

## **MINUTES OF SEA CLIFF VILLAGE BOARD**

**June 13, 2011**

The meeting of the Incorporated Village of Sea Cliff was held on Monday, June 13, 2011 at 8:00p.m. at Village Hall to discuss various Village matters.

Present: Bruce Kennedy, Mayor  
Carol Vogt, Village Trustee  
Thomas Powell, Village Trustee  
Thomas Murphy, Village Trustee  
Brian Stolar, Village Attorney  
Marianne Lennon, Village Clerk

Absent: Peter Hayes, Village Trustee

Gerry Izzo led the Assembly in the Pledge of Allegiance.

### **Mayor Bruce Kennedy**

A Public Hearing on Bill No. 3, Year 2011, a local law to clarify the requirements for drywells and other storm water drainage systems.

The Public Hearing was opened for public comment

No comments were received from the public, and on a motion by Trustee Vogt, seconded by Trustee Powell, the Public Hearing was closed.

A Public Hearing on the application for a cabaret license by NFRP Catering d/b/a Sans Souci. A representative from Sans Souci answered questions that the Mayor and Board of Trustees had regarding the cabaret license.

The Public Hearing was opened for public comment.

- Resident asking for clarification of cabaret license and if the restaurant would broaden its use
- Does applicant own building and business, hours of outdoor music

On a motion by Mayor Kennedy, seconded by Trustee Murphy, the Public Hearing was closed.

### **Welcome to the Board Meeting of June 13, 2011 of the Incorporated Village of Sea Cliff.**

The minutes of the meeting of June 6, 2011 read individually by the members of the Board and found to be correct, on motion by Trustee Vogt, seconded by Trustee Powell and unanimously carried by those present, the minutes were approved.

Trustee Vogt presented and moved for approval and payment of audited vouchers as listed as Abstract No. 2265 in the amount of \$ 157,007.96 and Abstract No. 2266 in the amount of \$ 298,909.97. Seconded by Trustee Powell and unanimously approved by those present.

On May 19<sup>th</sup>, Sea Cliff lost a gracious lady, Kay Feminella. Kay was one of the first members of the Village's Landmarks Preservation Commission and she served for many years. The Board offers its sympathy to Kay's family.

On June 5<sup>th</sup>, Sea Cliff lost another member of its community, Eve Haim. Eve was president of the SC Landmarks Association, Board member of the Landmarks Preservation Commission, member of the SC Beautification Committee, and a board member of the Civic Association.

Mayor moved to accept the gift from Sea Cliff Landmarks Association in the amount of \$14,394.00 to restore and repair the Central Avenue stairs. Seconded by Trustee Murphy and unanimously approved by those present.

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Mayor thanked and presented a citation to Leslie Guerci and Gerry Izzo, members and representatives of Sea Cliff Landmarks Association.

Nassau County Police Report for May 2011:

6 Auto accidents, 14 Aided cases, and no cases of burglary of a residence/business, robbery, auto larceny criminal mischief

Congratulations to the winners of the Whitecap Award: Eve Haim, Jean Stratford and Linda Parsons.

Mayor Kennedy swore in Ed Camiola as an alternate member to the Planning Board.

Trustee Vogt offered the following resolution for adoption:

**RESOLUTION NO. 51, YEAR 2011**

**WHEREAS**, the Board of Trustees is considering the adoption of Bill No. 3, Year 2011 entitled:

A local law amending Chapter 103 of the Village Code of the Village of Sea Cliff to clarify the requirement for drywells and other storm water drainage systems.

**NOW, THEREFORE, BE IT RESOLVED**, that the following Local Law, introduced as Bill No. 3, Year 2011, be adopted as follows:

**TEXT OF BILL**

**Incorporated Village of Sea Cliff**

**Local Law No. 4, Year 2011**

A local law amending Chapter 103 of the Village Code of the Village of Sea Cliff to clarify the requirement for drywells and other storm water drainage systems.

Section 1. Section 103-12(B) of Article V of Chapter 103 of the Village Code of the Village of Sea Cliff, entitled "Regulation of Public Sewers", is amended as follows:

**§ 103-12.B.** Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, drywells, other storm-water drainage systems or to a natural outlet as approved by the Enforcement Officer. Industrial cooling waters or unpolluted process waters may be discharged on approval of the Enforcement Officer, to a storm sewer or natural outlet. Cooling water dischargers to waters of the state must apply for SPDES permits and are subject to state and federal regulations.

Section 2. This local law shall take effect in accordance with Section 27 of the Municipal Home Rule Law.

**BE IT FURTHER RESOLVED**, that the Village Clerk be and she hereby is authorized and directed to file four (4) certified copies (including the original or first copy) of the foregoing Local Law containing the text thereof with the Secretary of State of the State of New York; one (1) certified copy in the Office of the Clerk of the Village of Sea Cliff, in a separate file appropriately indexed by said Village Clerk, in accordance with Section 27 of the Municipal Home Rule Law; and to publish a Notice of Adoption of said Local Law in the Gold Coast Gazette, the official newspaper of the Village of Sea Cliff, and to post said Notice of Adoption as required by law.

Trustee Vogt moved the adoption of the foregoing resolution and seconded by Trustee Powell. All present voted in favor of the motion and the resolution was duly adopted.

**Trustee Carol Vogt**

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The Sea Cliff Beach Committee is holding its annual fund raising beach bash on Saturday, July 2. Sea Cliff Palooza will begin at 1 pm with acoustic music and children's Events. Local bands will be performing beginning at 6 pm and the beach concession will be open for food and snacks all day and throughout the evening.

The Sea Cliff Civic Association invites you to attend the annual reading of the Declaration of Independence at 10 am on July 4<sup>th</sup> on the Village Green in front of the adult library.

The Sea Cliff Museum is closed for the summer. It will reopen in September with a new exhibit, "Then and Now", featuring "thing a ma-jigs" of the past, contrasted with the gadgets and technology we use today.

Senior Action Committee held a very successful senior picnic on Saturday, June 11th at the Methodist Church. There were 100 attendees. The Mayor and Board would like to thank Jean Stratford for all her work in coordinating the event.

**Trustee Tom Murphy**

It's my great pleasure to announce 3 new members of the Fire Department. A returning member of the Fire Department: Thomas Santosus – Enterprises Hose Co. #1.; Rocco Bellodor III – Hose Company, and Edward Seelig – Engine Company.

The Fire Department had their annual inspection this past Saturday and past with flying colors.

The Fire Department report for May shows that there were 19 fire calls and 27 rescue/ambulance calls.

Monday, July 4<sup>th</sup>, Village Hall will be closed. Monday's garbage will be picked up on Tuesday, Tuesdays pick up will be moved to Wednesday. There will be no recycling pickup that week.

Trustee Murphy offered the following resolution for adoption:

**RESOLUTION NO. 52, YEAR 2011**

**RESOLVED**, that the Village Clerk be and she hereby is authorized and directed to advertise for bids for Road Improvements. Bid packages will be available on Monday, July 11, 2011 at the Office of the Village Clerk, located at the Incorporated Village of Sea Cliff, 300 Sea Cliff Avenue (P.O. Box 340), Sea Cliff, New York 11579, to be returned on or before Friday August 5, 2011 at 3:00pm. at which time all bids will be publicly opened and read.

Trustee Murphy moved the adoption of the foregoing resolution seconded by Trustee Powell .

**Trustee Tom Powell**

On June 1, 2011 the New York State department of Environmental Conservation opened 2500 acres to shell fishing in Hempstead Harbor. After 4 decades of being closed to commercial and recreational shell fishing the beds have been opened due to a variety of environmental projects which have taken place.

For the past 16 years, working with the Hempstead Harbor Protection Committee, the Village of Sea Cliff, working with the Coalition to Save the Harbor, the Glenwood / Glen Head Civic Association and others, the HHPC has conducted numerous studies, received millions of dollars in grants and has developed and implemented various plans to help restore the harbor.

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All those efforts have paid off with the opening of these 2500 acres of the harbor. There remains much work to be done.

**RESOLUTION NO. 53, YEAR 2011**

**RESOLVED**, that the Board of Trustees of the Incorporated Village of Sea Cliff hold a public hearing upon:

**Bill No. 4, Year 2011.** A local law amending Chapter 90 of the Village Code of the Village of Sea Cliff to further describe unreasonable noises in the Village of Sea Cliff.

**FURTHER RESOLVED**, that such hearings be held on the 11th day of July, 2011, at 8:00 o'clock p.m. at the Community Center in the Village of Sea Cliff, New York, and that notice thereof in the form required by the Code of the Incorporated Village of Sea Cliff be published in The Gold Coast Gazette, the official newspaper of the Village of Sea Cliff, and posted as required by law.

Seconded by Trustee Vogt and unanimously carried by those present.

**Public Works Report – John Mirando**

During the month of April 2011, the Department of Public Works disposed of the following MSW:

1. During the month 2011 DPW disposed of the following MSW:
  - 248.25 tons of MSW
  - 15.86 tons of Commingled Cans & Glass
  - 18.35 tons of Newspaper & Cardboard
  - 23.94 tons of yard waste
  - 31.95 tons of C&D
  
2. During the month 2011 DPW disposed of the following MSW:
  - 243.62 tons of MSW
  - 19.19 tons of Commingled Cans & Glass
  - 18.35 tons of Newspaper & Cardboard
  - 29.75 tons of yard waste
  - 43.32 tons of C&D

**Clerk's Report – Marianne Lennon** – First half taxes are due by July 1<sup>st</sup> without penalty.

**Public Comment:**

- Residents read a statement that they had written regarding the application that was submitted to the Zoning Board for a subdivision
- Resident asking about Water Company project on Brown Street
- Resident checking on the status of the Sea Wall at Tappan Beach
- Process for the extension of hours at the Sea Cliff Beach parking lot
- Beach closing notification
- Question regarding e-waste recycling

The Board discussed the application made by NFRP Catering, Inc. d/b/a Sans Souci Catering for a Cabaret License.

The Board made the following Findings of Fact and Conclusions of Law; and

Mayor Kennedy offered the following resolution:

**RESOLUTION NO. 54, YEAR 2011**

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**FINDINGS OF FACT**

1. NFRP Catering, Inc. is the owner and operator of a restaurant business located at 395 Prospect Avenue, Sea Cliff, which is more particularly described on the Nassau County Land and Tax Map as Section 21, Block 193, Lot 1, 2 and 14 (the "Premises").

2. The Premises are presently improved with a restaurant that operates as a pre-existing non-conforming use at the Premises.

3. The applicant requests a license pursuant to the provisions of Chapter 50 of the Village Code to conduct, maintain, operate or engage in the business of conducting, maintaining or operating, a cabaret, discotheque, or similar place of entertainment in the restaurant at the Premises.

4. The applicant's restaurant operation includes catering for various types of private parties. Those parties generally take place on weekend nights and occasionally on weekend days or weeknights. Parties held in the day are to begin no earlier than 10am. The latest parties on Monday through Saturdays end at 1am and on Sundays at 12am. The facility permits indoor music performed by a band or a disc jockey. There is limited outdoor music that is performed generally during the cocktail hour portion of the private parties, and for a one hour period at a time. The outdoor music uses no amplification.

5. During the license hearing, the neighboring property owner testified that the use of the premises for restaurant purposes was not demonstrated pursuant to either a certification of occupancy or a certificate of existing use. As provided below, because the restaurant use of the Premises is lawful as a pre-existing non-conforming use, the applicant would be required to obtain a certificate of pre-existing non-conforming use or a similar document from the building department demonstrating that the use is not unlawful.

6. The Board of Trustees hereby adopts the following findings:

- a. The playing of all music shall comply with all then existing Village Code provisions, including those related to noise.
- b. The playing of music outdoors is proposed to be performed seasonally or when weather permits, and only for one hour periods and shall not include any singing or amplification.
- c. The restaurant would be open for private parties, and shall remain open no later than 12am on Sunday nights and no later than 1am on other nights.

7. Applicant has requested a License pursuant to the provisions of Village Code Chapter 50 nightly. On Mondays through Saturdays, the license would be restricted to 10am – 1am. On Sundays, the license would be restricted to 10am – 12am.

8. The applicant represented that the proposed license would legalize an existing situation, as the Premises have been used in the same capacity for many years.

9. In granting a license as requested, the Board of Trustees may impose appropriate conditions pursuant to Village Code §50-6(C).

**CONCLUSIONS**

10. Based on the applicant's presentation, the Board finds and determines from a preponderance of the evidence that applicant has demonstrated the facts required to be established under Chapter 50.

11. The Board hereby grants the requested License, and directs the Village Clerk to issue a License to the applicant pursuant to the provisions of Village Code Chapter 50, subject to the following conditions:

- a. The music shall be performed at a sufficiently low volume so as to permit persons located directly outside the building to speak in a modulated voice and be heard by others with whom they are conversing over the volume of the music. Sound proofing material, devices, or modifications shall be added as necessary to satisfy this condition, and such sound proofing material shall be subject to review and approval of the Superintendent of Buildings.
- b. Music shall be permitted on Mondays through Saturdays from 10am – 1am and Sundays from 10am – 12am.
- c. No dancing area shall be created outdoors, and the applicant shall not encourage outdoor dancing in connection with any music.

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- d. Except as otherwise permitted herein, all music shall be performed inside the restaurant, and all musicians and equipment shall be located inside the restaurant.
- e. Except as a musical performance typical for a private party, no shows or other entertainment of any nature is permitted.
- f. No cover charge shall be permitted in connection with the music.
- g. All doors and windows in the restaurant area shall be kept closed during the performance hours except for normal ingress and egress of restaurant patrons.
- h. The playing of exterior music shall not be played using any amplification device(s) and shall be performed only in one hour increments.
- i. Prior to this license being effective, the applicant shall obtain a written document from the building department demonstrating to the satisfaction of the building department the legality of the existing restaurant use as a non-conforming use.

12. Pursuant to Village Code §50-8, the License granted herein shall be effective from the date of issuance to January 31, 2013, unless sooner terminated as provided herein or in Village Code §50-12.

13. The License granted herein is limited to the applicant and the currently proposed use of the Premises. The License shall not be transferred or assigned to any person or used by a person other than the licensee to whom it is issued, nor shall the License be used for any location other than the premises stated in the License. Any change of ownership or in the operator of the restaurant or any change or modification of the use, even though the general nature of such modified use shall be similar or identical to the present use for a restaurant, shall require a reapplication to this Board.

14. The issuance of the License herein is a Type II Action under the New York State Environmental Quality Review Act.

Seconded by Trustee Murphy and unanimously approved by those present.

Meeting adjourned at 9:55 p.m.

Marianne Lennon  
Village Clerk