

VILLAGE OF OLD FIELD
PUBLIC HEARING ON APPLICATION OF DAYTON T. BROWN
PUBLIC HEARING ON PROPOSED LOCAL LAWS 1-2008 AND 2-2008
BOARD OF TRUSTEES MEETING
TUESDAY, JUNE 10, 2008 – 700 P.M.
NEIGHBORHOOD HOUSE, 95 MAIN STREET, SETAUKET

Present

Mayor Michael Levine
Trustee Donald Pius
Trustee Ted Rosenberg
Trustee William Schaefer
Village Attorney Anthony Guardino
Village Clerk Dale Salzberg
Deputy Clerk Andrea Brosnan
Village Treasurer Anne Cadden

Present

Dayton Brown
Christine D'Alessandro
Bruce Feller
Marianne Feller
Donald King
Evelyn Lambert
Lee Lambert
Sally Lynch
Joseph Meli
Carolyn Rotunno
Rocco Rotunno
Robert Single
Margaret Sobel
Charles Southard
Tom Taranto

Mayor Levine called the meeting to order at 7:08 p.m.

Public Hearing on the Application of Dayton T. Brown

Mayor Levine opened the Public Hearing on the Application of Dayton T. Brown to amend the terms of a negative covenant, dated September 27, 1995, as it relates to property located on North Ridge Road.

On a motion made by Trustee Schaefer and seconded by Trustee Rosenberg, Mayor Levine closed the Public Hearing on the Application of Dayton T. Brown but kept it open for written submission.

The Mayor opened the public hearing on two Proposed Local Laws:

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1. Proposed Local Law No. 1 of 2008 entitled “Creating a New Chapter of the Code of the Village of Old Field that Relates to the Residency Requirements of Appointed Village Officials”

Be it hereby enacted by the Board of Trustees of the Incorporated Village of Old Field as follows:

Section 1. Residence in county required for appointed village officials.

Appointed village officials, as defined by State law or the Code of the Village of Old Field, need not be residents of the Village of Old Field but shall be residents of the County of Suffolk in the State of New York.

Section 2. Severability.

If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which judgment should have been rendered.

Section 3. Effective date.

This local law shall take effect immediately upon filing with the New York Secretary of State.

A motion was made by Trustee Rosenberg and seconded by Mayor Levine to adopt a Negative Declaration pursuant to SEQRA, determining that Local Law No. 1 of 2008 will not have a significant adverse effect on the environment. The motion was unanimously approved 4-0 with Trustees Pius, Rosenberg and Schaefer and Mayor Levine voting in favor of the motion.

Thereafter, upon a motion by Trustee Schaefer and seconded by Trustee Pius, Local Law No. 1 of 2008 was approved 4-0 with Trustees Pius, Rosenberg and Schaefer and Mayor Levine voting in favor of the motion.

2. Proposed Local Law No. 2 of 2008 entitled "Amending Chapter 55 of the Code of the Village of Old Field as it Relates to Defense and Indemnification of Elected Officials, Appointees and Employees of the Village.

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Be it hereby enacted by the Board of Trustees of the Incorporated Village of Old Field as follows:

Section 1. Amendments.

Chapter 55 of the Code of the Village of Old Field shall be amended to read as follows:

“CHAPTER 55: DEFENSE AND INDEMNIFICATION”

§ 55-1. Legislative findings.

A. This Board of Trustees hereby finds that elected officials, appointees and employees of the Village of Old Field are exposed to personal liability for errors or omissions in the discharge of their duties. This potential burden may discourage highly qualified people from seeking elected office, or serving as appointees or employees of the Village. The Board of Trustees further finds that elected officials, appointees and employees of the Village should not face the risk of personal liability where acting within the scope of their duties. Accordingly, the Board of Trustees intends to exercise its power, pursuant to Public Officers Law § 18, to defend and indemnify its elected officials, appointees and employees of the Village who, while acting in good faith within the lawful scope of his or her duties, may be sued in civil litigation for a violation of law.

§ 55-2. Definitions.

As used in this chapter, unless the context otherwise requires, the following terms shall have the meanings indicated:

APPOINTEE — Any person appointed by the Mayor and/or the Board of Trustees as a member of a public board, committee or commission, including an advisory board, commission or committee, to advise and/or assist the Village of Old Field.

BOARD OF TRUSTEES — The Old Field Village Board of Trustees.

ELECTED OFFICIAL — Any person elected, in a vote by the public, to a position in the service of the Village of Old Field.

EMPLOYEE — Any person holding a position by election, appointment or employment in the service of the Village of Old Field, whether or not

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compensated. With the exception of persons appointed to serve the Village as Village Attorney, Village Prosecutor, Village Engineer and Village Building Inspector, this term shall not include an independent contractor. The term "employee" shall include a former employee, his estate or judicially appointed personal representative.

VILLAGE — The Village of Old Field.

§ 55-3. Duty to indemnify; exceptions; copy of settlement; payment by village.

A. The village shall indemnify and hold harmless elected officials, appointees and employees of the Village from any financial loss and legal expense and shall defend and pay any judgment or settlement arising out of any claim, demand, suit or judgment by reason of alleged past or future negligence or other act, including intentional acts, by such elected official, appointee or employee, provided that such elected official, appointee or employee, at the time the claim arose, was acting within the scope of his or her duties and within the scope of his or her employment; provided further that in the case of a settlement, the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by the Board of Trustees.

B. Except as otherwise provided by law, the duty to defend and indemnify prescribed by this chapter shall not arise where the injury or damage resulted from intentional wrongdoing, recklessness or gross negligence on the part of the elected official, appointee or employee of the Village.

C. Nothing in this chapter shall authorize the Village to defend or indemnify these individuals with respect to punitive or exemplary damages, fines or penalties, or money recovered from said individuals pursuant to § 51 of the General Municipal Law. Nothing in this chapter shall be construed to defend or indemnify any individual prohibited from receiving defense or indemnity under § 18 of the Public Officers Law.

D. Upon entry of a final judgment against said individuals or upon the settlement of a claim, said individuals shall serve a copy of such judgment or settlement, personally or by certified or registered mail, within 30 days of the date of entry or settlement, upon the Clerk of the village, and, if not inconsistent with the provisions of this section, the amount of such judgment or settlement shall be paid by the village.

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§ 55-4. Conditions.

The duty to defend and indemnify prescribed by this chapter shall be conditioned upon:

- A. Delivery by the individual seeking defense or indemnity to the Village Clerk the original or a copy of the summons, complaint, process, notice, demand or pleading within 20 days after the individual is served with such document; and
- B. The full cooperation of said individual in the defense of any action or proceedings against the Village.

§ 55-5. Scope of benefit.

The benefits of this chapter shall inure only to said individuals as defined herein and shall not enlarge or diminish the rights of any other party. This chapter shall not in any way affect the obligation of any claimant to give notice to the county under § 10 of the Court of Claims Act, § 50-e of the General Municipal Law or any other provisions of law.

§ 55-6. Insurance.

The village is hereby authorized and empowered to purchase insurance, from any insurance company created by or under the laws of the State of New York or authorized by law to transact business in the State of New York, against any liability imposed by the provisions of this chapter or to act as a self-insurer with respect thereto. All payment made under the terms of the law, whether for insurance or otherwise, shall be deemed to be for a public purpose and shall be audited and paid in the same manner as other public charges. The provisions of this chapter shall not be construed to impair, alter, change or modify the rights and obligations of any insurer under any policy of insurance.

§ 55-7. Effect on immunity.

Except as otherwise specifically provided by this chapter, the provisions of the chapter shall not be construed in any way to limit, alter, impair, modify, abrogate or restrict any immunity to liability available to or conferred upon any village employee in accordance with or by reason of any other provision of state or federal statutory or common law.

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Section 2. Severability.

If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which judgment should have been rendered.

Section 3. Effective date.

This local law shall take effect immediately upon filing with the New York Secretary of State.

A motion was made by Trustee Schaefer and seconded by Trustee Pius to adopt a Negative Declaration pursuant to SEQRA, determining that Local Law #2 of 2008 will not have a significant adverse effect on the environment. The motion was unanimously approved 4-0 with Trustees Pius, Rosenberg and Schaefer and Mayor Levine voting in favor of the motion.

Thereafter, upon a motion of Trustee Schaefer and seconded by Trustee Pius, Local Law No. 2 of 2008 was approved 4-0 with Trustees Pius, Rosenberg and Schaefer and Mayor Levine voting in favor of the motion .

The Mayor closed the Public Hearing on Proposed Local Laws 1-2008 and 2-2008 and reopened the regular Board of Trustees meeting at 8:05 P.M.

PUBLIC EXPRESSION

Rocco Rotunno addressed the Board.
Lee Lambert addressed the Board.
Christine D'Alessandro addressed the Board.

MINUTES

A motion was made by Trustee Schaefer and seconded by Trustee Rosenberg to approve the Minutes of the Board of Trustees Meeting of May 13, 2008, as amended. The motion was approved 4-0 with Trustees Pius, Rosenberg and Schaefer and Mayor Levine voting in favor of the motion.

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TREASURER’S REPORT

A motion was made by Trustee Schaefer and seconded by Trustee Rosenberg to approve the Treasurer’s Report and payment of warrants for May 2008. The motion was approved 4-0 with Trustees Pius, Schaefer and Rosenberg and Mayor Levine voting in favor of the motion.

CHIEF CODE ENFORCEMENT OFFICER’S REPORT

As given by Chief William McGuire.

CORRESPONDENCE

The Mayor reported that the Board had received a letter from **Jordana and John Casicano** concerning a hole in the fence on the Lighthouse property. Mayor Levine said that he had been in contact with the Cascianos and noted that the fence would be repaired.

The Mayor also reported that the Village had received a letter from resident **Laura Russo** and that he had addressed her concerns in a reply letter.

ENVIRONMENTAL REPORTS

A motion was made by Trustee Rosenberg and seconded by Trustee Schaefer to approve the Zoning Permit application of **Collins, 115 Mt. Grey Road**, to remove ten trees, including saplings. The motion was approved 4-0 with Trustees Pius, Rosenberg and Schaefer and Mayor Levine voting in favor of the motion.

A motion was made by Trustee Schaefer and seconded by Trustee Rosenberg to approve the Zoning Permit application of **D’Alessandro, 15 Childs Lane** to remove two dead Cherry trees. The motion was approved 4-0 with Trustees Pius, Rosenberg and Schaefer and Mayor Levine voting in favor of the motion.

A motion was made by Trustee Schaefer and seconded by Mayor Levine to approve the Zoning Permit application of **Rosenberg, 147 Old Field Road**, to remove twelve (12) trees, including four (4) saplings. The motion was approved 3-0 with Trustees Pius, Schaefer and Mayor Levine voting in favor of the motion. Trustee Rosenberg abstained from the vote.

A motion was made by Trustee Schaefer and seconded by Trustee Pius to approve, subject to approval of the Building Inspector, the Building Permit application of **Lu, 10 Holly Lane**, to repair damage to the residence caused by fire. The motion was approved

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4-0 with Trustees Pius, Rosenberg and Schaefer and Mayor Levine voting in favor of the motion, subject to the approval by the building inspector.

COMMISSIONERS' REPORTS

PARKS AND BUILDINGS

Trustee Schaefer reported that the renovation of the Keepers House is nearly complete. He also reported that a new Code Enforcement vehicle would be on the street by the end of the week, that work to move the Lighthouse Septic System back from the bluff would be going out to bid, and that the landscaper, John McNulty, had been appointed to provide Village landscaping services.

SAFETY

Mayor Levine reported that a Trustee would now be in attendance at regular meetings of the Code Enforcement Officers.

STREET AND ROADSIDES

Trustee Rosenberg reported that the pot-hole repair of Village Roads is complete and that the next project, cleaning Village road catch basins, was in the scheduling stages. Private road associations that wish to co-ordinate catch basin cleaning of their street with the Village road cleaning should contact Trustee Rosenberg.

FIRE AND SPECIAL PROJECTS

Trustee Pius introduced Andrea Brosnan, the Deputy Village Clerk, and explained that they are working on a new phone system for the Village offices.

ADDITIONAL PUBLIC EXPRESSION

Lee Lambert addressed the Board.
Christine D'Alessandro addressed the Board.
Tom Taranto addressed the Board.

UPCOMING VILLAGE EVENTS

The next regular meeting of the Village of Old Field Board of Trustees will take place on Tuesday, July 8, 2008 at 7:00 p.m. at the Neighborhood House.

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A motion was made by Trustee Schaefer and seconded by Trustee Pius to adjourn the regular meeting at 8:28 p.m. and to enter into Executive Session. The motion was approved 4-0 with Trustees Pius, Schaefer and Rosenberg and Mayor Levine voting in favor of the motion.

A motion was made by Trustee Schaefer and seconded by Trustee Rosenberg to adjourn the Executive Session at 9:40 p.m. The motion was approved 4-0 with Trustees Pius, Schaefer and Rosenberg and Mayor Levine voting in favor of the motion.

A motion was made by Trustee Schaefer and seconded by Trustee Rosenberg to adjourn the regular meeting at 9:45 p.m. The motion was approved 4-0 with Trustees Pius, Schaefer and Rosenberg and Mayor Levine voting in favor of the motion.

Respectfully submitted,
Dale Salzberg
Village Clerk