

VILLAGE OF OLD FIELD  
BOARD OF TRUSTEES MEETING  
TUESDAY, MAY 11, 2010  
NEIGHBORHOOD HOUSE, 95 MAIN STREET, SETAUKET

**Present**

Mayor Michael Levine  
Trustee Thomas Gulbransen  
Trustee Jeffrey Owen  
Trustee Ted Rosenberg  
Village Attorney Anthony Guardino  
Village Clerk Dale Salzberg

**Absent**

Trustee Stephen Shybunko  
Village Treasurer Andrea Brosnan

**Residents Present**

RossBlechman	Kenneth Buck	Darlene Chardon
Eleanor Consoli	Lev Ginzburg	E. Hakim-Elahi
Bruce Feller	Marianne Feller	Chris Fletcher
Deborah Gandt	Howard Gandt	Judith Gentile
Brbara Grey	Lenard Hamilton	Gar Harbottle
Naomi Harbottle	Stephen A. Hayduk	Stephen G. Hayduk
Eileen Higgins	John Hoge	Kenneth Jaeggi
Patti Jaeggi	Ed Kemp	Florence Kemp
Ron LaVita	Lee Lambert	Debra Masino
Richard Masino	Dana Micklos	Gerry Morrison
Noah Nadelman	Susan Nalewajk	Don Pius
Bonnie Rampone	Chuck Rampone	Tom Redder
Edward Reich	Fredelle Robinson	Lydia Rhoades-Brown
Debra Seferian	Haig Seferian	Jeff Schnee
Tracy Smith	Margaret Sobel	Tom Taranto
John VonLintig		

Mayor Levine called the meeting to order at 7: 10 p.m.

**PROPOSED RECONSTRUCTION PROJECT FOR VILLAGE ROADS**

Earlier this month, a letter was mailed to Village residents notifying them that the Board was considering a public roads project that would first involve the installation of catch basins to correct drainage and runoff problems, and then repaving of Village roads. Trustee Rosenberg offered a history of Village road repairs noting not only that the roads have not been resurfaced in a decade but also that drainage was key to road repair and maintenance. Trustee Rosenberg noted that the Village was investigating the feasibility of financing the project through a municipal bond and introduced Noah Nadelson who answered questions about alternative payback schedules. He also addressed several concerns that had been raised by Village residents in the weeks prior to the public meeting.

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The following residents addressed the Board:

E. Hakim-Elahi	Stephen Pinks	Gar Harbottle
Fredelle Robinson	Edward Reich	Howard Gandt
John VonLintig	Leonard Hamilton	Gerry Morrison
Susan Nalewajk	Jeff Schnee	Tom Taranto

**PUBLIC HEARING ON LOCAL LAW #2 OF 2010**

Upon motion made by Trustee Rosenberg and seconded by Mayor Levine, at 8:20 p.m. the Mayor opened the Public Hearing on Proposed Local Law No. 2-2010.

**PROPOSED LOCAL LAW NO. 2 OF 2010  
CREATING A NEW CHAPTER OF THE CODE OF  
THE VILLAGE OF OLD FIELD ENTITLED  
"STREETS AND SIDEWALKS"**

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

**Section 1. Creation of new chapter.**

The Code of the Village of Old Field shall be amended to add a new chapter entitled "Streets and Sidewalks," which shall read as follows:

**§ 1. Street opening permit required.**

No municipal corporation, public utility corporation, corporation, person or association of persons shall excavate or open the surface of any public or private street, road or highway which is open to public motor vehicular traffic, or any street, road or highway or part thereof in and over which the Village shall have jurisdiction or shall in any way alter any curbing, gutters, gutter basins, drainage lines or other works within such a street, road or highway for any purpose without a written street opening permit from the Village Clerk.

**Section 2. Eligibility for permit.**

No street opening permit shall be issued by the Village Clerk, except to a municipal corporation, a public utility corporation, or an owner of property assessed upon the Village assessment roll on an application signed by said owner or on behalf of said owner by his duly authorized agent (authorization of an agent shall be signed by the owner and acknowledged before a notary public and shall accompany the application).

**§ 3. Authorization for permits to other applicants.**

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Persons or corporations other than those mentioned in § 2 may be granted street opening permits only when authorized by the Board of Trustees on such terms as shall be required by said Board.

**§ 4. Permit fee, deposit; security.**

- A. No street opening permit shall be issued unless and until the applicant has paid to the Village Clerk the required fee, which shall be established from time to time by resolution of the Board of Trustees.
- B. No street opening permit shall be issued unless and until the applicant has deposited with the Village Clerk a sum in cash, established from time to time by resolution of the Board of Trustees, to be applied by the Village to the cost of restoration of the street, road or highway to the condition before the opening in the event that the applicant shall fail or omit to make or complete such restoration.
- C. In lieu of the cash deposit required by subsection B hereof, an applicant may deliver to the Village Clerk an indemnity bond of a responsible surety company or, with the approval of the Board of Trustees, its personal corporate bond, in a sum equal to the required cash deposit, guaranteeing the restoration of the street, road or highway to its condition before the opening was made and the maintenance thereof for one year and to indemnify the Village against the nonperformance thereof.

**§ 5. Refund of deposit; costs exceeding deposit.**

In the case of a deposit, after restoration of the street, road or highway is made, if the cost to the Village has not amounted to the sum deposited to cover the cost, the Board of Trustees may, by resolution, authorize the Village Treasurer to refund to the applicant the balance. However, if the cost shall exceed the sum on deposit, the applicant shall, on demand by the Village, pay such excess amount. Upon failure to pay by a permittee or owner of property in the Village, said excess amount shall be assessed against such permittee or owner of the property as provided by law.

**§ 6. Restoration of street, road or highway.**

The permittee shall restore the street, road or highway to its condition before the opening and, on default thereof, the Board of Trustees may have the restoration work completed by the Village. Such default shall be effective on three days' notice given by certified mail to the permittee, addressed to the address given on the application for the permit.

**§ 7. Construction specifications.**

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The permittee making the opening shall backfill or cause to be backfilled the opening and shall place thereon temporary pavement which shall be cared for by the permittee until such time as proper settlement has taken place to allow the laying of a permanent pavement. The Village shall be notified at all stages of the work for the purpose of inspection. As a minimum, compliance with County of Suffolk [or Town of Brookhaven] requirements and regulations for the making of street openings, backfilling, replacement of pavement and curbing shall be acceptable for the performance of said work.

**§ 8. Barricades and lighting.**

All openings, when unguarded, shall be barricaded, as shall be required for public safety, and shall be lit between sunset and sunrise.

**§ 9. Insurance.**

Prior to the issuance of a street opening permit, there shall be furnished to the Village a policy of insurance, insuring the Village against public liability and property damage with limits of \$1,000,000/\$500,000 for personal injuries and \$100,000/\$50,000 for property damages. A municipal corporation or public utility corporation may, in lieu of an insurance policy, file with the Village its bond to hold the Village harmless from all damages to persons or property, including the defense of any action, which may result from the issuance of any street opening permit and the work in connection therewith.

**§ 10. Expeditious completion of work.**

The work to be done under any street opening permit shall be commenced, continued and completed with due diligence and expeditiously.

**§ 11. Term of permit.**

- A. All work for which a street opening permit has been issued shall be completed prior to the expiration date of said permit.
- B. A street opening permit shall be valid for 30 days, except as hereafter provided.
- C. A street opening permit shall expire unless work pursuant thereto has been commenced within 10 days of the date of issuance.
- D. A street opening permit shall be deemed in effect during the time required for the settling of backfill and restoration of permanent pavement, but in no event shall the permit continue in effect later than three months after

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the date of issuance unless the Board of Trustees shall further extend the time for good cause.

**§ 12. Revocation of permit.**

The Board of Trustees shall have the power to revoke a street opening permit issued hereunder whenever it shall find that the permittee shall have refused, failed or omitted to comply with any provisions of this local law.

**§ 13. Penalties for offenses.**

Any person violating any provision or requirement of this local law shall be guilty of a misdemeanor and, upon conviction thereof, be punished by a fine of not more than \$500 or by imprisonment for a period not exceeding 30 days, or by both such fine and imprisonment. A continuation of an offense against the provisions of this local law shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

**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.

Upon motion made by Trustee Rosenberg and seconded by Trustee Gulbransen, Mayor Levine closed the Public Hearing on Proposed Local Law No. 2-2010 and opened the regular Board of Trustees meeting at 8:25 p.m.

A motion was made by Trustee Gulbransen and seconded by Trustee Rosenberg to adopt a Negative Declaration pursuant to SEQRA, determining that Local Law No.2-2010 will not have a significant adverse effect on the environment. The motion was approved 4-0 with Trustees Gulbransen, Owen, and Rosenberg and Mayor Levine voting in favor of the motion.

Upon a motion made by of Trustee Rosenberg and seconded by Trustee Owen, Proposed Local Law No. 2-2010 was approved 4-0 with Trustees Gulbransen, Owen, and Rosenberg and Mayor Levine voting in favor of the motion.

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**PUBLIC HEARING ON LOCAL LAW #3 OF 2010**

Upon motion made by Trustee Gulbransen and seconded by Mayor Levine, at 8:26 p.m. the Mayor opened the Public Hearing on Proposed Local Law No. 3-2010 at 8:26 p.m.

**INCORPORATED VILLAGE OF OLD FIELD  
BOARD OF TRUSTEES**

**LOCAL LAW NO. 3 OF 2010 AMENDING  
CHAPTER 121 OF THE CODE OF THE VILLAGE  
OF OLD FIELD AS IT RELATES TO WIND  
ENERGY CONVERSION SYSTEMS ("WECS") AND  
OTHER STRUCTURES IN THE VILLAGE OF OLD  
FIELD**

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

**Section 1. Legislative findings; intent.**

It is the intent of the Board of Trustees of the Incorporated Village of Old Field in adopting this local law to preserve the scenic beauty and character of the Village by prohibiting Wind Energy Conversion Systems (hereinafter "WECS") from being constructed on any property located within the Village's boundaries. The Board is mindful of the fact that WECS represent a renewal energy resource, but finds, based on its research of several wind energy trade publications and other government research sources, that WECS are often not effective in residential areas for a variety of reasons, including that WECS must be installed at heights that are significantly higher than nearby buildings, the surrounding tree line and other items that create wind vertices that impact wind currents and reduce a WECS' ability to generate power. Since the Village Code permits principal structures with a maximum height of 35 feet, and many trees in the Village reach heights of 50 feet or more, a WECS would have to be installed on towers with heights exceeding 50 feet to be effective, according to industry experts. In addition to the detrimental aesthetic impact that these structures would have at the necessary height, the Board finds that when a WECS is located in front of a sunrise or sunset, its rotating blades create a "shadow flicker" that would impact surrounding properties. Accordingly, the Board finds that the construction of WECS would not only have a significant adverse impact on the scenic beauty and character of the Village, but will negatively impact the use, value and enjoyment of surrounding properties. The Board notes that residents of Old Field continue to have options available to support renewable energy from WECS via larger-scale, commercial operations with proven energy yields via green power purchasing

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programs such as offered by Community Energy Inc. via the Long Island Power Authority.

The Board also finds that, according to the wind resource map for the State of New York published by the United States Department of Energy Wind Program and the National Renewable Energy Laboratory (NREL) which shows wind speed estimates at 50 meters above the ground, the Village of Old Field is located in a Wind Power Class 3 area. Class 3 areas have a wind resource potential described on the map as "fair," and are described as suitable for utility-scale wind development only. The Board concludes that if a residential WECS' potential to generate power is only "fair" at 50 meters or approximately 164 feet in height, WECS installed at lower heights that are more appropriate for residential communities will have an effectiveness that is marginal, at best. This conclusion is corroborated by wind experts who have said that small-scale residential WECS, even when installed at heights as high 45 feet, typically will not capture enough wind to make them economically viable.

In addition, the Board's literature research has revealed several articles linking the use of WECS to the death of large numbers of birds and bats. The Board finds that the marginal effectiveness of residential WECS at any height is outweighed by the negative impact that these structures will have on the scenic beauty and character of the Village, the value of nearby properties, and the area's sensitive avian populations.

Based upon the foregoing, the Board of Trustees has determined that, in order to preserve the scenic beauty and character of the Village and protect the value of its properties, and as a means of promoting the health, safety and welfare of the Village and its residents, WECS shall be prohibited on all properties in the Village of Old Field.

**Section 2. Amendments.**

Chapter 121 of the Code of the Village of Old Field shall be amended to read as follows:

**§121-5. Definitions.**

\* \* \*

WIND ENERGY CONVERSION SYSTEM (WECS) - A machine that converts the kinetic energy of the wind into a usable form (commonly known as a "wind turbine" or "windmill") that drives an electrical generator. The WECS includes all parts of the system including the tower and the transmission equipment; the turbine or windmill may be on a horizontal or vertical axis, rotor or propeller.

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**§121-8. Prohibited uses.**

\* \* \*

I. Wind Energy Conversion Systems, either as a principal or accessory use and regardless of whether connected to a public utility or private.

**§121-17. Maximum heights.**

A.No main building or structure hereafter erected, enlarged or altered shall exceed 35 feet in height. No accessory building or structure hereafter erected, enlarged or altered shall exceed 25 feet in height.

\* \* \*

**Section 3. 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 4. Effective date.**

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

Upon motion made by Trustee Gulbransen and seconded by Mayor Levine, the Mayor closed the Public Hearing on Proposed Local Law No. 3-2010 and opened the regular Board of Trustees meeting at 8:35 p.m.

A motion was made by Trustee Gulbransen and seconded by Mayor Levine to adopt a Negative Declaration pursuant to SEQRA, determining that Local Law No.3-2010 will not have a significant adverse effect on the environment. The motion was unanimously approved 4-0 with Trustees Gulbransen, Owen, and Rosenberg and Mayor Levine voting in favor of the motion.

The Board will proceed to vote at a later date pending the decision of the Suffolk County Planning Commission.

**MINUTES**

A motion was made by Trustee Rosenberg and seconded by Mayor Levine to approve the Minutes of the April 13, 2010 Board of Trustees Annual Organizational Meeting. The



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motion was approved 3-0 with Trustees Owen, and Rosenberg and Mayor Levine voting in favor of the motion. Trustee Gulbransen abstained from the vote.

**TREASURER'S REPORT**

A motion was made by Mayor Levine and seconded by Trustee Gulbransen to approve the Treasurer's Report and payment of warrants for April 2010. The motion was approved 4-0 with Trustees Gulbransen, Owen, and Rosenberg and Mayor Levine voting in favor of the motion.

**CHIEF CODE ENFORCEMENT OFFICER'S REPORT**

As given by Mayor Levine.

**ENVIRONMENTAL REPORTS**

A motion was made by Mayor Levine and seconded by Trustee Owen to approve the Zoning Permit application of **Buck, 17 Crane Neck Road** to remove 16 trees as noted in the diagram on file in Village Hall. The motion was approved 3-1 with Trustees Owen and Rosenberg and Mayor Levine voting in favor of the motion. Trustee Gulbransen was opposed.

A motion was made by Mayor Levine and seconded by Trustee Rosenberg to approve the Zoning Permit application of **Husch, 9 West Gate Lane**, to remove 5 trees. The motion was approved 4-0 with Trustees Gulbransen, Owen, and Rosenberg and Mayor Levine voting in favor of the motion.

A motion was made by Trustee Owen and seconded by Mayor Levine to approve the application for a Building Permit for **Barle, 2 Old Field Woods Road**, for construction of a 170 sq. ft. master bath, 70 sq. ft. library extension, and to add a bedroom and relocate bathroom within the existing foot print. The motion was approved 4-0 with Trustees Gulbransen, Owen, and Rosenberg and Mayor Levine voting in favor of the motion subject to review and approval by the Village Building Inspector

**COMMISSIONER'S REPORTS**

**ENVIRONMENTAL REPORT**

Trustee Gulbransen reported that he had recently met with representatives of the State Environmental Management Office (SEMO) and the Federal Environmental Management Agency (FEMA). Three applications have been submitted to SEMO and FEMA in an effort to retrieve state and federal funds to offset the costs to the Village for damages caused by the severe winter storms. Damages included additional security at downed electric lines, tree removal, and restoration of the marsh at Flax Pond. Trustee Gulbransen

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also noted that he is applying for funding with the EPA to address issues of erosion at Flax Pond inlet.

**PARKS AND BUILDINGS AND STREET TREES**

A motion was made by Mayor Levine and seconded by Trustee Owen to approve the proposal submitted by Old Field Landscaping for invasive species control and native plant maintenance on the Lighthouse grounds at a cost of \$4,000, noting that \$1,800 would be paid with contributions from the Old Field Place Assn. The motion was approved 3-1 with Trustees Gulbransen and Owen and Mayor Levine voting in favor of the motion. Trustee Rosenberg was opposed.

Don Pius addressed the Board.

**STREETS AND ROADSIDES**

A motion was made by Mayor Levine and seconded by Trustee Rosenberg to approve the contract award for construction of catch basins on Old Field Road to BiMasco, Inc. for \$49,800.00. The motion was approved 3-1 with Trustee Owen and Rosenberg and Mayor Levine voting in favor of the motion. Trustee Gulbransen was opposed.

Don Pius addressed the Board.

Stephen Hayduk addressed the Board.

Margaret Sobel addressed the Board.

A motion was made by Trustee Owen and seconded by Mayor Levine to approve payment of \$390 to Usher Tree Experts, Inc. to grind two tree stumps on the Village right of way. The motion was approved 4-0 with Trustees Gulbransen, Owen and Rosenberg and Mayor Levine voting in favor of the motion.

**NEW BUSINESS**

Mayor Levine introduced:

PROPOSED LOCAL LAW NO. 4 OF 2010 AMENDING  
CHAPTER 121, ARTICLE X, OF THE CODE OF THE  
INCORPORATED VILLAGE OF OLD FIELD AS IT RELATES  
TO ENFORCEMENT OF UNLAWFUL ACTIONS

A public hearing on Proposed Local Law No. 4-2010 is scheduled for June 8, 2010 at 7:00 p.m. at the Setauket Neighborhood House.

**PUBLIC EXPRESSION**

Haig Sefarian addressed the Board.

**UPCOMING VILLAGE EVENTS:**

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The next regularly scheduled work session of the Board will take place on Thursday, June 3, 2010 at 6:00 p.m. at the Lighthouse.

The next meeting of the Village of Old Field Board of Trustees will take place on Tuesday, June 8, 2010 at 7:00 p.m. at the Neighborhood House.

**EXECUTIVE SESSION and ADJOURNMENT**

A motion was made by Trustee Rosenberg and seconded by Mayor Levine to adjourn the regular meeting at 10:25 p.m. and to enter into Executive Session. The motion was approved 4-0 with Trustees Gulbransen, Owen, and Rosenberg and Mayor Levine voting in favor of the motion.

A motion was made by Trustee Rosenberg and seconded by Mayor Levine to adjourn the Executive Session at 10:47 p.m. The motion was approved 4-0 with Trustees Gulbransen, Owen, and Rosenberg and Mayor Levine voting in favor of the motion.

A motion was made by Trustee Rosenberg and seconded by Mayor Levine to adjourn the regular meeting at 10:48 p.m. The motion was approved 4-0 with Trustees Gulbransen, Owen, and Rosenberg and Mayor Levine voting in favor of the motion.

Respectfully submitted,  
Dale Salzberg  
Village Clerk