

**THE MINUTES
FOR THE DECEMBER 20, 2011
MEETING OF THE BOARD OF TRUSTEES
OF THE INCORPORATED VILLAGE OF NORTHPORT
MEETING AT 6:00 P.M.**

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

ANNOUNCEMENTS: no announcements.

PRESENTATIONS: The Village clerk presented the 2012 ~ 2013 tentative budget to the Mayor and Board of Trustees.

PUBLIC HEARINGS:

PUBLIC HEARING NO. 1

Mayor Doll asked the Village Clerk to read the notice of Public Hearing to wit:

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 20th day of December, 2011, to consider the following proposed local law:

Proposed Local Law "G" of the year 2011
Village of Northport, County of Suffolk

A local law authorizing a property tax levy in excess of the limit established in General Municipal Law § 3-c

Section 1. Legislative intent

It is the intent of this local law to allow the Village of Northport to adopt a budget for the fiscal year commencing March 1, 2012 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law §3-c.

Section 2. Authority

This Local Law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local governments governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of

sixty percent(60%) of said governing body.

Section 3. Tax Levy Override

The Village Board of Trustees of the Village of Northport, County of Suffolk , is hereby authorized to adopt a budget for the fiscal year commencing on March 1, 2012 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

Section 4. Severability

If a court determines that any clause, section, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not effect, impair or invalidate the remainder of this local law, but shall be confined in its operation to be clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date

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

On the motion of Trustee Tobin and seconded by Trustee McMullen the Public Hearing was open.

Trustee Tobin highlighted the major aspects of the 2% tax cap and how it applies to the Village.

Leo Montega of Fleet Ct. question if the Board has looked into unincorporating and felt the Village could benefit by a complete reassignment of the entire Village.

On the motion of Trustee McMullen and seconded by Trustee Kehoe the Public Hearing was closed.

PUBLIC HEAR NO. 2

Mayor Doll asked the Village Clerk to read the notice of Public Hearing number 2 to wit:

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 20TH day of December, 2011, to consider the following proposed local law:

**PROPOSED LOCAL LAW "H" OF 2011
A LOCAL LAW OF
THE VILLAGE OF NORTHPORT TO AMEND
CHAPTER 306 ZONING OF THE CODE
OF THE 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 code to allow certain uses to be located in the Marine Business District by special use permit subject to conditions authorized by the Board of Zoning Appeals after a duly noticed public hearing will allow for a reasonable expansion of uses that will benefit the residents of the Village and surrounding community and also provide needed revenue to the owners of property located within the Marine Business District. By approving these code amendments, the Board seeks to strike a balance between the economic needs of the property owners where such uses will be located on the one hand, and the burden of such uses upon nearby properties on the other hand. The expansion of uses in the Marine Business District also furthers the Board's desire to expand economic opportunities in the Village in a reasonable manner. In the past, the Village has adopted legislation approving outdoor sidewalk and private dining, outdoor street fairs and other such expansion of permitted uses and activities both on a permanent basis and also on a temporary, seasonal basis. The Board recognizes that there currently are severe limitations on the types of commercial uses within the Marine Business District and believes the time has come to expand these uses in a way that gives due consideration to real and tangible impacts upon nearby properties. All of the expanded uses require a special use permit from the Board of Zoning Appeals, which is required to consider adverse impacts upon nearby properties and, if feasible, impose conditions which significantly mitigate those impacts. The BZA also is empowered to impose reasonable conditions upon any approval and to require property owners to return to the BZA on an annual basis to monitor compliance with these conditions. In sum, the Board finds that the legislation furthers the intent of the Board to allow expansion of uses in the Marine Business District in a manner that is consistent with the zoning policies of the Village and which will not have significant adverse impacts to area properties.

Section 2. Statutory Authority and Supersession

This Local Law is adopted pursuant to New York State Constitution, New York State Village Law, Municipal Home Rule 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 to all lands situated within the boundaries of the Incorporated Village of Northport which are located within the Marine Business District, as may be amended from time to time by the Board of Trustees of the Incorporated Village of Northport.

Section 4. Amendments

Chapter 306 of the code of the Incorporated Village of Northport shall be amended as follows:

Explanation of notations:
Existing text is reproduced in normal type.

Text to be added is indicated in Italics.

Text to be deleted is indicated by ~~strikethroughs~~.

* * * indicates existing text to remain unchanged.

§ 306-14. Marine Business District.

A. Permitted uses. In the Marine Business District, lands shall be used and buildings shall be erected, altered or used only for the following purposes:

* * *

(6) Such uses for which a special use permit has been granted by the Board of Zoning Appeals under section 306-39(2)(g) of this Chapter.

B. Prohibited uses. In the Marine Business District, no land shall be used and no buildings shall be erected, altered or used for any purpose whatsoever if such use is not permitted by Subsection A hereof. Additional, no use permitted by Subsection A shall be permitted if such use:

* * *

~~(5) Is a restaurant or other eating establishment.~~ *Features outdoor live music or outdoor amplified music.*

(6) Is primarily a tavern or nightclub; a bar is permitted only if accessory to a restaurant use that has been granted a special use permit by the Board of Zoning Appeals pursuant to section 306-39(2)(g) of this Chapter.

(7) Floating restaurant.

(8) Ferries.

(9) Party boats.

* * *

§ 306-39. Jurisdiction.

The Board of Appeals shall have jurisdiction in the following matters:

* * *

B. Permits. To issue permits for any of the uses for which this chapter requires the obtaining of such permits from the Board of Zoning Appeals. Approval of special use permits shall follow the procedures set forth in Village Law § 7-725-b.

* * *

(2) Specific requirements. In considering application for the following specific permits, the Board of Zoning Appeals, as a condition to its issuance of such permits, shall first determine that all the requirements indicated in the following provisions for such permit have been or will be met upon the issuance thereof and the satisfaction of which requirements shall be a continuing condition of the validity and existence of such permit. In addition to the minimum requirements hereinafter indicated, the Board of Zoning Appeals is also empowered to impose any further requirements or conditions to any permit which, in its opinion, are reasonably designed to further the interest and purpose of this chapter and which are in harmony with the provisions hereof.

* * *

(g) *Marine Business District.*

[1] *The following uses shall be permitted in the Marine Business District by special use permit subject to the conditions noted herein and any conditions imposed by the Board of Zoning Appeals which are designed to mitigate adverse impacts of the proposed use: (i) restaurants which serve alcoholic beverages but which do not feature outdoor music, either live or amplified; (ii) new and used boat sales and brokerage; (iii) insurance sales, provided that boat insurance is available; (iv) sale of marine parts and accessories, such as inflatable rafts, rowboats, outboard motors; boat and fishing equipment, water sports equipment, marine electronics and communication equipment, boat covers, marine hardware and boating accessories, (v) boater's clothing, footwear and swimwear; (vi) boat and marine engine repair and maintenance; (vii) seafood sales, wholesales and retails; (viii) food provisions store; (ix) outdoor live and amplified music for no more than four (4) special events, each such event on a single day, in any calendar year, for which a special use permit is obtained from the Board of Zoning Appeals; (x) such other uses which the Board of Zoning Appeals finds is harmonious with existing uses and not harmful to adjacent properties*

[2] *Before granting a special use permit the Board of Zoning Appeals shall take into consideration the following: (i) the impacts upon neighboring properties; (ii) traffic impacts, including a consideration of the number of parking spaces provided on site to satisfy the anticipated parking demands for all uses; (iii) whether the floor area, seating or other physical attributes of a proposed use should be modified to mitigate adverse impacts; (iv) whether the specific location for the proposed use is appropriate; (v) whether the number of such uses should be limited due to impacts upon nearby properties; (vi) whether the proposed uses are in harmony with other uses on the subject property; (vii) all uses on the subject property must be legalized before an additional use*

is granted; (viii) impact on municipal services; (ix) environmental and physical impacts of the proposed use; (x) the Board of Zoning Appeals is authorized to grant special use permits of a limited time period and which require the owner and applicant to return to the Board of Zoning Appeals within a specified time period to monitor compliance with the BZA grant and to determine if any modifications are warranted due to the impacts within and upon abutting properties;

(ix) Compliance with the general standards applicable to special use permits at code §306-39-B(1); (x) applicants requesting a waiver or variance from any permit requirement must set forth variance proof to support a grant of the requested relief and specify the nature of this request in the public notice posted on the property and mailed to adjacent property owners.

[3] Restaurant uses may be granted permission for outdoor dining subject to compliance with the following: no outdoor live or amplified music; all patrons outdoors must be at tables for the purpose of dining, where service of food and beverages, including alcoholic beverages, shall be by waiter/waitress service only; there shall be no congregating in outdoor areas for any other purposes; all outdoor areas shall be specifically designated and devoted to tables for diners without any other activities; outdoor seating prohibited after 10:00 p.m. Sunday through Thursday and after 11:00 p.m. Friday and Saturday; except for a service bar, no bar area where customers are served food or beverages directly or where any bar stools or seats are located may be located outside.

[4] If live or amplified music is played indoors, then doors, windows or other openings must stay closed for the entire duration of such music, excepting such ingress and egress as is necessary for fire protection purposes.

[5] As to pending applications for relief relating to the subject matter of the amendments, the applicant and property owner are required to re-apply under the enacted provisions of this code amendment. Existing uses that enjoy a grant of approval from a Board of the Village will be required to re-apply under these code amendments if any change in or expansion of the use as previously approved is proposed or existing.

[6] If there are restrictive covenants in effect for a property that relate to the subject matter of these code sections for the Marine Business District, then these code sections and the Board of Zoning Appeals permits and variances granted hereunder shall supersede said restrictive covenants. The Board of Zoning Appeals is authorized to grant a modification of such covenants consistent with determinations it makes under this chapter.

** * **

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. Effective Date

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

On the motion of Trustee Maline and seconded by Trustee McMullen the Public Hearing was open:

At the start of the Public portion, Mayor Doll explained that this local law would not be voted on tonight, it will be continued on January 3, 2012 at 6:00 PM.

Four letters; one from the attorney from Britannia, one from the attorney representing a group of homeowners of Milland Dr. one from a homeowner of Milland Dr. and one from the attorney for Whales tale. All letters are attached to these minutes.

Michael McCarthy representing Britannia Marina stated that while they look upon the code amendments in a favorable way there are a couple of things that are contemplated to be permissible uses where they feel they should just be permitted used, such as boat brokerage, boat sales, engine repairs, etc.

Richard Thury, Milland Dr. wanted to go on the record to say that a lot of due diligence has gone into this code amendment. He felt very good that the Board has made an attempt to, mitigate a condition which he has lived with for over twenty years.

Linda Thury, Milland Dr. stated that there needs to be stiffer penalties if they are not compliant with the new ordinances. Amplified music should not be allowed indoors or out. If the eating area has to close at 11:00 PM can customers go inside until all hours or does everything close down at 11:00 PM?

Jim Young, Milland Dr. expressed amazement on how it has gone on for four years. Delay after delay, and a how a responsible group of people have allowed this to happen. Mr. Young felt a restaurant done the "right way", in a way that protects the neighbors, is a good thing. The main concern is the noise.

Sosh Adriano owner of the Whales Tale stated he is thankful for the opportunity to stand in front of the Board. My intention was always to build a business entity that the community could be proud of and bring their families and friends too. It has been difficult for me to be the guy who has created tension and has split the neighborhood apart.

Chris Murray, an attorney representing several homeowners on Milland Dr. Mr. Murray submitted a letter from Jill Plosky who could not be here tonight. Mr. Murray felt the code needs to allow for the special permit to be renewed annually. There needs to be some restriction on the size of the restaurant. Mr. Murray feels this code amendment is a significant change to allow a restaurant and the fear is it's going to be taken advantage of. With concern to the special events there needs to be time limitations. We recommended 12 noon to 8:00 PM. Trustee Tobin stated it would be hard for any

business to function on a year to year permit. Mr. Murray stated the renewal process would only come into effect when there's a problem. Trustee Tobin questioned of the marina was filled to capacity as far as stores, boat slips and any other permissible uses would the parking excide its capacity? Mr. McCarthy explained that in 2003 a very comprehensive traffic study was done. Things have not change as far as the habits of the marina. The traffic study showed there is adequate on site parking. The size of the marina is eighteen acres and the Whales Tale uses 785 square feet. Trustee Tobin questioned Mr. Adriano has to how he could help ensure the Whales Tale does not become a nightclub. Mr. Adriano responded that they are not looking to become a nightclub/drinking establishment. I love to stay open to 11:00 PM during the week but personally I don't want to be there past that time.

Lenora Young, Milland Dr. stated as far as parking when there is something going on at with the catering and the whales tale and the boat owners the amount of cars that brings in is something that needs to be considered. The main concern is the music. I don't need to hear "Margaritaville" five or six times a night.

John Desidario, Milland Dr. complimented Mr. Guido and all his hard work. Mr. Desidario went on to state in his opinion anyone with an interest in what's being voted on should recues himself. Also the code doesn't state anything about months of operation. Mr. Desiderio feels it is very difficult to get enforcement. There needs to be serious penalties. Also he would like a list of what is allowed to be done as far as work/repair/painting on any boats. Mr. Desidario stated the boats are very close to his back yard and the request for shrubs has gone unheard. He agreed with his neighbors to the music which he felt should not be amplified.

Andrew Abraham, Milland Dr. again reiterated his neighbor's concerns. Also Mr. Abraham felt the code did nothing to address the issue of more restaurants. There has to be considerations as to the size and the scope of the restaurant. Mr. Abraham asked the Board to consider the three parties get together and come up with global framework so we can go live in peace and they can conduct their business.

Peter Hourmere owner of Britannia Marina explained to the Board and audience how the Marina does not pollute the harbor and the marina is a model recognized by New York State. The marina is exempt from al the run off pollution permits. There are over ten acres of leach fields. The only two pipes coming into the marina belong to the state. The marina has the largest pump out faculty in the area for boats. The waste from the pumpouts does not go into the sewer plant but rather is transported down to Bergan Point. A picture of the marina in 1976 shows a much larger marina, there were more boats on land then there are now, right up to the backs of houses. There were also 260 slips. It was a large marina with a tremendous boat building operation. As far as painting, there are permits in pace by New York State with the issue of bottom paint. Customers are not allowed to bottom paint unless they have a New York State permit. If someone is painting the hull of his boat and he is using a brush that is allowable.

The Public Hearing will be continued January 3rd, 2012.

PUBLIC HEARING NO.3

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 20TH day of December, 2011, to consider the following proposed local law:

PROPOSED LOCAL LAW " I " OF 2011 A LOCAL LAW OF THE VILLAGE OF NORTHPORT TO AMEND CHAPTER 42 "OFFICERS AND EMPLOYEES" OF THE CODE OF THE 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 the longevity pay for certain employees of the Village should be increased to be consistent with longevity pay of other employees and that the service of the affected employees warrants this increase.

Section 2. Statutory Authority

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

Section 3. Applicability

The provisions of this Local Law shall apply to those Village officials and employees as specified in the local law.

Section 4. Amendments

Explanation of notations:

Existing text is reproduced in normal type.

Text to be added is indicated in italics.

Text to be deleted is in ~~strikeout~~

* * * indicates existing text to remain unchanged.

**CHAPTER 42
OFFICERS AND EMPLOYEES**

* * *

**ARTICLE II
Fringe Benefits**

§ 42-3. Designation of employees to receive benefits.

The Village Board of Trustees herewith codifies the following existing fringe benefits which have been and shall be accorded to the incumbents of the indicated positions:

* * *

- C. Village Clerk, Deputy Clerk, Treasurer, Deputy Treasurer, Secretary of the Planning Board, Secretary of the Board of Zoning Appeals and full-time clerical employees, none of whom are members of a bargaining unit that is party to a collective bargaining agreement with the Village. A longevity award of ~~\$500~~ 800 shall be granted upon reaching 20 years of service, and an award of ~~\$250~~ 650 shall be granted upon reaching 15 years of service, effective within 30 days of the date of adoption of this resolution.

* * *

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 Maline the Public Hearing was opened.

Leo Montegna questioned how many full time and part time employees work for the Village. The Mayor said he would get back to him on the exact numbers.

On the motion of Trustee McMullen and seconded by Trustee Maline the Public Hearing was closed.

PUBLIC PARTICIPATION:

Betty Korner, stated the Village is providing services to outside residents while cutting services to Village residents.

BOARD APPROVAL OF WARRANT:

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

Fiscal Year 2011/2012 General Fund bills in the amount of \$ 29,476.46

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

Fiscal Year 2011/2012 Capital Fund bills in the amount of \$ 23,533.52

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

Fiscal Year 2011/2012 Fire Department bills in the amount of \$11656.97

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

Fiscal Year 2011/2012 Sewer Fund bills in the amount of \$ 17,451.06

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

Fiscal Year 2011/2012 Trust Fund bills in the amount of \$ 8,997.00

COMMISSIONER REPORTS: in the interest of time no commissioner reports were received this evening.

CHIEF OF POLICE REPORT: Chief Bruckenthal was absent this evening.

ADMINISTRATOR'S REPORT: 1. Request from Gannett Fleming.

NEW BUSINESS: In the interest of time no new business was discussed this evening.

OLD BUSINESS: In the interest of time no old business was discussed this evening.

CORRESPONDENCE: No correspondence was received this evening.

REQUESTS: no requests.

RESOLUTIONS:

The following resolution was put on hold until the next meeting.

RESOLUTION 2011-165 ~ APPROVAL OF THE DECEMBER 6, 2011 MINUTES

WHEREAS: Copies of the minutes of the December 6, 2011, meeting were sent to the Board for approval, therefore,

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

The following resolution was put to a roll call vote:

Trustee Maline ~ Yes

Trustee Kehoe ~ Yes

Trustee McMullen ~ Yes

Mayor Doll ~ Yes

Trustee Tobin ~ Yes

RESOLUTION 2011-166 LOCAL LAW No. 6

WHEREAS: 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 20th day of December, 2011, to consider the following proposed local law:

**Local Law No. 6 of the year 2011
Village of Northport, County of Suffolk**

The following resolution was put on hold until the next meeting.

RESOLUTION 2011-167 LOCAL LAW No.

WHEREAS: 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 20th day of December, 2011, to consider the following proposed local law:

**LOCAL LAW No. OF 2011
A LOCAL LAW OF
THE VILLAGE OF NORTHPORT TO AMEND
CHAPTER 306 ZONING OF THE CODE**

OF THE VILLAGE OF NORTHPORT

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

RESOLUTION 2011-168 LOCAL LAW No. 7

WHEREAS: 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 20th day of December, 2011, to consider the following proposed local law:

LOCAL LAW No. 8 OF 2011 A LOCAL LAW OF THE VILLAGE OF NORTHPORT TO AMEND CHAPTER 42 "OFFICERS AND EMPLOYEES" OF THE CODE OF THE VILLAGE OF NORTHPORT

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

RESOLUTION 2011- 169 ~ GRANTING THE APPEALS FOR ADJUSTMENTS OF SEWER RENTS FOR FISCAL YEAR 2010-2011 TO THE EXTENT SET FORTH IN SCHEDULE "A" ATTACHED.

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

RESOLUTION 2011 - 170~ SET PUBLIC HEARING FOR TENTATIVE BUDGE BE IT RESOLVED: That a public hearing of the Board of Trustees of the Village of Northport will be held on January 3, 2012 at 6:00 PM in the Northport Village Hall 224 Main Street to consider the 2012-2013 tentative budget.

The next regular meeting of the Board of Trustees will be on January 3, 2012 at 6:00 P.M

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

Respectfully submitted,

Donna M. Koch
Village Clerk

