

VILLAGE OF OLD FIELD  
PUBLIC HEARING ON PROPOSED LOCAL LAWS NO. 6 AND 7 – 2009 and  
BOARD OF TRUSTEES MEETING  
TUESDAY, NOVEMBER 10, 2009  
NEIGHBORHOOD HOUSE, 95 MAIN STREET, SETAUKET

**Present**

Mayor Michael Levine  
Trustee Thomas Gulbransen  
Trustee Jeffrey Owen  
Trustee Ted Rosenberg  
Trustee Stephen Shybunko  
Village Attorney Anthony Guardino  
Village Clerk Dale Salzberg  
Village Treasurer Andrea Brosnan

**Residents Present**

Bruce Feller	Marianne Feller	Susan Folan
Evelyn Lambert	Ronald LaVita	Debra Masino
Richard Masino	Ed Miller	Mario Montoya
Don Pius	John VonLintig	

Mayor Levine opened the Public Hearing on Proposed Local Laws No. 6 and 7 of 2009 at 7:05 p.m.

**PROPOSED LOCAL LAW NO. 6 OF 2009  
CREATING A NEW CHAPTER 108 OF THE CODE  
OF THE VILLAGE OF OLD FIELD AS IT RELATES  
TO THE REMOVAL OF TREES AND  
SUBSTANTIAL CLEARING**

**Section 1. Legislative intent.**

- A. The Board of Trustees of the Incorporated Village of Old Field hereby finds that there is a direct relationship between the preservation of and the planting of trees and vegetation in sufficient number in populated areas of the Village and the health, safety and welfare of Village residents and that trees are related to the natural, scenic and aesthetic values and the physical and visual qualities of the environment which the Village is obligated to protect. Trees reduce noise, provide welcome shade and privacy to Village residents, preserve the balance of oxygen in the air by removing carbon dioxide and fostering air quality and create a bucolic and rural atmosphere in the Village, especially along the roads. Vegetation also stabilizes the soil and control water pollution by preventing soil erosion and flooding, yield advantageous climatic effects and provide a natural habitat for wildlife.

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- B. The destructive and indiscriminate removal of trees and other woody vegetation causes increased Village costs for proper drainage control, impairs the benefits of occupancy of existing residential properties, impairs the stability and value of both improved and unimproved real property in the area of the destruction and adversely affects the health, safety and general welfare of the residents of the Incorporated Village of Old Field.

**Section 2. Definitions.**

For purposes of this chapter, the following terms, phrases and words shall have the following meanings:

APPLICANT – The owner, contract vendee or lessee of real property or his duly authorized agent.

IMPROVED REAL PROPERTY – Any real property on which a residential structure, clubhouse or other place of public assembly has been erected.

PERSON – Any resident of Old Field or any individual firm, partnership, association, corporation, company, public agency, public utility or organization of any kind or agent thereof.

REAL PROPERTY – Includes all unimproved and improved real property within the Incorporated Village of Old Field.

SUBSTANTIAL ALTERATION – Any cutting or drastic pruning of a mature tree which impairs, destroys or endangers the life of such tree or its natural symmetry and shall include but shall not be limited to heavy or unnecessary cutting of top branches and cutting of major lower limbs.

SUBSTANTIAL CLEARING – Any cutting or drastic pruning of brush or woody vegetation on a property which alters the runoff pattern of stormwater, or impairs, destroys or endangers the life of such brush or vegetation or its role as natural habitat.

MATURE TREE – A woody perennial plant having a single, usually elongate main stem generally with few or no branches on its lower part, and having a sufficient size depending on the following three categories of trees: canopy, understory or evergreen.

Canopy trees (e.g. Acer Rubrum, Fagus Grandifolia, Tilia, Liriodenron, Quercus) have a trunk circumference of 20” or greater measured at a point four feet six inches above ground level, except in the case where a tree has been removed without benefit of a permit, in which case the trunk

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circumference shall be measured at the highest point remaining at or above ground level.

Understory trees (e.g. Cornus Florida, Cercis, Carpinus, Nyssa) have a trunk circumference of 10” or greater measured at a point four feet six inches above ground level, except in the case where a tree has been removed without benefit of a permit, in which case the trunk circumference shall be measured at the highest point remaining at or above ground level.

Evergreen trees (e.g. Juniperus Virginiana, Ilex Opaca, Pinus Strobus) have a height of 10’ or greater.

UNIMPROVED REAL PROPERTY – Any real property on which no residential structure, clubhouse or other place of public assembly has been erected.

**Section 3. Prohibited acts; permit required; exceptions.**

- A. Permit for substantial alteration or removal of mature trees. It shall be unlawful for any person to remove, destroy or substantially alter or to cause the removal, destruction or substantial alteration of any mature tree located on any real property within the Village of Old Field, without a permit.
- B. Permit for substantial clearing. It shall be unlawful for any person to perform a substantial clearing of brush or woody vegetation on any real property located within the Village of Old Field without a permit.
- C. The foregoing provisions of this section shall not apply to:
  - (1) Horticultural pruning done pursuant to customarily accepted ornamental or therapeutic practice, which does not substantially alter the habitat of the tree.
  - (2) Any emergency situation in which the removal, destruction or substantial alteration of any tree is necessary to prevent imminent danger to human life or property.
  - (3) The removal of a dead tree pursuant to Chapter 80, Article II, of the Code of the Village of Old Field.
  - (4) Approved removal of invasive species.

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- (5) The removal of any trees, brush or woody vegetation not located within any required setback or buffer area and located within the following distance of a structure's foundation, existing or proposed:
  - (a) Front and side yards:
    - (i) On parcels having a lot area of less than 2 acres: 25 feet.
    - (ii) On parcels having a lot area of at least 2 acres, but less than 3 acres: 35 feet.
    - (iii) On parcels having a lot area of at least 3 acres: 50 feet.
  - (b) Rear yard:
    - (i) On parcels having a lot area of less than 2 acres: 35 feet.
    - (ii) On parcels having a lot area of at least 2 acres, but less than 3 acres: 50 feet.
    - (iii) On parcels having a lot area of at least 3 acres, but less than 5 acres: 100 feet.
    - (iv) On parcels having a lot area of at least 5 acres: 150 feet.
- (6) The removal or substantial alteration of any tree or substantial clearing of brush or woody vegetation required for the maintenance of any road or utility right-of-way or easement.

**Section 4. Application procedure; criteria for permit issuance.**

- A. Application for a permit shall be made to the Board of Trustees.
- B. The application shall be made on such forms as may be prescribed by the Board of Trustees and shall include but not be limited to the following:
  - (1) The name and address of the applicant.
  - (2) The purpose of the proposed removal or alteration.
  - (3) The site of the proposed removal or alteration.

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- C. A sketch or plan of the area indicating the following may be required by the Board of Trustees when deemed necessary to carry out the provisions of this chapter:
- (1) An outline of existing heavily wooded areas on the site, showing the tree type and range of sizes.
  - (2) The location and size of trees to be removed and the perimeter of areas which are not to be disturbed by tree cutting, clearing or alterations.
  - (3) The location of any improvements on the real property.
  - (4) Any additional information that the Board of Trustees may reasonably deem necessary for evaluation of the application, except that no new survey of the property or survey location of trees may be required unless there is controversy as to whether a tree is located on the property.
- D. The decision of the Board of Trustees shall be based upon the following criteria:
- (1) The condition of the tree with respect to public safety, disease and danger of falling, proximity to existing or proposed structures and interference with utility services or intended use of the land.
  - (2) The necessity of the removal or alteration of the tree in question.
  - (3) The effect of the removal or alteration thereof on the ecosystem and possible presence of protected habitat.
  - (4) The character established at the proposed site of removal or alteration with respect to existing vegetation management practices.
  - (5) The impact of any removal or alteration upon existing screening of any contiguous properties or any road or highway bordering the property.
  - (6) Applicant's intention to replant trees and revegetate the property.
  - (7) Applicant's payment of a monetary fee to mitigate for the lost vegetation in lieu of replacing the tree(s) or replanting the equivalent area of vegetation that is cleared on the property. Such fees shall be deposited into a trust fund to be used by the Village exclusively for the planting of trees and other vegetation on public property within the Village.

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- E. No permit shall be issued until such time as the Environmental Conservation Commission has made a recommendation to the Board of Trustees with regard to the application.

**Section 5. Permit fee.**

The fee for any permit required under this Chapter shall be established, and amended from time to time, by resolution of the Board of Trustees.

**Section 6. Replacement.**

The Board of Trustees may require the planting of the same or an agreed upon alternative species of trees which are as nearly comparable in type and size as practical to the trees to be removed, when the individual character of the trees or the ecological setting requires special consideration as a condition for the issuance of a permit for removal. The quantity, size, species and location of replacement trees shall be based on the recommendation of the Environmental Conservation Commission.

**Section 7. Penalties for offenses.**

Any person who shall violate any of the provisions of this chapter shall be deemed guilty of a violation and, upon conviction thereof, shall be subject to a fine of not more than \$1,000 for each tree unlawfully removed destroyed or substantially altered without a permit, and a fine of not more than \$1,000 for any other violation under this Chapter. Each such violation shall constitute a separate offense and shall be punishable as such hereunder.

**Section 8. Additional rights and remedies not affected.**

Nothing herein contained shall abridge or alter any rights or remedies now or hereinafter existing, nor shall this chapter nor any provisions thereof nor any rule or regulation promulgated thereunder be construed as estopping the Village of Old Field from exercising its right and fulfilling its obligations to protect the public health and welfare. In addition to all other remedies available to the Village, this chapter shall be enforceable by injunction in an action brought in the Supreme Court.

**Section 9. 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.

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**Section 10. Effective date.**

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

The Mayor closed the Public Hearing on Proposed Local Laws 6-2009 and opened the regular Board of Trustees meeting at 7:55 P.M.

A motion was made by Trustee Rosenberg and seconded by Trustee Shybunko to adopt a Negative Declaration with respect to the adoption of Proposed Local Law #6 of 2009, which is classified as an "unlisted action" under SEQRA, upon a finding that the adoption of said local law will not have a significant adverse effect on the environment . The motion was unanimously approved 5-0 with Trustees Gulbransen, Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion.

Upon a motion by Trustee Gulbransen and seconded by Trustee Rosenberg, Proposed Local Law No.6 of 2009 was approved 5-0 with Trustees Gulbransen, Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion .

At 7:57 p.m. Mayor Levine closed the regular Board of Trustees meeting and opened the Public Hearing on Proposed Local Law No. 7-2009.

**PROPOSED LOCAL LAW NO. 7 OF 2009  
AMENDING SECTION 121-55 OF THE CODE OF  
THE VILLAGE OF OLD FIELD AS IT RELATES TO  
THE CLEARING OF A WOODED AREA OR THE  
CUTTING OF TREES**

**Section 1. Amendments.**

Section 121-55(A) of the Code of the Village of Old Field shall be amended to read as follows:

§ 121-55. Zoning permits.

A. It shall be unlawful for any person to commence any work in connection with the following until after the issuance of a zoning permit by the Village Clerk, as provided herein:

\* \* \*

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- (2) The excavation, filling or grading of land, or the removal of existing ground cover. Material that exists on the premises shall be used for site work whenever possible. No material to be used as fill in excess of 100 cubic yards per acre of lot area shall be permitted to be imported from sources off of the premises.

\* \* \*

**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.

The Mayor closed the Public Hearing on Proposed Local Laws No. 7-2009 and opened the regular Board of Trustees meeting at 8:00 p.m.

A motion was made by Trustee Rosenberg and seconded by Mayor Levine to adopt a Negative Declaration pursuant to SEQRA, determining that Local Law #7 of 2009 will not have a significant adverse effect on the environment. The motion was unanimously approved 5-0 with Trustees Gulbransen, Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion.

Upon a motion made by of Trustee Gulbransen and seconded by Mayor Levine, Proposed Local Law No. 7 of 2009 was unanimously approved 5-0 with Trustees Gulbransen, Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion.

**PUBLIC EXPRESSION**

Ronald LaVita addressed the Board.  
Ed Miller addressed the Board.  
Susan Folan addressed the Board.  
Richard Masino addressed the Board  
Don Pius addressed the Board.  
Bruce Feller addressed the Board.



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**MINUTES**

A motion was made by Trustee Rosenberg and seconded by Mayor Levine to approve the Minutes of the September 15, 2009 meeting. The motion was approved 4-0-1 with Trustees Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion. Trustee Gulbransen abstained from the vote.

A motion was made by Trustee Rosenberg and seconded by Trustee Shybunko to approve the Minutes of the October 13, 2009 meeting. The motion was approved 4-0-1 with Trustees Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion. Trustee Gulbransen abstained from the vote.

**TREASURER’S REPORT**

A motion was made by Trustee Shybunko and seconded by Mayor Levine to approve the Treasurer’s Report and payment of warrants for October 2009. The motion was approved 5-0 with Trustees Gulbransen, Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion.

**CORRESPONDENCE**

Marianne Feller read aloud her letter of October 19, 2009 that was addressed to the Mayor and the Board.

Gentlemen:

Reflecting on matters discussed at the Village Board Meeting of October 13, 2009, we are compelled to offer the following thoughts for your consideration.

Mayor Levine’s recap of recent Village burglaries serves as a well advised reminder to be vigilant and observant on our own behalf and that of our friends and neighbors. It also signals the need for the Village to take appropriate actions, to the extent it can, to help assure the safety of residents and their property.

We are reminded that several months ago, the Village Board, as a matter of economic necessity, decided to reduce Code Enforcement Officer coverage by limiting the number of scheduled tours of duty. In this context, it is difficult for us to understand why the Village has authorized expenses of up to \$8,000 to explore opportunities to beautify the Lighthouse grounds, and possibly shoreline along Old Field Road. We suggest that opinion will vary widely among Village residents about the need to proceed with this initiative, even if the Village were comfortably bankrolled, much less at a point in time when in the interest of economy, Code Enforcement coverage has been reduced.

We are well aware of the limitations imposed on the Code Enforcement Officers’ ability to “enforce the law”. However, it is widely acknowledged that their visibility in the Village, and vigilance in observing vehicular traffic and other activities, have a positive affect on the safety and security of our residents. If our arithmetic is correct, \$8,000 would finance ten additional hours of

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Code Enforcement coverage each week for a year. If a “beautification” program is, in fact, initiated as a result of the impending study, its substantial cost, even with “matching funds”, would obviously equate to even greater restoration of such coverage.

While on the matter of visible presence, it is suggested that steps be taken immediately to maximize visibility of Code Enforcement presence in the Village on all tours. In our experience, the Code Enforcement vehicle is more typically parked at the Lighthouse than on the “roll”.

Lastly, if plans materialize to open views of Conscience Bay along Old Field Road, it is respectfully requested that our vistas be improved as little as possible, as we are very happy with our Easterly view. Seriously, it just seems to us that priorities are in need of major readjustment at this juncture. It is requested that this letter be read aloud at the November Board Meeting.

In the conversation that followed, Mayor Levine addressed ways in which the Village security could be increased.

Rich Masino addressed the Board.  
Don Pius addressed the Board.

### **CHIEF CODE ENFORCEMENT OFFICER’S REPORT**

As given by Mayor Levine

### **ENVIRONMENTAL REPORTS**

#### **ZONING PERMITS**

A motion was made by Trustee Rosenberg and seconded by Trustee Gulbransen to approve the Zoning Permit application of **Consoli, 133 Old Field Road**, to remove 1 tree. The motion was approve 5-0 with Trustees Gulbransen, Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion.

A motion was made by Mayor Levine and seconded by Trustee Shybunko to approve the Zoning Permit application of **Paul, 153 Old Field Road** to remove 1 tree. The motion was approve 5-0 with Trustees Gulbransen, Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion.

#### **BUILDING PERMITS**

A motion was made by Trustee Rosenberg and seconded by Trustee Gulbransen to approve the Building Permit application of **Patel, 166 Old Field Road**, to install solar panels on the roof of the residence, subject to the approval of the building inspector. The motion was approve 5-0 with Trustees Gulbransen, Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion

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**COMMISSIONER’S REPORTS**

**MS4**

Trustee Gulbransen reported that he had recently attended several meetings on Municipal Separate Storm Sewer Systems (MS4). He noted that not only have Village obligations for inspections and reviews under MS4 been tightened but also that the qualifications that must be met by designated reviewers have been made more stringent.

**FIRE AND SPECIAL PROJECTS –**

Trustee Shybunko reported that the low bidder on the open bid for the new sanitary system at the Lighthouse has been deemed responsible by the outside consultant. The new sanitary system will be included in next year’s budget.

**PARKS AND BUILDINGS AND STREET TREES – No Report**

**STREETS AND ROADSIDES**

Trustee Rosenberg reported that the project to repave the Village intersections at Old Field Road and Mt. Grey, and Old Field Road and Quaker Path should be complete within the week. Trustee Rosenberg also noted that he was in the process of investigating and establishing costs to resurface the public roads with oil and bluestone.

**NEW BUSINESS**

**CONTRACT FOR SNOW AND ICE REMOVAL**

A motion was made by Trustee Mayor Levine and seconded by Trustee Gulbransen to enter into a contract with the Town of Brookhaven for snow and ice removal, salt, sand and general repairs of Village owned roads for the period November 1, 2009 through October 31, 2010. The motion was approved 5-0 with Trustees Gulbransen, Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion.

**ELECTION RESOLUTION**

A motion was made by Trustee Rosenberg and seconded by Trustee Shybunko to approve the following election resolution for the upcoming election on March 16, 2010:

RESOLVED, that the Board of Trustees of the Incorporated Village of Old Field hereby declares and determines that personal registration for Village residents in the next general Village Election on March 16, 2010 shall not be required if their

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names appear on the 2010 Suffolk County registration poll records or as otherwise  
authorized by Section 15-118 of the Election Law, and

FURTHER RESOLVED, that there shall be no Village registration day for  
Village elections pursuant to Subdivision 3 of Section 15 -118 of the  
Election Law, and

FURTHER RESOLVED, that the Inspectors of Election shall meet on  
March 9, 2010 at 7:30 p.m. to adopt, use or copy from the registration list,  
certified and supplied by the Suffolk County Board of Elections, the  
names appearing thereon of all persons, residing in the Village and  
qualified to vote at such forthcoming general Village election.

FURTHER RESOLVED, that the next general election for the  
Incorporated Village of Old Field, Suffolk County, New York, shall be  
held at the Old Field Village Hall, 207 Old Field Road in said Village on  
March 16, 2010; that the hours and opening and closing the polls thereof  
shall be 12:00 noon and 9:00 p.m., respectively and that during such  
period of nine consecutive hours the polls shall be kept open for the  
purpose of choosing and electing the following officers:

- Mayor for a term of two year
- Trustee for a term of two years
- Trustee for a term of two years
- Village Justice for a term of four years

It was noted that at least two Inspectors of Election must be appointed before the  
forthcoming election. Accordingly, on motion duly made and seconded, the Board  
unanimously

RESOLVED, that the following be, and they are hereby, designated and  
appointed to act as Inspectors of Election for a fee of \$150.00 per person:  
Carol Schraut, Chairperson  
Cynthia Preibe  
Marianne Feller  
Nancy Portnoy

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FURTHER RESOLVED, that the Clerk of the Village shall be, and hereby is, directed to prepare the proper notice of said annual election pursuant to Section 15-104 of the Election Law and to cause said notice to be published in the Village Times issue of March 4, 2009, containing the date of the election and the polling place; the hours during which the polls shall be open; the names and addresses of all those who have been duly nominated whose certificate of petition of nomination has been duly filed with said Village Clerk and the term of such office for which they have been so nominated; and an abstract of any proposition to be voted upon, if any, and to cause a printed copy thereof to be posted conspicuously in at least six (6) public places in the Village at least one (1) day before said election and at each polling place, and

FURTHER RESOLVED, that a voting machine shall be used at this election; the Village Clerk is authorized to order the same from the Board of Elections in Riverhead, and that the Village Treasurer is authorized to pay the required rental and costs of transportation for the voting machine.

The motion was approved 5-0 with Trustees Gulbransen, Owen, Rosenberg and Shybunko, and Mayor Levine voting in favor of the motion.

**UPCOMING VILLAGE EVENTS:**

The next regularly scheduled work session of the Board will take place on Thursday, December 3, 2009 at 5:00 p.m. at the Lighthouse.

The next meeting of the Village of Old Field Board of Trustees will take place on Tuesday, December 8, 2009 at 7:00 p.m. at the Neighborhood House.

**EXECUTIVE SESSION and AJOURNMENT**

A motion was made by Trustee Rosenberg and seconded by Trustee Owen to adjourn the regular meeting at 8:55 p.m. and to enter into Executive Session. The motion was approved 5-0 with Trustees Gulbransen, Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion.

A motion was made by Mayor Levine and seconded by Trustee Shybunko to adjourn the Executive Session at 9:30 p.m. The motion was approved 5-0 with Trustees Gulbransen, Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion.

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A motion was made by Mayor Levine and seconded by Trustee Owen to introduce proposed Local Law No. 10 - 2009 establishing a 6 month moratorium on the construction of wind energy conversion systems. The motion was approved 5-0 with Trustees Gulbransen, Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion.

A motion was made by Mayor Levine and seconded by Trustee Sybunko to adjourn the regular meeting at 9:32 p.m. The motion was approved 5-0 with Trustees Gulbransen, Owen, Rosenberg and Shybunko and Mayor Levine voting in favor of the motion.

Respectfully submitted,  
Dale Salzberg  
Village Clerk