

Board Meeting

March 19, 2007

The Special Board Meeting of the Board of Trustees met in the Municipal Building, 14 Baker Street, Patchogue, New York on March 19, 2007.

The meeting was called to order at 7:30 p.m. by Mayor Pontieri with Trustees Dean, Devlin, Hilton, McGiff and Village Attorney Snead and Village Clerk Seal present. Trustee Crean and Krieger were not present.

The flag salute was led by Paula Murphy

Mayor Pontieri read the safety message.

Upon a motion made by Trustee Dean, seconded by Trustee Devlin, and unanimously carried, the Board approved the meeting minutes of February 12, 2007.

Mayor Pontieri stated: the purpose of this Public Hearing is to go on the record exactly what the process is going to be. First of all, once the assessment is made on the slip fee or some assessment, the fee will not be imposed until the 2008-09 tax year. Because whatever the ban, that payment will not be due until 2008-09. The imposition of any fees will not happen until that point and time. That also gives us the opportunity to really do a full assessment. I will ask Attorney Snead, this is as much for the record as well as for the persons that are here, what the process is going to be and the fact that it is simply setting up an assessment district.

Village Clerk Seal read: Notice is hereby given that a Public Hearing will be held on Monday, March 19, 2007 at 7:30 p.m. in the Municipal Building, 14 Baker Street, Patchogue, New York, by the Board of Trustees of the Village of Patchogue for the purpose of discussing the creation of a proposed Patchogue River Beneficial Use and Improvement District. The items of discussion for the hearing include potential authorization making, confirmation and correction of benefit assessments for local improvements within the district; purposes of and benefits to be made within the district; identification and mapping of properties to be included within the district; method of assessing such properties for the benefit of the district; annual amount of any special benefit assessments to be made, and collection procedures for special benefit assessments. At said Public Hearing any person interested will be given the opportunity to be heard.

Mayor Pontieri stated: what we are looking to do is set up a dedicated fund with the sole purpose of the improvement of the river and the dredging thereof. What we are looking to do is to make it a program for ten years. That ten year amount actually covers 25% of the 1.2 million dollars that is needed for the dredging. The first five years will go towards the dredging. The next five years of those monies will be put into a capital reserve fund to be used exclusively for the dredging and the maintenance of the river itself.

Village Attorney Snead stated: when we were discussing the possibility of allocating some of the cost of the proposed dredging to local users of the river, people who live along the river or who have businesses along the river, initially \$25,000 thereabouts fee per year, was looked at. Two issues came up. One, are we going to be using the money to pay back the bonded money this year or are we going to be putting it into a dedicated repair reserve fund, or will we be doing both. And, that is a matter that needs to be discussed tonight. Under the Village law and a number of other laws, the Village is allowed to create a Special Benefit Assessment District for the purpose of handling local improvements. Those local improvements are improvements that could be done completely by the Village or could be done by assessing the local district or some portion of both. And in creating this district, you can then set an apportionment and create the

assessments that you can take in as an annual installment payment or payment in one shot. The position of the Board has been that you would like to do this on an annual installment payment and we were looking at a ten year initial time to create this district and have the payments come in. A couple of things we need to look at tonight are the amount to raise, and there may be some discussion from the public on that issue, which lands and properties will be affected because remember these assessments are against properties and not against the businesses. And they are collected in the same manner as we collect taxes. And that leads into the fourth issue which is when we are going to collect it. You could collect this at any time as soon as you assess or you could wait to have the assessment to go out on the tax bills. The initial thoughts from the Board were that it was probably easier to simply have them collected the same time when tax bills are sent out. Maybe it is better for me to address specific questions from the public. Again, this is a Special Assessment District under the Village law and it is for the purpose of benefiting Patchogue River, dredging initially and maybe some other ancillary related benefits for navigation of the river.

Trustee Dean stated: we had some discussions. We had a public information meeting here with many of the business owners along the river and some residents. And the Village is going to be banning some money to dredge the Patchogue River this year and the property and business owners along the river have agreed to pay down about \$125,000 of that bond which would be \$25,000 per year or thereabouts for five years. What we are proposing to do is to collect that \$25,000 a year for the five years to pay down the note and then to extend it for another five or six years with Legislatively, it would be in the code that the district would stop collecting that money after that period of time so that it would give this Board, whoever sits here at that time, the opportunity to take a look at it and see if it is still a necessary amount of money to capture. After the bond is paid down, money would go into a dedicated reserve repair fund. In the code as this is written it would be for specific items related to dredging, e.g. conducting sampling data, condition survey, engineering and design work, the actual maintenance removal of dredged spoils by a contractor to do that, or those items that would lead to the remediation of the silting in of the river. If we identify a specific item that we could spend money on that would prevent the river from silting in quicker, we could use this money to take care of that item as well which would extend the life of any dredging project and certainly help us in the long run. We see the cost of this. Those would be the items that it could be used for and only that. I talked with Village Attorney Snead and it is my understanding that the money can only be used for something other than that if it were a catastrophic emergency and then by a super majority, 2/3 vote, of the Village Board. We could take that money to take care of some emergency issues, e.g. catastrophic storm, fire or something that we didn't foresee that came about. Then that money would have to be returned to that fund the next year. It's being set up to be enormously transparent and to be pretty full-proof going into the future for whoever the participants or players are going forward.

Mayor Pontieri stated: one of the issues we wrestle with right now is the simple method of assessment per slip for those marinas and/or property owners that are primarily slip driven. And then there are those that have great impact on the river, but do not have slips. They may have one slip because they have one huge boat or they may have a great impact on the river because it's a large apartment complex that maybe has 3 or 4 slips, but the amount of effluent and so forth that comes into it based upon the fact they may not be open to the sewers or what may be going on. We need to take a look at those. One of the reasons of not collecting the fees this year, besides the issue of that we don't have to make a payment until after June of 2008-2009, is it gives us the opportunity to sit with the assessor and come up with a plan that is fair and equitable to all. So that those that have and I think, Kevin, that you have 67 or 70 slips, your frontage is the same as another person down the river who has 4 slips but has a great impact. We need to make

sure that the amounts of monies that we are getting for a place such as yours and their amounts are equal. So it will really give us the opportunity to do those assessments in a way that is fair and equitable to everybody. And the other issue which is very clear is we don't want it to be one of those things that just runs out or runs on and on. We will give it a finite date and allow a Board in ten years to make a decision as to whether to continue or not. But, what we would like to do is create a fund which at that point would be in excess of \$100,000 over those next five years to take a look at remediation of other problems. We've talked internally and one of the things, and we have all seen, as you go out the river and look at the jetty to the east you can see through it. I think probably a good portion of the sand that we get into the mouth of the river comes through that jetty. So we will have to work with Brookhaven Town. But, we would like to be able to set a fund to work jointly with them to take care of that as a problem. This isn't just about fixing a problem and forgetting about it as today's problem. It's about fixing a problem for the long term. But, also not encumbering the property owners for the long term. One of the things is lands affected and boundaries.

Trustee Dean stated: when taking a look at this we had to struggle with making a decision as to who is impacted and who benefits by their proximity to the river. And what we are proposing right now would be all commercial properties that are east of River Avenue, west of West Avenue and south of Division Street. If a commercial property falls within that boundary you would be in this Special Assessment District. And residential properties that have direct water access. So if you are residential property in that area but don't have direct water access, you won't be affected by this District. You would not have a direct benefit by the river being dredged. So it would be residential properties in that area that have direct water access and commercial properties within that boundary. It would roughly follow what we laid out as the Riverfront Zoning District.

Village Attorney Snead stated: one of the things that will have to happen here is that there will be a map created. There will be a second hearing at least, probably a third. This is not going to be a very quick thing. This is going to be deliberate because everybody within the district to be created is going to be taxed. All those people in the various areas have to be taxed evenly depending on the uses of their properties. This process requires the creation of a map. That once that map is created, everybody within that district has to be notified specifically and then we have to have another hearing. They have to have an opportunity to be heard about whether they should be included, whether they should not be included and whether or not the assessment that they have against their property is too high or not. Once that process is finished and once the map is finalized and the apportionments are finalized, then it will be filed with the Village Clerk and people will have the right of judicial review if they choose to. This is a very deliberate process. It is a process that can be appealed all the way up to the Supreme Court. Hopefully, we will not get there, but it is obviously designed to make sure everyone's property rights are protected.

Public Comment:

Mike Bruemmer, 31 Baker Place, Patchogue, stated: first what needs to be said is that public notice probably wasn't done quite as well as it should have been. I have the form here in front of us. I only say this because I feel it is my duty to say that in this letter that came out there is one line that says Public Hearing on the 13th, no time. To get a permit for a waterfall I had to send registered mail to all the people around me. Again, it's not for me; I'm here. But, the fact is nobody else is. If I didn't overhear that there was going to be a meeting inadvertently, I probably wouldn't have been here either. It has been said at past meetings, despite nobody is here tonight, that slip or marina owners on the river are in favor of helping out and making this happen. And I wholeheartedly agree with

that. Just to speak to some of the points brought up here tonight. I think I understand that this is specifically a dedicated fund. The money cannot go anywhere else.

Mayor Pontieri stated: we will set up a capital reserve fund which by law, once this is done and approved by the Board, it will be delineated exactly those things that those monies could be used for.

Mike Bruemmer stated: most of the public speakers have been in favor that have been here in the past; this is about people are on board because it is about getting something for real done.

Trustee Dean stated: as Lee explained, it's going to be in the Village Code, spelled out in black and white specifically and exactly what can be done and what can't be done.

Mayor Pontieri stated: it can only be removed from any of those purposes by Board motion and discussion.

Mike Bruemmer stated: so we are going with a ten year term. Five years of which for a service that which we are spending today. Another thought, it might be an interesting to take it out of the hands of the Village Board, but to give a more active participation to those people paying this tax in terms of catastrophic or unforeseen circumstances that money may have to be spent and/or the continuation in the future. It might be interesting to give those that are paying some sort of a vote or some sort of a say going forward. In other words, we are six years into this and there is 25 grand; it may bother some people to take \$25,000 and spend it on a study as opposed to doing something for real when perhaps with a little bit more pressure...

Trustee Dean stated: the items that I listed are specific items that need to be accomplished before any dredging goes forward. The sampling that has to be accomplished so the DEC water quality certificate permits can be done, condition surveys have to be conducted so the project can be designed and we know how much we are taking out.

Mike Bruemmer stated: I don't disagree with that, Joe, but there is a sensitivity to the crowd, or the lack thereof, of spending money on things that are not held it in your hand, or for real stuff. And it may be perfectly prudent and the people that are being taxed may go along with that but as we know with government, especially with surveys and environmental kinds of things, there always seems to be public money out there to get stuff like that done. It just might be an interesting concept to allow the public, the taxable entities here, to be a part of that going forward. It may make people feel more comfortable that six or seven years from now when there are a few bucks in the kitty that they may have some say as to what happens with that. And the same with bailing out. In ten years if you decide to continue to go forward, again to have the public or the people that are being taxed to have some say.

Trustee Dean stated: to continue we would have to go through this process again. To extend it beyond its lifetime would require another hearing process, etc., and a discussion just as we are engaging in now. As far as the other things, up until now there has been public money to do those things. As far as the Army Corps. of Engineers, the only thing they have done is condition surveys and sampling data and some engineering work. I would certainly hope that they have already lived up to their responsibility.

Mike Bruemmer stated: I don't take that to be a hard example. I think if the people that are being taxed felt as though ongoing and in this kind of legislation that you are putting together that they felt as though they were going to have an active part going forward. I think we have all been very forthcoming to say this is something for real, we all see it, we

all want to make it happen, we all want to be a part of it. We don't have a problem with that. Nobody on the river has been gun-shy. But, I think it would be an important gesture for the Village government to say to the people that are being taxed that even though right this second we are all on board and everybody is happy, we want you to be involved, it's your money going forward, and that they would be part of the decision process going forward.

Mayor Pontieri stated: I think that would be a given, to put together an advisory group to work with the Village Board on any of those decisions as they go forward and the spending of that money would be obvious. Because one of the things you know as you work on the river, you are a part of it. For us to go out and spend that money without bringing back those people that are intimately involved whether its Weeks Boat Yard, Blakslee at the Oar, whether it's yourself, whether it's Mark Miller or the Shermans.

Mike Bruemmer stated: Paul, I totally agree with you and as I am sure you know, I have the greatest respect for you and for this Village Board that sits in front of me today, but I think there is potentially less respect of what could potentially happen in the future. In terms of putting this into code or law, if there was some gesture and I don't mean just an Advisory Board, the fact is individually each of these marinas and families that is going to cough up this money and/or have to impose it on their customers, if they were included in the process in this legislation now, knew what was going to happen in the future. In other words, if you were going to come back and spend money on perhaps even something extraordinary, e.g. we have a hurricane and there is a breach. It's really not that difficult to send out perhaps 20 registered letters, bring everybody in, say we have a situation, is it okay, it's your money. I think it would be a nice gesture. The only other point I have to say is Joe, great job and thank you very much, and the Village Board in general getting this thing together as quickly as it's happened and really making it happen. And the last thing, it might be another nice gesture, in terms of everybody here being very forthcoming, we would allow you to tax up and let's make this happen. It might be nice to feel as though, people on the river, had some advocate on the Village Board. And I know Mr. Dean is the Village River trustee so to speak. But, as a little corollary to his position, it would be nice to know we had somebody on the Board when we have a problem, when we have an issue, when we go to the DEC to get a dock moved around and they give us 3 or 4 years of baloney, it might be nice to have somebody on the Village who claims ownership to the bottom, to feel that we could go to and be an advocate for the commercial interest on the river.

Kevin Weeks, 279 River Avenue, Patchogue, stated: I am speaking on behalf of Frank M. Weeks Yacht Yard, Inc., 10 Riverview Court, Patchogue. When I heard you wanted to extend the taxable period to ten years beyond the need for the initial dredging, I thought that was a wonderful idea because those of us who have lived and worked on the water for a long time know that you never dredge once and it is done. The shifting of subsurface sand is an ongoing, never-ending process. And the fact, you mention the one jetty that we have, whether it is porous or not, the littoral drift that exists is exacerbated by those jetties. So there will be a period of times when you will need to re-dredge, particularly the mouth of the river. So to create a capital fund for that purpose I think is wise. On the other hand, as Mike said, people always have the suspicion of government not spending the money exactly as it was earmarked. So obviously, if it says you are going to dredge that area of the river to a certain depth at mean low tide, and soundings indicate that it is starting to fill in, there is obviously a need for some maintenance dredging. That's an excellent point. I just want to share the fact; this is one of the most asked questions that I had from my customers. It's when is the river going to be dredged. And we have been very open with all of our customers. Anything that I know, or when Brian was on the Board and he was working on this project, and anything he knew we would always share with folks. I think my customers perhaps more than others are

actually almost used to this concept of a slip fee, user fee, because I've heard so much about it. Everyone that has given me feedback said they are fully on board with this. Let's face it, many of them do not live in the Village so they are not Village taxpayers, but that they would expect to pay some kind of a fee to help get the ball rolling and they understand the difficulties that this Board and other Boards have faced getting this project done. I want to forward that information to you that those 67 slip holders are fairly on board. You answered one of my questions inasmuch as I assumed that this tax would be assessed as part of our regular tax bill received in July. I assume also that it would be left to the discretion of an individual, in my case a marina owner, as how to fairly collect that fee. There has been some comments to me that an 18 foot Boston Whaler that draws less than 18 inches of water shouldn't be taxed or assessed as much as a sailboat that draws six feet of water to whom the dredging of the river is of utmost significance. I would assume that would sort of left for us to do.

Mayor Pontieri stated: you will get an assessment based upon whether it's the number of slips, the amount of footage of dock if that is the other offset to it, or frontage of the river, or whatever. That number would be yours to absorb to yourself or back to your boat owners. My first clue of the problem of the depth of the river was when my son sailed with Eric. And they had to leave on June 10th at 11 o'clock because that was the highest high tide of the year. That was the point they had to leave. And when he came back from that trip he had to be towed through the muck. I think he draws about 6 ½ feet.

Kevin Weeks stated: Mr. Forsyth I think is getting ready to go back to the Panama Canal right now. He has only been in touch with us once since he has left and it was to ask how we are making out with the river dredging. I know you collected the data about the number of slips on the river and you said somewhere between \$25 and \$50 per slip.

Mayor Pontieri stated: what we need to do and Lee and Joe and I talked about it quite extensively today. We need to sit down with the Village Assessor and take a look at those other properties and come up with a way that is fair and comes up with the number that we need to get to but fairly across the board.

Kevin Weeks asked: so when you mentioned the residential properties as either Joe or Lee did earlier, while the Riverview for instance that was here tonight and are still trying to get that project developed, they actually have obviously direct riverfront access as well as some slips so they would be an example. And the Landings would be an example of residential properties that would be affected. As Mike said, the users of the river are on board to help in any way possible. I even had one person say that he belongs to the sailing squadron, the power squadron, that sort of thing, and asked if they could do anything. The people are getting tired of watching the tide charts. Again, to second Mike, Mr. Mayor, Joe, Lee and everyone else on the Board, I think I know more than a lot of other people what a conundrum this project is. All the things that Joe mentioned a lot of public doesn't understand that those have to be done each and every time you want to put a spade in the river. It just has to be done by law and I want to commend you for your perseverance and diligence. And I think your creativity without the Federal government really fully funding it which is kind of what all us expected would happen just hasn't. The fact is that it is a Federal channel. It is something our customers don't understand when they see creeks east and west being dredged by the County, but it's a different piece that we are dealing with here. Again, my thanks for your doing that. As Mike said, to keep up in the loop down the road for maintenance projects would probably be a wise move.

Mayor Pontieri said: I will take that under advisement.

John Giaccio, Local Planner, stated: I wanted to commend you on your great effort. Things like the one-to-one relationship between the tax, the district and what actually has to be done, the sunset provision, etc. Great work. Just wanted to ask what percentage of the dredging is the tax assessment going to pay?

Mayor Pontieri stated: it is about 1.2 million for the dredging project. What we are going to be getting here is we are looking for between \$25,000 and \$30,000 a year as a total number from all owners in the district which would give us the ability to bond another \$125,000. It's about 10% of that total amount. But, if you look at the ten year spread of the money that we bring in, it's about 25% of the total amount if you combine all of the money as part of that. We have another \$125,000 coming in from the B.I.D. so together that's \$250,000. We have \$300,000 coming in from Assembly Woman Eddington from the State. We have about \$300,000 coming from Senator Trunzo. We have \$150,000 coming from the Riverview who made a commitment. And I am waiting from the final commitment from the Feds, the last to step on board; hopefully about \$300,000. That comes to about 1.2 million when you put it all together.

John Giaccio stated: I also think designating the district is pretty clever, keeping the single residences out. But, I just wonder how you are going to do that assessment. I am sure you are going to do it. But, it is a complicated formula there. I wonder about if you are going to do the residences that touches the shoreline.

Mayor Pontieri stated: I think, and this is just in terms of single residences that have slips, pretty much a slip assessment that's pretty much equal to other peoples' slip assessment. And then we have to take a look at the apartment complexes and those townhouses that actually sit right there and what kind of an assessment for the impact that they have on the river.

Mike Bruemmer stated: just in terms on how you are going to arrive at whatever this final number is going to be. It might be an interesting thought to be kind of like a reverse pyramid. Perhaps not even leaving out the single family residences. Close to my particular piece of property there are single family homeowners that by virtue of the fact that the river is on the way up, property values over the four years I have been here have doubled and in some cases tripled. So even though they may not necessarily be touching the river, by virtue of the fact that they are within this Riverfront District that we talked about in the past, bordered by river, there is an advantage to those houses even though they are single family houses. Value that they have gained by virtue of the fact that the river is vital and that it will stay open and stay vital.

Mayor Pontieri stated: they don't get the direct benefit of the view for argument sake.

Mike Bruemmer stated: you are absolutely right. But again, as a reverse pyramid, if you said every piece of property, I think there is an element of fairness in terms of tax codes, every piece of property is assessed \$25 because they are in the district. And then you have commercial property, that's the next level up and a little bit more. And then you have whatever benefit, you have x amount of slips. And then you have some other commercial benefit to come up with that number. That may seem more broadly fairer throughout the district. Just as a thought.

Trustee Dean stated: one thing that we have heard from the speakers over and over again is asking for some sort of assurance that this money would be spent on what we say it is going to be spent on. We've come up with it and we know what the intent is here. I feel we can all be trusted because we dreamed it up and we want it to be used for these purposes. But, we are not going to be sitting here forever. We need to build some language into this that the intent that we created this for is going to be kept and going

forward. Paul and I with in our conversations with Lee sounded just like you guys, how do we make this rock solid that whoever sits here going forward can't use this money for something else. We need these assurances built in. It is clearly spelled out what it can be used for and what it can't be used for and the process by which it's moved and spent for these things and for other things should a catastrophe reason. Lee assured us that those things will be built into it and be codified in the code and be rock solid.

Mayor Pontieri stated: what we will look out and what really helps us out is that by moving this into the next year, we can really take a look at the cost that we are at and we are going to back the number in. We are going to look at our cost and determine it from there. So that what we are asking for is exactly what we need. It is not going to be one of those things where we are going to ask you for \$30 per slip when we really need only \$25. It's a backed in number and that number will be a number that will put us in a position to cover the cost and do it done. We are still in wait for the Army Corps. of Engineers. The dredges are in position, the Geotubes have been ordered, and Hess agreed to take the spoils.

Mayor Pontieri stated: for the next hearing we will have in place a map, a plan for it, able to talk about actual cost and pretty much most of the code drafted at that point and time. We won't set a meeting date right now because the closer we get to that maybe we can have that available for review for the public prior to that meeting.

Upon a motion made by Trustee Dean, seconded by Deputy Mayor McGiff, and unanimously carried, the Board reserved decision.

Upon a motion made by Trustee Dean, seconded by Trustee Devlin, and unanimously carried, the meeting was adjourned at 8:23 p.m.