

BOARD OF TRUSTEES
SPECIAL MEETING – WORK SESSION – EXECUTIVE SESSION
JANUARY 9, 2018

The Board of Trustees held a special meeting, work session an executive session on the above date at 9:30 a.m., at the Emergency Services Building, 1 Cedar Street, East Hampton (meeting scheduled for January 4th was re-scheduled due to snowstorm)

- Those present were:*
- | | |
|--------------------|-----------------------------------|
| Paul F. Rickenbach | Mayor |
| Bruce A. Siska | Deputy Mayor/Trustee |
| Barbara Borsack | Trustee |
| Arthur S. Graham | Trustee |
| Richard Lawler | Trustee |
| Rebecca Hansen | Village Administrator |
| Linda Riley | Village Attorney |
| Scott Fithian | Superintendent of Public Works |
| Michael Tracey | Police Chief |
| Robert Hefner | Historic Site Consultant |
| Billy Hajek | Planning Consultant |
| Ken Collum | Code Enforcement Officer |
| Kent Howie | Code Enforcement Officer |
| Hugh King | Historic Site Manager & Historian |
| Loretta Orion | Home Sweet Home Museum Gardener |
| Ken Wessberg | Fire Chief |
| Rose Brown | Design Review Board member |
| Drew Bennett | Consulting Engineer |
| Basil Carter | Village Resident |
| Susan Ecker | Village Resident |
| John Mullen | Mullen & McCaffrey |
| MaryAnn McCaffrey | Mullen & McCaffrey |
| Anthony Olender | Oceanview Landscapes |
| Bill Fox | Bill Fox Grounds Maintenance |
| Brendan O’Dwyer | Summerhill Landscapes |
| Carlos Pinto | Natural Cycle Landscaping |
| Don Mahoney | Mahoney Associates |
| John Robertson | Wainscott Farms |
| Peter Feeny | Summerhill Estate Care |
| Zachary Crawford | Landscape Details, Inc |
| Representative | Eduardos Lawncare |
| Representative | Long Summers Landscaping |
| Representatives | Landscape Details, Inc |
| Jason Nower | LTV |
| Jamie Buffalino | East Hampton Star |
| June E. Lester | Secretarial Assistant |

DREW BENNETT – ROUNDABOUT CHANGE ORDER

Drew Bennett addressed the Board to request they approve Change Order #1 on the Route 114 – Toilsome Lane Roundabout Project. During construction during Stage 1 of the project an unforeseen condition with an existing drainage structure was encountered. The cost to rectify the drainage issue is \$64,550.

LIVE MUSIC IN RESTAURANTS

A brief discussion was held by the Board in response to Mr. Paul Fried’s request and letter from the December 7th meeting. Several questions were raised by the Board members: 1) Should the number of musicians in an ensemble be limited? 2) Should live music, if permitted, be limited to indoor only? 3) How would weddings with larger musical ensembles be handled?

The Board agreed that amplification would not be permitted and any legislation would need to be specific. Mayor Rickenbach asked Linda Riley to research other municipalities restrictions on live music.

MASS GATHERING/SPECIAL EVENTS AMENDMENTS

In response to the January 2nd letter (below) received from Anthony Pasca, Esq. on behalf of the owners of 66 James Lane, the Board briefly discussed the issues with the Village's current mass assemblage restrictions.

In March Local Law #7-2017 was adopted to authorize the Board to establish fees for applications for mass assembly permits and to provide that events to be held on public property require a permit regardless of the number of people expected to attend the event and to require applicants to be responsible for the disposal of all debris. Concerns involving mass assemblages were further discussed at several meetings since then.

Mayor Rickenbach would like to see proposed legislation drafted, but invited the public to offer commentary and suggestions.



ESSEKS, HEFTER, ANGEL, DI TALIA & PASCA, LLP
COUNSELORS AT LAW



January 2, 2017

MAIN OFFICE
108 EAST MAIN STREET
P.O. BOX 279
RIVERHEAD, NY 11901-0279

SOUTHAMPTON OFFICE
(BY APPOINTMENT ONLY)
30 MAIN STREET
SOUTHAMPTON, NY 11968

EAST HAMPTON OFFICE
(BY APPOINTMENT ONLY)
34 PANTIGO ROAD
EAST HAMPTON, NY 11937

WWW.EHALAW.COM
(631) 369-1700
FAX: (631) 369-2065
(NOT FOR SERVICE)

STEPHEN R. ANGEL
CARMELA M. DI TALIA
ANTHONY C. PASCA

LISA J. ROSS
KEVIN A. MCGOWIN
CHRISTINE FERRUCCI
SMITH
KIM A. SMITH
LISA D. TYMANN
AMANDA STAR FRAZER

MARCIA Z. HEFTER
SENIOR COUNSEL
PATRICIA M. CARROLL
MARTIN R. GILMARTIN
OF COUNSEL

WILLIAM W. ESSEKS
RETIRED

Board of Trustees of the
Village of East Hampton
86 Main Street
East Hampton, NY 11937-2730

Re: Mass Gathering Code Amendments

Dear Mayor Rickenbach and Trustees:

As you may know from our prior correspondence, we represent Peter and Patricia Handal, owners of 66 James Lane, next door to the Hedges Inn (74 James Lane). You should also be aware of the Handals longstanding concerns over the abuses of both the existing mass gathering code and what I refer to as a "creeping expansion" of nonconforming uses. For those reasons, we are carefully monitoring the Village's recently-announced effort to amend the mass gathering code.

While we do generally support the Board's effort to update the mass gathering code, we also urge the Board to be careful not to create new problems in an effort to fix old ones.

We can all agree that the current code is in need of an update. It has virtually no standards, which makes it ripe for abuse and arbitrariness. This is no more apparent than in a review of the compilation of "Large Assembly Permits" for the 2017 year. On its face, the table reveals an arbitrariness that is unexplainable through anything in the existing code. For example, the Hedges Inn received five permits on 4/1, 4/8, 4/26, 5/20, and 7/1 for events of 85, 50, 60, 100, and 200 people, yet was noted as "no permit needed per Becky" on 9/16 and 9/23 for events of 140 and 125 people, and yet another note says "only allowed one more." While there may be some unwritten, underlying rhyme or reason to this differential treatment, it is not apparent on the face of the Village's existing mass assembly code. For that reason alone, we are pleased the Board is tackling this issue.

(continued on next page)

At the same time, we caution the Board to be careful not to create new problems in relation to the treatment of nonconforming uses. The 11/27/2017 introductory memo from the Village Administrator to the Board notes that one "other item for discussion is how to address preexisting nonconforming locations in residential areas," yet the draft code, in our professional opinion, actually muddies the waters rather than clarifies them in regard to nonconforming uses.

The confusion stems primarily from the definitional treatment of the terms "Assembly," "Commercial Premises," "Commercial Special Event Permit," which seem to group both conforming and nonconforming uses together, without distinction. Conforming and nonconforming uses are not the same. As you know, conforming and nonconforming uses are subject to different treatment and standards under the Village's zoning code, which is what defines a use as being conforming or nonconforming in the first place. The zoning code, for example, only allows nonconforming uses to be continued within their existing structures, and they may not be extended, enlarged, or changed, except by way of an area variance granted under § 278-7(d). That section specifically prohibits any such variance that would introduce "any outdoor use, including outdoor dining, to a preexisting nonconforming commercial use in a residential district...."

The draft mass assembly code rewrite fails to differentiate between conforming and nonconforming commercial uses and, consequently, may create an unintended conflict between the new code and the zoning code. If the zoning code does not allow the introduction "any outdoor use" to a pre-existing nonconforming use in a residential district, then there can be no consideration for the granting of mass assembly permits to pre-existing nonconforming uses unless indoors, within existing spaces, or unless the Zoning Board has interpreted the pre-existing nonconforming use as including outdoor dining. The draft mass assembly code does not make this distinction, however, and seems to be drafted in a somewhat self-contradictory manner to the extent it contemplates permits for outdoor food service yet also states that no permit may violate any other law of the Village of East Hampton (which would include § 278-7(d) and the other provisions relating to nonconforming uses). The self-contradiction and potential for confusion is, in our opinion, easily avoidable, such as by clarifying

that mass assembly permits for nonconforming uses can only be granted if the assembly is conducted indoors, within existing buildings that have already been recognized as part of the pre-existing nonconforming use, or outdoors only if outdoor dining is part of the pre-existing use. We would be happy to discuss some specific ways to correct the potential problem at your convenience.

Again, we commend the Board for tackling an issue in need of clarification, but we urge caution to avoid creating new problems at the same time. Careful drafting can avoid problems before they begin.

Very truly yours,



Anthony C. Pasca

cc: Linda Riley, Esq.
P.& P. Handal

LEAF BLOWERS

The Board of Trustees briefly discussed several points on the gas or diesel powered leaf-blower issue.

- While more quiet, is electric-powered equipment less powerful than the gas or diesel powered equipment presently being used?
- Draft legislation to ban use of them completely, or only during "season"?
- If legislation were to be drafted to include the use of the more powerful (& noise producing) gas /diesel equipment during emergency situations (storm clean-up), how would it be decided the point at which such equipment would be permitted?

The Board agreed the issue requires more research and further discussion, and invited the public to comment.

PUBLIC COMMENT:

Brendon O'Dwyer of Summerhill Landscapes noted that his company is presently using back-pack blowers, but generally not as much from Memorial Day to Labor Day. Mr. O'Dwyer asked if the noise levels have been tested, and added that he would be open to working with the Village on the issue.

Don Mahoney, of Don Mahoney Associates addressed the Board to ask them not to take action. He has discussed the leaf blower issue with 30+ municipalities, and felt that possible litigation could result from a complete ban. Mr. Mahoney felt that though electric is more quiet, it is less powerful and use of it would be more expensive for the landscaper's clients. He suggested training and certification of equipment users.

Zachary Crawford of Landscape Details, Inc. questioned how compliance and enforcement would be implemented, particularly "legitimate companies compared to others."

Trustee Graham suggested that, partnering with the Town, licensed landscapers would have a placard to visibly display in window of each of their company vehicles.

Mayor Rickenbach noted that Southampton has established the East Coast's first "green zone" in a town-owned East Quogue park, where it is using electric-powered maintenance equipment only, to reduce noise levels and eliminate carbon emissions and toxic pollutants.

Trustee Lawler made a motion to authorize the payment of real estate taxes on 8 Osborne Lane (SCTM # 301-4-2-1, Bill #2017 006444) in the amount of \$1,870.70, seconded by Trustee Graham and carried unanimously.

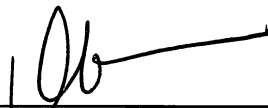
Mayor Rickenbach	Yes
Trustee Borsack	Yes
Trustee Lawler	Yes
Trustee Siska	Yes
Trustee Graham	Yes

Trustee Siska made a motion to approve Route 114 & Toilsome Lane Roundabout Project Change Order #1 in the amount of \$64,550 to South Fork Asphalt for additional drainage improvements, seconded by Trustee Lawler and carried unanimously.

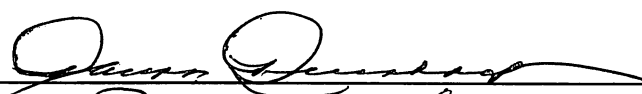
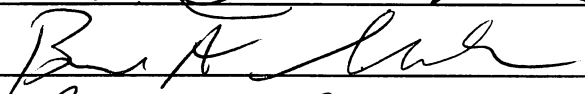
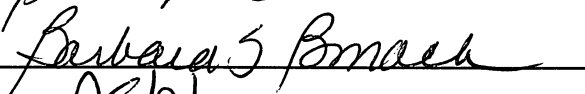
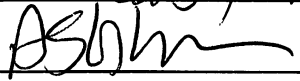
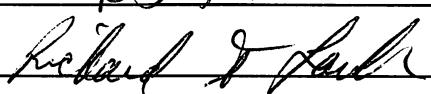
Mayor Rickenbach	Yes
Trustee Borsack	Yes
Trustee Lawler	Yes
Trustee Siska	Yes
Trustee Graham	Yes

Trustee Lawler made a motion to close the meeting at 10:23 a.m., and enter into an executive session to discuss pending litigation, seconded by Trustee Siska and carried unanimously.

Mayor Rickenbach	Yes
Trustee Borsack	Yes
Trustee Graham	Yes
Trustee Lawler	Yes
Trustee Siska	Yes



 REBECCA HANSEN, CLERK OF THE BOARD

PFRJR:  MAYOR
 BAS:  DEPUTY MAYOR/TRUSTEE
 BSB:  TRUSTEE
 ASG:  TRUSTEE
 RTL:  TRUSTEE

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