

The Board Meeting of the Board of Trustees met in the Municipal Building, 14 Baker Street, Patchogue, New York on August 22, 2011.

The meeting was called to order at 7:30 p.m. by Mayor Pontieri, Trustees Crean, Devlin, Hilton, Keyes, Krieger, McGiff, Village Attorney Egan and Village Clerk Seal were present. Village Treasurer Krawczyk was not present.

The flag salute was made. Mayor Pontieri read the safety message.

Trustee Krieger was sworn in as Deputy Mayor of the Village of Patchogue.

Upon a motion made by Trustee Hilton, seconded by Trustee Crean, and unanimously carried, the Board minutes of July 25, 2011, were approved with corrections.

Upon a motion made by Trustee Hilton, seconded by Trustee Crean, and unanimously carried, the Board minutes of July 11, 2011, were approved with a correction as noted.

Village Clerk Seal stated: The bills for period ending 8/22/2011 was \$1,101,446.31. The five largest bills paid were: RJ Industries \$197,792.85 for STP upgrade, NYS Employee Health \$102,646.73 for monthly premium, Fidele Construction \$53,915.11 for 380 Bay Avenue construction, Watson \$49,011.40 for Radio Room upgrade, Carter Melance \$35,722.85 for 380 Bay Avenue construction.

Mayor Pontieri stated: Just for information purposes, RJ Industries for the Waste Water Treatment Plant upgrade that is funded through the EFC and is part of the grant. The Firehouse Radio Room upgrade for dispatcher room is funded one third each by the Ambulance Company and the Fire Department and the Village.

General Fund	\$602,821.39
Trust & Agency	16,581.65
CAP Projects	372,641.09
Sewer Fund	62,016.37
BID Fund	9,718.57
Housing Fund	2,842.90
CDA Fund	13,333.81
General Bills	21,601.53
Totals	\$1,101,446.31

Upon a motion made by Trustee Hilton, seconded by Trustee Devlin, and unanimously carried, the Board approved payment of the bills as presented.

Upon a motion made by Trustee Hilton, seconded by Trustee Devlin, and unanimously carried, the Board approved request for Emily Gatti to attend two classes at Suffolk Community College Fall Session at a cost of \$402.00 for Intro to Excel and Intermediate Excel.

Village Clerk Seal stated: We have a public hearing to request the approval to renew the cable franchise agreement with Cablevision of Brookhaven, Inc.

Village Attorney Egan stated: We have two representatives from Cablevision, Joan Gilroy and Jim Goren. Just for preface for the Board, the Village is the local franchise authority under public service law for the Village area for the contracting of cable services only. Non-cable services such as internet and telephone are not covered by this. We are acting as the local franchising authority under the NYS Public Services law.

Joan Gilroy stated: I am going to hand in my written remarks because I am not going to read them all and I will also present to the Attorney clean copies. Let the record show Joan Gilroy, Director of Development Affairs from Cablevision located at 1600 Motor Pkwy and also representing Cablevision this evening is outside council Jim Goren. We are here to seek a ten year franchise renewal. Cablevision and I started in the Village since 1998 when we assumed the prior franchise from TCI. Cablevision has filed with the Village the necessary requirements because there are Federal and State applications that sets out the process. Just for your

information, we have filed all the necessary papers that need to be filed with both the Federal and State levels on our renewal. This evening there are just two points that we want to make. The Public Service Commission recommends that the cable companies come before the Board when we ask for a renewal to explain why we should be seeking and why you should award us a ten year renewal. And Mr. Goren is going to comment about something new that has happened over the last couple of years which has leveled the playing field because we are in a whole different environment now, a competitive environment. The Public Service Commission did change and modify some of their regulations to address what happens when you have two or three cable companies which we now have within some communities. Going back ten years ago, life was a lot different in the cable world. In our contract back in 1995 it read that, ten years ago, that we had to maintain 79 channels. I think we can say unquestionably that we have exceeded that section of the agreement. As you know, there are probably more channels there now than you can even figure out what to watch at night and it is digital. What is happening now is some of your residents may be getting letters; the company is digitizing, 100% digital. We brought the digital capabilities into the Village so that you are a state of the art digital community which means any resident as well as businesses can come in and avail themselves of state of the art, whether it is business optimum, phones, internet and video, as well as your residential customers. Back in 2009 we also introduced something that we are very excited about which is optimum on line; as you all know, the digital mobile world is taking and we have a lot of spots in the area. As for customer service, we really feel we have moved ahead on that because we have 24/7 customer service to talk to a Cablevision representative or pay your bill. We also have very well trained bilingual operators that are available. Installations are now being done six days a week because the community has asked for that. During the summer months we are out until it gets dark, out doing service calls until 8 or 9 o'clock. The other thing is, to mention a little bit about, access. In the community here you have two access channels. You have public access which you see 24/7 on Channel 20 and you also have a government access channel which comes out of the Town of Brookhaven. But, as a Village within the Town of Brookhaven you have accessibility to it or have the right and are entitled to, if you have something you want to air on that channel, and have something you taped and want to air, you can go to the Town of Brookhaven. That should be Channel 18. Lastly, we want to say that Cablevision truly stands for localism. "As local as news can get" is our tabloid. We have News 12 and a lot of our customers stay with us for the traffic and weather. We are launching in the fall a very localized channel which is going to be called optimum local on which we are going to have our own programming, Meet the Leaders Neighborhood Journal. We just had recently your Mayor on Meet the Leaders on Channel 19. We have covered events in Patchogue, we did a Walk Down Main Street in Patchogue, all our local program highlights and what is happening in the local community. We feel very strongly that we do meet a lot of the needs of the community and we keep it local. With that, we feel that we do come and ask for the ten year renewal and that we match up on the levels of the technical end of the business and the customer service end of the business of commitment to the local community.

James Goren, 191 New York Avenue, Huntington, New York, outside counsel for Cablevision, stated: I want to thank the Board for scheduling this hearing. I would also like to thank the Village Attorney Brian Egan for all the work that he put into negotiating this agreement. We went back and forth for awhile. I think we have a very good agreement that meets the needs of your residents of this Village as well as Cablevision. This is a more modern agreement than what we had because this is a whole new world than we had before. Technology has changed and there are a lot of important provisions in this contract that are included such as requiring us to give parental controls to parents in the community and a lot of other aspects such as that. It also now is a competitive world. The contract that we have before you is basically the same form and substance of every other contract that is being approved by villages and towns across the state. We recognize that the cablevision industry is no longer a monopoly, but a competitive industry, and therefore, what we call a level playing field contract. Which means it is not an exclusive agreement. If another cable company wants to come into the Village, basically you then have an obligation to give them a franchise along the same basic terms and conditions. I know that this might feel a little bit foreign here because I know we have a competitor that has chosen not to come here. But, this agreement is written based on the understanding that the likelihood within the next ten years somebody will come in and that this agreement is set on a level playing field so that you don't have to approve the identical agreement word for word. But, basically you would have to make sure that when you add in all the benefits and burdens that goes to the cable provider, it would all be equal for anybody else who would come to be approved. It provides many benefits to the Village for cablevision. We have a grant of \$20,000 for public education

and government funding support. It requires that whenever we are doing any construction for new customers or repairs in terms of your right of way we have to restore it to pre-existing conditions. And also, it requires that when we are on private property, of course with permission, that we would restore it to pre-existing condition. And, it also makes sure that we will conform to your Village codes. So, whatever your Village code is today or in the future as it relates to your use of your right of way, we have to conform to your rules and regulations. That sums it up and I appreciate the time and will answer any questions and look forward to your approval.

Trustee Hilton asked: Do you have a figure of the amount that has been reimbursed to the Village from Cablevision? Are you prepared to supply us with the certificates of insurance?

Joan Gilroy stated: You are at 5% franchise fee and for 2010, you were reimbursed \$198,418.00. What normally happens, once the agreement is approved by the Public Service Commission, then any obligation in there, and we do supply supply you then with the certificate of insurance from my office.

Mayor Pontieri stated: It is my understanding also, that you will be providing cable services to the Patchogue Beach Club and the Patchogue Parks and Recreation Center.

Joan Gilroy stated: Yes, it is in there. Also, the Patchogue Village Hall, the Village sewer treatment plant on Hammond Street, Patchogue Theatre, Bay Avenue School, River Ave. School, South Ocean Middle School, Patchogue School Administration Offices, Holy Angels School, Emanuel Lutheran School, Patchogue-Medford IT Library Department, North Patchogue Fire Department, Patchogue Fire Department, Van Guard Hose Company, 5<sup>th</sup> Precinct Police, Patchogue Department of Public Works. Those will receive free family cable service. Any ones that do not currently have them, they will install.

Mayor Pontieri asked: Any questions from the public?

Tony Schioczi, 117 Gillette Avenue, Patchogue, stated: I have been hooked up to cablevision, and it has been updated. What happens to my service?

Joan Gilroy stated: I am going to give you my card (conversation ensued).

John Bogack, stated: So, the Village gets \$198,000 a year from this contract. I am glad to hear that the Village could access Channel 18. I have advocated before that this Board be on television. I think the whole Tritec debate really shows there are issues within the Village that affect a lot of people. And, I think people would have been more a part of that and see it actually take place. And, I think there will be other issues in there as well. I am glad to hear that this is an aspect of this contract.

Upon a motion made by Trustee Hilton, seconded by Trustee Krieger, and unanimously carried, the board approved request to renew the cable franchise agreement with Cablevision of Brookhaven, Inc.

Village Attorney Egan stated: The attorney for the Public Hearing request to reinstate the non-conforming use for 3 Lake Street has made application today to withdraw his application to the Board of Trustees, potentially in favor of putting an application to the Board of Zoning Appeals.

Mayor Pontieri stated: We have three tax certiorari proceedings. Each one of these were reviewed by Carol Sweeney, Assessor for the Village. Evaluations were done and these are the requests for approval.

Mayor Pontieri stated: Request approval for a settlement for tax certiorari proceeding of East Main Street Associates, LLC (Burlington Coat Factory) in the amount of \$40,000. Their current assessed value is \$226,300 for Moratorium Years 2011/12 – 2013/14, the newly assessed value is \$140,000. Motion made by Trustee McGiff, seconded by Trustee Krieger, and unanimously carried.

Mayor Pontieri stated: Request approval for a settlement for tax certiorari proceeding of GAL Holding Corp (Lenz Plaza) in the amount of \$23,000.00. Their current assessed value is

\$142,500 for Moratorium Years 2011/12 – 2013/14, the newly assessed value is \$97,000. Motion made by Trustee Keyes, seconded by Trustee McGiff, and unanimously carried.

Mayor Pontieri stated: Request approval for a settlement for tax certiorari proceeding of Patchogue Co. Bldg. #29 (CBS Discount Stores) in the amount of \$13,000. Their current assessed value is \$74,980 for Moratorium Years 2011/12 – 2013/14, the newly assessed value is \$51,000. Motion made by Trustee Crean, seconded by Trustee Keyes, and unanimously carried.

Upon a motion made by Trustee Devlin, seconded by Trustee Crean, and unanimously carried, the Board accepted with regrets the resignation of Dena Tannenbaum.

B.I.D. Report – Dennis Smith stated: With reference to the New York State Main Street Grant program that we are currently administering to, we have three active applications. Two have been approved. One should be starting any day, 22 West Main Street which is the old Mosaica, Tricia's Hair Galleria & Gino's Pizza. We have gotten all the approvals from Albany and there is just the question of the contractor to completing his current job. The second project is just about ready to go and has been approved by the Plans Committee, 192 West Main St., the building across from Briarcliffe College. We have approved that for a matching grant for the front façade as well as the rear. There is also work being done in the interior of the building which is not part of our particular grant. And, there is also a streetscape that is going to be done in the rear of the building for a planned parking area. We probably will use some of our streetscape money for that. At the end of the day, the building owner is looking to put just about \$400,000 into the building. He subdivided one of the retail shops on West Main St., the dress shop has moved into the newly created space and there is another vacancy there which he hopes to have rented soon. The entire upstairs is being done and a medical concern is looking at it and hopefully that will come into fruition. The last application is very active which is the old Floral Design. That application is nearing completion and they are looking for approval from the ARB at the Sept. 13th meeting. What they are looking to do is improvements to the front façade and also improvements to the upstairs apartment which works well for us because the contract that we entered into with NYS mandates that we administer to four residential properties. This is the first one that we have had the opportunity to do that. It kind of fulfills that agreement that we have with them and get started in that direction. In addition, the retail space will be a nutrition and health food store called Natural Body. The proprietor of that store will be Steve Curran from Finest Fitness. The entire interior, which again is not going to be part of this grant, is going to be completely redone—walls, tiled floors, air conditioning, electrical, plumbing, lighting, shelving throughout the whole store. That particular location is going to have an entirely new look to it; both inside and out—again, something I am looking forward to. There are nine additional applications out there and I am not going to say they are dormant; they are still being looked upon. And I am hoping that at least two to three of those will come to fruition within I would say least 60 days. In the past I have talked about the lifeguard crossing system for East Main Street and it has been delivered to DPW. We were hoping the installation date would be the end of Sept, but it may be pushed back because of some issues on Main Street. When the crosswalk button is pushed the chaser lights will go on in the street and there will also be a sign that will have chaser lights which are very hard to miss. It should make it a much safer situation than it is now. Last night, the feasibility study that the BID had commissioned back in June, we should get back by mid-Sept. and we will share with this Board and the public.

Chamber of Commerce – Lorice Fiala, Chamber President, stated: I would like to tell you how successful our Business Promotion Committee's "Oldies Night" was on August 5<sup>th</sup> with classic cars. Also, on Friday, Sept 16 at 7 pm at the KofC on First street will be our business promotion—there will be wine tasting, Chinese auction and live auction. The monies raised will be used for our Breakfast with Santa, Halloween Promotion, Easter, etc. On Wed., Sept 21<sup>st</sup> at 6 p.m. we will be going to Fire Island Casino Café; call the Chamber if you would like to join. Tomorrow's general meeting at 6 p.m. at the Oar there will be a buffet for \$25 with Congressman Bishop as the guest speaker. In the very early planning stage, Sunday Sept. 25<sup>th</sup> there is an open house planned for all the houses for sale in Patchogue Village. We are going to feature it as "Patchogue, a great place to live." There is a lot of work going into that and we hope it to be an annual event, if not a semi-annual. Regarding our Oct. 1<sup>st</sup> St. Liberata Feast, we have request that the streets close at 12, but we need that to be at 11 a.m. The ending time would be 6 p.m. We need the extra hour to accommodate family activities and to bring more people to the Village at lunch time. Although we are not having food concessions, we are encouraging the restaurants to have Italian food.

Upon a motion made by Trustee McGiff, seconded by Trustee Keyes, and unanimously carried, the Board approved request to change starting time of St. Liberata to 11 a.m. on October 1sr.

Mayor Pontieri stated: Over the past two years there has been a group called "Not in Our Town" which has been filming how our Village and how we as a community has dealt with the Lucero murder. On Sept. 14<sup>th</sup> they will be showing that at the Patchogue Theatre at no cost for anybody. And on Sept. 21<sup>st</sup> at 10 p.m. on Channel 13 it will be shown nationally. I have said to many, many people that the thing I am most proud about this community is that we had every opportunity to explode. But, we as a community understood what we needed to do and as a community we healed ourselves without any outside help.

Trustee Keyes - DPW/CDA Report – stated: We recently installed 15 new trash receptacles at Shorefront Park, thanks to Trustees Devlin & Hilton--Trustee Hilton for his input ad Trustee Devlin for her instance. We also installed some refurbished benches around Shorefront Park. Recently we resurfaced all the basketball courts at Bay Avenue which get used heavily. The parking lot entrance at the west end of the Terry St. parking lot is almost done, but got set back because of the sudden unexpected storms. I also extended our apologies to Family Melody and Yochi for the inconvenience we may have caused. Hopefully, it will be done by Monday or Tuesday. Later in the week, we planned a meeting with Ramon Paving Construction, who are under a County contract, to discuss possibly paving South Summit Street. As I mentioned, the storms kind of beat us up a little bit on Thursday and as the result of that, we waived the fees of the brush drop off. On a positive note, we noticed that only a very small fraction of growth has been recorded in the Patchogue Lake, the algae and stuff, compared to the last couple of years. We are convinced that it is due to the installation of the catch basin filtration and we have accelerated the street sweeping down there. We also do have 12 more Fabco filtration units to install. I think we started using them 2-3 years ago and have noticed a great difference in all the waterways within the Village. We are continuing making progress at 380 Bay. I would like to acknowledge the role that Mayor Pontieri and Village Attorney Egan played in that. I think that we have had more done in the last six weeks than since we first started on it. The agreement that we have been working on with Suffolk County to transfer the ownership of County Road 19 to the Village which is relative to the community development there. Relative to CDA I think I should make a correction. A couple of meetings ago, I stated that the Federal funding to CDA would be cut 40%. It is actually 20%, which comes to approximately \$4G. Due to that cut, the CDA will no longer be able to contribute any money to this Board for code enforcement, as they had done in the past, and I would like to make that correction for the record.

Trustee Keyes stated: I am requesting approval to amend the General & Mechanical Construction contract with RJ Industries to extend the completion date of the WWTP to Oct. 31, 2011, at no cost to the Village. I think you have some paperwork to support work to support that. It had to do with Gerard Construction and they had a problem with the electricians. I am requesting to amend that contract at no cost to the Village.

Trustee McGiff asked: What was the original completion date and were there penalties built into that if it were not completed it by this time.

Trustee Keyes stated: The original date was June 21<sup>st</sup> and we are looking to extend it to Oct.31<sup>st</sup>.

Upon a motion made by Trustee Keyes, seconded by Trustee Crean, and unanimously carried, the Board approved request as presented.

Upon a motion made by Trustee Keyes, seconded by Trustee Hilton, and unanimously carried, the board approved request for the following change orders for 380 Bay: (a) Electrical Renovations - \$420, (b) Foundation Renovations - \$1,500, (c) Plywood subfloor - \$1,280, (d) Plumbing Renovations - \$2,950.

Upon a motion made by Trustee Keyes, seconded by Trustee Crean, and unanimously carried, the board approved request to approve Jadeco Construction Corp. to install sidewalks on the n/w of Carmen St. from Bailey Ave to Bay Ave, not to exceed \$30,000.

Mayor Pontieri stated: The money comes out of CHIPS. What we are attempting to do is to have sidewalks for the kids to walk to school.

Upon a motion made by Trustee Keyes, seconded by Trustee Crean, and unanimously carried, the board approved request for Jadeco Construction Corp. to repair sidewalks on the s/s of Church St. from S. Ocean Ave. to apron before Headstart, not to exceed \$15,000.

Trustee Crean stated: Congratulations, Deputy Mayor Krieger. I am sure you will continue to serve the Village. I had the opportunity to meet a few weeks ago with the Suffolk County Office of Economic Development. We have a rather outdated incentive program for commercial/industrial properties within the Village, where I am hoping to tie it to some developments that are being proposed and also to attach it to a façade program that Dennis Smith mentioned earlier. Where a property owner who puts in at least \$50,000 worth of improvements in their property and attracts the types of businesses that would be on the approved list of uses that we would want to see coming into our downtown and our waterfront, they would qualify for an abatement of taxes on their value. Some of the uses that were in this old program included drinking places, which the Village has gotten quite a few over the last few years, and I don't think in this market place we really need to incentivize any more drinking places. Another one is banks, financial centers and insurance companies. There have been quite a number of banks that have come to our community over the past two years. What I am looking for is some input from the Board of Trustees. I have reached out to the BID and they have come up with some good suggestions. About the first meeting in October we look to adopt a revised plan. What I have asked my co-board members to do is to provide me with any sort of uses that they would like to see in our downtown and along our riverfront. It would be a great help to myself and Marian Russo has been a great help in meeting with me and coming up with some suggestions. I provided the BID board with a list last meeting. There are some good suggestions that came out of that meeting and I am looking to get some additional information at the September meeting.

Mayor Pontieri stated: Maybe Ms. Fiala can also pass the list on to some members of the Chamber and the Executive Board to have them take a look at it also.

Trustee Crean stated: I have also had the opportunity to meet with L. K. McClane (map was passed out). There are actually three different options that they have come up with. One of the obligations to relocate the Library is to come up with a site. I have looked at it and thought about it. The first site that we looked at was within the driveway at the north side of Lake Street. It would be tucked kind of tightly towards the apartment building. What I would like the Board to consider and hopefully come up with is the site that we would like to relocate this Library. Basically, the first is on the corner of Jennings and Lake, bringing the Library closer to the corner. I think it gives the building a little better of a profile, would allow the building to stand on its own. The second is closer to the curb. And the third, it is sort of setback farther from the curb, more of a front yard setback. What it comes down to is, basically, no matter where we situate this Library, the Fire Department has requested that we put it within the driveway that they would want another new driveway cut for access onto Lake Street. If we tuck the building close to the apartment building or put it on the corner, we are going to lose anywhere up to 16 parking spaces. It would be up to us to decide where we want this building to be situated. And it's required of us in order to relocate this Library, we have to actually choose which site we would want it to sit on. If we don't cut a new driveway, then the parking count would be a little greater if we put it next to the apartment building. One of the issues that the engineers have said is that if we put it too close to the apartment building, that as we dig the foundation we would have to take into consideration the foundation of the apartment building. It is a consideration that would be more important to Tritec because they would be the ones putting in the new foundation. Our obligation is to choose the location and provide them with drawings. In order to provide Tritec and the Village with thorough drawings of what we would want the Library to look like, L.K. McClane would need to get access to the property. There was a ten page access agreement that was presented to the engineer by Tritec which I was a little reluctant to have the engineer actually sign. There were some questions raised as to who the access should be granted to. Should it be granted to the Village and the engineer be our agent, or should the access be granted to the engineer, exclusively. I would agree that it should be the Village. But, one of the conditions that they have listed to the Board and the Board Attorney is that the licensee, meaning the Village or the engineer, would agree not to interfere. The Village or the engineer understands

and agrees that Tritec is not required to provide access prior to demolition or redevelopment. The Village and its agents hereby agree not to take and/or cooperate in any action which is designed to or has the effect of slowing down, impeding or otherwise stopping the demolition of the existing building on the property and the development of the new building on the property. So, the condition, if we agreed to it, as I was discussing with the engineers, why would we want to sign sometime like that, if our intent is to preserve the building?

Mayor Pontieri stated: Let's do it this way. Why don't we contact their attorneys tomorrow and Rob from Tritec and have him put that together?

Village Attorney Egan stated: Access to the building should not be a problem.

Trustee McGiff asked: Were they charging a daily fee, also?

Trustee Crean stated: They were charging a \$500 fee to prepare the agreement and a \$200 a day supervisory fee for somebody to stand next to the engineer as he took photographs and measured the interior of the building.

Village Attorney Egan stated: We have the obligation in the agreement to have access based upon the prior development agreement where they agreed to move the building and we agreed to it and see what our possibilities are.

Trustee Crean stated: At the last meeting, I passed out that agreement and everybody has a copy of that and it clearly defines the obligation of both parties. At this time I will pass to Village Attorney Egan the access agreement that was presented to the engineer. We will get a chance to talk about it at a later date and see if there is any way in which we could get access for a little bit less money or no money. But, more importantly, we need to make a decision as to where we want this Library located. It doesn't seem like Tritec is in a position to make the move right, but they are going to need to know. In order for the engineer to provide us with a more thorough site plan, they are going to need to know where we want this to be located. Is there any particular preference?

Trustee Hilton asked: Is there any money going to be left to replace the parking that will be taken up here?

Trustee Crean stated: Tritec was awarded a million dollar grant for the relocation of the Library. Within that grant there was money that was set aside for additional parking for the building. Depending upon what the cost is to move it, put in a new foundation and rehabilitate the walls, I don't know that.

Trustee Devin stated: Where would that parking be; where is the space to put additional parking?

Trustee Crean stated: At this time, I would not have the answer to that. But, perhaps it is something that they would have to consider, maybe acquiring additional surrounding properties somewhere. These all discussions that we have had in the past. At this point and time, I would like to get back to the engineer and say we are going with option 1, 2 or 3.

Deputy Mayor Krieger asked: Has anybody from the Fire Department looked at this plan?

Trustee Crean stated: The only concern that they have had was the access onto Lake Street. The parking count will remain the same, no matter where it is located. They will be losing 16-17 parking spaces. Parking is valuable and we all have issues with it. It is a matter of weighing those issues with the preservation of the Library. There are very few of them left. As a matter of fact, I was in Park Slope last week, walking down 8<sup>th</sup> Street, and walked past a building that looked exactly as our Library, just on a larger scale. That building is currently going through some rehabilitation right now. Once we take ownership of it, if we do decide to privatize it and put it back on the tax rolls, maybe provide a tax abatement for the re-developer, I think it is something that we will be able to market the property with enough incentive to preserve it in the right way.

Mayor Pontieri stated: My only concern and biggest concern is our ability to carry it once we move it and without having a use for it. We are living in a 2% tax cap world now and when you live in that kind of world you need to look at those things. We need to take a very close look as to if and when it gets moved, how we are going to carry it, and what we are going to do with it.

Deputy Mayor Krieger asked: As part of this work that the plan will be, can they estimate the cost of rehabilitating the Library so it is salable?

Trustee Crean stated: There is a varying degree. If we intend on restoring this with historical appointments to the building, it could cost us millions of dollars. That is not my intent. My intent will be for Tritec to bear all the cost for relocating that building, and rehabilitating the exterior walls of the building, putting new windows and doorways, getting it on the site, and at that point and time find a buyer that is ready to acquire that property. I would be willing to sell that property at a discounted market with enough incentives to find the right person to buy it to preserve the building. I think it is something that I think is worth preserving. I think we have seen examples of preservations around Long Island where uses have been changed and provided attractive amenities to the downtown. You go to Islip and see Teller's Restaurant. You go to Farmingdale and see the Library. You can see examples of this all over the island. I think if we could put this building back on the tax rolls and add a new business to our downtown I think it would be well worth it.

Mayor Pontieri stated: We will not be making a decision this evening, obviously. We are going to really take a look at it.

Trustee Crean stated: I have intentions of sitting with the Fire Department again and going over these options again. We don't need to make a decision tonight, but it is something that needs to be on radar if we want to preserve the Library.

Trustee Keyes asked: Is there any mention of how many spots would be gained?

Trustee Crean stated: Right. If we moved it closer to the sidewalk.

Trustee Devlin stated: If I was going to go for that location, I would be in favor of that because it is a more urban area down there and I don't think you need to have an expansive lawn—kind of sit on the corner and have some presence especially with what will be built across the street. It looks like you can gain possibly eight spots. And whatever business that goes in there, it is going to have a need for parking. We don't know what type of business that is. If it is office space, it is one thing; if it is a restaurant, it is another ball game.

Mayor Pontieri stated: It is not that big a space; it is only 3,000 square feet. More suitable for office space.

Trustee Crean stated: It is another step in the process and something that we need to come up with a decision quickly.

Trustee Crean stated: I had spoken to a neighbor of mine who raised a question about the sidewalk along the north side of East Main Street from Rose Ave. to Aid Auto Store.

Mayor Pontieri stated: What probably is going to have to happen, as we had had the grant of 1.4 million dollars that is still sitting out there, we will have to take a look at next year's budget.

Trustee Devlin stated: I have my tree grant and trees for there.

Trustee Crean stated: I understand the difficulties that we have had acquiring that grant money. We are all well aware of the danger that is on that sidewalk and the unsightliness of it. That sidewalk was torn up to run the sewer line.

Mayor Pontieri stated: Yes. And that was to the point where the grant was in place and the State and the Feds have held it and held it. All the sidewalks they did and I thought at that point as the 1.4 million still sits there, that that whole would be done by now.

Trustee Crean stated: Normally, when a sidewalk is torn up or the road is raised it is usually the developer that replaces and repairs it. Right?

Mayor Pontieri stated: We didn't because of the possibility of making changes after they did it. We didn't know what the design component would be.

Trustee Keyes stated: I will get in touch with Sidney Browne to find out what the progress is with the south side. One of the issues of it is we don't know how much of the right-of-way we own.

Trustee Crean asked: Why would we use public money when it is done by a private developer?

Mayor Pontieri stated: At that point and time, that money was to come and it was supposed to be a total redevelopment of that whole area. And that was all a part of it. We were going to tear up what there was there before, but it is never going to happen. It goes back five or six years.

Trustee Crean stated: So, can we go back to that person to that?

Village Attorney Egan stated: It depends on the terms of the connection agreement.

Trustee Crean asked: Can we use sewer money?

Mayor Pontieri stated: Actually that is a good idea. Check with Sidney Browne tomorrow.

Trustee Crean stated: If we are able to use the sewer money that would be great. And if we are able to recoup the cost from the owners of 33 Medford Ave., let's try that as well.

Trustee Devlin stated: Please don't make any final plans without consulting the Tree Committee as I have tree money. As you and I discussed, we own that parking lot and could probably make it a little deeper. I would like to take the opportunity to green it up a little bit.

Trustee Crean stated: I am sure to cut out little wells to plant trees won't be all that complicated. I would certainly be most interested in recovering the cost of the installation of new sidewalk, brick pavers, lighting and whatever we can do on that stretch there and we can use surplus money and let's do it quickly.

Trustee Hilton stated: This last weekend we had the 26<sup>th</sup> Annual Snapper Derby, the largest ever. We had two sessions, one for younger and one for older, and caught the most fish ever. We caught 113 the first session and 127 the second session. I truly believe that this is because of the improvement of the sewer plant. I have noticed at the Beach Club that the water is clear and the crabbing has been more than ever. Personally, I have seen clamers going out again and can't help but feel it is because of the improvement to the plant.

Mayor Pontieri stated: I also think the fact of the filter system and the Vac-all truck that has been cleaning all of those drains has made a difference.

Upon a motion made by Trustee Hilton, seconded by Trustee Crean, and unanimously carried the board approved request for the PMSD to use the Rider Avenue Tennis Courts, Monday-Friday 3 to 6 p.m. from 9/7 to 11/4.

Upon a motion made by Trustee Hilton, seconded by Trustee Crean, and unanimously carried, the Board approved request to raise the fee for the Men's/Women's/Co-Ed Volleyball leagues from \$375.00 per team to \$400.00 per team.

Upon a motion made by Trustee Hilton, seconded by Trustee Devlin, and unanimously carried, the Board approved request for South Country School District to use Rider Avenue Tennis Courts for their girls tennis team from 8/20/1 – 9/6/11 from 8 to 10 a.m. Fee for this application is \$50.00, certificate of insurance is on file.

Deputy Mayor Krieger – Theatre Report, stated: There has been a property line issue going on with Perabell in relation to the Fire Exit at the Theatre. We need to be able to mark the ground where they cannot put stuff. Perabell has a lot of stuff they store back there—tables & chairs and other things. It has become crowded back there and we need to keep that area clear for the

upstairs balcony. I have been told that when the Village sold the property back in 1998, the property line went right back to fire escape. So, if we can investigate that and see what we can do, whether it is just painting yellow lines on the ground and prevent Perabell putting material in that space. It has been an issue for awhile and an issue when people need to get out safely. I have been working with Peter Sarich and he filled me out on the situation. Let's see if we can get that cleared up. We love Perabell and everything they do is positive, but we need to clean this area up.

Deputy Mayor Krieger stated: Today I spoke with Rabbi Levinson and it has to deal with people not following the Exit and Entrance signs of the parking lot, although they are marked. We need to figure out a way to get that across to the people. It is a disregard for the signs; it has nothing to do with whether the signs are big or bright enough. Mr. Mayor, parking is my life, and we have discussed it many times. I would like, maybe during the next Board meeting, to invite the Chamber, BID and residents, to talk about parking and how we can improve it. Joe and I have been talking about it. A lot of people don't know there is parking south of Main Street and we need to do more signage on that.

Mayor Pontieri stated: The BID report will be at the end of the month and we will time it for the same time.

Deputy Mayor Krieger stated: I have been working over the last few weeks with JVC Broadcasting, the new owners of WRCN radio, and they own four radio stations on Long Island, WRCN, La Fiesta, Party 1205 and their newest station 96.1 My Country. I have been talking with John Caracciolo, President of the company, and trying to see what we can do with the Patchogue Theater and after some discussion and some good luck, we have a great opportunity. JVC Broadcasting in conjunction with Westward 1 Radio, a national radio chain, is going to a concert at the Patchogue Theatre starring country superstar Vince Gill. He has recorded more than twenty studio albums, chartered over forty singles on the US billboard charts, has sold over twenty two million albums and has been honored by the Country Music Association with eighteen CMA awards, including two Entertainer of the Year awards and five male vocalist awards. He has won twenty Grammy awards, more than any other male country music artist and in 2007 Vince Gill was inducted in the Country Music Hall of Fame. He is going to be playing at the Patchogue Theatre on Thursday, Sept. 22<sup>nd</sup>, and will be broadcast live from the Patchogue Theatre. This is a pretty big deal for us and will give us national attention. And, it is free; the radio station is giving away all the tickets for free. I am trying to get a bunch of tickets for Patchogue residents and will keep you posted. If you are a Patchogue resident, just come down to Village Hall. It is going to be a first come, first serve situation. It is going to be a country day in Patchogue and the Mayor is going to be involved with a cowboy hat on. It has been a negotiation that has been going on over the last few weeks and thanks to John Caracciolo from JVC Broadcasting and the people of Patchogue Theatre for helping us to work out a deal to get him here. I suggest that since the Theatre is such a great location, that we make Patchogue Theatre the country venue on Long Island and do more of threes shows, thanks to them. We will keep you posted on how to get tickets to this event. As far as that goes, they want to put banners across Main Street both east and west. We are going to try and create some kind of event. Larrie, and some people from the Chamber, if you want to get involved by talking to the restaurants and asking if they want to play country. We are going to have 1,200 coming to the Theatre. As I told John, this is a great audience for us—John will promote it as they should come into the Village early and have dinner. He will do whatever we want him to do.

Deputy Mayor McGiff stated: This past weekend Long Island's own Eddie Money was at the Patchogue Theatre and many people enjoyed it. Patchogue Theatre is getting ready for their fall season. Gateway Theatre had a very successful run this summer and there was a lot of good children's programming. The Theatre is ready to go for another season for entertainment on Main Street.

Trustee Devlin stated: As you all will remember, we accepted the resignation of Zoning Board Member Frank Buscemi recently. I would like to make a motion tonight, seeking Board approval to elevate Eva Rodriguez Gresoski who is currently serving as an Alternate to a full member on the Zoning Board of Appeals.

Motion was made by Trustee Devlin, seconded by Trustee Keyes, and unanimously carried, to elevate Eva Rodriguez Gresoski as full member on the Zoning Board of Appeals.

Trustee Devlin stated: Just to update everybody on what's going on relative to the moratorium on August 10<sup>th</sup>. I had my second meeting with Planning and Zoning Board representatives. Deputy Mayor Krieger came down that night. They are continuing to evaluate the code as far as housing in the downtown. The recommendations that have come out of this committee at this point is now circulating to the members of the Zoning and Planning board for their comments and I hope to have recommendations back to this board no later than the first week of October. Both Nick Fuccillo and John Rocco have been very cooperative, as well as Eva Gresoski who has been extremely helpful.

Trustee Devlin stated: Artspace Lofts which has two commercial spaces on the ground floor will be entering into two separate lease agreements. One with Patchogue Arts Council who will be going into the space that was formerly C2 Gallery. I just learned today that Plaza Mac Media Arts are finalizing their negotiations for their lease agreement for the second commercial space. Artspace will have two non-for-profit organizations housed on their first floor. I think it will be the epicenter for the arts on Terry Street which is what we have been hoping for. I am sure we will get some great collaboration out of that.

Trustee Hilton asked: What happened to Sea Square and where is Arts Council going to get the money?

Trustee Devlin stated: I really don't know. The Arts Council were given a nice deal, something that is reasonable. They probably will not be open five days a week from 9 to 5. But, there will be shows and there will be limited hours in the beginning and then they will work up to it. The first show will be a member show and they will put out the notice as soon as the lease is signed. The Patchogue Arts Council were in negotiations discussing with several different landlords around town where to house the Patchogue Arts bi-annual because it did not look like they would be able to use Briarcliffe College. But, things have changed, and Briarcliffe is able to offer them the same space they used two years ago. The second Patchogue Arts Bi-Annual will be from Oct. 22 to Nov. 13, with an opening reception on October 29<sup>th</sup>. Hope everyone comes down to the opening reception. They will be running currently with the 4<sup>th</sup> Annual Walking Arts Tour and that art work will be going up in September and run until mid-November. On October 22<sup>nd</sup> will be the 4<sup>th</sup> Annual Autumn Arts Festival which is a joint venture between the Patchogue Arts Council and the Patchogue Theatre for the Performing Arts which is a full day of original music and poetry in the lobby and also a reception for all Walking Arts Tour artists.

Trustee McGiff stated: Jack, congratulations.

Upon a motion made by Trustee McGiff, seconded by Trustee Crean, and unanimously carried, the Board approved request authorizing the Village Justice Court to apply for a grant through the Justice Court Assistance Program for the maximum amount.

Upon a motion made by Trustee McGiff, seconded by Trustee Keyes, and unanimously carried, the Board approved request to hire Alex Hendrickson as a seasonal Parks laborer at \$10.75 per hour, retroactive to 8/8/11.

Trustee McGiff stated: I am seeking Board approval for Lynn Liccardello who hasn't had a raise in two years and never said anything. She is making \$15.64/hr and I would ask the Board to increase it to \$16.50 per hour. She has been here for six years.

Village Clerk Seal stated: She should have gotten the bump with all the other part timers. I will definitely check on it. We automatically do it.

Upon a motion made by Trustee McGiff, seconded by Trustee Devlin, and unanimously carried, the Board approved raise increase for Lynn Liccardello to \$16.50 per hour, pending review of record.

Upon a motion made by Trustee McGiff, seconded by Trustee Crean, and unanimously carried, the Board set a public hearing to be held Monday, August 12, 2011, at 7:30 p.m. in the Municipal Building, 14 Baker Street, Patchogue, New York, by the Village Board of the Incorporated Village of Patchogue to enact a non-Village resident parking permits.

Upon a motion made by Trustee McGiff, seconded by Trustee Keyes, and unanimously carried, the Board approved request to send Peter Sarich to OSHA Construction Safety Standards Update course in Manchester, NH from September 12-14, 2011.

Trustee McGiff stated: There has been a rash of graffiti in the Village. Code and Mr. Sarich have joined forces with the Fifth Precinct. I think they have identified some of the perpetrators through cameras. They know where two of them live; they are Village residents, one 13 and one 19. Suffolk PD had a meeting with them today.

Upon a motion made by Trustee McGiff, seconded by Trustee Keyes, and unanimously carried, the Board approved request to approve the stipulation of settlement in the action Ferzola/Gamboia v. Inc. Village of Patchogue and Zoning Board of Appeals. There is no monetary impact. Village Attorney Egan and myself met with the applicants and we crafted a stipulation of settlement.

Trustee McGiff stated: Mr. Mayor, I have a letter that I want to disseminate to the Board members and read it into the record. It is from myself and Trustee Crean. "We have carefully considered and reviewed the legality of two recent expenditures made by the Village of Patchogue. The purpose of this letter is for all Village Board members. Two expenditures referenced below are illegal and to provide this Board an opportunity to remedy them to comply with the law. In doing so, we can avoid exposing this Board to a taxpayer lawsuit or an Article 78 proceeding and ensure that the residents' tax dollars are being spent wisely and in accordance under the law. The first expenditure involves the salary of a recent hire, Ryan Pontieri, a blood relative of Mayor Pontieri. Mr. Pontieri was hired Nov. 2010 as a custodian with health benefits. On the night Ryan was hired, Trustee Hilton was not present and the Mayor did not vote. The vote was 3-2 in favor of hiring Ryan Pontieri, and was declared by the Mayor, and certified by the Clerk, to have been a duly passed resolution. We have learned that Section 41 of the NY General Construction Law requires that a majority of a fully constituted Board is required for a resolution to pass. The absence of a Board member or the failure of a Board member to vote does not lessen that requirement. This fundamental rule has been duly established by the cases of Rock & Woods vs. the Village of Suffern and DPE Resources Inc vs. Village of Monroe. Since the duly constituted Board of the Village of Patchogue on that date contained 7 members, a minimum of 4 votes is required to pass the resolution hiring Ryan Pontieri. As referenced the above resolution which hired Mr. Pontieri was approved 3-2, and we now know that as a matter of law this vote was insufficient to constitute a majority of a fully constituted Board then in existence. The vote was one short of the legal requirement for a resolution to pass and thus this Board's action is invalid and without legal effect. The second expenditure involves an unconstitutional loan the Mayor gave the Artspace Patchogue Lofts by way of a \$150,000 interest free loan. This Board was unaware of this loan as we were not notified about it by the Mayor, the Village Attorney or any Village representative. By letter dated Nov. 5, 2009, I have an extra copy in the back of this, Mayor Pontieri without informing any members of the Board and without any legal authority promised the loan which was later memorialized by note mortgage on Dec. 10, 2010. I think that mortgage was later recorded in August. Village Law Section 4-4 gives the Village Board the exclusive power to manage property and finances. As a result, neither the Mayor nor any Board member or any other Village representative can unilaterally make decisions to waive or delay the financial obligations of entities indebted to the Village or its residents. In addition, Article 8/ Section 1 of the NY Constitution prohibits the Village from giving or loaning its money or credit to a private entity. The Village Board can remedy both of these situations by passing immediate resolution directing the Village Clerk to commence an action to recover the monies paid to Ryan Pontieri or to immediately collect \$150,000 plus interest advanced to Artspace without legal authority. It is critically important for each Board member to consider that Section 4-412, Sub 12 of the Village Law provides that an officer or person who assumes to create a liability or appropriates money or property of the Village without authority of law or since thereto is personally liable for such debt to the Village for such money or property. In addition, the law provides that once the facts of an illegal appropriation becomes known to the Board of Trustees and such Board fails for thirty days to bring an action to recover such money or property or continuing to allow the unlawful expenditures, each member of the Board who does so shall be guilty of a misdemeanor and is liable to be removed from office unless such within such period of 30 days shall file with the Village Clerk a written request signed by him or her requesting the bringing of an action to recover the monies expended or shall cause to be entered upon the minutes of the meeting of the Board a motion made by him or her for the bringing of such action." Both myself and Trustee Crean are directing that the Mayor and Village Attorney notify

the appropriate insurance carrier about these potential claims. Mr. Mayor, in light of that I have two motions. The first motion is to direct the Village Attorney to formerly demand in writing that Artspace immediately pay to the Village of Patchogue \$150,000 plus accrued statutory interest from the 8<sup>th</sup> day of December, 2011, monies unlawfully given or credit unlawfully extended by the Mayor and to commence litigation to recover same if not paid by Artspace within 7 days of this date. That is in the form of a motion.

Mayor Pontieri asked: Attorney Egan, would you comment on that, please?

Attorney Egan stated: The fundamental issue with Artspace is that it really was not a loan, but that is was a deferment of payment. The question becomes to what the Board wants to do with that. It was the deferment of a payment that was not made, so there was no waiver or gift made to Artspace. The mortgage was only to secure the deferred payment. The Board can consider that motion, certainly. The other thing the Board can do is the Board can ratify the act under case law and Controller opinions that the Board can consider the deferment for the 30 years and ratify retroactively the deferment of the payment.

Trustee Crean stated: At this time, I would like to second the motion. Those in favor were Trustee McGiff and Trustee Crean. Those opposed were Trustees Keyes, Devlin, Hilton and Deputy Mayor Krieger.

Trustee McGiff stated: Mr. Mayor, I have a second motion, just to officially acknowledge that the vote to hire Ryan Pontieri was without legal effect and to direct your Treasurer to cease all pay and benefits to Ryan Pontieri effective immediately. And that is in the form of a motion.

Trustee Crean seconded the motion. In favor of the motion were Trustees McGiff and Crean. Those opposed were Trustees Keyes, Devlin, Hilton and Deputy Mayor Krieger.

Trustee McGiff stated: Mr. Mayor, the third motion is in reference to the Ford Explorer that was sold to the Village; we all know about that. It was without Board knowledge, participation or consent and our opinion was consequently without legal effect. At this time, I would like to make a motion to demand in writing that the seller immediately pay to the Village of Patchogue monies equal to the purchase price plus accrued statutory interest from the date of purchase the monies unlawfully expended by Mayor Pontieri and to commence litigation if not paid within 7 days of this date.

Trustee Crean seconded the motion. In favor of the motion were Trustees McGiff and Crean. Those opposed were Trustees Keyes, Devlin, Hilton and Deputy Mayor Krieger.

Mayor Pontieri stated: In relationship to those two motions.

Deputy Mayor Krieger stated: I would like to make a motion to hire Ryan Pontieri. Trustee Keyes seconded the motion. In favor of the motion were Trustees Keyes, Devlin and Hilton and Deputy Mayor Krieger. Motion was opposed by Trustees McGiff and Crean.

Village Attorney Egan stated: That motion was not really necessary, but now it has passed.

Deputy Mayor Krieger stated: I would like to make a motion to ratify and approve the deferred payment to Artspace of \$150,000 as set forth in the mortgage and note dated Dec. 10, 2009. Motion seconded by Trustee Keyes. Motion was opposed by Trustees McGiff and Crean.

Trustee Crean stated: I would like to have a discussion on that. I believe that we don't have the authority to do this. The Village is not in the position of loaning money or deferring payment. Maybe I didn't understand it correctly.

Mayor Pontieri stated: Explain it again, Mr. Egan.

Village Attorney Egan stated: There was no expenditure of any money from the capital or treasury of the Village.

Trustee Crean stated: So, they owe us money?

Village Attorney Egan stated: Correct.

Trustee McGiff stated: That is semantics—it is either a loan. I am looking at a letter sent by the Mayor, dated Nov. 5, 2009, which I found two weeks ago, that no one ever knew about.

Mayor Pontieri stated: It was in the pile of records.

Trustee McGiff stated: The letter reads “Please allow this letter to serve as a revised commitment to the project in the Village of Patchogue in the form of \$150,000 interest free loan (not my words, his) to be funded at closing. So, whether we call it deferred payment or loan, it is money due this Village; it is money due this taxpayer, us. That the Mayor made a unilateral decision to extend credit to this developer without consulting this Board; that is my problem with this. We find out almost two years later.

Trustee Crean stated: Any which way you look at it, it is a loan. You can rephrase it as a deferral of payment. But, that in its own definition is a loan. It is something that is due to this Village and money that is owed to the Village taxpayer.

Mayor Pontieri stated: As you remember, there was a \$250,000 grant that we were to get. And luckily enough, Assemblyman Murray is still working on it. That \$250,000 was to cover that \$150,000. At the point that that happened, that \$250,000 was supposed to still be coming along. And if that had come along, and when it comes along, it will pay down that note—if that is what you want to call it, a note. Or, if you want to call it a deferred payment, or you want to call it a mortgage. You can call it whatever you want, but those are the facts. And, it was done with the intention of moving the project along. The other thing we have to realize is that DHCR from the State, their attorneys reviewed this. The bank’s attorneys reviewed this. The attorneys for Artspace reviewed this. The attorneys from the Village reviewed this. And probably the attorneys from two or three other agencies including the L. I. Housing Partnership and another group reviewed this. And in no way in at any given time did they say to me that this was illegal or improper. Obviously, I would not do things that were illegal or improper if I had felt it was illegal or improper.

Trustee McGiff asked: Then why weren’t we told about it? Why did I have to find out by digging through his file?

Mayor Pontieri stated: Because it was in the file. Steve, how long have you known me? Do you think I have taken \$150,000?

Trustee McGiff stated: I’m not saying you are taking it, but it is money due this Village.

Mayor Pontieri stated: It is due this Village and it will get paid.

Trustee McGiff stated: That is like saying, if I want to put an addition on my house with my permits and whatever else is due the Village, am I going to get an interest free note. No. Why should they? We are duly elected; we are Trustees. We hold the public trust. We didn’t know about this.

Mayor Pontieri stated: It was a promise made by Assemblywoman Eddington, the funds that we have not received to date.

Trustee Crean asked: So, why is the Village resident on the hook for that?

Mayor Pontieri stated: So, are we on the hook for something that was never expended?

Trustee McGiff stated: But, it was due us; it is not in our coffers. I never got a straight answer on this. Is this Building Department fees? I find it incredulous that this is a straight \$150,000; what is that number? I talked to Peter Sarich and he said the numbers weren’t this high. What is that number?

Village Attorney Egan stated: The original number as set out in the New York State Division of Housing & Community Renewal was for an award of tax credits that was going to be \$300,000. Also contingent on County of Suffolk bonds for infrastructure construction and public

improvement. The schedule was attached to the mortgage that had \$9.1 million dollars from the owner which is Artspace to the NYS Housing & Finance Agency, 1.7 million dollars, a second mortgage, to the House & Finance Authority, 1.575 million dollars mortgage to the NYS Housing & Trust Fund, \$660,000 mortgage from the owner to Suffolk County. And, a 1.5 million dollar mortgage from the owner Artspace to the County of Suffolk. In that amount, the calculations, what they needed to close was this \$300,000 due to Artspace. Because of this, NYS Division of Housing and Community Renewal awarded tax credits. That money did not come. And, subsequently in the Mayor's letter dated Nov. 5, 2009, he allowed the commitment, be it an interest free deferred payment from the Village to the project to make up that shortfall, contingent upon the award of that grant from the State.

Trustee Crean stated: The State and the County, they all have agencies to be able to loan money. The Village did not. We don't have an industrial development agency. We don't have the housing financing authority. We don't have the legal authority to loan money.

Village Attorney Egan stated: That is not exactly true under the law. Under the Village law, it can do it because we didn't loan any money. It deferred the payment that was due to us. I don't want to confuse the issue. I don't want to confuse more than what it actually is. We are deferring a payment that is due to us.

Trustee Hilton asked: Are they paying down that note?

Trustee McGiff stated: Thirty years, interest free; we will be pushing up daisies and we are raising taxes.

Trustee Krieger asked: In you Devine legal wisdom, was this an illegal payment or improper.

Village Attorney Egan stated: There is very little case law or statutes that talk about deferred payment. Certainly unquestionably, if there was a gift of it, or there was a waiver of it, or even if there was a reduction of money, that would be an issue. But, deferred payment there is very little statutory law that can be pointed to that says it can be prohibited. Regardless, even if it is that, the concern is we don't want the Board to be that deep into the reeds of this issue if it is curable. And that is the solution that the Comptrollers come up with. The Office of State Comptroller says, "in general, whatever acts public officials may do or authorize to be done in the first instance which may be improper or otherwise, may be adopted or ratified by them subsequently with the same effect as if they were done properly under prior authority". And that is the NYS Comptroller Opinion 90-47 and Opinion 2003-4.

Trustee Krieger stated: Hence, my motion.

Village Attorney Egan stated: Correct

Trustee Crean asked: When has the Village have ever done something like this before?

Mayor Pontieri stated: I have no idea.

Trustee McGiff asked: Is there a time frame when it can be cured?

Village Attorney Egan stated: No. The case DellaRocco vs. City of Schenectady from 2000, talked about a case where they had accepted the benefits from their agreement for more than 30 years and they ratified it. It was a settlement agreement.

Mayor Pontieri stated: There was a motion made by Trustee Krieger. Trustee Keyes seconded the motion and passed by Trustees Devlin, Hilton and Krieger. Motion was opposed by Trustees McGiff and Crean.

Mayor Pontieri asked: Are there any other comments by the Board? (None were made.)

Public to be Heard:

Resident asked: What happens if the Village is no longer around for reimbursement?

Village Attorney Egan stated: That is an excellent question. I think it is a question that has been grappled with based upon that with the State Commission revisions on the dissolution of all entities, whether it be water districts or otherwise, it is still not exactly a resolved decision. There are winding up periods that happen. The statute talks about that, addresses that, there are procedures for it. It is unprecedented in NYS thus far, certainly since 1983 in the Village.

Mr. Boerjes, 42 Maiden Lane, Patchogue, asked: Is there a schedule of payments for this loan that was just approved?

Trustee McGiff stated: It is a balloon; it is thirty year, interest free.

Mr. Boerjes asked: Didn't something like this take place once with the Breslin project on Main Street and that is why it sort of stalled as long as it did? Cause there really is not a whole lot of incentive to pay it back if the guy has a note for thirty years? I thought there was some sort of an interest free loan that was given to that project. And also, as long as I am here, not to change the subject, but quickly there was a project on South Ocean Ave. that the Village was supposed to get \$100,000 for over density for park workers, as I understood it. And they had fallen upon hard times and that money has not come through.

Mayor Pontieri stated: That money will come through and I have been in constant with him. The contractor did not walk away from the project.

Mr. Boerjes asked: Is there documentation that we are entitled to that money or is that a handshake agreement.

Trustee Devlin stated: It is in the minutes of the Planning Board, as I sat on the Planning Board at that time and it was part of the grant.

Mr. Boerjes stated: On moving the Library, it seems like from what I read in their document that they sent that they were expected to sign, it appears that they are anxious to knock the building down. They have a million dollar grant?

Mayor Pontieri stated: That million dollar grant is not only for that; it is for the whole. It is a Restore New York Grant; it is for part of that whole project itself. It is not specific to the Library itself, but the Library is a part of it.

Mr. Boerjes asked: Do we have concrete documentation in our possession that Tritec will move that building, will put it on a foundation, and that we won't be in the same position that we were in at the end of South Ocean Avenue? And that guarantee is?

Mayor Pontieri stated: The guarantee is, if the decision is made to move it and place it there, that they will move it. The only hold up on that decision is for this Board to decide the location and/or if we are going to move it at all and if there is a value to move it.

Trustee Crean stated: And there is a current lawsuit. There is a lawsuit that needs to be resolved that is on-going between some residents of the Village as well as some commercial property owners and Tritec.

Village Attorney Egan stated: It is matter of public record. Some surrounding property owners have sued Tritec and the Village over the approval of the project. There were three suits actually. The first suit was dismissed. The second suit has just been filed. A Motion to Dismiss and a Motion for Summary Judgment on both of them, which are returnable in two weeks.

Mr. Boerjes asked: Wasn't there a meeting tonight on a non-conforming use. And rules on non-conforming use, if the building is not in use as intended for a year and a day then it has lost that?

Mayor Pontieri stated: That was taken off and is going before the Zoning Board and they will determine that.

Village Attorney Egan stated: It is more complicated than that and there are a lot of conditions as to what the applicant has sought tonight for the restoration of the non-conforming use. You can get for restoration for a non-conforming use based upon certain criteria laid out in the Village

code. Parking is potentially included, but it is more complicated with that applicant because that applicant wants to seek the restoration of an apartment house use. The Village code has a very specific revision with regard to the restoration of apartment house use. One of those components is apartment component.

Alan Sherman, 76 Shore Road, Patchogue, asked: Would you just give me a projection of what a \$150,000 would be worth thirty years from now? I am not understanding the interest part of this. In my mind \$150,000 thirty years from now might be worth more than \$560,000.

Village Attorney Egan stated: I was a history major in college, not a math major, sorry,

Trustee Crean stated: That is at present interest but a zero per cent interest, that \$150,000 that we will be going to get paid 30 years from now could be--depending on the cost of living & inflation—who knows what that inflation rate is—we might only get back \$50,000 of value back out of that \$150,000 loan. It all depends on what your dollar can buy 30 years from now.

Upon a motion made by Trustee Devlin, seconded by Trustee Keyes, and unanimously carried, the Board moved into Executive Session at 9:20 p.m.

Upon a motion made by Trustee Hilton, seconded by Trustee McGiff, and unanimously carried, the Board moved to end Executive Session at 9:50 p.m.

Signed \_\_\_\_\_  
Patricia M. Seal, Village Clerk

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