

VILLAGE OF WESLEY HILLS  
VILLAGE BOARD MEETING  
December 12, 2006

PRESENT: Mayor R. Frankl  
Deputy Mayor E. Mc Pherson  
Trustee D. Goldsmith  
Trustee H. Richman  
Trustee D. Gantshar  
Village Attorney, F. Brown  
Deputy Village Attorney B. Selig  
Village Clerk J. Pagliaroli

Mayor Frankl opened the meeting at 8:00 P.M. The Mayor announced that December 17<sup>th</sup> is the 25<sup>th</sup> anniversary of the Village.

Mrs. Roberts was before the Board requesting permission to rent a house on East Willow Tree for a temporary after school program. Mr. Selig is to research and respond to the Board on the legality of the requested use of the house.

The Public Hearing regarding the application for a zone change by Mr. Kwilecki was opened at 8:15 P.M. Mr. Sparaco was before the Board. He discussed the fish in the retention ponds and how to protect them so they would survive the winter. He indicated that the ponds must be redesigned to accomplish that. He indicated that the fountains have been eliminated and the applicant will be stocking the ponds and the home owner's association will be maintaining the ponds. Terri Hahn was before the Board to discuss the waste oil spill that was found on the property. This has been remediated and the remediation will continue throughout the building process. Trustee Richman asked for clarification on how the homeowner's association will work. Mr. Savad said there will be an agreement on the sale contract and dues assessed proportionately. He said the homeowner's association has been approved by the State Attorney General. Deputy Mayor Mc Pherson asked who would do the maintenance on a yearly basis. Mr. Sparaco said that any contractor who maintains pools that the homeowner's association would hire would be able to do the maintenance. He also noted that the DEC requires plants at certain levels of the ponds and sediment removal would be provided for. Trustee Richman asked who would be responsible for running this association. It is his concern that three months down the road and no one wants to run the association. How it is carried out? Mr. Savad said that it is part of their sales agreement. Mr. Brown said that the Village Engineer makes the determination that it has to be done, notifies the homeowner's association, and, if they don't perform the maintenance then the Village has to have some way to do the work and then assess the

charges back to the homeowners. Mr. Brown said the Village may be stuck with the work, but not the cost. Mr. Marvin Finker asked what was the effective life-time of the ponds? Mr. Sparaco said that if they are maintained properly they will be forever. The question of liability for the ponds and who is responsible was raised. Mr. Savad said that the homeowner's association is responsible for the ponds. Deputy Mayor Mc Pherson said that the Village could stipulate in the approval the formation of the homeowners association and would require specifications from Sparaco on the ponds. Ms. Hahn said that would be part of the review process done by the Planning Board. Trustee Goldsmith asked how the homeowner's association would run until all the house were sold. Mr. Savad said the developer would remain responsible for the unsold parcels portion and until dedication. Trustee Gantshar wanted to understand how extensive the contamination was on the seven sites that were identified. Mr. Savad stated that this type of problem is generally discovered when the property is cleared and during construction. Ms. Hahn said that when the applicant was asked to look in certain locations and then Deputy Mayor Mc Pherson identified other locations and that was how the contamination was found. Trustee Gantshar asked who was on site during construction to make sure of the soil remediation. Mr. Sparaco said that the construction company would not take a chance of not reporting something like that because it could mean the loss of their license. Deputy Mayor Mc Pherson said that he believes that it should be referred to the DEC and the local health department. Mr. Kwilecki was before the Board. He stated that the oil contamination was in two small areas. He said that seven test holes were dug but only 2 had soil contamination. He said that this was being remediated as per the Federal Government regulations. He said that the property owned by Mr. Sikorsky was cleaned up when he purchased it. As the construction proceeds the soil will be tested. Ms. Hahn informed the Board that as the soil is disturbed; an on-site detector could go through the site and look at everything. She said that is covered in the LAN Associates contract.

Mr. Brown advised the Board that they had a choice to make. If the Board felt they have enough information that they feel they can vote this EAR and based on that concluding that any adverse environmental problem has been identified and corrected or there is a way to remediate. Are the report and the procedures outlined in it adequate to have the Board feel that it will be done correctly? If the Board feels it does not have sufficient information, they can adjourn the public hearing. A poll was taken of the Board. Mayor Frankl said that he was not an expert on the technical aspect of this application and he would like to see this move forward and go to the Planning Board. He said he was ready to vote. Trustee Richman said he would like to have the matter adjourned. Trustee Goldsmith said he was ready to vote. Deputy Mayor Mc Pherson said he was ready to vote and wants the Board's concerns attached to the resolution to the Planning Board. Mr. Brown suggested that Deputy Mayor McPherson's concerns

were incorporated into the EAR and then the conditions would be mandatory. Mr. Kwilecki, Mr. Savad, Ms. Hahn and Mr. Sparaco left the meeting room to develop the language to incorporate the concerns into the EAR.

The Board decided to proceed with the other matters on the agenda. Trustee Goldsmith made the following resolution:

**RESOLUTION 135-06**

RESOLVED, that the minutes of the meeting of the Board of Trustees of the Village of Wesley Hills on November 14, 2006, as submitted by the Village Clerk, be approved, and that the reading of such Minutes be waived.

The resolution was seconded by Trustee Richman and so carried with a vote of 5 ayes and 0 nays.

Trustee Richman made the following resolution:

**RESOLUTION 136-06**

RESOLVED, that the Minutes of the meeting of the Board of Trustees of the Village of Wesley Hills on November 21, 2006, with corrections, be approved, and that the reading of such Minutes be waived.

The resolution was seconded by Trustee Goldsmith and so carried with 5 ayes and 0 nays.

Trustee Goldsmith made the following resolution:

**RESOLUTION 137-06**

RESOLVED, that the Village of Wesley Hills shall pay \$200.00 to the Conference of Village Trustees in the Town of Ramapo for dues for all 4 of its Trustees for the 2006-2007 year.

The resolution was seconded by Trustee Richman. Trustee Gantshar said that he felt if the Trustees want to join, they should pay for themselves. He said he believes the Trustees should join but pay for the dues. Trustee Goldsmith suggested approving the above; and if the Trustees want, they can reimburse the Village the \$50.00. The resolution was so carried with a vote of 4 ayes (Mayor Frankl, Deputy Mayor Mc Pherson, Trustee Goldsmith and Trustee Richman) and 1 nay (Trustee Gantshar).

Discussion was held regarding the inter-governmental agreement with the Town of Ramapo for snow removal, highway maintenance and storm drainage system maintenance. Mr. Brown advised the Board that the agreement was only received this afternoon. After a quick review he had determined that the price has increased; and, more importantly, he wanted the Board to be aware of the new portion which deals with mailbox and not replacing the ones knocked down during snow plowing, which are covered by Section 9B of the agreement. Trustee Richman would like to know if the Village's insurance would come into play on this item. Mr. Brown advised that a mailing should be sent out to everyone that the Town has made the statement that mailboxes will not be replaced and that the Village has not given permission to have mailboxes in the right-of-way. Trustee Richman made the following resolution:

**RESOLUTION 138-06**

WHEREAS, the inter-governmental agreement heretofore entered into between the Village of Wesley Hills and the Town of Ramapo for the provision of snow removal, highway maintenance, and storm drainage system maintenance services by the Town to the Village will expire on December 31, 2006, and

WHEREAS, the Town Attorney has drafted an agreement for the provision of such services by the Town to the Village during the calendar year 2007, a copy of which agreement is made a part of the Minutes of this Board,

NOW, THEREFORE, BE IT RESOLVED, that the said agreement is hereby approved, and

BE IT FURTHER RESOLVED, that the Village of Wesley Hills enter into such agreement with the Town of Ramapo, and that the Mayor is hereby authorized to sign such agreement on behalf of the Village of Wesley Hills.

The resolution was seconded by Trustee Gantshar and so carried with a vote of 3 ayes (Trustee Richman, Trustee Gantshar and Trustee Goldsmith) and 2 nays (Mayor Frankl and Deputy Mayor Mc Pherson). Mayor Frankl and Deputy Mayor McPherson voted nay because they were angry with the new wordage.

The wording that was to be inserted into the EAF was present to the Village Board.

Trustee Goldsmith made the following resolution and read the wording of the resolution into the record by Trustee Goldsmith as follows:

**RESOLUTION 139-06**

WHEREAS, Kwilecki Enterprises, Inc. and Maccabee Construction, Inc. have applied to the Board of Trustees of the Village of Wesley Hills pursuant to Section 13.2 of the Zoning Law of the Village of Wesley Hills for an amendment to such Zoning Law, including the Zoning Map, to create new R-20 and R-13 zoning districts, and to change the Zoning District of certain property located on the northerly side of Village Green and the easterly side of Route 306 from the R-35 District to such new R-20 District, and to change the Zoning District of certain property located on the southerly side of East Willow Tree Road and the easterly side of Route 306 from the R-35 District to such new R-13 District, and

WHEREAS, in accordance with the Stipulation of Settlement settling the action brought against the Village by Kwilecki Enterprises, Inc. and Maccabee Construction, Inc., the Board of Trustees was required to entertain and review the Petition for Zone Change submitted by Kwilecki Enterprises, Inc. and Maccabee Construction, Inc., and

WHEREAS, the Village Attorney, at the request of this Board, prepared a proposed local law amending the Zoning Law of the Village of Wesley Hills in accordance with the request presented by such Petition for Zone Change, entitled "A Local Law Amending Local Law No. 14 of 1984, as Amended, to Revise the Zoning Law of the Village of Wesley Hills to Establish Two New Zoning Districts and to Amend the Zoning Map of the Village of Wesley Hills", and

WHEREAS, in accordance with the said Stipulation of Settlement, the Planning Board was required, simultaneously with the review of such proposed local law by the Board of Trustees, to review the proposed sketch subdivision plat submitted by Kwilecki Enterprises, Inc. as if the provisions included in such proposed amendment of the Zoning Law were in effect, and in furtherance thereof Kwilecki Enterprises, Inc. submitted an application for sketch plat approval to the Planning Board for a subdivision of the property to be included in such new Zoning Districts, which subdivision is entitled "The Willows", and

WHEREAS, on November 15, 2005, by Resolution #101-05, this Board determined that such applications and the adoption of such proposed local law were an Unlisted Action as defined in the State Environmental Quality

Review Act (SEQRA), and that the Board of Trustees would be the Lead Agency for the purpose of conducting a coordinated review of such action pursuant to SEQRA, and

WHEREAS, public hearings on such applications were held before the Board of Trustees on November 15, 2005 and continued on January 17, 2006, March 14, 2006, May 9, 2006, July 11, 2006, August 8, 2006, September 12, 2006, October 10, 2006, November 14, 2006, and December 12, 2006, and before the Planning Board on February 22, 2006 and continued on March 22, 2006, April 26, 2006, May 24, 2006, June 28, 2006, July 26, 2006, August 23, 2006 September 27, 2006 and October 25, 2006, and

WHEREAS, the applicant submitted to the Board of Trustees and the planning Board an Environmental Assessment Report dated June 1, 2006, which Report was revised at the request of the Planning Board and was resubmitted on September 6, 2006, and which Report was further revised at the request of the Planning Board and was resubmitted on October 11, 2006, and

WHEREAS, on October 25, 2006, by Resolution #06-08, the Planning Board, after review of said Environmental Assessment Report, determined that said Report as so revised addressed and adequately evaluated on a site-specific basis all environmental issues and concerns raised by members of the public, members of the Planning Board, and the Village's planning and engineering consultants, and therefore the Planning Board recommended to the Board of Trustees that it determine that the proposed action will not have a significant impact upon the environment as defined in SEQRA, and

WHEREAS, the applicant submitted to the Board of Trustees a further revision of such Environmental Assessment Report which was resubmitted on December 1, 2006, and

WHEREAS, at the request of the Board of Trustees at the continuation of said public hearing on December 12, 2006, the applicant submitted to the Board of Trustees new pages 2-12 and 2-13 to be added to said Environmental Assessment Report, and

WHEREAS, the Board of Trustees, after review of said Environmental Assessment Report and said recommendation of the Planning Board, agrees that said Report as so revised addresses and adequately

evaluates all environmental issues and concerns raised by members of the public and members of the Board of Trustees,

NOW, THEREFORE, BE IT RESOLVED, that it is hereby determined that the enactment of such proposed local law and the approval of such proposed subdivision will not have a significant effect on the environment

as defined in SEQRA for the reasons set forth in said Environmental Assessment Report.

The resolution was seconded by Trustee Gantshar. There was a vote as follows: Mayor Frankl, aye; Deputy Mayor Mc Pherson, aye; Trustee Gantshar, nay; Trustee Goldsmith, nay, Trustee Richman, nay. The motion was not carried.

Trustee Goldsmith stated that he still was concerned with the retention ponds. He did not like the idea of ponds. It was his feeling that the reason the ponds would be in use is because of the zone change and does not know how to mitigate the drainage problems unless less impervious surface was allowed. He feels that the zone change is setting a precedent. Trustee Richman stated his concerns with the retention ponds and stagnant water and the responsibility of maintenance of the ponds. Trustee Gantshar said that he had the same concerns as Trustees Goldsmith and Richman and also that he felt there are too many unknowns here. He wanted to know if the law required LAN Associates to report findings of contamination to the Village Engineer and he is concerned about what other types of fluids are on the property. He said he personally needed some time to consult with experts in the field. Mr. Brown said that he needed to get clarification as to whether or not the Board felt it was possible to resolve these issues with what was presented tonight or whether these issues could be resolved with more information. Trustee Richman said that it was correct that more information was needed. Mr. Brown suggested that the hearing should be adjourned. The applicant requested the Board for an adjournment and further consideration. Trustee Gantshar made the following resolution:

**RESOLUTION 140-06**

RESOLVED, that the public hearing on the proposed local law entitled "A Local Law Amending Local Law No. 14 of 1984, as Amended, to Revise the Zoning Law of the Village of Wesley Hills to Establish Two New Zoning Districts and to Amend the Zoning Map of the Village of Wesley Hills" is hereby adjourned until January 9, 2007 at 8:00 P.M.

The resolution was seconded by Trustee Richman and was so carried with 4 ayes (Mayor Frankl, Deputy Mayor Mc Pherson, Trustee Richman and Trustee Gantshar) and one abstention of Trustee Goldsmith.

Trustee Goldsmith made the following resolution:

**RESOLUTION 141-06**

RESOLVED, that Willie L. Bryant is hereby appointed as alternate member of the Zoning Board of Appeals of the Village of Wesley Hills for the balance of the term expiring in April, 2007.

The resolution was seconded by Trustee Richman and so carried with a vote of 4 ayes (Mayor Frankl, Deputy Mayor Mc Pherson, Trustee Goldsmith, Trustee Richman) and 1 nay (Trustee Gantshar)

Trustee Goldsmith made the following resolution:

**RESOLUTION 142-06**

RESOLVED, that the Board of Trustees hereby accepts the offer of dedication to the Village of Wesley Hills, for general municipal purposes, of the following parcels of and interests in real property as shown on the plat for the subdivision known as "Subdivision of Property for Scott", which subdivision plat was filed in the Rockland County Clerk's Office on October 20, 1999, in map book 120, at page 39, as map #7307, subject to the recording of the Deeds conveying title of such real property to the Village of Wesley Hills:

- (a) Hunters Run;
- (b) shade tree easements along all roads;
- (c) sight easements over Lots 3 and 6;
- (d) 19.375' wide strip along easterly boundary of Lot 5;
- (e) drainage easement on Lots 4 and 5.

The resolution was seconded by Trustee Gantshar and so carried with a vote of 5 ayes and 0 nays.

Mr. Brown explained that the next two proposed resolutions were requested by two trustees. Trustee Richman said that one resolution portrays history in one way and the other in another way. He produced a letter from Alex Gromack regarding the funds offered in 1999. Trustee Richman asked that the following letter be included in the record:

*September 17, 1999*

*Mayor Bob Frankl  
Village of Wesley Hills  
432 Route 306  
Wesley Hills, NY 10952*

*Dear Mayor Frankl,*

*Please be aware that I have been awarded funding from the New York State Department of Transportation to install sidewalks along Route 306 from Grandview Road.*

*Public safety is my number one concern and I am in favor of erecting sidewalks to further ensure safety conditions on a busy street such as Route 306. As you are aware, Mr. Herb Reisman will also be receiving money from Assemblyman Colman's office and sidewalks will be erected on Route 306 from Viola Road to Grandview.*

*Obviously it is the final decision of your board members to determine if in your village, sidewalks on Route 306 is warranted. However, I need to know by November 1 if you elect to use the funding for that purpose. Otherwise, please be aware that the monies must be awarded to another project within my district for the purpose of erecting state roads in another location.*

*Looking forward to hearing from you with a favorable response.*

*Sincerely,*

*ALEXANDER J. GROMACK  
Member of Assembly*

*AJG:rk*

Trustee Goldsmith made the following resolution:

**RESOLUTION 143-06**

WHEREAS on October 10, 2001 the Board of Trustees adopted Resolution #170-01 requesting and expressing unanimous support for "the installation of sidewalks along the entire length of Route 306 within the Village of Wesley Hills", and

WHEREAS, Trustee Goldsmith has recently secured a letter from Richard Peters, Regional Planning and Program Manager for the New York State Department of Transportation, a copy of which letter is made a part of the Minutes of this Board, stating that a project to install sidewalks on Route 306 between Grandview Avenue and Pomona Road is being added to the capital program, and

WHEREAS, two of the members of the Board of Trustees have changed since said Resolution #170-01 was adopted, and Trustees Gantshar and Richman wish to be on record as also being in favor of that project,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees hereby reiterates that it continues to be in favor of the installation of sidewalks along Route 306 and will continue to work with Village, Town, County and State officials to provide the necessary support for the implementation of that project to its completion.

The resolution was seconded by Deputy Mayor Mc Pherson and so carried with a vote of 3 ayes (Mayor Frankl, Deputy Mayor Mc Pherson and Trustee Goldsmith) and 2 nays (Trustee Richman and Trustee Gantshar). Trustees Gantshar and Richman asked that the record reflect they voted nay because the above resolution because, in their opinion, it does not include a full history of what happened in 1999 and when the original resolution was passed in 2001.

Trustee Gantshar made the following resolution:

**RESOLUTION 144-06**

WHEREAS on October 10, 2001 the Board of Trustees adopted Resolution #170-01 with respect to the installation of sidewalks along Route 306, by a vote of 3 ayes and 0 nays, despite the fact that it had been presented with funding for that project approximately two years earlier, and

WHEREAS, on September 19, 1999 Assemblyman Gromack wrote to the Village of Wesley Hills advising that he had funding for the installation of sidewalks by the New York State Department of Transportation, and that letter specifically stated that "dedicated funds" were only available until November 1, 1999, and

WHEREAS, the Board of trustees deliberately chose not to provide a response at that time, and

WHEREAS Richard Peters, Regional Planning and Program Manager for the New York State Department of Transportation, has written a letter stating that a project to install sidewalks on Route 306 between Grandview Avenue and Pomona Road is being added to the capital program,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees hereby declares that it is now in favor of the installation of sidewalks on the west side of Route 306 and will continue to work with Village, Town, County, and State officials to provide the necessary support for the implementation of that project to its completion.

The resolution was seconded by Trustee Richman was defeated with a vote of 2 ayes (Trustee Gantshar and Trustee Richman) and 3 nays (Mayor Frankl, Deputy Mayor Mc Pherson and Trustee Goldsmith)

Trustee Goldsmith made the following resolution:

**RESOLUTION 145-06**

WHEREAS, certificates of occupancy have been issued for several houses on Rochelle Lane, but the construction of said road is not yet completed because, among other things, the final wearing course thereon has not yet been installed, and therefore Rochelle Lane remains an undedicated road, and

WHEREAS, the Town of Ramapo has advised the Village of Wesley Hills that it will not provide snow plowing service on undedicated roads, and

WHEREAS, Section 4.24 of the Land Subdivision Regulations of the Village of Wesley Hills requires that the developer of any subdivision must maintain all improvements until their acceptance by the Board of Trustees, including provision for snow removal on streets and sidewalks, and further provides that where certificates of occupancy have been issued on an undedicated street, "the Village may plow the street ...and charge same" to the developer of the subdivision, and

WHEREAS, Sol Menche, the developer of the Timberline Estates Subdivision, has failed to supply the Village of Wesley Hills with proof that he has made satisfactory contractual arrangements for snow and ice removal on Rochelle Lane during the 2006-2007 winter season, despite repeated requests from the Village that he do so,

NOW, THEREFORE, BE IT RESOLVED, that the Village of Wesley Hills enter into a contract with Prestige Lawns, Inc. for the identical sanding, salting, and snow removal services on Rochelle Lane during the 2006-2007 winter season that would have been provided by the Town of Ramapo pursuant to its inter-governmental agreement with the Village if Rochelle Lane had been a dedicated road, provided that such contract shall provide that the Village may cancel said contract at any time without penalty, and

BE IT FURTHER RESOLVED, that all expenses incurred by the Village of Wesley Hills in connection with said contract with Prestige Lawns, Inc. shall be charged by the Village to the said developer, and that such charges shall be assessed equally against all lots then owned on Rochelle Lane by Sol Menche or his corporation Willow Tree Management LLC or any transferee entity, and that such amounts so assessed shall constitute liens on the respective parcels of real property on which they are levied until paid or otherwise canceled pursuant to the provisions of Section 5-516 of the Village Law and shall be collected in the same manner as other Village special assessments pursuant to the provisions of Section 5-518 of the Village Law, and

BE IT FURTHER RESOLVED, that the Village Clerk is hereby directed to transmit a copy of this Resolution to Sol Menche forthwith.

The resolution was seconded by Trustee Richman and so carried with a vote of 5 ayes (Mayor Frankl, Deputy Mayor Mc Pherson, Trustee Goldsmith, Trustee Richman and Trustee Gantshar) and 0 nays.

Trustee Goldsmith made the following resolution:

**RESOLUTION 146-06**

RESOLVED, that general fund claims #166 through 194 in the aggregate amount of \$82,763.82, as set forth in Abstract #12-06 dated December 12, 2006, a copy of which abstract of audited claims is made a part of the Minutes of this Board, are hereby approved.

The resolution was seconded by Trustee Richman and so carried with a vote of 4 ayes (Mayor Frankl, Deputy Mayor Mc Pherson, Trustee Goldsmith and Trustee Richman) and one nay (Trustee Gantshar). Trustee Gantshar voted nay because there was a voucher to pay Zarin and Steinmetz on the Warrant and he does not believe that the Village should be paying for lawsuits outside of the boundaries of the Village.

Trustee Goldsmith made the following resolution:

**RESOLUTION 147-06**

RESOLVED, that parks and recreation fund claim #180 in the amount of \$6,900.00, as set forth in Abstract #PR6-06 dated December 12, 2006, a copy of which abstract of audited claim is made a part of the Minutes of this Board, is hereby approved.

The resolution was seconded by Deputy Mayor Mc Pherson and so carried with 5 ayes and 0 nays.

Trustee Richman asked the other board members to submit names to be on a committee to look at the religious use law. It was suggested that each member submit 2 names.

Trustee Goldsmith informed the Board that he was told by our Building Inspector, Pat Massaro that someone put an application in to erect a windmill in the Village of New Hempstead. It was decided that Jeff Osterman should give his opinion on this matter.

Trustee Gantshar asked about the trailer on Rochelle Lane. Mr. Brown stated that the trailer should be removed by January 1<sup>st</sup>.

Trustee Richman asked for a draft of a sidewalk maintenance law and Mr. Brown said that he will have it for the Board's review at the next meeting.

Trustees Goldsmith and Gantshar made a motion to adjourn and were so carried.

Respectfully submitted,

Julie Pagliaroli  
Village Clerk