

Board Meeting

July 23, 2007

The Board Meeting of the Board of Trustees met in the Municipal Building, 14 Baker Street, Patchogue, New York on July 23, 2007.

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

Flag salute led by Richard Kemp.

Safety message read by Mayor Pontieri.

Upon a motion made by Trustee Crean, seconded by Deputy Mayor McGiff, and unanimously carried, the Board minutes of June 25, 2007 were accepted as presented.

Upon a motion made by Deputy Mayor McGiff, seconded by Trustee Hilton and unanimously carried, the Board minutes of July 9, 2007 were accepted with minor changes on pages 5, 7 and 8.

Village Treasurer Krawczyk presented bills for the period ending July 23, 2007:

General Fund	\$495,692.94
Trust & Agency Fund	\$6,457.94
Capital Projects	\$517,325.22
Sewer Fund	\$18,056.80
BID Fund	\$3,055.15
Housing/Code Fund	\$1,203.18
Community Development Fund	\$5,853.17
General Bills	\$6,663.53
Total	\$1,054,307.93

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

Upon a motion made by Trustee Crean, seconded by Trustee Hilton, and unanimously carried, the Board approved loan from general fund to Capital Projects Fund of \$658,294.57 and Community Development Fund of \$274.23.

Village Treasurer Krawczyk stated: 99% of monies going to Capital Projects Fund will be for the North Ocean Avenue work and we will be reimbursed for that from the DOT. And, we will get reimbursed reimbursed by Community Development also.

Mayor Pontieri stated: we have a change order submitted by Cashin for North Ocean which was reviewed by John Lund. One of the things that happened once they got into the road and tore the road up was they found there were some spots where there was some clay and bog that had to be replaced that when they did their borings it hadn't been picked up. I reviewed this with John Lund and he had worked with Bove at that time and Cashin. We have done pretty well on change orders all told. Besides the change order for the sewer which was single and separate, the other one we had was for \$45,000. This change order was for \$68,306.97 and it's the material—they had GO's and other grids that needed to be put in.

Upon a motion made by Trustee Hilton, seconded by Trustee Devlin, and unanimously carried, the request as stated above was approved.

Mayor Pontieri stated: hopefully, within two weeks the lighting will be up and for all intents and purposes the project is pretty much done. Trustee Devlin is looking at some trees to put along the top end of that in the fall. Starting tomorrow they will be doing thermo striping for the crosswalks where they will actually mill it out and repave it and they will be permanent set in. They will be doing four around the four corners; one from Havens Avenue where the Brickhouse is and one by the Library. They are more permanent ones that will stay there; they are actually into the blacktop itself. The one in front of the Library is being paid for by the B.I.D. Hopefully, we will be hearing from Keyspan by the end of this week as to when all of the gas connections and any repairs being they are doing on both Jennings and Jayne Avenue will be completed. As soon as they are completed, we have a contract with either Poscillico or Rosemar--one of those two--will be coming in to do the final paving for those two blocks and to take a look at any drainage changes that may or may not have to happen. Keyspan said initially that they would be done by the end of last week, but the rain held them up Wednesday & Thursday. Hopefully, they will be done by the end of this week--to be paved within the next week to ten days.

Trustee Crean stated: this past week we got our grant back from the County and was wondering if you could wait to do the walk before the Theatre. As we get that award back from the County, one of the things that we had talked about it possibly making that road a little ..... It will shorten the distance that the pedestrians will have to cross.

Mayor Pontieri stated: it is a process where they actually repave it and re-melt it; it's a thermo process. Metropolitan Transit did a Walkable's Community Workshop with us and talked about "necking"-- where you shrink the road down at various points to slow the traffic down. What Trustee Crean is talking about is bricking in front of the Library & Theatre so the road when it comes down you get a sense that it's shrinking a little bit and slowing the traffic down.

Attorney Snead stated: we have a public hearing scheduled to consider amending Chapter 93 regarding garage requirements. The specific issue here is if you once had a garage and if that garage were removed whether or not you have to rebuild that garage. It is a requirement of our code. It has been referenced to me that this came out of 93-7, specifically section A7, and that section, as I read it, does not seem to require what the code issue is. In other words, it says "no dwelling shall be erected on any building lot unless there shall be provided and erected on the same lot a private garage"... The initial language of that talks about the erection of a structure not the erection and maintenance of a structure. There is, however, a final sentence that says "this shall not include structures constructed prior to April 12, 1971, that did not have a private garage. I honestly don't know what the intent of that last section is. So at this point, as I tried to advise the Board—and I've spoken to Carol Giglio, this is the section they are talking about; the ZBA has interpreted this to mean that you must have a garage and if you have a garage knocked down, you would need to replace it. I don't personally share that opinion, but that is their interpretation at this point and they are entitled to make that interpretation... What I would suggest is if this Board has a desire to make it clear that we are not requiring garages to be maintained if they are knocked down, then we can do one of two things. Either specifically state that and not change the law or change the law by eliminating the last sentence which seems to be causing the problem. I know that there is a gentlemen here who has an application sitting before the Zoning Board that was denied on this issue. He is scheduled to go before the Planning Board to resolve it. We have a letter from the Planning Board indicating that they are in favor of eliminating this interpretation.

Trustee Devlin stated: and I will be able to get a letter from the Chairman of the Zoning Board as well. We have spoken and he just wanted some clarification on something from

their counsel, but that was a minor detail. John Rocco is completely in favor of changing the law to not require a garage be rebuilt.

Mayor Pontieri stated: you are saying, based upon what you are read there, the elimination of that section would clarify.

Attorney Snead stated: No. Either we can give this Board's interpretation of what that section is supposed to mean as guidance to the ZBA to use, which they could ignore if they want to. The separation of powers authorizes them to not take that recommendation. Or, by removing the last sentence, it removes the ambiguity which has led to this interpretation that we are trying to eliminate. I don't know why that last sentence was put in. It may have been put in to allow for the interpretation. It may have been put in for something completely different. It is hard for me to advise you which way to go here other than to say that you have two paths. I suppose if we were to take the position that you don't want to require this then by eliminating the last sentence, we can make it clear that is what we are doing. As an attorney I can argue it either way. And it can be argued either way, we should probably remove the ambiguity which is to say to remove the last sentence. Presently we are saying if you build a house, you have to build a garage. The first sentence of this section, that is the law. If for some reason that garage burns down or gets blown away, we are now saying you must replace it. The second sentence makes it not apply to buildings built before a certain date. One can take that to mean that if you have a garage then you have to maintain it. I don't know where they get that from, but that's the interpretation they make. That way you can say if you built a house that predated 1971 and a catastrophic fire hit and the garage burned down, or the garage burned down, this law does apply. We are treating parcels of property in the same zoning classifications differently. That's really very difficult to apply.

Trustee Hilton stated: I would say the houses built from '71 on would have to have a garage and replace it even if it were gone.

Attorney Snead stated: if that's where you want to go, you can do that. But, you have to state that explicitly and I would suggest if that is where you want to go then you should say "no building shall be erected or used on any parcel unless it has a garage..."

Trustee Devlin stated: a lot of the problem here is in many cases some of these buildings maybe were built before cars even existed. A lot of them are barns and they are not constructed to proper building code and the property may not even allow the new garage to be constructed to proper building code due to tree roots, cesspools, etc. or due to the width of the property. I think it is pretty valid to have a distinction and if 1971 is the year, I don't think we would want to say if you are building a house in 2007 and must build a garage and then a hurricane comes and they don't have to put that back up. That doesn't make sense to me. But, with these older parcels I think we need to set some guidelines and as John Rocco said it is very difficult to position a 10x20 garage which is our requirement interior space on a parcel which is only 35 feet wide.

Attorney Snead stated: I would suggest that in the decision process you go through you have got to decide a) whether we want to have garages rebuilt or whether we don't require that.

Mayor Pontieri stated: I think the point in terms of whether there it is 1971 or 1953 when the zoning code was first put together and codified is how important the issue of a garage is. Most homes built after 1953 weren't built on 35 foot plots, and if they were they were built in a manner you could get your '53 Chevy in and out of the property which is wider than most cars are right now.

Trustee Devlin stated: current zoning in A-Residence is 100 ft width; yet on Cedar Ave. which is A-Residence maybe only one or two properties there have 100 feet. Most everybody else is between 40 and 50 feet. It all predates that zoning.

Mayor Pontieri stated: the other piece of it is called the Zoning Board of Appeals. People go there with the premise that there is a problem that they would like to appeal. What we set here is appealable to them. They have the jurisdiction and the right to change whatever decision we make in that code. What we need to do is clarify the code so that it is not onerous—take the difficulty out of it and give them the flexibility to make that decision in an easier manner. My sense would be is to clarify and to first decide on a benchmark date—whether that benchmark date is 1953 when the zoning code was codified or back up to '70 for whatever reason they picked that. I wonder if that whole section was put in in 1971 about garages in general.

Attorney Snead stated: it was amended Oct. 14, 2003, by Local Law....

Upon a motion made by Trustee Devlin, seconded by Trustee Krieger, and unanimously carried, the Board voted to reserve decision on the above matter.

Upon a motion made by Trustee Devlin, seconded by Trustee Crean, and unanimously carried, the Board reserved decision on previously held public hearing to consider amending Chapter 93-7 of Village Code with regard to commercial signage and illumination until recommendations come in from the ARB.

B.I.D. Report – No Report

Chamber of Commerce Report – No Report

Trustee Krieger stated: on August 14, two performances, \$8.00/ticket, our family series is starting with the *Squeaking Clean Rock and Roll Band*. We will have 12 programs over the next few years. Gateway is in the Theatre and doing a great job with *Dreamgirls*. Last week the Mayor and I and a few members of the Theatre met with Stephen Belth, the Executive Director of L. I. Philharmonic and they are considering making Patchogue their home. We are working on a number of ideas for them and trying to find some sponsors. It is not just that they are going to perform, but there will be education programs and outreach programs for the schools. We had a very good response from them. It is really in the early stages of planning. They are trying to find some Long Island companies to invest in this program and it's a great opportunity for us—the L. I. Philharmonic right here in Patchogue. Most of the places they perform at are campus locations and they believe being in a downtown is a better opportunity to reach out to communities and help educate children on music. Their office is in Melville, but their performing space would be Patchogue Theatre and they would also perform at other venues, but this would be their home.

Trustee Krieger stated: Barbara Kane has been voted in as new Chairperson of the Board of Directors of the Patchogue Theatre. She is already working hard and still looking for Board members. If there is anyone who would like to contribute to the Theatre, please contact the Theatre Board.

Upon a motion made by Trustee Krieger, seconded by Trustee Devlin and unanimously carried, the Board approved request made by Brick House Brewery to hold their annual Twilight Trot on Sunday, July 29<sup>th</sup> at 6 p.m. They expect 200 participants and will need our code officers to help monitor the street crossings; just close them down when the people run by.

Upon a motion made by Trustee Krieger, seconded by Trustee Hilton, and unanimously carried, the Board approved request to suspend all "No Parking" restrictions in south Patchogue for the fireworks show on July 28<sup>th</sup> between the hours of 5 pm to 11 pm.

Trustee Crean stated: we should be getting delivery of the new map that both Village Clerk Seal and Trustee Devlin have assisted me on. It will have informative that is more accurate and have pictures depicting what our community is really about. I want to let Village Clerk Seal know that we appreciate the time it took coordinating that.

Trustee Crean stated: I spoke to the owners of the former Colony Shop and JR's Steak House will be looking to open their doors sometime during the first two weeks of September. There were some ownership changes within mid-stream and some design changes that took place which delayed opening. Unfortunate, it won't be the height of the summer season, but I am looking forward to their opening their doors.

Trustee Hilton stated: I would like to compliment the Mayor and Highway Foreman John Lund for solving the pond situation that we had between the walkway at Shorefront. After that 5 inch rain we had last week, it was almost dry.

Mayor Pontieri stated: we put in one large basin and two smaller basins to take the water. There already was drainage that had gone out to the Bay that had probably been 50 years in the making.

Upon a motion made by Trustee Hilton, seconded by Deputy Mayor McGiff and unanimously carried, the Board approved request for the Vocational League to use Rider Avenue Park for soccer instruction.

Upon a motion made by Trustee Hilton, seconded by Trustee Devlin, and unanimously carried, the Board approved request for the Greater Patchogue Chamber of Commerce to hold their annual Sidewalk Sales on August 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup>.

Upon a motion made by Deputy Mayor McGiff, seconded by Trustee Hilton, and unanimously carried, the Board approved request made by Justice McGuire to hire Diana Sanchez as a part time clerk at \$13.00 per hour for the Village Justice Court.

Upon a motion made by Deputy Mayor McGiff, seconded by Trustee Devlin, and unanimously carried, the Board approved request to authorize the Mayor to execute an agreement for state assistance under the "ECL" (Environmental Conservation Law) for the upgrade of the Wastewater Treatment Plant.

Trustee Devlin stated: I attended the 15<sup>th</sup> Annual DEC "Re-Leafing New York" conference in Saratoga Springs. I attended a number of seminars, met people from the DEC, met an individual from LIPA. LIPA actually administers a grant; if you plant wire-friendly trees which are any trees on a list they provide which only grows to a certain height, they will return to you \$50 a tree. Many trees if you purchase them small and bare root you can pick up for \$70 to \$90. I am excited about getting this gentleman down to Patchogue, taking a walk and seeing what areas where we might be able to actually use this grant money. There's no limitation; if we plant the trees, they will provide the rebate. I learned a lot about the grant process and met the woman who was familiar with the grant application that Marian and I submitted last year. She is very apologetic that we just missed the cut, but I found out a number of things which will enhance our next go-around which is actually coming up next fall. One of those things is they give more points, Arbor City USA which is something which I am working toward, but as part of that we would need to legislate a Tree Board. Right now we have an informal tree board. The other things you need is a tree inventory which we have started the process. Other municipalities actually hired consulting firms and

spent a lot of money their tree inventory. We actually worked out a plan. We have divided up the community and with all volunteers we will have our tree inventory finished. There are a few other requirements as far as per capita dollars. I think it is \$2 per capita in the budget some way or another, but you can use in-kind labor. So there are ways to calculate that. You can use volunteer money. I can calculate the hours that the volunteers spend doing the inventory as part as that \$2 per capita. I think that we should be able to hit most of the requirements at this point. We went to visit the Village of ..... to look at their trees and met the Commissioner of Economic Development who was actually quite interesting and explained how they had used community development block grants to implement the façade program and was highly successful. That is something that we had questions about doing in our community and I will keep in touch with him.

Upon a motion made by Trustee Devlin, seconded by Trustee Hilton, and unanimously carried, the Board set a Public Hearing date of August 13, 2007 to consider establishing a Volunteer Tree Board.

Trustee Devlin stated: that the Planning Board was wondering if there was a way we could require an applicant who needs to do a traffic study to use the firm that we select rather than contracting their own and then make it part of SEQA.

Attorney Snead stated: under SEQA you have the right to require a ..... to be done and ..... and then you have a review process that the Village would pay for. I don't believe you can require a specific vendor.....

Trustee Devlin stated: the LWRP meeting is on July 26<sup>th</sup> at Village Hall and we would like all interested parties to attend. This will be a public information meeting where the consulting firm will go through the entire process of what we are hoping to accomplish through the LWRP. There will be 30 days for public comments, people can comment that evening on the record although they will have a 30-day period to get in touch with the trustees or with the consulting firm for any comments that they may have related to our waterfront, development, zoning, water quality or whatever issues that exist.

Mayor Pontieri stated: on Monday, July 30<sup>th</sup> there will be a Blood Drive held at Village Hall from 9 a.m. to 2:15 p.m. Volunteers are needed.

Upon a motion made by Trustee Devlin, seconded by Trustee Crean, and unanimously carried, the Board re-opened the hearing on garages.

Attorney Snead stated: we pulled the Local Law for Chapter 93 and all they did was add that second sentence in 2003. On October 14, 2003 there was a public hearing held to amend chapter section 97-7-J (7) by adding after the last sentence "shall not include structure constructed prior to 4-12-71 that did not have a private garage." Attorney Snead read from the 10/14/03 Board Minutes: "Mayor Ihne indicated the purpose of this public hearing is to give relief to people that own homes hat did not have a garage prior to April 12, 1971. He mentioned that they had an application come before the Planning Board whereas a homeowner wanted to ad on to their house because they were expecting a baby. The homeowner never had a garage on the property and was required to put up a garage to make the improvement. Mayor Ihne stated the cost of a garage has increased over the years. He felt it is a hardship to mandate someone, who never had a garage and wants to make an improvement to his or her home, to put up a garage. Trustee Mosco stated it is a step in the right direction. He noted when the economics changed the property values changed. Mayor Ihne indicated they researched it back to 1956 and was unable to find any language about the purpose of making someone have a private garage. Mayor Ihne inquired if anyone from the

public wished to be heard for or against this Public Hearing. Thomas Murray, 43 Jennings Avenue, Patchogue indicated he went for a permit for his household and was told he had to have a garage. He stated the house was built before 1971 and had an old garage there for over 100 years. Mayor Ihne indicated if this were approved tonight, he would have relief for the garage. Upon a motion made by Trustee Mosco, seconded by Trustee Perry, and unanimously carried the Board approved to amend chapter section 93-7-J-7 by adding after the last sentence shall not include structure constructed prior to 4-12-71 that did not have a private garage. Trustee Mosco requested Board approval to hold a public hearing to amend chapter section 93-7-J to abolish the law dated 4/12/71 mandating new homes to construct a garage. Mayor Ihne suggested the language should include that a garage is not necessary as long as ample off street parking is provided. Deputy Mayor Weeks noted the intent of this law long ago was to get cars off the street. Trustee Mosco stated there is still on street parking in the Village of Patchogue. Upon a motion by Trustee Mosco, seconded by Trustee Donato, and unanimously carried the Board approved to hold a public hearing November 10, 2003 to amend chapter section 93-7-J to include all private homes would not be mandated to have a private garage.”

Attorney Sned stated: there was no public hearing held on November 10, 2003. As I read this, there are a couple of things that are important. It was researched back to '56 which apparently was about the time the zoning code was revamped and there was no language about the purpose of making someone have a garage. Apparently, the purpose of that hearing that night was to give relief to a guy who at one time had a garage—didn't have it at the time he made his application—but, was being told he had to put it on. So they exempted it because his house was built prior to '71. I don't know why they chose 4/12/71. But, then later it appears that they went to try and eliminate the requirement on any house and that never was done. My sense of it is that the purpose of this is to say that if you had a house that was constructed after 1971, you had to have a garage. But, if you had a house prior to 1971, you didn't. You should leave the whole thing the way it is because apparently they made a very deliberate determination to say that all houses after '71 don't necessarily have to have a garage. I would, at this point, for purposes of the issue raised here which was whether or not you have to have a garage if your house was built prior to '71 you could leave it alone. However, what you need to do ultimately is to amend the entire section to specify what is going on here.

Mayor Pontieri asked: do we clarify that interpretation for the Zoning Board.

Attorney Sned stated: for tonight you could leave this as it is. Send them a copy of this colloquy when the thing was changed and why it was changed because it clearly applies to the situation we are seeing now and saying we are not going to change this right now. However, we may change it to make it more clear in the future.

Mayor Pontieri asked: can you draft a memo to them. What happened to the situation here is they were trying to sell a house and went to get a CO and when they looked at the sight plan there was a garage there, now the garage is gone. So, you can't give him something for what's not there. So they went back to the Zoning Board. Technically that situation fits the one that is right here. The house was built prior to '71 and had a garage there that had collapsed.

Trustee Devlin stated: technically, the situations that we are trying to rectify they were attempting to do with this code, but it is so ambiguous that no one understood the intent. So you will draft a memo, based on the interpretation of this Board and give it to John for the Planning Board meeting for tomorrow as John needs direction.

Attorney Snead stated: the Zoning Board should probably have not denied them, but you are still going to have Nick to take it back up officially and reverse themselves if they so choose to do so. If they don't, then this Board has got to change the code and make it more explicit.

Mayor Pontieri asked: do we want to place in that and actually say, "where garages have either been removed or are no longer in place on the property" tonight; just add on to that sentence.

Attorney Snead stated: I would not do that without more thought. We came here for one reason and now we are switching to another. You would probably want to ask the Zoning Board what problems they are seeing.

Trustee Devlin stated: when I spoke to Nick today, he was all in favor of everything we spoke of. He just had a question about the year. Was it 1950, '60 or '70? That seems to be already written into the code.

Trustee Crean stated: they just picked that date because of this one fellow's house, but maybe we should give more thought as to what date makes more sense. Is there a reason still to have a public hearing as Trustee Moscow suggested?

Attorney Snead stated: I suspect because they set it as a public hearing was to eliminate it and then the hearing never happened and probably never published it; they probably backed off their decision... It's just my guess.

Trustee Devlin stated: I honestly believe if the intent is a parking issue, I think we all recognize that people don't park in garages. That if they have room on their property, whether the garage is there or not, they can park there if there is a driveway. A garage doesn't allow any additional parking.

Attorney Snead stated: in my experience looking at zoning codes, I have never seen a code saying you must have something as a matter of zoning code. I've seen the situation where someone says there is a covenant or restriction put on the property when they build and that you will keep this unless you come back and seek relief from the Board, but, I have never seen in a code that you must have a garage. I would leave the law as is and not change this.

Mayor Pontieri stated: my sense is if we want to change it, let's change it. Let's not wait for the next time around to discuss it again; figure it out—put it on the back shelf and be done with it. Let's sit and talk about it.

Attorney Snead stated: I will put a memo together for John Rocco, Nick Fuccillo and Ernie Maler and say this is what occurred last night and this is how the view of the Board is at this point which is that you are not inclined to make this gentleman to rebuild. The intent apparently was the Building Board suggests that possibly the Zoning Board should take a look at this and reverse its decision.

Upon a motion made by Trustee Devlin, seconded by Trustee Crean, and unanimously carried the Board tabled decision on the above.

Public to be Heard:

Henry Terry, 16 Bransford Street, asked: will anyone mind if I record this dialogue.

Mayor Pontieri stated: sure; we record you so you may record us.

Attorney Snead stated: everything that Mr. Terry is talking about is probably going to be part of either some ongoing litigation or some legal issue in preparation.

Mayor Pontieri stated: I am not going to answer any questions in relationship to those.

Henry Terry asked: first of all, do I have the right to speak here tonight. Am I limited to any particular subject matter?

Mayor Pontieri stated: you are limited to those things as we have here, as I have always said. We do the business of the Village. Things that relate to this that are either on the agenda or spoken by the Board and/or health and safety. Items on the agenda or those things limited to health and safety.

Henry Terry stated: just a question for you Mrs. Devlin. You mentioned the LWRP on the 26<sup>th</sup>. I read your notice in the *Advance* and I think it is inappropriate if not misleading. It's my understanding that the meeting that you are having is one where you are actually going to be going out into the public and seeking the public's ideas and the public's ideas about what is to be done with the re-development. The notification that you give us makes it actually sound like the Village is actually going to be informing the public as to the Village's plans.

Trustee Devlin stated: the Village's engineering firm is actually going to be informing the public as to the process of the LWRP. We have no plans at this point.

Henry Terry asked: is the engineering firm going to be informing the villagers as to the rights they have under the contract and the obligations the Village has as to include the residents in the...

Trustee Devlin stated: I am not privy to the entire presentation, but that will become obvious Thursday night. And the public will have the opportunity to speak, but it is not the only public meeting. The verbiage that was in the *Advance* was straight from the consulting firm. I did not come up with any of that verbiage myself.

Henry Terry asked: are you representing this meeting as one of the two required meetings as per the grant?

Trustee Devlin stated: I believe the consulting firm told us at the last meeting that we may have three meetings. I don't have my notes with me. So there will be an informational meeting and then, I believe, two public hearings. This was not a meeting that required a legal notice.

Henry Terry stated: I have been FOILING the part of the grant that I believe is going to be carried over--the contract items that the Village was responsible for in the previous grant, the 585, looking to see which part of the work has been done and which part of the work has not been done. Mrs. Seal has been unwilling to provide the document under FOIL or either under Ethics Law as well. I was just wondering if Mrs. Seal would like to make a comment on why this information has been withheld.

Mayor Pontieri stated: there will be no comment because this is an item that is under litigation.

Henry Terry stated: apparently the FOIL law is....

Mayor Pontieri stated: you are litigating against the FOIL law so there will be no comment made to that.

Henry Terry stated: I might be litigating past issues of the FOIL law, but there is the present FOIL law.

Mayor Pontieri stated: it does not relate to the agenda or health and safety issues. It's not that you are not allowed to ask a question, but as I said to you, we are looking for those items that are related to the agenda and business of the Village related to health and safety. Much of what you are talking about you have already put in writing to us to be answered and it will be answered within the appropriate time.

Henry Terry stated: my next question is I filed an ethics complaint with the Village and was wondering what the status of that was.

Attorney Snead stated: the ethics complaint, so to speak, was reviewed and is being sent to the Ethics Chairman.

Henry Terry asked: who is the review guy?

Attorney Snead: stated it was me.

Henry Terry asked: is that proper?

Attorney Snead stated: absolutely.

Henry Terry stated: I made a FOIL inquiry actually documents required for the Ethics Department.

Mayor Pontieri stated: it is not a question we are going to answer this evening. Thank you.

Vinnie Cardamone stated: the last time I was at the meeting, the Mayor intervened the situation with construction equipment, cement mixers, etc. using West 6<sup>th</sup> Street. They used it about three other times. My wife took over the reins and patrolled the block like John Gotti. I was at work unfortunately, fortunate for them. My daughter was home and she is with me tonight and the Mrs. was livid—there was six trucks parked there, harassing my wife--would stare her down. The other day she was stared at with a pair of binoculars and/or a camera from the construction crew on the top of the building—framing the now fourth building. Subsequently I did call Carol, Peter Sarich---this was past Friday. That's when I called Carol and requested that the Planning Board set a meeting including me in on it with the architect from Pinewood Terrace, or whoever it was originally--Gary Cannella originally with Northwood Village. Subsequently it was sold over to Pinewood. I requested that they mimic the opposite side on the Village side—a five foot berm. I have had Patty Kelly come down to the model and a few other people came down and they have agreed. We on West 6<sup>th</sup> Street, basically me and Mrs. ...., are the voice for everybody. I am sure they would love to have the idea of a big fence and greenery behind it, but face the facts, I'm the mouth that's been trying. I am really here for Vinnie Cardamone and his family and house. There is 13 units on my footprint and I think they finally realized that the Planning Board made a mistake. The mistake that was made was that it should have been put on the north side of the property. It is 141 foot wide by 1,185 foot deep and then it dumps into an L shape on Richie's old property next to me. We all know that. The point is that they didn't listen o me or the homeowners; we went out and asked and were nice about it and Mr. Roe said we can't sell them on top of the dump we have to put them on your side because nobody is going to overlook a Village yard; he said that's not fair to the people. But, it is not fair to the homeowners---some of them have lived there over 60 years that were used to the woods. If you read the minutes from the last meeting in November in either '04 or '05, Patty Kelly even said, once you take those woods down I really feel sorry for the people that live there

because they only have known it with the woods there. You can't do nothing about it. I know it is all done—all set in stone and the concrete is already in. My argument now is I didn't ask for it, it's very annoying, it's 100% invasion of my privacy and my quality of life because my wife and I spent \$1,000 last year and put up 9 foot Canadian hemlocks—they look like a pimple on a cow when you have a 24 foot tall building. I'll be dead in a box long before they grow tall enough. So, I come before this Board to serve up a memo to John Rocco and the Planning Board with Carol and I need to have assurance. This is what I want. I want 20 foot or 15-16 foot Leeland cypresses—I want a hedge. I think I deserve the hedge and the trees and the fence because I didn't ask Pinewood Manor to buy it from Mr. Muchnick who sold it. As a matter of fact, I asked for it not to be built. I would rather have a storage facility there. Hindsight being 20/20, I wish definitely it would have been a storage facility place. And the other thing is, when the garage closes at 3 o'clock those people don't have nothing to worry about. They are all at work. By the time your guys are done working, they aren't even home from work yet. Yet if you think about it, it is as aggravating for them to see me in my backyard or any one of my neighbors as it is for us seeing them. It is a double edge sword—A guy that wants to sell condos for \$500,000, as compared to me trying to sell my house for chump change compared to that. It goes both ways. It goes both ways, if you bought it, I don't think you would want to be peering over 25 feet off the property line at somebody having a good time in their yard and vice versa. It's very intrusive. The other thing is I want to be shown where the 25 foot of C-Residence was done from because every chimney ... that is on the footprint of that foundation—and some of them is 22, 21 and 23, and then they go up to 25. They don't start at 25. Peter told me they could have had an imaginary line they used. I would like to see the imaginary line because when you put a fence up and the survey marking stick is about 6 inches off of that, either one it doesn't come up to 25 feet and that's where I am really concerned on how the blind eye has gone. When the cat's away, the mice will play; however you want to call it. I measured three sides on Sunday and they are 21, 22 and 23 and there are some that are 25 because they staggered them. They are not all 25 feet. Are they going to be responsible for repairing the block because I brought John Lund to show him the two tracks of the loaded cement truck that on the warm day it literally started pushing the tar from the work was laying on for about 25 foot—both front tires. And subsequently the two holes that it made the week before. John went over to the cement truck and told them they can't use this street and he left. But, I want your eyes and ears to hear what I had to say about it because you can't get there all the time. But, I do appreciate what you did for me—that's definitely first and foremost. As you know, I have been totally against this project from day one, but I think it has gotten to the point where I am tired of fighting and I think I do deserve a little bit back now. The other thing is can we make them stop working six days a week? They were doing siding Saturday; the week before they were doing concrete—doing the forms at 7 o'clock in the morning on Saturday. It's bad enough Monday through Friday from 7 a.m. to 4 p.m. I asked that before, I don't care what their union rules are, but they have got to stop.

Mr. Kemp, 68 Jennings Ave., Patchogue stated: first of all, I have some information. I was at the meeting where Trustee Moscow and Ed Ihne discussed about the garage and I have some information that might be vital. There is a house across the street from me. At this point and time Dan Ross was the Village Attorney and Fred Lang was the Bldg. Inspector. And Fred Lang signed a demolition permit for a garage across the street. I don't believe there is anything in the minutes, but I am sure that if you look at the records for 3 Thorne Street you should find mention of a demolition permit and it is signed by Fred Lang.

Mr. Kemp stated: as far as safety issues, I have a problem with broken sidewalks caused by Keyspan and what they have done is my driveway apron presently has a 2 ft x 3 ft hole that they broke up.... In the past this has occurred several times and all they would do is patch work. The last time this occurred, there was a sawhorse blocking my driveway---and they just cut the concrete out with a diamond saw and left it. I am tired of patchwork and piecemeal. I was there until 10 p.m. with a sledgehammer breaking up the whole driveway

apron. This is part of the Village Code of Laws is that patchwork is not permitted. They came the next day with a mason who knocked on my door and said he would be needing money for additional concrete—so I made him out a check for \$250—he poured the whole apron. Then I wrote either LIPA or Keyspan a letter with a copy of the Village Code of Laws and they sent me a check for \$250. But, I want to inform you right now that that is the condition. They were mad because the old driveway apron and much of the whole sidewalk is 1 1/2” to 2” thick. They were mad because there was 6” of concrete because that is part of the Village code—a driveway apron must be 6” thick. In addition to my driveway apron, apparently there is some type of gas valves or something in front of my house, they broke up 5 to 6 feet of curbing and sidewalk and filled it in with cold patch. From all the rain coming down Thorne Street—there’s rocks and sand and everything that went completely up over the curb and sidewalk—washed all this stuff half way across. The curbing is broken in at least 5 to 6 locations beside the missing 5-6 feet. So I would like to ask for an entire new sidewalk and curbing.

Mayor Pontieri stated: we will take a look at it.

Mr. Kemp stated: I have one request. This is the hearing from the agenda and related to health and safety. I would like to create a law in the Village of Patchogue since Patchogue Village has the ability to exceed New York State laws whereby the Patchogue Village prosecuting attorney if he recuses that the Village and/or that attorney will be held libel for the expense of an attorney who has already served the Village with a notice of appearance. Can you do that?

Mayor Pontieri stated: so you are saying to me that if Paul Feuer who is the prosecuting attorney finds it’s a conflict with a person that he is prosecuting—say one of his clients—that if we need to bring in another attorney, that he should have to pay for that other attorney?

Attorney Snead stated: I think what he is suggesting is if there is an adjournment where a defendant has retained an attorney and has had to pay that counsel to come to the thing, then the Village should reimburse the defendant’s counsel for his waste of time.

Mr. Kemp stated: this was not only recusal from the prosecuting attorney not only once, but also followed by Judge McGuire refusing to try a case—there were two times and two different attorneys.

Deputy Mayor McGiff asked: so if your attorney asked for an adjournment which is his right, should we bill you for M. Feuer’s time? You should pay your attorney a flat fee; you shouldn’t pay him hourly. It’s up to you as a consumer.

Mr. Kemp stated: it’s under contract. But, Paul Feuer knew that there was a conflict of interest and he was still there was no special prosecuting attorney.

Deputy Mayor McGiff stated: he was here for other cases.

Attorney Snead stated: we cannot stop the process because the prosecuting attorney might have .....

Mr. Kemp stated: my point is my attorney served this Village with a notice of appearance for the scheduled court date.

Attorney Snead asked: did he send a letter saying you need to get another attorney here? Not every notice of appearance that comes in is reviewed by the prosecuting attorney.

Mr. Kemp stated: you, Mr. Snead, also as Village Attorney said to me “Don’t worry Rich. I’ll be sure to have a special prosecuting attorney here.”

Attorney Snead stated: I never said that to you. I don’t have that power. I don’t establish the prosecuting attorneys for this Village. They are established by this Board. If your attorney had sent a letter to Paul saying I am going to be appearing and we need to have another attorney available. Mr. Feuer does not review all notices of appearance. Notices of appearances come into the court. The court puts them in a file and doesn’t share that file with the prosecuting attorney until the day that you stand up, if your attorney is going to show up in the first place which nobody ever really knows. Often there is a letter that comes in and says I request an attorney. That’s all there is.....

Mr. Kemp stated: I spoke with Paul Feuer personally and told him of my predicament and situation, etc., and he told me he cannot represent me and he cannot prosecute me. This was more than a month before the scheduled court appearance.

Attorney Snead stated: there are processes that the court goes through. And it is unfortunate sometimes litigants have to put things off.... I personally would never recommend to this Board to pass a law like that because you never know what is going to happen. The next thing the public will say your tax money is going out to pay the defendant because he happened to choose the wrong lawyer who has the wrong jurisdiction... It is unfortunate and possibly you should have your attorney send a letter to Mr. Feuer saying I will be appearing; please send somebody. I am sure Mr. Feuer will work with you, but he has to be specifically advised of it.

Mr. Kemp stated: I would suggest when a Notice of Appearance for a specific client and a specific court date is set that immediately, or in a reasonable amount of time, that the prosecuting attorney be notified.

Attorney Snead stated: we probably process over 400 people in this court room between traffic, civil and court violations. To require the Village Justice to send a letter or a copy of each notice of appearance to the prosecuting attorney for him to look at, review and make a determination as to whether he needs to recuse himself—there are very few situations where he needs to recuse himself, it’s an onerous burden. It’s expensive. It’s an administrative headache on the Justice Court....

Dr. John Rahl, 64 Mowbray Street, stated: I am here representing my wife. She was championing this problem that we are having. I am going to read a letter that she had wrote: “My name is Kathy Rahl and I reside in Patchogue Village on Mowbray Street. Over the past few years I have noticed a problem that has becoming increasingly worse—the dumping of garbage, garbage bags, soda cans, bottles, anti-freeze, oil cans, etc. into my backyard from the two adjacent cooperative apartment complexes and their parking lots—260 Waverly Avenue and Waters Edge. I tried to resolve this problem on my own by firstly, contacting the management agencies myself in February, 2007, and tried to discuss this matter personally with them, but to no avail. Secondly, I contacted Mayor Pontieri via correspondence as well as both management agencies and Mayor Pontieri kindly sent Mr. Joe Brandi, Building Inspector, to evaluate the situation. He warned them and stated they needed to put up signs or else they would be summoned and fined for dumping. In April no signs were put up and in between that time, garbage was dumped into my backyard again. This time my husband and I searched for a name and address and found that, in fact, it was coming from the cooperative apartments. We called the town again and another inspector came, Mr. Jim Carlson, Jr. He witnessed the garbage that had been dumped, but stated he could not do anything about it because Mr. Brandi was working on that case and he would handle it and that he would leave him a message to call me back. I left several messages over three weeks but received no phone call back. Then I wrote the Mayor again and again and

asked him to please do something about the situation. Within the week Mr. Brandi had contacted the cooperative residents to come and clean up or else she would be fined. Again, the cooperatives were not given a summons nor were they fined. In May they finally put up the signs. It is almost August, close to ½ year after my initial complaint, and I am still having garbage dumped into my backyard. I have called the DEC, the local police department, and the Village and not one of them has done anything to prevent the garbage from being dumped into my back yard. Everyone shows concern. All they have issued is continuous warnings which is basically a slap on the wrist. No consequences to their actions. Therefore, their mentality must be why not continue dumping if they can get away with it. After calling the town last week and speaking to a representative who advised my wife to come to a Village meeting to see what could be done, I decided to take her advice and get a petition signed my neighbors who might be experiencing the same problem as myself. To my surprise, everyone signed except for two homeowners who were not at home—one of which is an absentee homeowner and one of which whose sister lives on the block and she said she would absolutely sign because they are having the same problem as well. Not only were my neighbors experiencing the same problem, but they themselves have called the Village several times, have written letters, have called the managing agencies of the cooperatives and have had garbage dumped. Why should wait another four years for something to be done again about the situation when some neighbors have waited over twenty years already. Presently I keep my dog in a separate for fear she may cut her paws on broken glass or eat or drink something toxic from the oil cans and anti-freeze bottles that were dumped into my backyard and are continuously dumped into my back yard. I am always in fear to have my family members or friends and children play in the backyard because of vermin, rats, raccoons, possums that go through the garbage that is dumped into my backyard from the cooperatives. It is unsanitary to say the least and I am afraid that someone may get hurt. It is a terrible way to live and, more importantly, no one should have to live this way. As I stated in my petition, which I am going to pass around in a moment: “As residents of Patchogue Village we have a right to live in a clean, vermin free, peaceful environment free from contaminated material and waste. A twelve foot privacy fence at the cooperative’s expense would provide that for us. We feel this is a reasonable request to remedy the situation. We are here today pleading for your help. We would appreciate it if you would help remedy this situation by having the cooperatives put a twelve foot privacy fence in order to prevent further garbage being dumped into our backyards.” Thank you for listening. We have a six foot high fence, but the note here that I want to mention because this is the last week and a half of events, the fence is about this tall so the people can leer over the fence. And more recently I was cleaning up my backyard, not cutting any trees or wood, after say 8 o’clock at night. So ere is no noise that should be bothersome to that point. We have a bar-b-queue pit. They lean over the fence and tell me what I can and cannot do in my own backyard more recently to the point that this woman had called the fire department on Friday the 13<sup>th</sup> about a dozen times. The fire department came down and said everything was fine. She was basically filing false claims. She was basically saying the flames on this fire pit were 6 to 9 feet flames. First of all, the fire pit is about 2 ½ feet high and maybe sometimes I would stoke the fire and it might go up to 3 to 3 ½ feet flames. The fire department came right away at one point and she said I turned down the flame—do I have control? So the fire department stopped responding, but they were saying that they have to respond to their calls because if they don’t respond, and God forbid something happens, then they are libel. I can understand that. The following week, the same thing. They called the fire department and the fire department came and said everything was fine. Then I said at that point, this is harassment. They are harassing me. Every day that I do work on my yard. Every time that I do work to clean up my yard, make myself a better place to live, they are harassing me and I am getting interruption after interruption from calls that shouldn’t be going in. So, I had the police come, public safety came down for code, then the fire marshal came later on—so all within the one day I had four different people coming to my house. First of all, the neighborhood is asking me what is going on. I feel like I am a criminal, when I am certainly not. At this point it is getting to be harassment. When my wife went around

with the petition, on 74 Mulberry they have Christmas trees dumped every year in their backyard from over the fence. They have a trampoline in the backyard. Their daughter was playing on the trampoline and there was a person in the building with binoculars leering out over their property watching their daughter jump on the trampoline. They actually filed a complaint, a report. My neighbor at 66 Mulberry has filed letters and had called the DEC also. They have been complaining about it for twenty years. We found out that the person that we had found the garbage with on our property was a similar person that she's had over the course of several years, along with other people's dumped garbage dumped that she found their letters and envelopes in. For most people it is beer bottles, oil cans, anti-freeze bottles—which again is an environmental concern if you went to a DEC meeting. That's horrendous. That kills our drinking water because the aquaphour is where we get our drinking water from so any water that's going into the ground and any contaminants going into that water is definitely detrimental to all of us. It is a parking lot along the entire fence and they park heading into us. What it is they work on their cars and the dumpster is 100 feet away, but the fence is there so they toss it over. They approach us if they have a right to our property. They may live in a cooperative and may have the right to tell each other what to do when they are doing something wrong. I don't think they have a right to tell me what to do on my own property if I am within the law. Again, the petition was signed by every neighbor on our side of the street, but I didn't bother with the neighbors across the street because it is of no concern to them.

Mayor Pontieri stated we will advise them and see what stronger actions we can take.

Upon a motion made by Trustee Crean, seconded by Deputy Mayor McGiff, and unanimously carried, the meeting was adjourned at 9:15 p.m.