

MEETING HELD MARCH 21, 2011

A meeting of the Board of Trustees of the Village of Port Chester, New York, was held on Monday, March 21, 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 Bart Didden, Saverio Terenzi, Joseph Kenner, John Branca, Luis Marino and Daniel Brakewood.

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; Director of Code Enforcement, Christopher Steers and Planning Consultant, Patrick Cleary.

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

ROLL CALL

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

At 6:05 p.m., on motion of Trustee Terenzi, seconded by Trustee Marino, the Board of Trustees adjourned to an executive session for Consultation with Special Counsel, Justin Miller and the Village Attorney, Anthony Cerreto regarding the Modified Marina Redevelopment Project. Christopher Russo, the Village Manager was included in this executive session.

ROLL CALL

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

No action was taken in executive session.

At 6:40 p.m., on motion of Trustee Brakewood, seconded by Trustee Marino, the executive session was closed at 6:40 p.m.

ROLL CALL

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

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At 6:42 p.m., on motion of Trustee Brakewood, seconded by Trustee Marino, the Board of Trustees adjourned to an executive session for consultation with the Village Planning Consultant, Patrick Cleary regarding Request for Proposal process of the Comprehensive Plan. Christopher Russo, the Village Manager and Anthony Cerreto, the Village Attorney was included in this executive session.

ROLL CALL

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

No action was taken in executive session.

On motion of Trustee Didden, seconded by Trustee Brakewood, the Board of Trustees closed the executive session and re-opened the public portion of the meeting at 7:08 p.m.

ROLL CALL

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

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Mayor Pilla said that he would take out of order at this time the two resolutions listed under Comprehensive Plan regarding retaining firms for the Fiscal Impact and Build-Out Analysis for this plan. He said that the Board met in executive session with the Village's Planning Consultant, Patrick Cleary earlier this evening to discuss this process and his recommendations for these retainers. The Mayor asked if there was anyone in the audience who would like to speak on these resolutions before the Board discusses them. He recognized Goldie Solomon.

Ms. Solomon said that the public requires more information on this before we can comment.

Mayor Pilla stated that Mr. Cleary will cover this and asked for a motion to discuss the first resolution to retain a firm for the Fiscal Impact Analysis of the Comprehensive Plan.

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

Mr. Cleary explained to the Board and public that last fall the Board met with the Comprehensive Plan Advisory Committee (CPAC) and determined that they wanted to go forward with the CPAC's proposed plan. He said that to go forward with that plan the necessary impact analysis would need to be completed before the adoption of the plan and he was instructed to go out with a Request for Proposals for firms to provide proposals on the fiscal impact analysis and a build-out analysis. Mr. Cleary said that interviews were conducted of the four highest rated consultants and firms were asked to provide supplemental documentation for the interview committee. He said that based on the interviews, the supplemental documentation and through review of each firms' references recommendations have been made to retain the firm HRA Advisors, Inc., of New York, New York for the Fiscal Impact Analysis. Mr. Cleary said that this firm is a preeminent real estate economic analysis firm in the New York metropolitan area and noted that the time frame for this analysis is approximately six months to complete the work with the fee for this work to be \$39,946.00.

The Board further discussed the process with Mr. Cleary and asked additional questions regarding the time frame and that some small proposed changes to the Village's code could be made before the analysis is complete.

The Mayor noted that the resolution was in blank to allow the Board to have the prior discussion with Mr. Cleary so asked for a motion to amend the resolution to include the firm's information and fee amount.

Trustee Didden made a motion to amend the resolution to include the name of HRA Advisors, Inc., of 99 Hudson Street 3rd Floor, New York, New York 10013 along with the fee amount of \$39,946.00, Trustee Brakewood seconded the motion.

ROLL CALL

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

NOES: None

ABSENT: None

RETAINER OF FIRM FOR THE FISCAL IMPACT ANALYSIS OF THE VILLAGE OF PORT CHESTER'S COMPREHENSIVE PLAN

On motion of TRUSTEE BRAKEWOOD, seconded by TRUSTEE KENNER, 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, Patrick Cleary shall supervise the SEQRA aspects of the comprehensive planning process as Project Manager along with Special Counsel, Mark Chertok; and

WHEREAS, Requests for Proposals were obtained for the Analyses of the Fiscal Impact and Build-Out; and

WHEREAS, Mr. Cleary and Mr. Chertok have interviewed firms in each category and recommends the firm of HRA Advisors, Inc., for the Fiscal Impact Analysis. Now, therefore, be it

RESOLVED, that the Village Manager is hereby authorized to enter into a retainer agreement with HRA Advisors, Inc., 99 Hudson Street 3rd Floor, New York, New York 10013 for the Fiscal Impact Analysis of the comprehensive planning process at a fee of \$39,946.00.

ROLL CALL

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

NOES: None

ABSENT: None

The Mayor presented the next resolution to retain a firm for the Build-Out Analysis for the Comprehensive Plan.

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

Mr. Cleary said that the recommendation for this analysis is Cameron Engineering & Associates of Woodbury, Long Island. He said that they are a large multi-disciplinary firm and is being recommended due to the thoroughness of the project approach presented in their proposal noting that they have undertaken this type of work elsewhere in the past and they completely understand the project scope and requirements. Mr. Cleary said that the analysis to be done by Cameron Engineering will also take six months with a fee of \$69,810.00 which reflects a \$5,000 reduction.

The Board spoke briefly with Mr. Cleary on this analysis process.

Mayor Pilla noted that the resolution is also in blank so asked for a motion to amend with the firm's name, address and fee amount.

Trustee Terenzi made a motion to amend the resolution for the Build-Out Analysis of the Comprehensive Plan to retain the firm Cameron Engineering & Associates, LLP, 100 Sunnyside Blvd., Suite 100, Woodbury, New York 11797 for the fee of \$69,810.00, Trustee Marino seconded the motion.

ROLL CALL

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

RETAINER OF FIRM FOR THE BUILD-OUT ANALYSIS OF THE VILLAGE OF PORT CHESTER'S COMPREHENSIVE PLAN

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:

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

WHEREAS, Requests for Proposals were obtained for the Analysis of Fiscal Impact and Build-Out; and

WHEREAS, Mr. Cleary and Mr. Chertok have interviewed the top four firms in each category and recommends the firm of Cameron Engineering & Associates, LLP for the Build-Out Analysis. Now, therefore, be it

RESOLVED, that the Village Manager is hereby authorized to enter into a retainer agreement with Cameron Engineering & Associates, LLP, 100 Sunnyside Blvd., Suite 100, Woodbury, New York 11797 for the Build-Out Analysis of the comprehensive planning process at a fee of \$69,810.00.

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 Westmore News on March 4, 2011, certified by Cecilia Hernandez, Principal Clerk of Journal News and Angelina Brescia, Office Manager of the Westmore News.

**NOTICE OF PUBLIC HEARING
PUBLIC STREET DEDICATION (TOWNSEND STREET – PORTION)**

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Sections 6-612 and 6-614 of the Village Law will be held by the Village of Port Chester Board of Trustees (the "Village") on March 21, 2011 at or about 7:00 p.m., at the Village Justice Courtroom, 350 North Main Street, Port Chester, New York 10573, in connection with the following matter:

G&S Port Chester, LLC ("G&S") has, in furtherance of a certain Modified Marina Redevelopment Project (the "Project") requested that the Village of Port Chester Industrial Development Agency (the "Agency") modify a certain Unit Lease Agreement dated as of May 23, 2000 pursuant to a certain Land Acquisition and Disposition Agreement, dated as of July 14, 1999, and amendments thereto (collectively, the "LADA") so that the Village may accept for dedication a portion of Townsend Street more particularly described in a legal description as follows:

Beginning at a point in the Easterly sideline of Traverse Avenue, said point distant 332.77 feet, as measured along said sideline from the intersection of the extended Easterly sideline of Traverse Avenue with the Northerly sideline of Westchester Avenue (40 ft. ROW) and running:

1. SOUTH 88 degrees 41 minutes 00 seconds EAST, A DISTANCE OF 59.67 FEET TO A POINT; THENCE
2. SOUTH 06 degrees 48 minutes 42 seconds EAST A DISTANCE OF 10.64 FEET TO A POINT; THENCE
3. SOUTH 88 degrees 25 minutes 07 seconds EAST, A DISTANCE OF 110.17 FEET TO A POINT; THENCE
4. NORTH 78 degrees 29 minutes 48 seconds EAST, A DISTANCE OF 31.87 FEET TO A POINT; THENCE
5. SOUTH 88 degrees 25 minutes 07 seconds EAST, A DISTANCE OF 143.75 FEET TO A POINT; THENCE
6. SOUTH 01 degrees 19 minutes 00 seconds WEST, A DISTANCE OF 64.41 FEET TO A POINT; THENCE
7. NORTH 88 degrees 41 minutes 00 seconds WEST, A DISTANCE OF 40.00 FEET TO A POINT; THENCE
8. ALONG A CURVE TO THE NORTH WEST HAVING A RADIUS OF 42.81 FEET, AN ARC DISTANCE OF 59.84 FEET (D-80°-05'-47", CHD.-55.09', CHD. BEAR.-N 50° -30'-55"w) TO A POINT OF TANGENCY THENCE
9. SOUTH 89 degrees 26 minutes 12 seconds WEST, A DISTANCE OF 56.41 FEET TO A POINT; THENCE
10. SOUTH 00 degrees 00 minutes 47 seconds EAST, A DISTANCE OF 6.06 FEET TO A POINT; THENCE
11. NORTH 89 degrees 03 minutes 58 seconds WEST, A DISTANCE OF 20.21 FEET TO A POINT; THENCE
12. SOUTH 67 degrees 45 minutes 46 seconds WEST, A DISTANCE OF 20.46 FEET TO A POINT; THENCE
13. SOUTH 02 degrees 39 minutes 35 seconds WEST, A DISTANCE OF 17.39 FEET TO A POINT; THENCE
14. SOUTH 89 degrees 30 minutes 24 seconds WEST, A DISTANCE OF 199.77 FEET TO A POINT ON THE EASTERLY SIDELINE OF TRAVERSE AVE; THENCE
15. ALONG TRAVERSE AVE, NORTH 01 degrees 19 minutes 00 seconds EAST, A DISTANCE OF 73.92 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 18,288 s.f. (0.420 Ac.)

Interested persons will be afforded the opportunity to be heard at this time.

DATED: March 4, 2011

VILLAGE OF PORT CHESTER
JOAN MANCUSO
Village Clerk

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

ROLL CALL

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

Trustee Didden recued himself from this hearing and action noting that he has litigation with regard to the Modified Marina Redevelopment Project. He left his seat with the Board of Trustees and moved to the side jury box seating.

Mayor Pilla said that we have Justin Miller, the Village's Special Counsel regarding the G&S Project and other items here to speak on this matter.

Mr. Miller said that the public hearing is being held in accordance to Village Law noting that at anytime that the Village is going to accept for dedication for public improvement in particular a street a public hearing is required for public comments for or against the proposed dedication. He said that in this insistence there is a portion of Townsend Street that remains subject to what is called a unit lease of the properties that were assembled for the benefit for the G&S Project that were leased to G&S by the Port Chester Industrial Development Agency (IDA) noting that there is a sliver of Townsend Street located within a unit lease, Unit 3, that contains the possible project and it has been proposed that it be rectified that the portion of Townsend Street that lies within that unit be dedicated by the IDA to the Village of Port Chester.

Mayor Pilla recapped that there is a little sliver of Townsend Street behind the loading dock of the Costco basically that as Townsend comes down the hill that is technically owned by the IDA with rights by G&S and that the purpose of this public hearing is to hear any objections to transfer that little sliver of Townsend Street back to the Village of Port Chester so we can maintain as a street which is what we have been doing. The Mayor asked if there was anything from the Board before he opens it to the public. There were no Board comments at this time. Mayor Pilla recognized Goldie Solomon.

Ms. Solomon asked if this is good for the taxpayers.

Mayor Pilla said that indeed it is.

Ms. Solomon asked or is it just good for Costco.

Mayor Pilla said no not at all it is good for the taxpayers because we can only maintain streets that are dedicated to us and dedicating this street is important to the Village for plowing etc.

Ms. Solomon asked what are you dedicating this to.

The Mayor said that it would be dedicated to the Village proper.

Ms. Solomon said that we would have to take care of it.

Mayor Pilla said that we do take care of it anyway.

Ms. Solomon said that if it is G&S it should stay with G&S. She said that G&S should take care of it not us.

The Mayor said that it does not quite work that way.

Ms. Solomon inquired why does it not work that way.

Mayor Pilla said that it is because it is a public street.

Ms. Solomon said that if it is a public street then you do not have to do anything because it belongs to the people. She continued that if it is not a public street then G&S should be responsible and that it will affect the tax payers because we will have to take care of it. Ms. Solomon said that this is wrong and would raise our taxes.

The Mayor noted that Douglas Riley, attorney of G&S is here and may want to comment. He said that basically instead of turning a parcel of land for a building it was basically turned into a street which they are turning over to the Village. The Mayor recognized Mr. Riley.

Mr. Riley said that he would like to address the situation here in general of the comments that were just made. He said that all of this is subject to the same agreement that we had in place for twelve years known as the LADA which has all been passed on by a prior Board and that the dedication of this piece of land among all kinds of other pieces of land that were adjusted along the way is part of the contract and is required by the contract noting that all the public hearings have been held on it and the environmental impact statement addressed it. Mr. Riley said that he is a little confused why yet another hearing is required but guess that it is a rededication hearing that someone feels is necessary is fine but this has been the plan all along. He said that if you look at the site plan this piece of land was acquired to be developed by G&S and given back to the taxpayers to connect Townsend Street so it would not become a dead end at the top of the Costco. Mr. Riley said that this has been the plan right along and has no effect to the taxpayers or tax base in any way at all.

Trustee Brakewood said that the only comment he would make is that he believes which would address Ms. Solomon's concerns is we should have the Village Engineer so we should amend the resolution before us this evening to make it contingent on the Village Engineer doing an assessment of the street to ensure that it is in a reasonable condition to be rededicated back to the Village so the taxpayers are not stuck with repairing a road that may have been damaged during its construction.

Mayor Pilla said that is a valid point.

Mr. Miller thanked Trustee Brakewood for this supplemental language for the resolution which the Board can amend respectfully.

The Mayor said that we will get to that as soon as the Board has received all the public comments. He recognized Richard Abel.

Mr. Abel said that this is not just a sliver but is actually the road that connects Townsend to Traverse.

Mayor Pilla said that is correct that we are talking about a portion of the road a sliver of the entirety of the road is what he meant.

Mr. Abel said that since that was in G&S domain and today still is until the Board votes was that property on the tax roll since it was owned by G&S.

The Mayor said Mr. Miller can answer that question.

Mr. Miller said that once they are assembled and entitled by the Village which is transferred to the IDA then is leased to G&S at that time assessment of the rolls is exempt. He said that this particular sliver is about .412 acres so less than a half an acre of real estate that it will be maintained and retained on the assessment of the roll as exempt by virtue of the Village.

Mayor Pilla said that the logically extension to Mr. Abel's question is so basically that was the technically and what it means is it came off the tax rolls and given to G&S and the

property that was given to G&S pursuant to the Land Acquisition Development Agreement the LADA came on to the tax rolls as it became retail space that was enjoyed by the public so stuff that is not retail space isn't on the tax rolls like the parking lot like street and asked Mr. Miller if that is correct.

Mr. Miller said that all of the unit leases are in the exempt roll and that they are making payments in lieu of taxes.

Mr. Abel said that this is almost half an acre of land that will be backed in the Village officious would that lower the assessment for G&S. He said that the deal with G&S is for twenty years so there are eight or nine more years so there is an assessment on everything and it is off the assessment roll if it is the Village's but was it on the assessment roll when it was G&S'.

Mr. Miller said that it will not have an impact on their PILOT payments that there will be no change except removing the road from the project noting that they will not pay less.

The Mayor asked if there was anyone else who would like to comment on this proposed dedication. There was none.

On motion of Trustee Branca, seconded by Trustee Marino, the public hearing was closed.

ROLL CALL

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

The Clerk presented the resolution for consideration of the Board for the dedication of portions of Townsend Street.

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

Mr. Miller said that the Board could amend the resolution with regard to the inspection of the roadway before the acceptance of the dedication. He said that under the resolved paragraph in Section 2 can add the following language "subject to the inspection and approval by the Village Engineer of the condition of the roadway"

Trustee Brakewood made a motion to amend the resolution as indicted by Mr. Miller, Trustee Miller seconded the motion.

ROLL CALL

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

TOWNSEND STREET (PORTIONS) - DEDICATION

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

WHEREAS, in furtherance of a certain Modified Marina Redevelopment Project (the "Project") undertaken by G&S Port Chester, LLC, the Village of Port Chester Industrial Development Agency (the "Agency"), along with the Village of Port Chester (the "Village") entered into a Land Acquisition and Disposition Agreement, dated as of July 14, 1999, and

amendments thereto (collectively, the "LADA"), wherein the parties thereto memorialized their respective rights and obligations in connection with the Project; and

WHEREAS, in furtherance of the Project and applicable provisions of the LADA, the Agency, by and through the Village, acquired certain parcels of real estate within the Village to be incorporated into the Project, including: (i) those certain parcels of realty within the Village commonly referred to as Unit 3 and, (ii) within Unit 3, the land and related infrastructure improvements located thereon constituting portions of Townsend Street (the "Parcel", being more particularly described in **Exhibit A** annexed hereto), such Parcel having been conveyed by G&S Port Chester, LLC to the Agency by deed dated May 23, 2000 and thereafter leased by the Agency to G&S Port Chester, LLC pursuant to a certain Unit Lease Agreement, dated as of May 23, 2000 (the "Unit Lease") and corresponding Payment in Lieu of Taxes Agreement, also dated as of May 23, 2000 (the "PILOT Agreement"); and

WHEREAS, the Unit Lease was subsequently assigned by G&S Port Chester, LLC to G&S Port Chester Unit III LLC (together, the "Company"); and

WHEREAS, the Company has requested that the Agency consent to a modification of the Unit Lease and PILOT Agreement (collectively, the "Modification") in order to remove the Parcel from same so that the Parcel can be dedicated to the Village for use as a public street pursuant to Article 6 of the New York Village Law (the "Dedication"); and

WHEREAS, the Project Completion Date, as such term is defined in Section 11.2 of the LADA, has not been reached and, thus, the consent of the Village is required prior to effectuate the Modification; and

WHEREAS, by resolution adopted December 8, 2010, the Agency previously approved the Modification and Dedication, subject to the approval and consent of the Village; and

WHEREAS, the Village, by resolution dated February 22, 2011, authorized the scheduling and conduct of a public hearing regarding the Modification and Dedication, with such public hearing duly noticed and conducted on March 21, 2011 at 7:00 p.m., at the Village Courtroom, 350 North Main Street, Port Chester, New York; and

WHEREAS, all interested persons having been afforded an opportunity to be heard, the Village now desires to consent to the Modification and accept the dedication of the Parcel for use as a public street.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PORT CHESTER AS FOLLOWS:

Section 1. That pursuant to Section 11.2 of the LADA, the Village hereby grants its consent to the Modification.

Section 2. That the Village hereby approves the Dedication and authorizes the acceptance of title to the Parcel from the Agency for use as a public street pursuant to Article 6 of the New York Village Law subject to the inspection and approval by the Village Engineer to confirm conformance with Village standards.

Section 3. That the Village Manager is authorized to execute and deliver such documents, instruments and certificates as approved by the Village Attorney to effectuate the foregoing.

Section 4. These resolutions shall take effect immediately.

ROLL CALL

AYES: Trustees Terenzi, Kenner, Branca, Marino Brakewood and Mayor Pilla
NOES: None
ABSENT: None
DATE: March 21, 2011

Exhibit A

Description of Parcel

Beginning at a point in the Easterly sideline of Traverse Avenue, said point distant 332.77 feet, as measured along said sideline from the intersection of the extended Easterly sideline of Traverse Avenue with the Northerly sideline of Westchester Avenue (40 ft. ROW) and running:

- 16. SOUTH 88 degrees 41 minutes 00 seconds EAST, A DISTANCE of 59.67 FEET TO A POINT; THENCE
- 17. SOUTH 06 degrees 48 minutes 42 seconds EAST A DISTANCE OF 10.64 FEET TO A POINT; THENCE
- 18. SOUTH 88 degrees 25 minutes 07 seconds EAST, A DISTANCE OF 110.17 FEET TO A POINT; THENCE
- 19. NORTH 78 degrees 29 minutes 48 seconds EAST, A DISTANCE OF 31.87 FEET TO A POINT; THENCE
- 20. SOUTH 88 degrees 25 minutes 07 seconds EAST, A DISTANCE OF 143.75 FEET TO A POINT; THENCE
- 21. SOUTH 01 degrees 19 minutes 00 seconds WEST, A DISTANCE OF 64.41 FEET TO A POINT; THENCE
- 22. NORTH 88 degrees 41 minutes 00 seconds WEST, A DISTANCE OF 40.00 FEET TO A POINT; THENCE
- 23. ALONG A CURVE TO THE NORTH WEST HAVING A RADIUS OF 42.81 FEET, AN ARC DISTANCE OF 59.84 FEET (D-80°-05'-47", CHD.-55.09', CHD. BEAR.-N 50° -30'-55"w) TO A POINT OF TANGENCY THENCE
- 24. SOUTH 89 degrees 26 minutes 12 seconds WEST, A DISTANCE OF 56.41 FEET TO A POINT; THENCE
- 25. SOUTH 00 degrees 00 minutes 47 seconds EAST, A DISTANCE OF 6.06 FEET TO A POINT; THENCE
- 26. NORTH 89 degrees 03 minutes 58 seconds WEST, A DISTANCE OF 20.21 FEET TO A POINT; THENCE
- 27. SOUTH 67 degrees 45 minutes 46 seconds WEST, A DISTANCE OF 20.46 FEET TO A POINT; THENCE
- 28. SOUTH 02 degrees 39 minutes 35 seconds WEST, A DISTANCE OF 17.39 FEET TO A POINT; THENCE
- 29. SOUTH 89 degrees 30 minutes 24 seconds WEST, A DISTANCE OF 199.77 FEET TO A POINT ON THE EASTERLY SIDELINE OF TRAVERSE AVE; THENCE
- 30. ALONG TRAVERSE AVE, NORTH 01 degrees 19 minutes 00 seconds EAST, A DISTANCE OF 73.92 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 18,288 s.f. (0.420 Ac.)

Mayor Pilla said that since Mr. Miller is here he would take out of order the resolution listed under Redevelopment with regard to the termination of Unit 4B in reference to the Modified Marina Redevelopment Project.

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

Mr. Miller explained to the Board the purpose and reasoning of the termination of this portion of Unit 4B.

The Board heard from Mr. Ronald Luiso who is involved with these parcels on Townsend Street.

Mayor Pilla said that with this action we will be bringing these parcels back on the tax rolls.

Mr. Luiso noted that these parcels have been off the tax rolls for thirty years or so and explained how he became owner of his lots before they became part of the G&S project.

Mr. Branca stated that G&S used these parcels for their staging area during the construction of their project.

TERMINATION OF UNIT LEASE 4B

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

WHEREAS, in furtherance of a certain Modified Marina Redevelopment Project (the "Project") undertaken by G&S Port Chester, LLC ("G&S"), the Village of Port Chester Industrial Development Agency (the "Agency"), along with the Village of Port Chester (the "Village") entered into a Land Acquisition and Disposition Agreement, dated as of July 14, 1999, and amendments thereto (collectively, the "LADA"), wherein the parties thereto memorialized their respective rights and obligations in connection with the Project; and

WHEREAS, in furtherance of the project and applicable provisions of the LADA, the Agency acquired certain parcels of real estate within the Village to be incorporated into the Project, including: (i) those certain parcels of realty within the Village commonly referred to as Unit 4B (the "Parcels", being more particularly described as TMID Nos. 142.39-1-42, 142.39-1-46, 142.39-1-66 and portions of 142.31-1-42), such Parcels having been conveyed by G&S Port Chester Unit 4B, LLC to the Agency by deed dated on or about December 30, 2003 and thereafter leased by the Agency to G&S Port Chester Unit 4B, LLC pursuant to a certain Unit Lease Agreement, dated as of December 30, 2003 (the "Unit Lease") and corresponding Payment in Lieu of Taxes Agreement, also dated as of December 30, 2003 (the "PILOT Agreement"); and

WHEREAS, by sublease agreement dated as of August 1, 2004 (the "Sublease"), G&S Port Chester Unit 4B, LLC subleased the Parcels to Buchanan Executive Park, Inc. ("Buchanan"), an Agency-approved tenant of the Parcels; and

WHEREAS, G&S, on behalf of G&S Port Chester Unit 4B, LLC (collectively hereinafter, the "Company"), has requested the Agency's consent to termination of the Unit Lease and transfer of title to the Parcels to Buchanan (the "Transfer"); and

WHEREAS, pursuant to Article 11 of the LADA, the termination of the Unit Lease and resulting termination of the PILOT Agreement (together, the "Termination") require, and shall be subject to, the consent and approval of the Village; and

WHEREAS, by resolution adopted December 8, 2010, the Agency previously approved the Termination, subject to the approval and consent of the Village; and

WHEREAS, the Village desires to consent to the Termination subject to the conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PORT CHESTER AS FOLLOWS:

Section 1. Pursuant to Article 11 of the LADA, the Village hereby grants its consent to the Termination.

Section 2. The foregoing consent to the Termination by the Village is subject to the following conditions: (i) that either Buchanan or the Company will make or cause to be made to the Agency payment of full taxes from the date of the transfer of title to the Parcels by the Agency to Buchanan through the end of the current tax years for the Village, Town of Rye, County of Westchester, and the Port Chester School District as required pursuant to Sections 4 and 10 of the PILOT Agreement; and (ii) that Buchanan will acknowledge and agree that pursuant to Section 3 of the PILOT Agreement it is subject to the prohibition on commencing or prosecuting any tax certiorari or other tax review proceedings for any of the Parcels as set forth in Section 2.5 of the LADA.

Section 3. That the Village Manager is authorized to execute and deliver such documents, instruments and certificates as approved by the Village Attorney to effectuate the foregoing.

Section 4. These resolutions shall take effect immediately.

ROLL CALL

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

Trustee Didden recued from this action as stated previously with the public hearing.

The Clerk read Affidavits of Publication stating that the following Public Notice was duly published in the Journal News and Westmore News on March 11, 2011, certified by Cecilia Hernandez, Principal Clerk of 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, March 21, 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 establish a waiver process for construction noise upon application to the Board of Trustees.

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

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 asked Anthony Cerreto, the Village Attorney to explain the proposed law.

Mr. Cerreto said that since the last time we met we have narrowed the focus of this local law to talk only about what this Board was going to talk about in the first place which is how do we deal with an applicant who has a very large project who has to contend with unionized labor who wants to start earlier than the time specified in our Village Code and our noise ordinance. He continued that this local law would give the Board of Trustees a procedure a formalize process where we could give certain folks waivers of those strict time restrictions upon proof that the noise not be burden or nuisance to the neighborhood and there are factors that this Board would look at to make sure that it is beneficial to the Village of Port Chester as well as accommodating to the property owner. Mr. Cerreto concluded that in short it provides a process of notice to the surrounding neighborhood, provides for this Board to look at specified criteria that it can not be in a residential neighborhood only in the commercial districts and provides a process for this Board to get input from the public before you take action of such a waiver.

The Mayor asked if there were any comments from the Board.

Trustee Terenzi asked about ability to rescind an approved waiver and if the Board would have that right.

Mr. Cerreto said that if there is a violation of the conditions of the permit that the Board gives that it certainly can be revoked.

Trustee Didden asked further if the public complains after the permit is given and they are within the permit conditions can it be revoked.

Mr. Cerreto said no that the opportunity for the public is during the hearing process.

Trustee Branca asked if there are decibel levels of any type of work and/or noise that has to conform to before it is considered illegal.

Mr. Cerreto said that our noise code does not have a decibel reading criteria it is an objective formula which calls for unreasonable noise that it talks about how far away you can hear the noise.

Trustee Branca said that in essence if they start driving pilings down at 7:00 in the morning if we provided a waiver and it is really tearing the neighborhood apart we can not stop it.

Mr. Cerreto said that the time for the Board of Trustees to engage the applicant is the time when they make their application and ask all those hard questions when they ask for their waiver.

Trustee Branca said how are we going to anticipate the work that is going to be done and the noise level

Mayor Pilla said that more specifically the point that Trustee Branca is making maybe should be addressed with the interpretation of this that the Board of Trustees may enlarge or reduce the said time limitations so as to grant the minimum waiver that is necessary noting that they may enlarge or reduce the set time limitations and is that perceptively before it is granted or is it that the Board shall attach such waiver all conditions that they deem necessary to protect the public health, safety and welfare and failure to make all such conditions can we

make it subject to rescinding from the time we grant it. The Mayor asked the Village Attorney if that was what was considered in this wording.

Mr. Cerreto said that the wording was provided purposely to provide flexibility in how you grant a waiver that depending upon the kind of construction and depending on all that you will know pretty much how you want to regulate the impact. He said that if someone wants to start at 7 o'clock in the morning and will be done by 3 o'clock one of the conditions will be although the code allows you to go past 3 o'clock you will limit that noise to 3 o'clock in the afternoon.

The Mayor asked if there is an unintentional consequence regarding something that we grant can we reverse our decision or can a future Board reverse our decision.

Mr. Cerreto said that it depends upon what you are looking at. He said that he thinks the Board should ask all those hard questions up front and if you are not satisfied you do not grant the waiver.

Trustee Didden said that it seems that the Mayor is asking the same question he was asking that once we give we can not just take it back.

Mayor Pilla said that Trustee Didden is correct, that is exactly what he was asking.

Mr. Cerreto said not to further belabor the point but the Board is going to be asking all of those hard questions such as what are the decibel levels you would anticipate at 7 o'clock in the morning, how far away would you hear this noise and will there be residential neighborhoods that will be effected even though the project is in a commercial district so we are going to be asking all of those hard questions upfront and if you are not satisfied you won't give the waiver.

Trustee Brakewood said that this is no different than the zoning board. He said that the zoning board hears all the evidence that they can ask all the questions it can and there is no such thing as buyer's remorse once you give the variance.

Trustee Branca asked Trustee Brakewood if he knows the acceptable decibel levels.

Trustee Brakewood said that he does not know that information

Trustee Branca asked how can we judge it if we do not know what it is and can we ask the applicant to find out, provide a study to us which would be a little ridiculous. He said that the bottom line is that it is an area that we know nothing about but yet we will be granting them extra time to do it.

Trustee Didden said to Trustee Brakewood that as far as the ZBA analogy that if they build a foundation beyond the scope of the variance that they received and you measure it, it will not change from day to day. He said that he is concerned because you have a restaurant use and an office use right next door and they are done with the pilings but now they are pouring cement from 5:00 a.m. to 6:00 p.m. now and our Building and Code Departments are not here at those times in order to be able to enforce whatever time we come up with. Trustee Didden said that maybe Mr. Steers would like to comment but if we get a call and someone takes a picture with their cell phone that is time stamped that they are working beyond the time allowances is that enough to give a warning, violation or revoke the permit. He stated

that the restaurant next door with construction noise and truck deliveries after certain times would affect their business.

Mayor Pilla asked Christopher Russo, the Village Manager and Christopher Steers, the Director of Code Enforcement how would this be enforced particularly during non business hours.

Mr. Steers said that typically these types of complaints would be based on the complaint stating that if you have a complaint that they are starting too early he can have someone out at that time. He said that if they are starting early mornings or after office hours he can arrange to have someone there at those times.

Trustee Branca asked Mr. Steers that this would not be the standard of him having people during these off hours to see if they are exceeding the noise requirements.

Mr. Steers said that he has done that before.

Trustee Branca said as long as you have some indication but if you do not have any indication and they start earlier or continue later at night. He said that the only agency that we have on board is the Port Chester Police Department to enforce that.

Mayor Pilla asked if that is something that is appropriate for the police to address.

Mr. Cerreto said that the police department is always the enforcement agency after the hours of the Code Enforcement Department.

The Mayor asked if the police can enforce all of our laws.

Mr. Cerreto said yes and Mr. Steers was basically saying that his department is available as well when need be and when the occasion arises.

Trustee Didden said that is good information because now we can tell the constituent who sees the activity going on after hours to call the police department.

Mr. Cerreto said that we have to be careful of what after hours is noting that our noise code right now allows the noise to continue to 7:00 p.m. He said that what we are trying to do in this local law is to give those applicants some flexible under our code to perhaps start an hour earlier but on the other side of things to also get the job done and leave earlier in the daytime hours.

Trustee Brakewood said that you are not really giving them a law to create more noise but to give them the flexibility of starting the construction stating that it would be the amount of noise they would have created during the day earlier.

Mayor Pilla said that if we deem it not to be unreasonable.

Mr. Cerreto said that the purpose of the law change is to give the Board the flexible that if you have a case before you where the applicant has made that case.

The Mayor said that basically the specifics of this is that the subject property is in a commercial or manufacturing zone only, the party seeking the waiver will suffer a hardship unless the waiver is granted; the granting of a waiver will not cause a substantial or undue adverse impact upon adjacent property or upon the public health, safety and welfare; the activity, operation, or noise will be temporary in duration; and there are no reasonable alternatives otherwise available to the party. He said that there is a written communication requirement to owners within 150 feet of the property and a requirement of a public

presentation, a public hearing so we can get input from the public so this Board or a future one can be guided one way or the other. Mayor Pilla said that there is also a sign requirement for the applicant of posting of a sign, at least 3 feet by 4 feet in size, prominently placed on the property at or about the front property line from the applicant that is requesting the waiver and that is it basically in a nutshell. He asked the Village Manager if other communities have this waiver process and earlier start times.

Mr. Russo said yes other communities have this process. He said that one of the things that you would typically use it for is the example given of pouring cement because that is something that they would know about ahead of time and once you start pouring you have to finish it so it can be anticipated that they need to start earlier in the morning or later at night which is certainly better to do that than during a busy work day. Mr. Russo said that it is something that could be planned and have an officer there early to make sure that they comply with whatever conditions are placed on them which is not unusual especially when you have more than one construction taking place.

Mayor Pilla said that the public should know that this went through several iterations stating that he had said that we are opening the public hearing and not reopening it because we basically totally closed the book on our prior version to make this tougher and tighter actually stating that initially it was suggested that the Village Manager grant the waiver but the seated Board felt strongly that wait a minute that we know the neighborhoods and that we know how sound travels from say Main Street to Indian Road or wherever in different parts of town so to have that local presents here and that local input assured that the decision rests with this body of the Board of Trustees in its present state. He asked if there were any other comments from the Board. There was none. Mayor Pilla asked if there was anyone from the audience who would like to speak on this proposed law. The Mayor recognized Richard Abel.

Mr. Abel said that on this waiver there is not time limit so does it travel with the land. He asked if you grant a waiver is it permanent.

The Mayor said that no it is temporary noting that in the proposed law under Section 2 item #4 that the activity, operation or noise will be temporary in duration.

Mr. Abel said that there is temporary but there is no limitation of time that it could one week, two weeks or multiple weeks.

Mayor Pilla said that it would be bound by a start and end time and inquired this of Mr. Cerreto.

Mr. Abel said that he is talking about number of days.

Mr. Cerreto said that this Board should grant permission to someone to get a waiver there should be of course would be a time constraint on it.

Mr. Abel said that would be a length of time.

Mr. Cerreto said that is correct.

Mr. Abel said that would be one of your methods of controlling if you wanted to revisit it then you should have a short time limit they would have to come back again to get

another waiver because he gathers that they could do that. He said that the original law had penalty that there was a dollar sign for non-compliance or something.

Mr. Cerreto said that the original local law tied two issues together, tied a general violation provision to any violation of the noise code throughout. He said that rather tie that penalty issue up with this aspect we separated the two leaving the penalty as is and focus on construction noise.

Mr. Abel asked what is the penalty presently for not abiding by the noise ordinance.

Mr. Cerreto said that he believes that the penalty is \$100.00 per violation that if someone is violating our noise ordinance multiple times they would be violated multiple times.

Mayor Pilla recognized Goldie Solomon.

Ms. Solomon said to the Board to make sure before you adopt or change anything that it does not affect our Bill of Rights. She noted that schools and religious institutions have after hours that these waivers may effect too.

The Mayor recognized Ronald Luiso.

Mr. Luiso said if you are going to do a large project that they need to start earlier. He spoke about the process of concrete for example.

Trustee Branca said that there is very little noise in pouring concrete which is mostly a manual labor process but he is concerned about noise from generators used for power tools which are loud and wants to make sure we have the ability to stop.

Mr. Luiso said that the contractor for the building will not want to prolong the construction especially when it comes to concrete so it is just an early start to get them going.

The Mayor asked if there was anyone else who would like to speak on this matter before we close the public hearing. There was none. He asked how do we pull back if we make a wrong decision.

Mr. Cerreto said that Mr. Abel gave the best example of it.

The Mayor asked if these waivers could be made revocable when we give them.

Mr. Cerreto said that when they make application, the Board can time limit it to a length of time that you are comfortable with and try it out and see how it goes.

Mayor Pilla said that it would be revocable then.

Mr. Cerreto said after the term when it ends and you would make your findings that they have not been the best of neighbors and that is the basis of your denial. He said that we have to understand that it provides flexibility and the Board has the right and discretion to make and no one has the absolute right to violate our noise code. Mr. Cerreto said that this is a waiver and as a waiver you have to make specific findings to grant the waiver and if you do not find that the applicant made that burden of proof then you simply deny it and when you grant something you put in the flexibility so when it comes time that you need to do something once the term ends then you do not extend it.

The Mayor asked if there were any further comments from the Board or the public there was none. He asked for a motion to close the public hearing.

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

ROLL CALL

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

On motion of Trustee Didden, seconded by Trustee Marino and approved, the following Local Law No. 6, 2011 was adopted:

ROLL CALL

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

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

LOCAL LAW AMENDING CHAPTER 224 OF THE CODE OF THE VILLAGE OF PORT CHESTER WITH REGARD TO NOISE

SECTION 1: Section 224-2 of the Code of the Village of Port Chester is hereby amended as follows:

§ 224-2 Unreasonable noise prohibited; standards, prohibited acts.

C. The following acts are declared to be prima facie evidence of a violation of this chapter. This enumeration shall not be deemed exclusive.

.....

(5) Construction work, including but not limited to building, repairing or alteration, excavation, leveling, tree removal or trimming and other site work between the hours of 8:00 p.m., and 8:00 a.m., the following day on weekdays, and between the hours of 7:00 p.m. and 10:00 a.m. the following day on weekends and legal holidays, except in the event of an emergency creating danger to person or property on notice and proper proof to the Building Inspector or the General Foreman, as the case may be or upon waiver by the Board of Trustees as prescribed by Section 224-3.1

.....

SECTION 2: Section 224-3 of the Code of the Village of Port Chester is hereby amended to add a new Section 224-3.1 to read as follows:

§ 224-3.1 Waiver for construction noise.

A. The time limitations of Section 224-2C(5) of this Chapter may be waived by the Board of Trustees on the grounds of exceptional circumstances; provided, however, that no such waiver shall be granted unless the Board finds the following:

- (1) The subject property is located in a "C" or "M" Zoning District;
- (2) The party seeking the waiver will suffer a hardship unless the waiver is granted;
- (3) The granting of a waiver will not cause a substantial or undue adverse impact upon adjacent property or upon the public health, safety and welfare;

- (4) The activity, operation, or noise will be temporary in duration; and
- (5) There are no reasonable alternatives available to the party.

The Board of Trustees may enlarge or reduce the said time limitations so as to grant the minimum waiver that is necessary. The Board shall attach to such waiver all conditions deemed necessary to protect the public health, safety or welfare. Failure to abide by all such conditions shall be grounds for summary revocation of such grant of waiver.

b. Applications for a waiver shall be submitted to the Village Clerk at least ten (10) days prior to a meeting of the Board of Trustees considering the waiver, together with proof of:

- (1) prior written notice on the property owners within 150 feet of the property by presenting either a signed acknowledgment or a return receipt of the certified mail, and
- (2) posting of a sign, at least 3 feet by 4 feet in size, prominently placed on the property at or about the front property line.

SECTION 3: This local law shall be effective immediately upon filing with the Secretary of State.

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

Adopted: March 21, 2011

* * * * *

The Mayor said that the next item on the agenda is the Quarterly Code Enforcement Report. He asked Christopher Steers, the Director of Code Enforcement to present his report.

Mr. Steers reviewed the reports covering January and February of 2011 that included statistics and trends, fire safety & property maintenance, court case tracking/aging, initiatives and administrative notes for this period. He noted that the Code Prosecutor Robert Peirce, Esq. is here this evening for any questions and answers that the Board may have.

The Board reviewed the reports with Mr. Steers including the increase in the failure to obtain an inspection and his explanation, snow removal during this very difficult snow season along with non-compliance and the type(s) of properties that did not comply which were mostly commercial properties. There was also a discussion regarding a case that an owner was provided a variance for basement use.

Mr. Steers highlighted the life cycle of court cases stating that there are currently 73 complaints regarding illegal dwelling use/overcrowding cases working their way through the court system and that the life cycle of those cases currently in the court system ranges from one to thirty-one months. He said that the timeliness of the disposition of the cases depends largely upon the violator's willingness to comply. Mr. Steers then reviewed with the Board the court fine reconciliation breakdown and there was further discussion on this subject with the Board, Mr. Steers and Mr. Peirce. There was further discussion regarding review of data of repeat offenders and separation of violations regarding trash and prosecutorial resources.

Mr. Steers and Mr. Peirce discussed with the Board the work that Mr. Peirce has been doing as the Code Prosecutor noting that his retainer is a flat fee and he has been donating time for these cases which the compensation would be double his retainer. The Board further

discussed this subject with Mr. Peirce and requested collective information from Mr. Russo, Mr. Steers, Mr. Cerreto and Mr. Peirce including financial analysis of cost to run the program along with fines and penalties.

The Board concluded this portion of the agenda with further discussions with staff regarding the Building Department and other items.

* * * * *

Mayor Pilla noted that the next item on the agenda under reports was an update regarding the Marina Bulkhead. He said that this was discussed in the executive session with Special Counsel Mr. Miller and staff at the start of the meeting. The Mayor asked Mr. Russo if there was anything further he would like to update regarding the bulkhead at this time.

Mr. Russo said not at this time.

* * * * *

The Mayor said that the next report listed on the agenda is regarding the Caring & Loving Foundation's request. He said that this was referred to staff at the last Board meeting and since Mr. Russo was not in attend had requested a follow up.

Mr. Russo informed the Board that a meeting is scheduled for tomorrow with staff and this organization regarding this request. He said that if there are any further items regarding this request that needs to be addressed by the Board he will provide an update.

* * * * *

Mayor Pilla asked if there was anyone from the audience who would like to address the Board at this time. He recognized Goldie Solomon.

Ms. Solomon told the Board that they were elected to represent the people and that the most important things they were tabling and tabling and not getting done. She asked where is the police contract?

Trustee Branca told Ms. Solomon and the public that the Board has been ready to settle but the Taylor Law has stopped this process but the Board will have an executive session on this issue at the end of this meeting.

Ms. Solomon told the Board to approve the contract for the Police Department. She said that the citizens and taxpayers of this Village can not afford any tax increases that the revaluation was all wrong and people are struggling. Ms. Solomon also said that there are pot holes in the streets that need to be fixed and that the MTA needs to install sidewalks on their property on New Broad Street.

The Mayor recognized Ron Luiso.

Mr. Luiso spoke about Dan Gray who has been the Acting Building Inspector since last year and what a professional job he has done for the Village. Mr. Luiso said that as a member of the Zoning Board of Appeals, Mr. Gray was always prepared, a man of integrity, very fair and had been an ambassador for the Village. He said that he was disappointed that Mr. Gray was not considered for the position of Building Inspector and asked that the Board and or staff provide Mr. Gray with an excellent recommendation.

Mayor Pilla recognized Richard Abel.

Mr. Abel asked if there would be any add-ons to the agenda.

Mr. Cerreto said that there is a resolution for a Home Rule request to the State regarding hotel occupancy tax.

Mr. Abel said that the Village doesn't currently have any hotels and/or motels and maybe this is not an item we should ask from the State because there may be more important matters that we will need to request on.

Trustee Branca said that this Home Rule request should not impact any future requests that we make to the State.

Mr. Abel spoke about Code Enforcement and that Mr. Steers is doing a great job and that at some point he will put himself out of a job when all dwellings come into compliance. He asked what is being done for the renters in illegal dwellings who are not at fault with losing their homes and are there programs in place for this.

Mr. Steers said that his department has a referral process in place which is routinely used for these cases.

The Mayor recognized Martha Bell.

Ms. Bell welcomed Mayor Pilla on his re-election and the entire Board to do well for the entire Village.

* * * * *

The Mayor presented the next resolution confirming and approving the appointment of Peter Tringali as Building Inspector.

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

The Village Manager, Christopher Russo provided the background of Mr. Tringali. There was further discussion regarding the probationary period form Mr. Tringali which would be 52 weeks, the salary range for his position which would be bottom of the range, how many years Mr. Tringali has been a building inspector that he has not been in that position and was hired through the Civil Service System. The Board spoke further on the Acting Building Inspector, Daniel Gray and why he was not considered for this position due to the lack of certain qualifications and that Mr. Russo takes responsibility regarding this issue. They noted that everyone that worked with Mr. Gray regarded his work highly. Mr. Russo said that he would request that since this is a personnel matter would ask to speak to the Board in an executive session.

APPOINTMENT OF BUILDING INSPECTOR

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:

WHEREAS, in compliance with New York State Civil Service Law requirements, the Manager engaged in a process to fill the position of Building Inspector; and

WHEREAS, Peter F. Tringali has accepted an offer from the Village Manager for appointment to the position of Building inspector at an annual salary of \$95,000; and

WHEREAS, pursuant to Section 77-5 of the Village Code, such appointment is subject to the confirmation and approval of the Board of Trustees. Now, therefore, be it

RESOLVED, that the Village Manager's appointment of Peter F. Tringali for the position of Building Inspector is hereby confirmed and approved by the Board of Trustees.

ROLL CALL

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

Trustee Branca said with his vote that he would like a glowing recommendation provided to Mr. Dan Gray for his service as the Acting Building Inspector.

SET PUBLIC HEARING
VILLAGE TENTATIVE BUDGET FOR FY 2011-2012

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, the Village Manager has presented to the Board of Trustees the Tentative Budget prepared by the Budget Officers for the fiscal year June 1, 2011 through May 31, 2012 and desires to make provision for the adoption of said Budget in the manner prescribed by law.

Now, therefore, be it

RESOLVED, that a PUBLIC HEARING to consider said Budget shall be held by the Board of Trustees at the time and place specified in the notice herein after set forth; and be it further

RESOLVED, that said Tentative Budget remain open to the public inspection in the office of the Village Clerk until the holding of the public hearing hereinafter provided for; and be it further

RESOLVED, that the Village Clerk be and he hereby is directed to publish, in the manner prescribed by law, a notice of such PUBLIC HEARING, in substantially the following form:

ROLL CALL

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

VILLAGE OF PORT CHESTER

NOTICE OF BUDGET PUBLIC HEARING

PLEASE TAKE NOTICE, that pursuant to Section 5-508 of the Village Law, a Tentative Budget showing the revenue and expenditures for the fiscal year of the Village of Port Chester, New York, commencing June 1, 2011, was filed with the Clerk of said Village.

PLEASE TAKE NOTICE, that a public hearing will be held by the Board of Trustees of said Village on Monday, April 4, 2011 at or about 7:00 p.m. with the hearing to be held in the Village Justice Courtroom, 350 North Main Street, Port Chester, New York for the purpose of considering and discussing such tentative budget. A copy of such Tentative Budget is available at the office of the Clerk, where it may be inspected by any interested person during office hours or online at www.portchesterny.com

Said Tentative Budget includes compensation for the Mayor of \$12,633.00 per annum and for the Trustees of \$5,200.00 per annum.

PLEASE TAKE NOTICE, that at said public hearing all persons are invited to attend and provide the Board with written and oral comments and ask questions concerning the Village's Tentative Budget.

BY ORDER OF THE BOARD OF TRUSTEES
OF THE VILLAGE OF PORT CHESTER, NEW YORK

COURT REPORTER AGREEMENT

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

WHEREAS, Gail Letizia, P.O. Box 588, Bronxville, New York 10708, has long provided court reporter services to the Port Chester Justice Court; and

WHEREAS, Ms. Letizia has proposed a renewal of her agreement with the Village for an additional two years at no increase in rates of compensation; and

WHEREAS, the Village Manager recommends such renewal. Now, therefore, be it

RESOLVED, that the Village Manager be authorized to execute an agreement with Gail Letizia, P.O. Box 588, Bronxville, New York, as Court Reporter for the Justice Court for a term of two years, commencing on June 1, 2011 and ending on May 31, 2013, compensation to be as provided in the fee proposal dated March 2, 2011, as follows: Monday, Thursday and Friday. \$225 per day (starting time 9:00 a.m. until 5:00 p.m.) any session running past 5:00 p.m. an additional \$50 per hour, and on Wednesday evenings Small Claims session at \$150.00 per night until 10:00 p.m. and any session past 10:00 p.m. an additional \$150.00.

ROLL CALL

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

NOES: None

ABSENT: None

COURT INTERPRETER AGREEMENT

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, Olga Hurtado, 170 Elm Street, New Rochelle, New York, has long provided court interpreter services to the Port Chester Justice Court; and

WHEREAS, Ms. Hurtado has proposed a renewal of her agreement with the Village for an additional two years at no increase in rates of compensation; and

WHEREAS, the Village Manager recommend such renewal. Now, therefore, be it

RESOLVED, that the Village Manager be authorized to execute an agreement with Olga Hurtado, 170 Elm Street, New Rochelle, New York, as Interpreter for the Justice Court and the Village Attorney for a term of two years, commencing on June 1, 2011 and ending on May 31, 2013, compensation to be as provided in the fee proposal dated March 2, 2011, as follows: Monday, Wednesday, Thursday, Friday, Traffic and Criminal Court @225.00 per day (starting at 9:00 a.m. until conclusion of calendar), and on Wednesday evenings s Small Claims session at \$150.00 per night until conclusion of calendar.

ROLL CALL

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

NEW YORK STATE
JUSTICE ASSISTANCE GRANT
GRANT AWARD

On motion of TRUSTEE DIDDEN, 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 hereby accepts a grant Justice Assistant Grant distributed by the City of Yonkers, for reimbursement in the amount of \$10,937 for the purchase of a police car, be it further

RESOLVED the Board of Trustees authorizes the Village Treasurer to modify the Capital Fund Budget as follows:

CAPITAL FUND

Revenue:		
5.005.4789.2009.0095	JAG Grant	\$10,937.00
Appropriations:		
5.3120.0203.2009.0095	Police Car 09-10-Regular	\$10,243.50
5.3120.0204.2009.0095	Police Car 9/10 Jag Recovery	\$ 693.50

ROLL CALL

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

MAIN STREET LANDSCAPE IMPROVEMENTS

On a 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, on February 7, 2011 the Board of Trustees authorized the Village Manager to re-bid the Main Street Improvement Project; and

WHEREAS, on March 1, 2011, eight bids were received; and

WHEREAS, upon opening the bids it was determined that Con-Tech Construction Technology, Inc. of 28 Lakeview Drive, Yorktown Heights, NY was the apparent low bidder for a total bid price of \$299,717.50; and

WHEREAS, the Westchester County Planning Department has reviewed all the bids and is recommending the Village Board award the project to the low bidder; and

WHEREAS, Village staff has checked the references of the low bidder and concurs with the County's recommendation to award the project to Con-Tech Construction Tech., Inc. Now, therefore be it

RESOLVED, that the Village Manager is hereby authorized to enter into an agreement with Con-Tech Construction Tech., Inc for a total bid price of \$299,717.50 for Main Street Landscape Improvements; and be it further

RESOLVED, that the Board of Trustees hereby authorizes the Village Treasurer to modify the Capital Fund budgets as follows:

CAPITAL FUND

Decrease:

- Street Resurfacing 2007-08 budget by \$144,000
- 5.0005.5710.2007.0052
- 5.5110.0400.2007.0052

Increase:

REVENUE

- St. Scape-N & S Main Street (09/10) budget from \$196,000 to \$559,000
- 5.0005.3797.2009.0094 Economic Dev.-C Cap Grant \$15,000
- 5.0005.3798.2009.0094 Economic Dev.-NY Main St Grant \$25,000
- 5.0005.4989.2009.0094 CDBG-Federal \$179,000
- 5.0005.5710.2009.0094 Serial Bond \$144,000

APPROPRIATION

- 5.5110.0400.2009.0094 St. Scape-N&S Main St. Contractual \$363,000

ROLL CALL

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

NOES: None

ABSENT: None

INTERIOR REHABILITATION OF FIRE HEADQUARTERS & STATION 4
CHANGE ORDERS 1 & 2

On a motion by 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, by resolution adopted on January 10, 2011, Divine Construction Corp. of Yonkers, New York was awarded the bid for Interior Rehabilitation of Fire Headquarters and Station 4 in the amount of \$158,465; and

WHEREAS, the Fire Chief has requested that additional painting be completed in the apparatus bays of both Fire Headquarters and Station 4; and

WHEREAS, the bid specifications did not include this scope of work; and

WHEREAS, the contractor has provided a proposal for said work at a total cost of \$2,702.50. Now therefore be it

RESOLVED, that the proposals submitted by Divine Construction Corp., for additional painting in Fire Headquarters and Station 4 are hereby approved as Change Order #1 in the amount of \$552.00 and Change Order # 2 in the amount of \$2,150.50, thereby increasing the total contract price to \$161,167.50.

ROLL CALL

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

NOES: None

ABSENT: None

ACCEPTANCE OF BENCHES FOR LYON PARK FROM CLAY ARTS CENTER

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, as follows:

WHEREAS, "Pieces in the Park" is a collaborative project with the Port Chester Recreation Department, three Port Chester schools and the Clay Arts Center that would locate two mosaic benches in Lyon Park; and

WHEREAS, the project will involve efforts between student groups from the after-school programs in the Edison School, Park Avenue School, Port Chester Middle School and the Clay Arts Center for the appropriate design of these benches; and

WHEREAS, after creation of the benches, they are proposed to be installed at a designated location in the park with the assistance of Village personnel; and

WHEREAS, by engaging the Village's youth, it is hoped that the project will result in a greater understanding of the importance of public space; and

WHEREAS, the Port Chester Park Commission and Recreation Commission are in full support of the project and have requested an opportunity to review the final design and to provide input on the appropriate location for the benches. Now, therefore, be it

RESOLVED, that the Board of Trustees lauds the Clay Arts Center for inspiring the "Pieces in the Park" project; and be it further

RESOLVED, that the thriving of such public-private partnerships is a testament to what makes Port Chester such a unique community; and be it further

RESOLVED, that the Board accepts the gift of the proposed benches to be installed in Lyon Park, subject to the favorable recommendation of the Park Commission and Recreation Commission.

ROLL CALL

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

NOES: None

ABSENT: None

ABENDROTH PARK IMPROVEMENTS PROJECT
PHASE III
INSPECTION FEES

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

WHEREAS, on January 18, 2011, the Village Board authorized the Village Manager to enter into an agreement with Sentrale Construction Corporation in accordance with the bid specifications they provided; and

WHEREAS, the Board of Trustees authorized the Village Treasurer to modify the Capital Budget to reflect the funding from the Westchester County Community Development Block Grant program; and

WHEREAS, the Village needs additional match funding to provide for inspections by the Village Engineer throughout the course of the project, and

WHEREAS, the additional funding will be provided for from other completed Park Improvements projects. Now, therefore be it

RESOLVED, that the Board of Trustees of the Village of Port Chester, New York hereby authorizes the Village Treasurer to increase the Abendroth Park Grading & Fence budget as follows:

CAPITAL FUND

Decrease

CDBG S. Patio/Bocce Court 2009/10 by \$7,000.

5.0005.5710.2009.101

5.6720.0400.2009.101

CDBG Abendroth Park Improvement 2004/05 by \$23,000

5.0005.5710.2004.0011

5.7110.0400.2004.0011

Increase

Abendroth Park-Grading/Fence 2009-10 from \$250,000 to \$280,000

5.0005.5710.2009.0104

Serial Bond

\$30,000

5.7110.0400.2009.0104

Abendroth Park-Grading/Fence

\$30,000

ROLL CALL

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

NOES: None

ABSENT: None

The Clerk presented a resolution authorizing the submission of a Home Rule request for special State Legislation regarding Hotel Occupancy Tax.

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

ROLL CALL

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

Mr. Russo explained that State Assemblyman George Latimer has provided him today with the bill numbers for this legislation and said that it would be beneficial that the Board take action on this as soon as possible.

The Board discussed this with Mr. Russo.

AUTHORIZING THE SUBMISSION OF A HOME RULE REQUEST FOR SPECIAL STATE LEGISLATION REGARDING HOTEL OCCUPANCY TAX

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

WHEREAS, although cities and counties are able to impose a hotel occupancy tax, villages do not have the same authority under New York state law; and

WHEREAS, a hotel occupancy tax represents a superior municipal option to raise necessary revenue without raising real property taxes; and

WHEREAS, although the Village of Port Chester currently does not have a hotel, the Board finds that state legislation similar to that afforded the Village of Rye Brook should be sought in the event the opportunity for a hotel be presented; and

WHEREAS, New York Assemblyman George Latimer has introduced legislation to the Assembly with bill number A. 4779 and New York Senator Suzi Oppenheimer has introduced legislation to the Senate with bill number S4096 that would provide this authority. Now, therefore, be it

RESOLVED, that the Board of Trustees of the Village of Port Chester hereby approves the submission of a Home Rule Request to the New York State Assembly and Senate for bill numbers A4779 and S.4096 relating to the authority of the Village to impose a hotel occupancy tax of 3%; and be it further

RESOLVED, that the Clerk is hereby authorized to execute all necessary documents with regard to the Home Rule Request and the Mayor to cause their delivery to the New York State Legislature on behalf of the Board.

ROLL CALL

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

* * * * *

Before the correspondence section of the agenda Trustee Didden inquired to Mr. Russo why the resolution regarding payment to Vernon Hills which was tabled at the last meeting was not on this agenda and why has this invoice been outstanding for a consideration period of time.

Mr. Russo said that he pulled the item from the agenda because he was not satisfied with all the documentation. He provided a memo to the Board on this matter.

There was a brief discussion between the Board and the Manager and Treasurer about outstanding payables.

* * * * *

The Clerk presented correspondence from the Village of Mamaroneck requesting the use of the Show Mobile for their Harbor Fest scheduled for June 5, 2011.

The Board referred this request to staff.

Trustee Didden said that the former Showboat owned by William Frenz is going to be used in Mamaroneck for a jazz festival. He said that this vessel has been located in Port Chester and how did we miss out on this opportunity.

Mayor Pilla said that Mr. Frenz had an application before the Army Corp of Engineers for permanent placement of the Showboat along our waterfront but the Corps determined that this is more of a structure and not a vessel so Mr. Frenz withdrew that application.

* * * * *

The Clerk presented correspondence from Customers Bank requesting to display a banner across Main Street and the use of park adjacent to their property on North Main Street for their Grant Re-Opening.

The Board referred this request to staff.

* * * * *

The Clerk presented correspondence from Bea Conetta indicating her intention to raise funds for the replacement of the Port Chester Senior Center Sign.

Trustee Marino said that he would recommend that the Village buy a new Senior Center sign. Trustee Branca agreed. The Board said that this will be considered during their budget process.

* * * * *

Mayor Pilla asked if there was anyone from the audience who would like to address the Board. There was none.

He said that the Board would be taken motions for two executive sessions and asked the Trustees if any of them had any comments.

Trustee Marino thanked everyone who helped with the donations for the families that were affected by the fire on Midland Avenue. He said that they received clothing and household items along with monetary donations from the PBA, Board members, staff and the public.

Trustee Brakewood said that he had a few items the first was he attended a ceremony for two members of the Fire Department's Putnam Engine & Hose Co. who have given 50 years of volunteer service to our Village. He said that he was in attendance on behalf of the Mayor as the Deputy Mayor and the recipients were Dom Servi and Richard Salvatore.

Trustee Brakewood said to the tax payers that we are working toward the finalization of the Police contract. He also spoke about the Bush Homestead which has issues of disrepair. Trustee Brakewood said that we have to do something with this historic site and if not maybe should consider selling it to a private owner.

Trustee Brakewood concluded his comments speaking about the Comprehensive Plan and that he would like to move forward on some quick wins and recommended eliminating billboards.

Trustee Didden agreed with Trustee Didden about billboards and said that we can condemn them. He requested information on this matter for the April meeting.

Mayor Pilla spoke briefly regarding the Police contract. He said that all of our employees are doing a fine job and all of the unions have recognized the total economy and the Village's situation and have given back. The Mayor noted that non union personnel and department heads have not taken raises. Mayor Pilla concluded with thanking everyone who came out on Election Day.

* * * * *

The Mayor said that the Board will take two executive sessions one regarding the Police contract negotiation with the Village Manager, the Village Attorney and the Village Treasurer and the second session will be regarding particular personnel of the Building Department with the Village Manager, the Director of Code Enforcement, the Village Attorney and the Assistant to the Village Manager.

At 9:55 p.m., on motion of Trustee Brakewood, seconded by Trustee Marino, the Board of Trustees adjourned to an executive session regarding particular personnel of the Building Department. Included in this session were the Village Manager, the Director of Code Enforcement, the Village Attorney and the Assistant to the Village Manager.

ROLL CALL

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

No action was taken in executive session.

At 10:10 p.m., on motion of Trustee Marino, seconded by Trustee Branca, the executive session was closed.

ROLL CALL

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

* * * * *

At 10:11 p.m., on motion of Trustee Branca, seconded by Trustee Marino, the Board of Trustees adjourned to an executive session regarding contract negotiations for the Police Department. Included in this executive session were the Village Manager, the Village Attorney and the Village Treasurer.

ROLL CALL

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

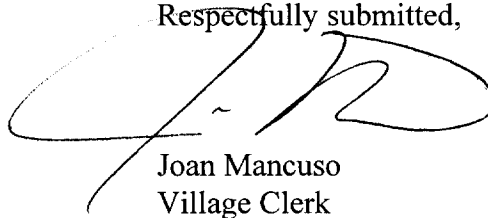
No action was taken in executive session.

There being no further business, on motion of Trustee Didden, seconded by Trustee Marino, the executive session and the meeting was closed at 10:38 p.m.

ROLL CALL

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Joan Mancuso', is written over the typed name and title.

Joan Mancuso
Village Clerk