

**THE MINUTES
FOR THE AUGUST 3, 2010
MEETING OF THE BOARD OF TRUSTEES
OF THE INCORPORATED VILLAGE OF NORTHPORT
MEETING AT 6:00 P.M.**

Present: Mayor Doll, Trustees Kehoe, Maline, McMullen, and Tobin Village Clerk Donna Koch, and Village Attorney James Matthews.

ANNOUNCEMENTS:

PRESENTATIONS:

PUBLIC HEARING(S)

Continuation of Public hearing from July 6, 2010.

PLEASE TAKE NOTICE: that a Public Hearing of the Village Board of Trustees will be held at the Village Hall, 224 Main Street, Northport, New York at 6:00 o'clock in the evening of the 6th day of July, 2010, to consider the following proposed local law:

**LOCAL LAW F OF 2010
A LOCAL LAW OF
THE VILLAGE OF NORTHPORT
TO AMEND CHAPTER 239, SEWERS,
TO ADD SECTION 239-29, SEWER RENTS OF THE CODE OF
THE INCORPORATED VILLAGE OF NORTHPORT**

BE IT ENACTED: By the Board of Trustees of the Village of Northport as follows:

Section 1. Legislative Intent

The Board of Trustees finds that amending the Zoning Code of the Village to impose sewer rents upon the owners of property discharging into the Northport Sewerage System will more fairly distribute the costs of said system among users and non-users.

Section 2. Statutory Authority and Supercession

This Local Law is adopted pursuant to New York State Village Law, Municipal Home Rule

Law, Article 14-F of the New York State General Municipal Law and the State Environmental Quality Review Act and its implementing regulations and expressly supersedes inconsistent provisions of the Village Code.

Section 3. Applicability

The provisions of this Local Law shall apply as set forth in the amendments.

Section 4. Amendments

The code of the Incorporated Village of Northport shall be amended as follows:

Chapter 239-29. Sewer Rents

§239-29. 1. Purpose and intent.

Pursuant to Article 14-F of the New York State General Municipal Law, there is hereby established and imposed a system of sewer rents applicable to the Village Sewerage System in accordance with the provisions of this article, and which shall consist of annual charges assessed against properties that discharge into the Village Sewerage System. The aggregate annual sewer rents as provided in this article shall be applied to pay a portion of the costs of the operation, maintenance and repair of the sewerage system of the Incorporated Village of Northport.

§239-29. 2. Definitions.

Part. As used in relation to the term "sewerage system," all lateral sewers, all branch sewers, all interceptor sewers, all trunk sewers, and any sewage treatment and disposal works, each part with necessary appurtenances including sewage pumping stations.

Property. Real property that may consist of one or more tax lots or a division thereof, any improvement to or item thereon, or any division of an improvement such as an dwelling unit or commercial enterprise that receives water.

Sewage. The water-carried human or animal wastes, and any liquid waste whether or not containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution from residences, buildings, commercial and industrial establishments, or other places, together with such ground water infiltration and surface water as may be present.

Sewer rents. A scale of annual charges established and imposed by the Village of Northport for the use of the municipal sewerage system or any part or parts thereof. Such charges may be based on the consumption of water on the premises connected with and served by the sewerage system or such part or parts thereof, or upon any other equitable basis determined by The Board

of Trustees, including but not limited to any combination set forth in Article 14-F of the New York State General Municipal Law. The overall amount to be collected shall be determined by the Board of Trustees and included in the annual adopted budget.

Sewer user. Any person or entity that is responsible for either or both:

1. Directly paying a water source, or
2. Controlling the receipt of water from any water source, for water delivered to a property from which sewage is discharged into Northport's municipal sewerage system.
3. While owner(s) of property may charge tenants for this sewer rent, the owner(s) shall be solely liable to the Village for payment of sewer rents and the failure of tenants to reimburse a property owner(s) shall not be a defense to the obligation to pay sewer rents charged hereunder.

Total water delivered. Shall mean the total volume of water delivered to a property by all water sources over the course of one year, for which a sewer user is responsible. The total volume of water shall be the sum of the volume of water metered by, or otherwise calculated by, the water source(s). The Village of Northport shall estimate any portion of the total water delivered if no metered or estimated volume is obtainable from the water source.

Water source. Any entity that delivers water to a property such as Suffolk County Water Authority, as well as any other source of water delivered to a property including such source as a well, whether or not that water is drawn from said property.

§239-29.3. Sewer rent fund.

In accordance with Article 14-F of the New York State General Municipal Law, revenues derived from sewer rents, including penalties and interest, shall be credited to a special fund, to be known as the "sewer rent fund." Moneys in such fund shall be used in the following order:

- A. For the payment of a portion of the costs of operation, maintenance and repairs of the sewerage system of the Incorporated Village of Northport.
- B. For the payment of the interest on and amortization of, or payment of, indebtedness which has been or shall be incurred for the construction of the sewerage system or such part or parts thereof for which sewer rents have been established and imposed (other than indebtedness, and the interest thereon, which is to be paid in the first instance from assessments upon benefited real property).
- C. For the construction of sewage treatment and disposal works with necessary appurtenances including pumping stations, or for the extension, enlargement, or replacement of, or additions to, such sewerage systems, or part or parts thereof. Such revenues from sewer rents shall not be used (1) to finance the cost of any extension of any part of a sewerage system (other than any sewage treatment and disposal works with necessary appurtenances including pumping stations) to serve unsewered areas if such part has been constructed wholly or partly at the expense of real

property especially benefited, or (2) for the payment of the interest on, and the amortization of, or payment of, indebtedness which is to be paid in the first instance from assessments upon benefited real property.

§239-29.4. Sewer rents.

A. The annual sewer rent due from each property owner(s) of a property discharging into the sewerage system shall be based on the amount of water in gallons delivered to the sewer user as adjusted in accordance with this chapter. A per gallon rate shall be calculated by dividing the total water usage in gallons of all properties connected to the sewer system that are liable for sewer rents by the total revenues to be collected for sewer rents as set by the Board of Trustees in the most recently adopted annual budget.

B. The water usage for residential properties shall be reduced by 10% in consideration of water uses that are not discharged into the sewer system.

C. Commercial property owners may apply to the Board of Trustees for an adjustment of the amount of their water usage which is used to calculate the sewer rents due hereunder. Such application shall include all evidence to establish the degree and amount of water usage which is claimed to be applied for uses, such as watering plants or lawns, which does not result in discharges into the sewage system. The Board may grant an adjustment of up to 10% of the water usage depending on the volume of water usage it finds is not discharged into the sewerage system. Deadlines for requesting this adjustment shall be determined by the Board of Trustees with written notice by regular mail to all commercial properties and notices posted in Village Hall and on the Village website.

D. For the purposes of this chapter, residential properties are all properties solely devoted to residential dwelling usage. All other properties, including those which have combined residential and commercial use, shall be classified as a commercial property for the purposes of this chapter.

E. Sewer rents shall constitute a lien upon the real property served by the sewerage system or such part or parts thereof for which sewer rents shall have been established and imposed. The lien shall be prior and superior to every other lien or claim except the lien of an existing tax, assessment or other lawful charge imposed by or for the state or a political subdivision or district thereof.

F. The Board of Trustees of the Incorporated Village of Northport, may bring and maintain an action (a) as upon contract for sewer rents in arrears, including penalties and interest, or (b) to foreclose liens for such sewer rents. As an alternative to the maintenance of any such action, the Board of Trustees, as the case may be, may annually cause a statement to be prepared setting forth the amount of each lien for sewer rents in arrears, the real property affected thereby and the name of the person in whose name such real property is assessed. Such statement shall be presented to the Board of Trustees, as the case may be, on or before a date to be specified by such board. Such board shall levy the amounts contained in such statement against the real

property liable at the same time and in the same manner as city, village, county or town taxes, as the case may be, and such amounts shall be set forth in a separate column in the annual tax rolls. The amounts so levied shall be collected and enforced in the same manner and at the same time as may be provided by law for the collection and enforcement of city, village, county or town taxes, as the case may be.

G. Prior to the adoption of a final budget for each year, the Board of Trustees of the Village of Northport shall determine the total annual costs of operation and maintenance of the sewerage system that are necessary to maintain the capacity and performance of the sewerage system and the portion thereof that shall be charged to the users of the sewer system. The determination of such costs shall serve as the basis for the calculations of sewer rents.

H. The sewer rents shall be based on the amount of water delivered to properties connected to the Village sewerage system, which are liable for sewer rents hereunder. The Village shall obtain readings from water sources, such as the Suffolk County Water Authority to determine the amount of water delivered to each sewer user.

I. The properties owned by the Incorporated Village of Northport shall be exempt from Sewer Rents.

J. Properties located outside of the territorial limits of the Incorporated Village of Northport which are connected to the Village Sewerage system are liable for charges in accordance with the terms of existing agreements with the Village and are not in addition liable for sewer rents unless authorized by existing or subsequently amended agreements.

§239-29.5. Power to impose other charges.

Subject to the provisions of New York State Municipal Code, the establishment and imposition of sewer rents shall not prevent the use of other revenues of the Village of Northport for the payment of a part of the costs, for any fiscal year, of operation, maintenance and repairs of the sewerage system or any part or parts thereof for which sewer rents have been established and imposed or for the payment of interest on and amortization of, or payment of, indebtedness therefore.

§239-29.6. Applicability.

All real property connected to the Village sewerage system shall be subject to such sewer rents as may be imposed or levied pursuant to this chapter, except for properties identified in §239-29.4(I) and (J) herein. The Owner(s) of said real property liable for sewer rents shall be responsible to the Village for payment of sewer rents.

§239-29.7. Sewer utilization forms.

A. Sewer users and the owner of every property using the Village sewerage system shall file sewer utilization forms to obtain information regarding discharges into the sewerage system.

Each form shall contain a sworn statement made by the sewer user and owner with full knowledge of the facts disclosed and shall be bound to the truthfulness and accurate disclosure of the information under penalty of law. The Village may require no more than one such form from each sewer user and property owner annually unless special circumstances require an additional form or further information.

B. As to any property, which has had a change of use, an updated sewer utilization form must be filed within thirty (30) days of official permanent change. For the purposes of this section, “change of use” shall mean the change of use from residential to commercial or vice versa of any portion of the property, or a change of use from one commercial use to another where the new commercial use has a greater parking requirement under the zoning code of the Village.

C. A separate sewer utilization form shall be filed by each of the commercial establishments, associations, clubs, marinas, apartment buildings, single-family, two-family, three-family and multi-family residences and offices, which includes each and every separate entity for-profit and not-for-profit.

D. The penalty for the failure to file the certificate shall be \$100.00 for each thirty (30) day period the certificate is not filed.

E. The Village Assessor shall make the final determination as to the classification of each property.

§239-29.8. Appeals.

A sewer user may apply to the Board of Trustees for review of any determinations made by Village officials under this chapter. Determinations by the Board of Trustees are subject to judicial review pursuant to Article 78 of the New York Civil Practice Law and Rules.

§239-29.9 Calculations; Bills and Payments; Penalty for late payment; Liens and collection.

A. The sewer rents shall be billed annually on the first of September of each year.

B. Bills and payments.

- (1) Residential: Bills for the sewer rent will be mailed to the residential owners of all Village sewer connections on an annual basis.
- (2) Commercial: Bills for the sewer rent will be mailed to the commercial owners of all Village sewer connections on an annual basis.
- (3) All bills shall be due and payable without penalty within thirty (30) days of rendering.

D. A penalty will be levied against the unpaid sewer rents and shall be added to the delinquent amount.

- (1) One and one-half percent charge per month on sewer rent bill, beginning thirty-one (31) days after the date of the bill. The penalty shall be added for each succeeding month or any portion of a month in which the sewer rent is not paid.

- (2) Notwithstanding the foregoing, for good cause shown the Board of Trustees may waive or reduce the penalty for the late payment of 2010-2011 sewer rents, provided payment is made no later than November 1, 2010.

E. Liens and collections.

- (1) In accordance with New York State General Municipal Law Section 452, unpaid sewer rents, penalties and interest shall become a lien upon the real property.
- (2) Delinquent accounts shall be collected in a manner provided for in the General Municipal Law and this article.

§239-29.10. Consistency with General Municipal Law.

This article shall be construed in a manner consistent with the provisions of Article 14-F of the New York State General Municipal Law.

Section 5. Severability

If any clause, sentence, paragraph, subdivision, section or other part of this Local Law shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalidated, such judgment shall not affect, impair or invalidate the remainder of this Local Law, and it shall be construed to have been the legislative intent to enact this Local Law without such unconstitutional, or invalid parts therein.

Section 6. SEQRA

The Board of Trustees has determined that pursuant to §617.5(c) 20 and 27 of the SEQRA regulations this action of the Village of Northport is "routine or continuing agency administration and management, not including new programs or major reordering of priorities" and "adoption of regulations, policies, procedures and local legislative decisions in connection with any Type II action . . ." and therefore, the proposed action of the Village of Northport in this matter is a Type II action and requires no further action pursuant to SEQRA.

Section 7. Effective Date

This local law shall take effect immediately upon filing in the Office of the Secretary of State.

On the motion of Trustee McMullen and seconded by Trustee Tobin the hearing continuation was opened:

Trustee Kehoe made the following statement: I'm in favor of this legislation because we agreed a long time ago that it needs to be done. However I am opposed to the way it's being presented. I recommended that it be done with a flat fee depending on whether you are a one, two, three family house or commercial. This way is way too complicated. Betty Koerner, Seaview Ave. stated that she has a cesspool and for forty years part of

her taxes have gone to the maintenance of the sewer plant. People need to know that whatever they put into their lawns ends up in the harbor.

A homeowner on North Rd. stated that there needs to be a cap on the percent that the homeowners connected would have to pay. The homeowner felt that the Village could be looking for ways to improve the system and get the entire Village hooked-up. It should be the incentive of the Village to get everyone hooked up.

James Berger of Bayview Ave questioned the way charges would be administered he felt that the flat fee be adopted.

Jane Smith stated we need to educate people to conserve water, do only full loads of laundry and dishes.

A homeowner of North Rd. stated he felt this was penalizing the users of the system. If everyone benefits from the system then everyone should pay. Trustee Kehoe stated that we all pay, just now the ones hook up will pay an additional charge. It's a plus to be on the system.

Arlene Handel of Bayview Ave. stated that this was a long time coming, that it corrects a historic unfairness. Ms. Handel stated it is the first step in being environmentally sound.

On the motion of Trustee McMullen and seconded by Trustee Kehoe the public hearing was closed.

PUBLIC PARTICIPATION: Stating he lived at the end of the harbor on the Centerport side a resident questioned the Board on "what they planned to do to clean up the harbor" after he read recent reports that the pollution in the harbor is being created by the Northport Sewer plant. The Board explained to the gentleman that the Sewer Plant is not the culprit; the pollution is the result of higher nitrogen levels caused by storm water runoff and other factors.

BOARD APPROVAL OF WARRANT:

On the motion of Trustee Tobin and seconded by Trustee McMullen the following bills were approved for payment.

Fiscal Year 2010/2011 General Fund bills in the amount of \$ 130,396.17

On the motion of Trustee McMullen and seconded by Trustee Kehoe the following bills were approved for payment.

Fiscal Year 2010/2011 Capital Fund bills in the amount of \$ 17,829.41

On the motion of Trustee Tobin and seconded by Trustee McMullen a bill from Fire Chief McKenna was also approved in the amount of \$5,637.12 to cover costs put on his personnel credit card regarding training and the fire Expo in Baltimore Maryland.

TREASURER REPORT: The treasurer had submitted her reports to the Board in writing prior to tonight's meeting.

COMMISSIONER REPORTS:

CHIEF OF POLICE REPORT: Chief Bruckenthal reported that he had reviewed a letter requesting a stop sign on Ocean Ave at its intersection with Lewis Rd and Sea Cove Rd. the Chief explained that intersection already is a controlled intersection and upon the advice of the New York State DEC no other traffic control devices are warranted in the area.

SUPERINTENDENT REPORT: 1, Gas service at Main Street and Milland Drive pump stations. The Board requested further information.
2. Suffolk county water payment in lieu of restoration. A resolution was put on tonight's agenda.
3. SAFETEA-LU funding for preliminary reports. A resolution was put on tonight's agenda.

NEW BUSINESS:

OLD BUSINESS:

REQUESTS:

CORRESPONDENCE:

RESOLUTIONS:

On the motion of Trustee Kehoe and seconded by Trustee McMullen WITH Trustee Tobin abstaining the following resolution was approved.

RESOLUTION 2010 – 118 ~ APPROVAL OF THE JULY 6, 2010 MINUTES

WHEREAS: Copies of the minutes of the July 6, 2010, meeting were sent to the Board for approval, therefore,

BE IT RESOLVED that said minutes are approved without reading, at this time.

On the motion of Trustee Kehoe and seconded by Trustee McMullen the following resolution was put to a roll call vote:

Trustee Maline ~ Yes.

Trustee Kehoe ~ Yes

Trustee McMullen ~ Yes

Mayor Doll ~ Doll

Trustee Tobin ~ Yes

RESOLUTION 2010 – 119 ~ LOCAL LAW No. 7 OF 2010

WHEREAS: that a Public Hearing of the Village Board of Trustees was held at the Village Hall, 224 Main Street, Northport, New York at 6:00 o'clock in the evening of the 6th day of July, 2010, to consider the following proposed local law:

**LOCAL LAW No. 7 OF 2010
A LOCAL LAW OF
THE VILLAGE OF NORTHPORT
TO AMEND CHAPTER 239, SEWERS,
TO ADD SECTION 239-29, SEWER RENTS OF THE CODE OF
THE INCORPORATED VILLAGE OF NORTHPORT**

On the motion of Trustee Maline and seconded by Trustee Tn the following resolution was unanimously approved.

RESOLUTION 2010 –120

BE IT RESOLVED: That Donna Bee be promoted to Sewer Plant Operator I effective immediately pursuant to the Collective Bargaining Agreement between the Village of Northport and Local 342, Long Island Public Service Employees.

On the motion of Trustee Maline and seconded by Trustee Tobin the following resolution was unanimously approved.

RESOLUTION 2010 –121 CODE ENFORCEMENT ASSISTANT

BE IT RESOLVED: Robert Varese is hereby hired as part time (not to exceed 17 ½ hrs weekly) Code Enforcement Officer at a rate of \$20.00/hr.

BE IT FURTHER RESOLVED: That Robert Varese’s hourly rate will increase to \$25.00/hr upon completion of necessary New York State Code Compliance training.

On the motion of Trustee Kehoe and seconded by Trustee McMullen the following resolution was unanimously approved.

RESOLUTION 2010 –122 BOND RELEASE

WHEREAS: The Consultant to the Village report, dated March 19, 2009, states that all the North Shore Urology Site Plan #61 bonded work has been completed, inspected and approved, and

WHEREAS: The report further recommends the \$5,000 cash bond be released, now therefore

BE IT RESOLVED: The Planning Board hereby recommends, to the Board of Trustees that the Cash Bond in the amount of \$5,000, being held as surety for completion of the North Shore Urology Site Plan #61 site improvements, be released.

On the motion of Trustee Kehoe and seconded by Trustee Tobin the following resolution was unanimously approved.

RESOLUTION 2010 –121 CODE ENFORCEMENT ASSISTANT

BE IT RESOLVED: Robert Varese is hereby hired as part time (not to exceed 17 ½ hrs weekly) Code Enforcement Officer at a rate of \$20.00/hr.

BE IT FURTHER RESOLVED: That Robert Varese’s hourly rate will increase to \$25.00/hr upon completion of necessary New York State Code Compliance training.

RESOLUTION 2010- 123~ EXTENDING THE MORATORIUM ON CONSTRUCTION OF WIRELESS COMMUNICATION FACILITIES FOR NINETY (90) DAYS

WHEREAS, the Board previously enacted a resolution establishing a moratorium for the period of ninety (90) days on the construction of wireless telecommunications facilities on public and private property within the territorial limits of the Incorporated Village of Northport, and

WHEREAS, additional time is needed to complete the code amendments regulating the construction of wireless telecommunication facilities to the extent permitted by federal and state law,

NOW, THEREFORE, BE IT RESOLVED: that the moratorium on the construction of wireless telecommunication facilities on private and public property within the Village of

Northport is hereby extended for an additional ninety (90) days.

On the motion of Trustee Kehoe and seconded by Trustee McMullen the following resolution was unanimously approved.

RESOLUTION 2010 - 124 ~ PAYMENT OF CLAIM

WHEREAS, the property owner of property identified as SCTM# 404-15-3-51 previously commenced a small claims assessment review proceeding, claiming that the subject property was assessed during the, 2009/10 and 2010/11 tax years at a value which exceeds the true value of the subject property; and

WHEREAS, the above noted property was submitted to a Small Claims Assessment Hearing Officer who awarded a reduction in assessment;

NOW, THEREFORE, BE IT RESOLVED that the Village Treasurer is hereby authorized to pay refunds to the property owner of the premises identified as SCTM# 404-15-1-51 as awarded in the amount of \$367.40 plus interest, if any, as determined to be due by the Village Assessor

On the motion of Trustee McMullen and seconded by Trustee Kehoe the following resolution was unanimously approved.

RESOLUTION 2010 – 125 ~ PAYMENT IN LIEU OF RESTORATION

WHEREAS: the Mayor is hereby authorized to enter into an agreement with Suffolk County Water under contract numbers 10-10-00005 and 10-10-000027 regarding the acceptance of paving and road restoration monies in amounts to be determined to be beneficial to the Village.

Mr. Matthews will check with the Suffolk County Water officials to find out what the time frame will be should Suffolk County Water be responsible to do the work themselves.

On the motion of Trustee Tobin and seconded by Trustee Maline the following resolution was unanimously approved.

RESOLUTION 2010 – 126 ~ SAFETEA-LU PRELIMINARY DESIGN

BE IT RESOLVED: The proposal from Gannett Fleming dated March 30, 2010 regarding the design phase of SAFETEA – LU #3232 pedestrian Crosswalks in the amount of \$3,200.00 and SAFETEA – LU #656 Woodbine Avenue in the amount of \$6300.00 is hereby accepted.

A RESOLUTION FOR AN EXECUTIVE SESSION: if necessary, for personnel and/or litigation matters.

The next regular meeting of the Board of Trustees will be on Tuesday August 3, 2010 at 6:00 PM. Northport Village Hall 224 Main Street Northport, NY 11768

Respectfully submitted,

Donna M. Koch, Village Clerk

