

**MINUTES OF THE MEETING OF THE BOARD OF TRUSTEES**  
**Wednesday, December 16, 2009**  
**7 PM**

A meeting of the Board of Trustees of the Inc. Village of Head of the Harbor was held on Wednesday, December 16, 2009 at 7 p.m., at the Village Hall located at 500 North Country Road in said Village. Those present were Mayor Natale Tartamella, and the following Trustees: Larry Swanson, Margaret Shutka, Heiko Folkerts and J. Ted Naughton. Not in attendance this evening Village Attorney, Anthony B. Tohill.

Mayor Tartamella a convened the Public Hearing of LOCAL LAW (Intro) NO. #6 OF 2009, "A LOCAL LAW AMENDING § 116-5(A) OF THE VILLAGE CODE TO REGULATE AND LIMIT NOISES". Discussion ensued in regard to enforceability. There being no further comments- It was, upon motion by Trustees Swanson, second by Trustee Shutka and unanimously adopted:

**RESOLUTION #128-09**

**RESOLVED**, to close the public hearing.

Mayor Tartamella convened the Public Hearing of LOCAL LAW (Intro) NO. #7 OF 2009, "A LOCAL LAW AMENDING VILLAGE CHAPTERS 81 and 149 WITH RESPECT TO TREES" Discussion ensued in regard to enforceability. It was, upon motion by Trustee Shutka, second by Trustee Naughton and unanimously adopted:

**RESOLUTION #129-09**

**RESOLVED**, to close the public hearing.

**1. Mayor Tartamella** convened the meeting and the following items were discussed-

- **Minutes of November 23, 2009 meeting** of the Board of Trustees meeting were presented. It was, upon motion by Trustee Swanson, second by Trustee Folkerts, and unanimously adopted:

**RESOLUTION #130-09**

**RESOLVED**, to adopt the minutes of the above referenced as presented.

- Draft Local Law (Intro.) No. 8 "A Local Law Amending 123-3 of the village Code Defining Firearm" was presented. No action taken.

- Correspondence received from Ms. Janice Shea of Myers, Suzzoi, English & Klein requesting verification of zoning as it relates to a lot line modification application. Discussion ensued. It was, upon motion by Trustee Naughton, second by Trustee Folkerts, abstention by Trustee Swanson and adopted (4-0-1):

**RESOLUTION #131-09**

**WHEREAS**, the request requires the technical expertise of the village engineer to review the meets & bounds descriptions, and

**WHEREAS**, there is an established Trust & Agency account for the subdivision application in question,

**NOW THEREFORE BE IT RESOLVED**, to direct the village engineer to begin the technical review with the proviso that said review meets with the village attorney's approval for its appropriateness as a Planning Board function.

**2. Highway Department-** J. Ted Naughton, Commissioner:

- Discussion regarding the purchase of an International Dump Truck from a state bid contract which would be an expenditure of \$127,585.40; village treasurer was directed to review bonding of said item.

- **RESOLUTION #132-09**

It was, upon motion by Trustee Naughton, second by Trustee Folkerts and unanimously adopted:

**WHEREAS**, the Village Hall needs exterior repairs, and

**WHEREAS**, quotes have been received by Morning Start Construction and John Trotter, Carpenter, and

**WHEREAS**, Mr. John Trotter's quote was the lowest at \$2,960.00,

**NOW THEREFORE BE IT RESOLVED**, to accept the proposal presented by Mr. John Trotter.

- Upon surveyor's confirmation, the village attorney is directed to compose a letter to the homeowner at 590 Lake Avenue, informing them that they are encroaching on village property.
- Discussion regarding street signs.

### 3. Financials – Patricia Mulderig, Treasurer:

- Abstract #126378- Vouchers chosen to be paid from the General Fund in the amount of \$14,757.59. Discussion ensued. It was, upon motion by Trustee Folkerts, second by Trustee Shutka, and unanimously adopted:  
**RESOLUTION #133-09**  
**RESOLVED**, to adopt Abstract #126378 in the amount of \$14,757.59 to be paid as presented.
- Abstract #126379- Vouchers chosen to be paid from the General Fund in the amount of \$3,991.31. Discussion ensued regarding invoice 8637 in the amount of \$1,977.48. It was, upon motion by Trustee Shutka, second by Trustee Swanson, and unanimously adopted:  
**RESOLUTION #134-09**  
**RESOLVED**, to adopt Abstract #126379 in the amount of \$2,013.83 to be paid as presented; invoice 8637 B & L Line Striping in the amount of \$1,977.48 to be paid upon the review and authorization of the Village Engineer Dan Falasco.
- Abstract #126380- Vouchers chosen to be paid from the General Fund in the amount of \$17,583.50. Discussion ensued. It was, upon motion by Trustee Shutka, second by Trustee Swanson, and unanimously adopted:  
**RESOLUTION #135-09**  
**RESOLVED**, to adopt Abstract #126380 in the amount of \$17,583.50 to be paid as presented.
- Abstract #103- Vouchers chosen to be paid from the Trust & Agency in the amount of \$5,526.00. Discussion ensued. It was, upon motion by Trustee Folkerts, second by Trustee Swanson, and unanimously adopted:  
**RESOLUTION #136-09**  
**RESOLVED**, to adopt Abstract #103 in the amount of \$5,526.00 to be paid as presented.

### 4. Mayor Tartamella:

#### **RESOLUTION # 137-09**

**RESOLVED**, It was upon motion by Trustee Shutka, second by Trustees Folkerts and unanimously adopted: As per §5-508, the Board of Trustees hereby authorizes and directs the village clerk to post and publish notice of a public hearing on the village's 2010/2011 tentative budget. Said public hearing is scheduled for Wednesday, January 6, 2010 at 7:00 PM to be held at Village Hall, 500 North Country Rd., St. James, NY 11780.

- To fill a vacancy on Zoning Board of Appeals due to the resignation of Mr. Kevin Seaman, Mayor Tartamella put forth the name of Joseph Bollhofer; Mr. Bollhofer is currently serving the ZBA as an alternate; he also requested Kenneth Maher move to 1<sup>st</sup> Alternate and Alyson Svatek be appointed as 2<sup>nd</sup> Alternate.

It was upon motion by Trustee Swanson, second by Trustee Folkerts, and unanimously adopted:

#### **RESOLUTION #137-09**

**RESOLVED**, to appoint Joseph Bollhofer as full ZBA member, Kenneth Maher 1<sup>st</sup> Alternate, and Alyson Svatek 2<sup>nd</sup> Alternate.

- It was, upon motion by Trustee Folkerts, second by Trustee Naughton, and unanimously adopted:

#### **RESOLUTION # 138-09**

LOCAL LAW NO. 6 OF 2009, "A LOCAL LAW AMENDING § 116-5(A) OF THE VILLAGE CODE TO REGULATE AND LIMIT NOISES"

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF HEAD-OF-THE-HARBOR AS FOLLOWS:

#### SECTION 1. PURPOSE.

The purpose of this local law is to address noises disturbing to the peace and quiet of the community when used excessively.

SECTION 2. AMENDMENT OF § 116-5(A).

Section 116-5(A) is amended to read as follows:

Domestic power tools, lawn mowers and agricultural equipment when operated with a muffler between 8:00 a.m. and 8:00 p.m. on weekdays and from 9:00 a.m. to 5:00 p.m. on weekends and holidays, provided that they are not being operated for recreational purposes and produce no more than 85 dB(A) at a distance of 50 feet from the source and provided further that such operation not exceed four (4) hours on any weekend day or holiday and provided further any such four (4) hours on a Sunday shall be limited to between 11:00 AM and 3:00 PM.

SECTION 3 SEVERABILITY.

Should any part or provision of this local law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the local law as a whole nor any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 4 EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by law.

- It was, upon motion by Trustee Shutka, second by Trustee Naughton, and unanimously adopted:

**RESOLUTION # 139-09**

Local Law #7 of 2009 “A LOCAL LAW AMENDING VILLAGE CHAPTERS 81 and 149 WITH RESPECT TO TREES”

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF HEAD-OF-THE-HARBOR AS FOLLOWS:

SECTION 1. PURPOSE.

The purpose of this local law is to prevent the unnecessary destruction of trees and limit and restrict the removal of trees.

SECTION 2. REPEAL OF VILLAGE CODE § 81-24(M).

Section 81-24(M) is hereby repealed.

SECTION 3. AMENDMENT OF VILLAGE CODE § 149-3.

The definition of “Tree” is amended to read as follows:

TREE – Woody perennial vegetation, deciduous or otherwise, which has a trunk measuring more than six inches in diameter at [any point of measurement and which is six feet tall or more, measured from ground level] breast height (4-1/2 feet above grade).\*

SECTION 4. AMENDMENT OF VILLAGE CODE SECTION 149-4(A).

Section 149-4(A) is amended to read as follows:

A. Unless he is in possession of a permit issued by the Building Department of the Village, no person, firm or corporation or individual connected with such firm or corporation shall purposely or carelessly or negligently cut down, kill or otherwise destroy trees. The cutting, killing, destruction or removal of trees and the disturbance of natural vegetation is prohibited as follows:

SECTION 5. AMENDMENT OF SECTION 149-4.

Section 149-4 is amended as follows: (i) by repeal of § 149-4(A)(1); (ii) by renumbering subsections 149-4(A)(2) through (7) to read (1) through (6); and (iii) by addition of new subsections 149-4(A)(7), 149-4(A)(8) and 149-4(A)(9) as follows:

7. Any provision in this chapter to the contrary notwithstanding the amount of disturbance of natural vegetation inclusive of that allowed under subparagraphs 1 to 7 above shall not exceed the following percentages on all residential lots:

Lot Size (square feet)	Percentage of Site
1 to 15,000	75
15,001 to 30,000	60
30,001 to 60,000	50
60,001 to 90,000	35
90,001 to 120,000	30
120,001 or greater	20

On nonresidential lots, the amount of disturbance of natural vegetation shall be determined by the Planning Board as an element of site plan review, in no event to exceed 50% of the lot.

8. Under all circumstances the destruction of trees by improper grading, trenching, root pruning, girdling, poisoning, topping, removal of bark or any similar practice of equal result is prohibited.

9. Invasive plants, e.g.s. poison ivy, bittersweet and the like, may be removed at any premises provided a) any such removal is limited to invasive plants, b) only hand tools are utilized and c) soil disturbance is minimal.

SECTION 6. ENACTMENT OF § 149-5(D).

Section 149-5(D) is enacted as follows:

D. In no event shall a permit be required hereunder for (i) undertaking legitimate agricultural pursuits; (ii) preservation or restoration of old fields to maintain historic character; or (iii) preservation of preexisting scenic vistas. Subject to the limitations and prohibitions in § 149-4 and further subject to the approval of the Board of Architectural Review, the thinning of trees for the sole purpose of maintaining the health of the nearby trees and clearing incident to construction of a residence a) within the building envelope and b) to conform to the existing topographical contours of the lot shall be permitted.

SECTION 7. ENACTMENT OF § 149-9.

Section 149-9 is enacted as follows:

§ 149-9. Enforcement

The Building Inspector, any Village Code Enforcement Officer and any member of the Village Police Department is hereby vested with authority to enforce the provisions of this chapter, and any enforcement shall include a rebuttable presumption that the person(s) responsible for any violation under this chapter includes but is not limited to the record owner(s) and/or actual occupant(s) of the premises as well as any person actually engaged in the unauthorized removal of trees.

SECTION 8. SEVERABILITY.

Should any part or provision of this local law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the local law as a whole nor any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 9. EFFECTIVE DATE.

This Local Law shall take effect immediately upon its filing with the Secretary of State as provided by law.

**5. ARB – Jerry Harris, Building Inspector:**

- Several applicants appeared before the board.

**6. PB –Jerry Harris, Building Inspector**

- Three applicants appeared last month.

**7. Police – Chief Thompson:**

- Traffic grant approved.
- **RESOLUTION #140-09**

It was, upon motion Trustee Folkerts, second Trustee Naughton and unanimously adopted:

**WHEREAS**, the need for a new police vehicle has been acknowledged, and

**WHEREAS**, state bid amounts have been received, and Warnock has stock of Crown Victoria,

**WHEREAS**, Warnock has stock available, and

**WHEREAS**, funds are available from the contingency account

**NOW THEREFORE BE IT RESOLVED**, this transfer resolution has been approved to authorize and direct the village treasurer to transfer the sum of \$26,000.00 from the contingency account to purchase a 2009 Crown Victoria for the Head of the Harbor Police Department.

**8. JCC- Elizabeth Shepherd**

- Vacancy on the JCC.

**9. Public Comment/Other Matters- Mr. Van Vechten**

- Request to investigate the need for a STOP sign at Brackenwood Path/Harbor Rd.

It was, upon motion by Trustee Folkerts, second by Trustee Shutka and unanimously adopted, to move to executive session to discuss litigation. As no action taken in executive session it was, upon motion by Trustee Folkerts, second by Trustee Shutka and unanimously adopted, to move to back to public session.

There being no other matters to be brought before the Board; it was, upon motion by Trustee Naughton, second by Trustee Shutka and unanimously adopted, to adjourned at 9:34 PM.

Respectfully Submitted,

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Margaret O'Keefe  
Village Clerk