know what it takes to get involved with the community and live with everybody peacefully.

Trustee Brakewood said that he wants to follow up with that because he thinks Mr. Kenner had said it in his abet piece and people seem to always bring this in that there is a stigma upon Port Chester because of this case. He continued that he has always taken great offense that any politician or leader in this Village would insinuate that somehow this DOJ case has brought a stigma upon the Village or is an indictment of the people of this Village because it is absolutely not true and anybody who knows anything about the case and about the Village stating that he agrees about the Village knows that there aren't racists that live in Port Chester that Port Chester is not a racists community at all and in fact it is a very inviting, a very caring community, a community where people of all nationalities and all races he thinks get along incredible well and support one another. Trustee Brakewood said that it is absolutely not about the people of this Village it is about an electoral system that was put in place in 1868 and probably even before that, it is about a system not about the people at all stating that we didn't try the people of Port Chester and he thinks it is disingenuous and thinks it is just flat out wrong that politicians will stand up and say that we have to fight this to erase this stigma from our Village. He said that he thinks we erase the Village in our behavior that we display everyday in this Village and always have.

Trustee Kenner said to Trustee Brakewood that if he does not think being found guilty of Section 2 violation of the Voting Rights Act is not a stigma he does not know what is. He

Feb. 7, '11

said that he wanted to go back to the other point that Trustee Brakewood raised about Osceola County because he has heard this example that he has used time and time again and can not think of a worst comparison to our situation. He said that he researched it and said that Osceola County changed their voting system and when they found that the Hispanic voting strength was increasing they actually changed it back to dilute it so that is why and no wonder they spent two million dollars and no wonder why they had to settle with the DOJ that was a grievous violation on the Voting Rights Act that was malicious of fore thought that's why they lost and that is why they fought compared to Port Chester as you said 1868 we have had this system, it has served us well, we have the staggered terms that Mr. Branca talks about that he wants noting that we had that for nearly one hundred and forty years before we got to this whole DOJ diabolical so for Trustee Brakewood to say that we are like Osceola County compares to it we are no way like that. Trustee Kenner said to Trustee Brakewood's point we are a caring community which he has said but to be found guilty of a Section 2 violation of the Voting Rights Act that is a stigma and does not know where Trustee Brakewood is coming from on that.

Trustee Didden said that he has listens to the comments of his five fellow Trustees and this past weekend Trustee Kenner and he were out at a social event and came across someone a longtime Village resident who he always considered progressive and from the left side of the aisle and tonight clearly Trustee Brakewood's comments while dramatic and accurate noting that \$750.00 an hour is a great pay rate and wished he could make \$750 an hour but he believes at this point because he has made his mistakes and has apologized for them but he is elected to represent all the residents of the Village. He said this evening he supports Mr. Branca's position that we wait until the next meeting and in between now and then he would like to talk to the people, talk to the public because there is good change that he is one of the most principled person in the room because he has spent four hundred thousand dollars of not only his money but his partner's money in fighting government over what he thought was an injustice. Trustee Didden said that tonight he has to be in the middle hear what the people of the Village want to say and will go out and look for our residents to see what it is that they have to say. He said that this week in the Westmore News one of our Village residents invited him to her home to hear what her concerns are as she sees it from her position and he relish the offer to do that. Trustee Didden noted that he is not saying that Trustee Brakewood is right or Trustee Kenner is right but he does believe that there is an opinion out there and believes that we have to find that opinion and Trustee Branca's suggestion of a delay does that and the resident that Trustee Kenner and I spoke to the other night when we explained that the \$255,000 maximum cap on this appeal that for a one family home like his it would cost \$45 and if it is one of his business properties it would be \$45.00 so that one thing he would like to share with Trustee Brakewood when he talks about \$750 an hour and he talks about the two million not discounting any that Osceola County spent. He stated that he agrees with Ms. Solomon who constantly reminds us that we are a middle income type community as a average and every dollar means something but at the same time he told the Board that he would like them to join him over the next week to go out and find

the residents, find the people in the Village that have an opinion and asked the Mayor to get something on the website or something that would trail after these meetings to invite the public to send us emails, send us their thoughts and lets see exactly what the public is thinking so we can make the decision that our constituents want us to make.

Trustee Brakewood said that he agrees with getting public opinion. He said that when we vote on this matter is asking that it be done at this location on camera and not at Village Hall. Trustee Brakewood said that if we do go forward with this retainer it has a cap of \$225,000 but all it takes to go beyond that cap is the vote of four trustees so it is a cap as we go into this endeavor but he would not be surprised at all if we exceed that cap.

Mayor Pilla said that he saved his comments for last because one of the seven habits of highly effective people is to seek first to understand then be understood. He said first of all he thanked everyone from the public that came out to express their thoughts and concerns about the direction that the Board moves in and thanked his colleagues on the Board for their thoughtful comments because everyone is entitled to their opinion noting this is a very complex matter. The Mayor said his thoughts are what is the rush, first of all the Judge has not ruled so technically there is nothing to appeal noting when this issue first came before this Board in April 2006 we were told that it would cost about \$250,000 to fight and we were told our chances of success were better than 60% which was pretty good odds so the Board voted to fight a lot of us on principal that the numbers did not make sense the turnout and other things stating that we were off by one million dollars. He said that now we are hearing the same thing \$225,000 a cap and as he understands it that the cap will take us to the first leg of the appeal journey. The Mayor said that the way the process works is that the decision is made to appeal, the record just the testimony, dispositions, arguments and all those things is going to be looked at by he thinks a panel of three judges and they will decide if there is merit to it or there is not and if they decide there is not merit to it we have just wasted \$225,000 which by the way is a 1% tax increase. He said that every \$225,000 we spend is a 1% on the tax roll, tax increase noting that the Manager needs snow plow equipment, and staff and we are all hurting as citizens and residents of the United States because of the economy we are in and stated that he marvels at how we have been able to keep the tax rate where it has been having spent 1.2 on this journey. Mayor Pilla said that \$225,000 is the first leg of the journey and the best case he guess if you want to appeal maybe the worst case for Port Chester maybe the decision is the case is remanded back down to the District Court to be tried in its entirety again stating that could be another million dollars or maybe be discounted because we do so much research before seven hundred thousand dollars stating that these numbers are going to add up quickly. The Mayor continued that the other way that it might go is maybe they will say that we need to over turn the Voting Rights Act of the laws of the United States stating that the Voting Rights Act is the enforcement mechanism for the fourteen and fifteen amendment of our Constitution that one person one vote that we talk about and the right of suffrage that the Voting Rights Act is the enforcement mechanism for that and do you really think that the Village of Port Chester is going to be successful in overturning decades and decades of case law against the Voting Rights Act of the United States when we had a racial

appeal in the 2007 election in the middle of the case being tried. He said personally he thinks that is a pipe dream and by the way if it would go up to the Supreme Court that would be hundreds of thousands of dollars. The Mayor said that they tell us our chances of success is 50/50 at best stating that depends on who you talk to you noting that the two lawyers who we spoke to that are hell bent on ripping apart the Voting Rights Act tells us 50/50 at best stating that this mayor does not gamble with his own money much less yours so would not take those odds that is him speaking personally. Mayor Pilla said that other people he has spoken and like Trustee Brakewood he has spoken to dozens and dozens and dozens of experts now over five years actually rounding to five years and the people he has spoken to have told him that we have a very, very, very small chance of success like Trustee Brakewood said fighting the US government with unlimited resources and decades and decades of case law. He continued that the DOJ drove this case, they followed a cookie cutter pattern, similar to what has been used and tried and proven in other cases and the gentleman, the lawyer who came up before mentioned this and the Mayor said that he believes he is spot on about that. The Mayor said two weeks ago the Board met in executive session with Mr. Piscionere to discuss this very matter and he said to the Board whether you are for appealing or not don't you think we should hear from the public and we do not take action in executive session but we had a discussion a rather thoughtful discussion noting some Trustees indicated that we can not make a decision of this magnitude in terms of money alone without hearing from them and then there is the whole issue of the principal on whether or not we should so he thought that there was a consensus of the Board even though we did not vote to say yes lets find a way to hear from the public. He continued that one concern is that the public was not informed stating that through the course of this litigation we were advised by counsel that anything you say can be used against you, anything they say can be used against you so we have to keep this under the veil of executive session we have to keep this under the veil of close session stating that this is a very complex matter and frankly it has not been well explained to you all so to Mr. Didden in all due respect to you personally he thinks it is unfair to ask the public to comment on a matter that they have not been informed about. Mayor Pilla said that he was tasked by his colleagues on the Board to go out to see if there is a way and believes it has been said tonight by everyone on the Board to hear from the public but we have to do it in a way where first they can be informed about this Fourteen Amendment, one person one vote which does not mean about having six votes and given three votes to person that it violates it what it means is that every person is given the same number of votes and unlike the way Fox News characterized this election that Hispanics only got that power to plump their vote we all got the same six votes and we all got that power to use it anyway we want and with all due respect to his colleagues on his right who said that they got a lot of people voting for them he would respectfully disagree. He continued that the Village took an exit survey noting that not everyone participated but when you look at the exit survey stating that it is available on our website and it is a pretty easy read stating that he would encourage all to read it noting that it was about two thirds of the people a majority of the people which includes the people who did not response to the survey use this power to plump their votes so a lot of people gave

more than one vote to their candidates and respectfully forgetting what some Trustees said about the number of people who voted for them. He said to Mr. Terenzi that he does not think more than five hundred people vote for him noting that he did the analysis and he does not mean that disrespectfully and Mr. Kenner got about six hundred and Mr. Didden got about six hundred and eighty and spoke about the other candidates numbers noting that were the numbers he worked out and you don't really know because your vote is between you and God.

Trustee Branca asked the Mayor if these were certified numbers.

The Mayor said that is only one man's educated guess.

Trustee Didden said to the Mayor when he speaks about the gentlemen on his right please understand that he ran as an independent by himself and he is not analyzing votes.

The Mayor said that he thinks we need to hear from the public and thinks we need to hear in a way where the public can be informed. He said that he has been speaking to some civic organizations non profits with credibility stating that he does not want to name their names because they have asked him not to put their names out there right now that are very interested in helping us facilitate a healthy discussion about the law, about the case, about the ruling, about our options, about the cost and about our changes of success. Mayor Pilla said that then and only then can we this body who you elected have the information we need to do what you the voters of this Village who use the election system wants us to do. He said that he would wrap this up and regarding the argument about incumbents and all of us being up again rewind the tape all six trustees seats were up in June and there were four new members of the Board but there were two who weren't granted that his seat was not up so 2013 is a little bit different. The Mayor said that he wants to look ahead and started this by saying what is the rush noting that he attended a seminar earlier this week that was a few hours that the United States government put out on the 2010 Census and by law the census data has to be released by April 1<sup>st</sup> and that census data will reveal to us a picture of the minority Hispanic population in the Village of Port Chester that really is the precursor to us to understand the answer to Mr. Branca's question what else can be done to stagger those elections noting that in the year 2000 when that census was taken all those ten year old Hispanic children who were more than likely borne in the United States couldn't vote so ten years later they are twenty years old so if they still live in the Village of Port Chester and he bets that many of them do now they vote. He continued that when we look at what is called the HCVAC, the Hispanic Citizen of Voter Age Population numbers he expects we are going to see the number of those Hispanic eligible voters will increase significantly. Mayor Pilla said what does that mean cumulative voting only works if the ratio of the Hispanic eligible voters against the number of the seats works out where they have an increased opportunity stating that it may be possible noting that he said may, maybe yes maybe no stating that we won't know until the census comes out it maybe possible to stagger the terms on the Board when the HCVAC numbers come out that would address Mr. Branca's concern without spending hundreds of thousands of dollars to fight something with the chance of success that he does not know where everyone he has spoken to said that it less than 50% and the two lawyers

who spoke to us said at the best 50%. The Mayor said that we could also consider reducing the size of the Board based on the census so again what is the rush there is nothing to appeal lets have an informed public discussion, lets get it facilitated by objective people with credibility where they can gather facts and separate facts from opinions so you can understand noting that some speak with such passion and some people speak with such certainty that it sounds like the absolute truth when often times it is conjecture just like his conjecture about how many votes his colleague on the Board got. He concluded that it does not take too much for people to sit there and say no that is the case law no that is an opinion stating that no one can tell the future that we really do not know what our chances of success are in appealing although people can tell us that. Mayor Pilla said a couple of other things when we talk about the recurring cost of election that the cost to implement cumulative voting this first time was about \$250,000 he believes it was but said to Mr. Terenzi respectfully not knowing where he got his numbers from but there is a certain cost that we have to bear for any election no matter what system we use noting that if there was an increase in cost because we needed more Hispanic translators because that is what the Voting Rights Act requires then we will probably need it no matter what the system of voting we choose because as you see our ability to change the current voting system while we are under the jurisdiction of the court and while we have the stigma that Mr. Kenner called it of being in violation of a Section 2 violation the laws of our country allows us an opportunity to forge our own destiny. The Mayor said that there is a process called pre-clearance where we can go to the Government and said that we want to do this differently, here are the reasons why and the same way that they had to give us the remedy of our choice which we choose as by cumulative voting they really have to give us our remedy of choice as long as we can prove beyond reasonable doubt that it would still be a complete and effective remedy so lets not jump the gun. Mayor Pilla said respectfully that Mr. Branca hit it on the head to meet with counsel again so you can be informed by someone. He said frankly that we are listening to people who have a financial interest in the outcome not meaning that disrespectfully to counsel but of course he will tell you to fight it he wants the money, he wants it on his record and things like. The Mayor equated that to going to a doctor getting a second opinion from the guy who is not going to cut you up and that we need to do something like that in this case and he thinks it needs to be balanced. He said that he talked to Mr. Piscionere about having one of the lawyers we used come and talk to the Board and was told why would he want to do something like that because he is one of those guys who favors these alternate systems and settling well it is because he wants to talk to someone beside someone who just wants to gut the Voting Rights Act. Mayor Pilla said that he thinks it would be wrong for a community as diverse as Port Chester, a community as wonderful as Port Chester, a community as tolerant as Port Chester to allow it's self to be used as a pawn in a ploy to gut the Voting Rights Act of the United States. He said that he is not saying that the Voting Rights Act does not need to be retooled but frankly he does not think the taxpayers of this Village should be paying for it that it is a battle for someone bigger than us to be fighting and he means that with all due respect to his colleagues. Mayor Pilla said that he would take a motion to table and let's not



do a date certain because lets meet again with counsel in executive session and asked the Board to give him another week to come up alternative approaches noting that this is a discussion item he had saying to Mr. Kenner that he does not know if they are at the same meeting because he thought we were going to talk about a way to have public comment but if the Board could give him another week for these organizations to get back to the Village with a formal response because it is really up to the Board on what the Board wants to do. He said that the organizations that he has spoken to who want to facilitate an objective discussion about this decision on whether or not to appeal all said the same thing ladies and gentlemen why would you ever want to have this discussion before the election. The Mayor continued that it makes it politicized and this feels more like a politically strategy to him than a legal strategy because as a legal strategy it is bad bet he believes personally and honestly we have the time. He said that how it works if the judge rules tomorrow if we would get that ruling which is called Final Judgment we have sixty days to preserve our right to appeal noting that does not mean sixty days to formulate the case they can sit there and say we preserve our right and maybe we will maybe we won't that we need some time to get input from the public that we need some time to talk to a couple of people smarter than us we need some time to look at the census and we can based our hearing schedule and our court schedule even if this Board respectfully does want to go forward and appeal after doing that kind of thoughtful analysis. Mayor Pilla said personally he thinks a US District Court would be hard pressed to deny us that opportunity after everything this Village has gone through but that is a bet he is willing to take that we hold off on hiring the expert we hear from the public that we take the time to do it thoughtfully we look at the census and if they rule tomorrow we just give them the sixty day notice maybe we will maybe we won't lets figure it out lets do it thoughtfully not by the seat of the pants thing not the way we are attempting to do today. He said a lot of you came out even though you didn't hear it saying that he thinks we need everyone to come out for a Town Hall type meeting where people are informed though not just where you are kind of going off on what Fox News said or some impassioned pled from this one or that one or the other with no disrespect to anyone in the Village who has an opinion.

Trustee Kenner said that he would like to comment on a couple of things that the Mayor said for one he confirmed with Special Counsel Mr. Carvin that neither Mr. Coleman nor Mr. Carvin ever say that it was a 50/50 chance. He said that they both said that it was a very strong case and they would not have even decided to take this case if they did not think that we could succeed so to say that they said it was 50/50 is just inaccurate. Trustee Kenner continued that when they were in executive session he did say that we should have some portion of public input and that is what this is tonight that residents have come and voiced their opinions and the Board has had our debate and they are getting educated with the different thoughts that we have on this case. He said that the second point is that this is not about gutting the Voting Rights Act but about correcting a flawed decision that impacted out Village and that he want the at-large system back stating that is what this is all about. Trustee Kenner said all this emotion and back and forth is not necessary and why go down that path.

Mayor Pilla said that he believes he was the least emotional. He noted that for point A that we can not confirm with Mr. Coleman because he died tragically in a plane crash which is very unfortunate and then B he remembers Mr. Carvin saying it was a 50/50 chance at best which he confirmed with others in the room who agreed with that but will not devoid executive session dialogue. The Mayor said that he also has spoken to other who have said that at best it would be a 90/10 chance with the 90% being the Village unsuccessful noting that we are all entitled to our opinions.

Trustee Terenzi said that while he campaigned he heard from the people and they did not like this system of voting and even though he was elected by the cumulative voting system he will not change his mind on this matter. He continued that he does not have a problem with delaying this for a week but requests a date certain and if the Board wants to hold a public meeting on this issue that it is fine publish it get the courtroom, the senior center or the County Center to hold it in but his mind is made up. Trustee Terenzi told the Mayor that he did not know what organizations he was thinking of to facilitate this would it be the Lions, the Kiwanis, or the Elks.

Mayor Pilla said that are not the organizations that he is speaking to.

Trustee Terenzi said he thought not that it would be organizations who are against an appeal. He said that he can wait a week but would ask for a date certain. Trustee Terenzi said that this is not a political ploy noting that there is one seat up with the Mayor's and that Board isn't going to change if the Mayor wins and if Trustee Didden wins there will be one empty seat so the only one that is making this political is the Mayor.

Trustee Brakewood agrees that this should wait and even postponing until after the election. He said that being 60 days away from the census data he thought was the most powerful argument and to at least get that information to go with whatever way we decide.

Trustee Terenzi asked Trustee Brakewood what information would the census give that we do not already know about of this community.

Trustee Brakewood said that it would give us the make up of our community.

Trustee Terenzi told Trustee Brakewood to come to his office which is located on Westchester Avenue which he is at everyday of the year and you can see the makeup of our community in about ten minutes.

Trustee Brakewood said to Trustee Terenzi that is the way to make a decision without the data.

Mayor Pilla noted that our Planning Consultant, Patrick Cleary was brought during the trial to dispute the census data and we were told the census is presumed to be accurate and we should have the benefit of that to enlighten us. He said that he attended a census meeting and that the information is being released state by state and that 13 states have received their information but New York has not yet so it may be one week or two to three weeks before it is released. The Mayor continued that the judge has not ruled and the remark that he is stalling because of the election stating that the last two times he ran for Mayor his position on this has not changed and he did alright noting that no one plumped votes for him. Mayor Pilla said that he does not think this is the right decision for the taxpayers and if some

members of the Board think this is a public session it is not in his eyes. He said that this issue needs to be published to all residents so they can be informed.

Trustee Branca said that it seems that everyone is in agreement to table this so let's table it.

Trustee Didden said that he did not think he was being emotional and said that he agrees with the Mayor and wants this to be clear to the public that once the judge makes the decision we have 60 days to submit a few page document reserving our right to appeal and then six months from there to perfect the appeal and put it in. He said that while he agrees he has said nothing about the election and you guys have said that this is political noting that there are plenty of other issues that are part of his campaign. Trustee Didden noted that he ran his own campaign last time and is in charge of his campaign this time. He said that the rush is that when it goes in we have 60 days and then we have the opportunity to perfect it. Trustee Didden said that some people tonight have said that we could wait longer even years and that is not the case.

Mayor Pilla said that our Village Attorney could write the initial form that it is an administrable duty. The Mayor said that he has a motion to table by Trustee Brakewood seconded by Trustee Marino.

Mr. Cerreto said for a point of order that Trustee Branca had made the motion to table.

Mayor Pilla said that is correct that it was Trustee Branca and that the second was made by Trustee Marino and if that correct.

Trustee Marino confirmed that he made the second.

The Mayor asked the Clerk to call the roll.

The Clerk called Trustee Didden who voted yes to table.

The Clerk called Trustee Terenzi who said that unless there is a date certain he would vote no.

The Clerk called Trustee Kenner who voted no.

Trustee Branca said that he had stated that next week he was going to call for a meeting to discuss this so there was a date certain to some degree. He said that he does not want this to be held up for a month or so.

Mayor Pilla said that does not have to be the case.

Trustee Branca asked the Clerk when the next meeting of the Board will be held in this courtroom.

The Clerk said on the 22<sup>nd</sup> of February.

Trustee Branca said that he would motion to put in for the date of February 22<sup>nd</sup>.

Trustee Didden said as a point of order that the motion is out of order but from a parliamentary stance on the 22<sup>nd</sup> that Trustee Branca can make a motion to take it off the table and start discussing it again without any prejudiced.

Trustee Branca said that he was asking for the 22<sup>nd</sup> so it would be televised.

Trustee Terenzi told Trustee Branca that if he wants to table to the 22<sup>nd</sup> he is in favor of that of not with a certain date he is against tabling.

Mayor Pilla suggest that since the original motion did not have a date certain since Trustee Branca was requesting a special meeting for next week which he thinks is s great idea and that he had asked for a little more time to get these proposals from other groups. He said so lets us regroup next week to have more discussion and consideration of a schedule. The Mayor said no one is talking about stalling this and the judge will not allow us to go pass that 60 day window which Trustee Didden described after the final decision. He said there is no rush and there may be some on the Board who wish to have the census information. He asked the Board to table without a date certain and we can further discuss at the meeting that Mr. Branca will call for next week and then we can set up the schedule of the calendar then. The Mayor said that he would not purposeful delay this.

Trustee Brakewood asked that the Clerk reread what the motion was that we are considering.

The Clerk said that the original motion by Trustee Branca was to table this resolution to schedule a meeting for next week with no particular date.

Mayor Pilla said to Trustee Branca since he was the maker of the motion is he ok with leaving without a specific date so we set a date for next week.

Trustee Branca said as long as the purpose is to establish a conclusion next week.

The Clerk reread the motion and continued the roll call as follows:

Trustee Branca made a motion to table until Special Meeting to be held next week, the resolution to retain the firm of Jones Day with regards to appeal of final judgment in the matter of United States v. Village of Port Chester, Trustee Marino seconded the motion.

ROLL CALL

AYES: Trustees Didden, Branca, Marino, Brakewood and Mayor Pilla

NOES: Trustees Terenzi and Kenner

ABSENT: None

\* \* \* \* \*

Mayor Pilla said that the next resolution that the Board would consider is under Building and Planning to authorize the Village Manager to enter into an agreement with Patrick Cleary d/b/a Cleary Consultants for Comprehensive Plan services.

Trustee Kenner made a motion for discussion, Trustee Didden seconded the motion.

Mr. Cleary spoke to the Board on his proposal and the Request for Proposal process regarding the Build-Out Analysis and Fiscal Impact Analysis for the Comprehensive Plan.

The Board discussed this information with Mr. Cleary and staff and requested that staff make final recommendations to the Board on these proposals.

RETAINER OF CLEARY CONSULTANTS REGARDING THE ADVANCEMENT OF THE VILLAGE OF PORT CHESTER'S COMPREHENSIVE PLAN

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

WHEREAS, by resolution dated November 1, 2010, the Board of Trustees directed that the Village's regular Planning Consultant shall supervise the SEQRA aspects of the comprehensive planning process as Project Manager; and

WHEREAS, Patrick Cleary d/b/a Cleary Consultants has been engaged to perform the duties and responsibilities assigned; and

WHEREAS, Mr. Cleary and the Village Manager have agreed on the fee for such professional services. Now, therefore, be it

RESOLVED, that the Village Manager is hereby authorized to enter into a retainer agreement with Patrick Cleary d/b/a Cleary Consultants, 529 Asharoken Avenue, Northport, New York 11768 for the SEQRA aspects of the comprehensive planning process at an hourly rate of \$125.00 total compensation not to exceed \$15,000.00.

ROLL CALL

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

NOES: None

ABSENT: None

\*\*\*\*\*

DECLARING THE VILLAGE OF PORT CHESTER, NEW YORK  
ILLICIT DISCHARGE ELIMINATION GRANT PROJECT TO BE A  
TYPE II ACTION UNDER THE  
STATE ENVIRONMENTAL QUALITY REVIEW ACT

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

WHEREAS, the Board of Trustees of the Village of Port Chester, New York has conducted a SEQR Review of a project known as the Illicit Discharge Elimination Grant; and

WHEREAS, the Action is located in the Village of Port Chester, New York: and

WHEREAS, the proposed Action involves the sampling, testing, inspection and where necessary remediation of the stormwater and sanitary sewer conveyance systems; and

WHEREAS, the Board of Trustees of the Village of Port Chester, New York, has considered the proposed Action as defined in 6 N.Y.C.R.R. Part 617 Section 617.5 (c) (1) (5) (11), Type II Actions. Now, therefore be it

RESOLVED, that pursuant to 6 NYCRR Part 617, State Environmental Quality Review, the Board of Trustees of the Village of Port Chester, New York determines this project to be a Type II Action and no further action is necessary.

ROLL CALL

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

NOES: None

ABSENT: None

\*\*\*\*\*

WATER QUALITY IMPROVEMENT PROJECTS  
AND  
NONAGRICULTURAL NONPOINT SOURCE PROJECT

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

Resolution authorizing the items below pursuant to the Bond Acts enacted in 1965, 1972 and 1996 and the Environmental Protection Fund, as well as federal grant awards available for such projects.

WHEREAS, the Village of Port Chester, herein called the "Municipality" after thorough consideration of the various aspects of the problem and study available data, has hereby determined that certain work, as described in its application and attachments, herein called the "Project", is desirable, is in the public interest, and is required in order to implement the Project; and

WHEREAS, the Environmental Conservation Law ("ECL") authorizes State assistance to municipalities for water quality improvement projects by means of a contract and the Municipality deems it to be the public interest and benefit under this law to enter into a contract therewith;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Trustees

1. That Christopher Russo, the Village Manager or such person's successor in office, is the representative authorized to act in behalf of the Municipality's governing body in all matters related to State assistance under ECL Articles 17, 51 and 56 and/or any applicable federal grant provisions. The representative is also authorized to make application, execute the State Assistance Contract, submit Project documentation, and otherwise act for the Municipality's governing body in all matters related to the Project and to State assistance;
2. That the Municipality agrees that it will fund its portion of the cost of the Project and that funds will be available to initiate the Project's field work within twelve (12) months of written approval of its application by the Department of Environmental Conservation;
3. That one (1) certified copy of this Resolution be prepared and sent to the Albany office of the New York State Department of Environmental Conservation.
4. That this Resolution takes effect immediately.

ROLL CALL

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

NOES: None

ABSENT: None

\*\*\*\*\*

SETTING PUBLIC HEARING  
CHAPTER 281 – STORMWATER MANAGEMENT

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 a public hearing is to be held on February 22, 2011 at or about 7:00 p.m. at the Village Justice Courtroom, 350 North Main Street, Port Chester, New York 10573, to consider the advisability of adopting a local law to amend Chapter 281 of the Code of the Village of Port Chester, entitled “Stormwater Management”.

ROLL CALL

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

\*\*\*\*\*

INTER-MUNICIPAL AGREEMENT  
WITH THE VILLAGE OF SLEEPY HOLLOW REGARDING  
MS4 PHASE II STORMWATER PERMIT IMPLEMENTATION PROJECTS

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

WHEREAS, the Villages of Ardsley, Bronxville, Elmsford, Hastings-On-Hudson, Irvington, Pelham, Pelham Manor, Port Chester, and Rye Brook and the Towns of Eastchester, Ossining, Mount Pleasant, and the City of Peekskill cooperatively applied for and successfully received a grant from the New York State Department of Environmental Conservation under the Environmental Protection Fund to assist in carrying out MS4 Phase II Stormwater Permit Implementation Projects; and

WHEREAS, in conformance with the application submitted by Sleepy Hollow as lead applicant, the participating municipalities shall undertake and complete a series of initiatives described in the attached work plan; and

WHEREAS, Dolph Rotfeld Engineering, P.C., has worked cooperatively with Sleepy Hollow and the participating municipalities in the development of the grant application and the work plan; and

WHEREAS, Dolph Rotfeld Engineering, P.C. will work with Sleepy Hollow and the participating municipalities, serving as the Administrative Management Consultant, in the overall administration and management of the grant; and

WHEREAS, the grant requires contributions from the participating municipalities, including the Village of Sleepy Hollow; and

WHEREAS, Sleepy Hollow shall be the recipient of the grant and shall be responsible for fiscal management thereof, including the vouchering for reimbursement for expenditures associated with the grant; and

WHEREAS, proposed budgets with proposed expenditures and contributions have been developed as attached. Now, therefore be it

RESOLVED, that the Village Manager is hereby authorize to enter into an inter-municipal agreement with the Village of Sleepy Hollow for the implementation of a New York State Department of Environmental Conservation MS4 Phase II Stormwater Permit Implementation Grant Project; and be it further

RESOLVED, that the above cost be charge to the General Fund Storm Water budget a/c 1.8120.475.

ROLL CALL

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

\* \* \* \* \*

The Clerk presented the next resolution to award the proposal for topographic surveys for various sidewalks to Thomas C. Merritts Land Surveyors, P.C.

Trustee Brakewood made a motion for discussion, Trustee Marino seconded the motion.

Dolph Rotfeld, the Village Engineer explained that this survey work is required for the Community Development Block Grant project for sidewalks in the Village.

The Board discussed this with Mr. Rotfeld and the Village Manager and it was noted that one street listed in the proposal was missing from the resolution.

Trustee Kenner made a motion to amend the resolution to include Oak Street in the 1<sup>st</sup> resolved paragraph, Trustee Marino seconded the motion.

ROLL CALL

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

TOPOGRAPHIC SURVEYS FOR VARIOUS SIDEWALKS

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

WHEREAS, the Village solicited proposals from various professional firms for topographic surveys of sidewalks in conjunction with the Westchester County Community Development Block Grant Program; and

WHEREAS, three proposals were received from various firms; and

WHEREAS, Thomas C. Merritts Land Surveyors, P.C was determined by the Village Engineer to be the firm meeting all of the requirements. Now, therefore be it

RESOLVED, that the firm of Thomas C. Merritts Land Surveyors, P.C., of Pleasantville, New York be retained to provide topographic surveys of sidewalks along portions of Central Avenue, Clinton Street, Olivia Street, Oak Street, Summit Avenue and William Street for a total cost of \$10,000; and be it further

RESOLVED, that the funds will be appropriated from existing Sidewalk-CDBG-FY 09-10 Capital Project A/c 5.5110.400.2009.0091.



ROLL CALL

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

\*\*\*\*\*

The Clerk presented the next resolution on the agenda to set a public hearing to amend the Code of the Village of Port Chester, Chapter 283, entitled, "Streets and Sidewalks" with regard to snow and ice removal and penalties.

Trustee Kenner made a motion for discussion, Trustee Marino seconded the motion.

The Board discussed this proposed law and who would be enforcing the provisions. They were advised that enforcement would be by the Police, Code Enforcement, Public Works and everyone who can submit violations. The Board also discussed the violations and requested that the law be amended that there would first be a warning and fines.

Trustees Marino and Didden spoke about the lack of the clearing of snow of the sidewalks at the train station.

Mr. Russo said that the MTA had not done it and were notified but was never done so he instructed our personnel to clear the sidewalks today. The Board discussed further with staff the situation regarding the MTA and clearing of snow.

The Board also spoke about the priority of clearing main streets which should also include South Regent Street which is a direct thoroughfare between Westchester Avenue and the US1. They also spoke about the enforcement of street cleaning areas so these secondary streets could be cleared of snow.

SETTING PUBLIC HEARING  
CHAPTER 283 -- STREETS AND SIDEWALKS  
SNOW & ICE REMOVAL AND PENALTIES

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

RESOLVED, that a public hearing is to be held on February 22, 2011 at or about 7:00 p.m. at the Village Justice Courtroom, 350 North Main Street, Port Chester, New York 10573, to consider the advisability of adopting a local law to amend Chapter 283 of the Code of the Village of Port Chester, entitled "Streets and Sidewalks" with regard to snow and ice removal and penalties.

ROLL CALL

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

\*\*\*\*\*

MAIN STREET TREE/PARKING IMPROVEMENTS

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

WHEREAS, the Village of Port Chester advertised for bids for the Community Development Block Grant Project for Main Street Tree/Parking Improvements; and

WHEREAS, four bids were received on June 9, 2010 from various companies; and

WHEREAS, the project was hinged on language in the agreement with the County of Westchester; and

WHEREAS, DeCarvalho Landscaping Service, Inc. of Crugers, NY was the lowest bidder and agreed to hold and honor their original price throughout the contract negotiations with the County; and

WHEREAS, the contract language was resolved and on January 10, 2011, the Board authorized the Village Manager to enter into an agreement with the County of Westchester for the Downtown Street/Façade Improvement Project and

WHEREAS, the County Planning Department is not recommending the low bidder due to their failure to meet project requirements and timelines on previous projects; and

WHEREAS, since the bid opening date the scope of the project has also changed slightly. Now, therefore be it

RESOLVED, that the Village Board of Trustees hereby rejects all bids submitted; and be it further

RESOLVED, that the Village Manager is authorized to advertise for bids for the Main Street Streetscape/Tree Improvements.

ROLL CALL

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

\*\*\*\*\*

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION GRANT PROGRAM TREE PLANTING PROGRAM

On motion of TRUSTEE BRAKEWOOD, 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 Board hereby authorizes the Village Manager be to file an application for 50% matching funds in a grant amount not to exceed \$20,000, an upon approval of said request to enter into an execute a project agreement with the New York State Department of Environmental Conservation for such financial assistance to the Village of Port Chester for a Tree Planting program.

ROLL CALL

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

\*\*\*\*\*

The Clerk presented the next resolution on the agenda establishing an Audit/Finance Committee.

Trustee Kenner made a motion of discussion, Trustee Didden seconded the motion.

Mayor Pilla asked that this resolution be tabled. He said that the Village Treasurer Leonie Douglas has received information about a model for this type of committee from the GFOA that requires review.

The Board discussed the additional charges that this committee would be involved in and the model from GFOA with Ms. Douglas. There was no motion to table.

ESTABLISHING AN AUDIT/FINANCE COMMITTEE

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

WHEREAS, by resolution adopted August 23, 2010 the Board of Trustees established an Audit Committee to provide assistance to the Board with matters involving the external audit process; and

WHEREAS, the Board wishes to build on the successful collective effort of the Audit Committee and reconstitute the Committee as an Audit/Finance Committee with the following additional charge:

--reviewing and considering appropriations and expenditures and different budget methods; and

--reviewing existing fund balance, investment, fixed asset and other financial policies and recommending updated policies; and

--reviewing the Village's internal budget controls, accounts receivable, payroll, PILOT programs, debt administration and other processes as necessary; and

--requesting and reviewing periodic reports from the Village Treasurer on all financial matters; and

WHEREAS, the Audit/Finance Committee will work closely with the Village Treasurer and Village Manager who shall be ex-officio members; and

WHEREAS, it is expected that the Finance Committee will meet as necessary throughout the year and periodically present and apprise the Board as to its efforts with an Annual Report on the discharge of its responsibilities. Now, therefore, be it

RESOLVED, that the Board of Trustees hereby reconstitutes the Audit Committee as an Audit/Finance Committee with the foregoing additional charge; and be it

FURTHER RESOLVED, that the Audit/Finance Committee is directed to develop and recommend a proposed Charter to the Board for consideration and adoption.

ROLL CALL

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

\*\*\*\*\*

AGREEMENT  
MOODY'S PUBLIC FINANCE GROUP

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 execute an agreement with the Moody's Investors Service, 7 WTC at 250 Greenwich Street, New York, NY 10007, to provide professional services in reference to credit ratings for the Village of Port Chester for a fee as set forth in the attached agreement and that the agreement will renew annually on the anniversary of the date executed unless Moody's or the Village of Port Chester provides thirty (30 days) prior written notice.

ROLL CALL

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

\*\*\*\*\*

FIRE AND POLICE SURGEON

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

WHEREAS, in October 2010, the Village released a Request for Proposals to retain a physician to act as a Fire and Police Surgeon for the Village of Port Chester; and

WHEREAS, two proposals were received for such services; and

WHEREAS, said proposals were reviewed by staff and the Police and Fire Chiefs and have recommended retaining Howard S. Yudin M.D, 18 Rye Ridge Plaza, Rye Brook, New York, 10573 for such services. Now, therefore be it

RESOLVED, that the Village Manager is hereby authorized to enter into an agreement with Howard S. Yudin, M.D. to act as Fire and Police Surgeon for the Village of Port Chester Port Chester Fire Department, for a two year term, per his proposal dated November 7, 2010.

ROLL CALL

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

\*\*\*\*\*

WESTCHESTER COUNTY AGREEMENT  
EMPLOYEE ASSISTANCE PROGRAM SERVICES

On motion of TRUSTEE KENNER, 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 and is authorized to enter into a Inter-Municipal Agreement with the County of Westchester for Employee Assistance Program services for the period of January 1, 2010 through December 31, 2014 with two one year options at a fee of \$35 per employee for years 2010 and 2011; \$40 per employee for the year 2012 and \$45 per employee for years 2013 and 2014.

ROLL CALL

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

\*\*\*\*\*

SETTING PUBLIC HEARING  
CHAPTER 319 – VEHICLE & TRAFFIC  
REGARDING THE DEFINITION OF HOLIDAYS AND TIMES OF ENFORCEMENT  
FOR PARKING METER ZONES AND PARKING METERS

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

RESOLVED, that a public hearing is to be held on February 22, 2011 at or about 7:00 p.m. at the Village Justice Courtroom, 350 North Main Street, Port Chester, New York 10573, to consider the advisability of adopting a local law to amend Chapter 319 of the Code of the Village of Port Chester, entitled "Vehicle and Traffic" with regard to the definition of holidays and times of enforcement for parking meter zones and parking meters.

ROLL CALL

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

\*\*\*\*\*

LOCAL WATERFRONT REVITALIZATION PROGRAM

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

WHEREAS, the Village of Port Chester was successful in obtaining grant funding through the New York State Department of State Local Waterfront Revitalization Program (LWRP) for an update to the Village's Local Waterfront Revitalization Plan; and

WHEREAS, the Village solicited proposals from various professional firms to complete the plan update; and

WHEREAS, six proposals were received; and

WHEREAS, after review by staff, Buckhurst, Fish & Jacquemart, Inc. (BFJ) was determined to be the most qualified firm to complete the LWRP update; and

WHEREAS, BFJ's cost for completing the project is a total of \$65,000, and

WHEREAS, the total grant award is \$32,500 with \$32,500 match from the Village for a total of \$65,000. Now, therefore be it

RESOLVED, that the Board of Trustees hereby authorizes the Village Manager to enter into a contract with Buckhurst, Fish & Jacquemart, Inc. of New York, NY for the Village's Local Waterfront Revitalization Program Update for an amount not to exceed \$65,000; and be it further

RESOLVED, that the funds will be appropriated from existing capital project number 005.7230.0400.2010.0114 "Local Waterfront Revitalization Plan FY 2010" and modify as follows:

Project Budget Increase from \$32,500 to \$65,000

REVENUES

5.5.3789.2010.114	Other Economic Asst.	
	NYS Waterfront Revitalization Grant	\$32,500

APPROPRIATIONS

5.7230.0400.2010.0114	Local Waterfront Revitalization Plan	
	-FY 2010/11	\$32,500

ROLL CALL

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

NOES: None

ABSENT: None

\*\*\*\*\*

Mayor Pilla stated that he had place a discussion on the agenda regarding the selection approach for appointing the Village Justices. He said that he would table this discussion to February 22<sup>nd</sup> so he can provide the Board information on this matter noting that the current Justices expire on May 14<sup>th</sup> of this year.

\*\*\*\*\*

The Mayor noted that the next item on the agenda under discussion was regarding the public input approach to decide whether to appeal US District Court's ruling that Port Chester violated Section 2 of the Voting Rights Act. He said that the public has provided input during the public comment session earlier and the Board discussed this during the prior resolution which as tabled.

\*\*\*\*\*

Mayor Pilla noted that the last discussion item on the agenda was the matter of awarding the contract for engineering plans and specifications for replacement of a portion of the Marina Bulkhead which was done as an add-on resolution at the beginning of this meeting before the public hearings.

\* \* \* \* \*

The Clerk presented correspondence from the Mount Kisco Volunteer Fire Department requesting the use of the Show Mobile on September 11, 2011.

The Board discussed this request with the Village Manager and Mr. Russo indicated that he is not inclined to authorize this request which is a greater travel distance for this piece of equipment. The Board of Trustees referred the request from the Mount Kisco Volunteer Fire Department to staff for review and consideration.

\* \* \* \* \*

The Clerk presented correspondence from James Carr resigning from the Planning Commission.

Mayor Pilla noted that the Chairman of the Planning Commission, Michael Antaki has asked that this correspondence be tabled for three months noting that Mr. Carr is ill and this will allow him to make a final determination.

The Board was agreeable to hold off on the resignation for that period of time.

\* \* \* \* \*

The Clerk presented the minutes of January 10, 2011 and January 18, 2011.

Trustee Didden made a motion to approve these minutes, Trustee Terenzi seconded the motion.

ROLL CALL

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

\* \* \* \* \*

The Clerk presented a report from Harry Howard Hook & Ladder Co, No. 1 on the election to active membership of Eric Snyder and Peter Gospodinov.

The Board of Trustees noted the actions taken by Harry Howard Hook & Ladder Co. No. 1.

\* \* \* \* \*

Mayor Pilla asked if anyone from the audience would like to comment at this time. He recognized Richard Abel.

Mr. Abel said that there are parking meter polls on North Main Street pass the Police Station that do not have meters and it has been that way for quite awhile. He said that since the Village has replaced the single and double meters on portions of Main Street with the new pay stations that there should be extra meters for these meter polls. Mr. Abel also spoke about snow removal and the proposed law to penalty property owners and/or contractors for placing

snow in the street and with all the snow that we have received these last six weeks or so where can we put it. He noted that there has also been Village owned sidewalks that have not been properly maintain for the removal of snow and ice.

The Mayor then recognized Gene Ceccarelli.

Mr. Ceccarelli said that he agrees with Mr. Abel about the snow and the proposed law and spoke further on this subject. He said that regarding the Department of Justice issue that News 12 was here this evening but only took a few sound bites not full coverage of comments made by the public and Board which does not fully covers this topic.

\* \* \* \* \*

Mayor Pilla asked if any of the Trustees would like to comment at this time.

Trustee Didden said that he had a meeting with Complus who does the ticket collections for the Village and they have been working with the Police Chief for several months. He spoke about their collection rates which are good but could be better and the management of this process on both ends and that direction is required regarding final notices every four months. Trustee Didden also spoke about declining ticket issuances since 2003.

Mr. Russo noted that prior to 2003 the Village had enforced the Marina parking lot and the MTA lot which accounts for a large amount of this decrease.

Trustee Terenzi noted that the Village has received the financial statement from the Port Chester Housing Authority for our audit process and that this took two months. He spoke further about the Housing Authorities finances along with their cash funds stating that our Village is subsidizing these properties. Trustee Terenzi noted the amount that was required from the Mariner Project to start their construction work which was a large amount. He also spoke about other housing projects such as Graceland Terrace that when their mortgage was paid it was not put back on the full tax rolls but kept as subsidized housing and if this project had gone to co-ops it could have put more back on the tax assessable.

Mayor Pilla made some rebuttable comments regarding the Graceland Terrace Housing Project and the Housing Authority.

Trustee Kenner spoke about a complaint from resident on Upland Street regarding the traffic from King Street School and will follow up with the Police Chief directly.

Trustee Didden noted that with the change of parking on Fairhaven to help with the traffic flow from the school that vehicles are illegally parking and there has not been sufficient enforcement.

Trustee Kenner said that there needs to be a formal process to notify individuals who were not selected for Village Boards and Commissions.

Mayor Pilla said that he would follow up on that issue.

Trustee Branca spoke about comments made from Trustee Brakewood towards him when he left the last meeting after the business of the meeting was concluded and the Board was making comments. Trustee Branca explained while he had left that meeting and stated that he would not be present during conversation dealing the health benefit issues for former elected and appointed officials. He said that he can leave the meeting at any time without asking permission to leave.



Trustee Brakewood said that he believes that requesting permission to leave by a Board member is part of our Rules of Procedures.

Trustee Marino said that at the last meeting the Board awarded the bid for the interior renovations of Fire Headquarters and Station 4. He said that he looks forward to these renovations which are greatly needed. Trustee Marino also thanked the Department of Public Works Department regarding the snow removal.

Trustee Brakewood expressed his condolences to the Acevedo family regarding the tragic death of their daughter Gabby in a car accident near her college upstate.

Trustee Pilla thanked the residents for their patience during these continuous snow storms that have been plaguing the northeast for the last six weeks.

\*\*\*\*\*

There being no further business, on motion of Trustee Kenner, seconded by Trustee Marino, the meeting was closed at 11:45 p.m.

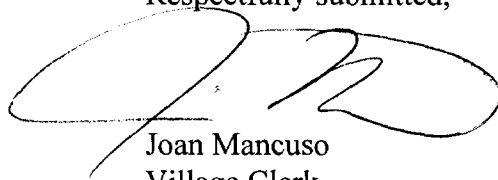
ROLL CALL

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

NOES: None

ABSENT: None

Respectfully submitted,



Joan Mancuso  
Village Clerk