

INCORPORATED VILLAGE OF WEST HAMPTON DUNES
CONDEMNATION HEARING

Held At: West Hampton Dunes Town Hall
906 Dune Road
West Hampton Dunes, NY 11978
May 18th, 2018
7:30 PM

MEMBERS PRESENT:

Gary Vegliante, Mayor
John Eff, Jr., Village Trustee
Barry Goldfeder, Village Trustee
Michael Craig, Village Trustee
Gary Trimarchi, Village Trustee
Claire Vegliante, Treasurer
Angela Sadeli, Clerk

ALSO PRESENT:

Joseph Prokop, Village Counsel
Mark Cuthbertson, Special Counsel
David Glanz, Attorney for the Property Owner

1 (Proceedings begin after the Pledge of
2 Allegiance at 8:10 PM)

3 MAYOR VEGLIANTE: Thank you, all.

4 Okay. Condemnation for 686 Dune Road.
5 Mark, we'll open the floor to you.

6 MR. CUTHBERTSON: Yes. We're going to
7 open the hearing and then ask that it would
8 remain open, Mr. Mayor, for another week
9 for -- to allow property owner to submit any
10 opposition that he may have.

11 Okay. So with that, I'd like to -- we
12 actually have to have a public hearing
13 first.

14 Okay. So I'd just like to just submit
15 to the board members, first, the exhibits
16 that I'm going to give to the clerk for the
17 record.

18 My name is Mark Cuthbertson, 434 New
19 York Avenue, Huntington, New York. I'm
20 counsel to the Village --

21 MR. PROKOP: Special counsel.

22 MR. CUTHBERTSON: Special counsel for
23 the Village for this condemnation which is
24 -- I've been retained by the Village for the
25 proposed condemnation which is an easement

1 over a portion of the property which is
2 known as 686 Dune Road, West Hampton Dunes,
3 known on the Suffolk County Tax Map as
4 District 907, Section 4, Block 1, Lot 1,
5 which we call the "subject property."

6 As we will discuss more fully during
7 the course of my presentation, the easement
8 is necessary for the completion of phase 2
9 of the Village erosion control shoreline
10 stabilization project. Which, according to
11 the studies that have been commissioned by
12 the Village, is critical to eliminating the
13 considerable and continuing public harm
14 caused by chronic beach erosion in the
15 Village.

16 As will be discussed later on in the
17 presentation, phase 1 of the project, which
18 involves construction along the beach front
19 of six houses to the east of the subject
20 property, was completed in March of 2017.

21 This public hearing is being conducted
22 pursuant to the Eminent Domain Procedure Law
23 Section 201, pursuant to Eminent Domain
24 Procedure Law Section 202(a). The Village
25 must provide the public of notice, purpose,

1 time and location of a public hearing on
2 this matter by publishing a notice in five
3 successive issues of Newsday from
4 April 23rd, 2018, to April 27th, 2018.

5 In addition, pursuant to the Eminent
6 Domain Procedure Law Section 202(c), the
7 Village provided notice to the owners of the
8 subject property, Florence Glanz and Spencer
9 Glanz, by certified mail, return receipt
10 requested on May 2nd, 2018. These mailings
11 were both sent and care of David Glanz,
12 their son and attorney representing them in
13 this matter.

14 I would like to submit this affidavit
15 of publication from Newsday, the notice of
16 public hearing, survey of the proposed
17 condemnation that was mailed to the owners
18 and certified mail receipts for these
19 mailings into the record. Those would be
20 Exhibit A of what I have for you.

21 This condemnation is being proposed in
22 furtherance of the Village's beach and dune
23 stabilization project, which is intended to
24 prevent or at least mitigate the
25 considerable continuing public harm caused

1 chronic beach erosion in the Village. Such
2 beach erosion is one of the largest issues
3 faced by the Village as some properties have
4 more than 80 feet of beach that have been
5 literally been washed away in the past.
6 This harms property values as well as the
7 ability for residents to enjoy the use of
8 beach adjoining their properties. As such,
9 the Village has developed and implemented a
10 multi-year, multi-phase plan to address this
11 issue for the benefit of the public
12 interest.

13 In 2013 the Village Board of Trustees
14 passed Local Law Number Four of 2013 which
15 created the Village of West Hampton Dunes
16 Erosion Control and Shoreline Stabilization
17 Assessment Improvement District,
18 alternatively referred to as the Bayside
19 Village Improvement District. The VID,
20 which explicitly lists the subject property
21 as included therein, consists of 12
22 properties.

23 I have submitted to the clerk a copy of
24 Local Law Four of 2013, which is part of the
25 exhibits I've given to the Board as well.

1 The area encompassed by the district
2 has been a major focus of the Village's
3 beach stabilization efforts in the last
4 several years; however, to understand the
5 necessity of the Village stabilization plan,
6 it is first important to understand the
7 scope of the beach erosion problem the
8 Village seeks to address. To help
9 illustrate this, I have submitted two maps
10 of the Village -- of the District for the
11 Board's reference that are exhibits that
12 I've submitted to the clerk.

13 The first map shows the district and
14 control line in both 1994 and 2010. The
15 second map is the site plan showing the
16 District -- the structures built on the
17 properties therein and the shoreline in
18 2013. As can be seen in these maps, the
19 erosion of the beach sand dunes, has become
20 significantly and progressively worse over
21 the last 20 years. Some properties in the
22 District, such as 678 and 680 Dune Road have
23 seen the shoreline eroded landward by as
24 much as 84 feet in only 16 years.

25 In addition, Superstorm Sandy, which

1 hit in 2012, resulted in further erosion of
2 the beach in this area.

3 Following Superstorm Sandy, the Village
4 passed Local Law Four and undertook a series
5 of actions to stabilize the dune beach front
6 culminating in the currently proposed
7 project to build a reinforced rock core dune
8 along the beach front.

9 As I noted, in my introduction, phase
10 one of this project, which involved
11 construction along six properties to the
12 east of the subject property has already
13 been completed. During that phase of the
14 project, all six property owners signed
15 license agreements permitting the Village to
16 enter onto their property to undertake the
17 construction of the project. Those have
18 been -- those agreements have been submitted
19 into the record as part of the exhibits.

20 The instant easement condemnation is to
21 facilitate phase two of the project as
22 Glanz, the property owner to the west of
23 Phase 1, will not agree to a license
24 agreement. In Phase 2 of the project the
25 Village will extend the reinforced rock core

1 dune built in Phase 1 to the subject
2 property and five properties to the west.

3 Accordingly, I am submitting the final
4 report for Phase 1 and projected narrative
5 for Phase 2 of the Board's reference of this
6 part of the presentation.

7 As detailed on page four of either
8 document, the current project is the third
9 approach to being effective by the Village
10 to stabilize the beach front. The first
11 method the Village tried was a creation of a
12 sand dune only. Replacing sand planted with
13 beach grass on the eroded area; however,
14 increased water levels associated with storm
15 surges removed much of this material.

16 The Village next considered installing
17 a reinforced geotech-style core dune;
18 however, the New York State Department of
19 Environmental Conservation, the DEC,
20 determined that this approach would not be
21 sufficient and construction on the project
22 was never completed.

23 The Village's current project is
24 construction of a reinforced rock filled
25 dune, which is detailed more fully in Page 5

1 of the Village project's narrative.

2 As this page explains, the reinforced
3 rock core dune, so-called "living shoreline"
4 you see a core of rocks wrapped in a felted
5 cloth placed from the average water marks to
6 just above the average watermark. The
7 Village would then create a slope of toe
8 stone, bird-stone beach sand, and plant the
9 sand with vegetation. The sand would then
10 be supplemented every five years or as
11 needed as additional re-nourishment occurred
12 after storm events.

13 The work performed during Phase 2 of
14 the project would be identical to the work
15 completed in Phase 1 of the project. As
16 such, the final report for Phase 1, which
17 includes a detailed description in work
18 performed in the pictures of the site before
19 and after. The construction speaks directly
20 to what the Village will be doing and why
21 they are requiring an easement of the
22 subject property.

23 With respect to the location of the
24 project, the subject property is located
25 near the center of the 12 property district,

1 to the immediate west of the reinforced rock
2 core dune constructed during Phase 1 of the
3 project. As such, the rock core dune cannot
4 be extended to the remaining properties in
5 the districts which lay to the west of
6 subject property without crossing over the
7 subject property. However, because the
8 Glanzes' will not grant the Village the
9 access to begin Phase 2 of project, it is
10 necessary for the Village to condemn an
11 easement over a portion of the subject
12 property to permit the project to go
13 forward.

14 Finally, because the subject property
15 sits between Phase 1 and 2, there's no other
16 location that could be condemned.

17 As to the specific area the Village
18 seeks to condemn, the proposed condemnation
19 would be for an easement over an area that
20 extends 50 feet landward from the main high
21 watermark along the width of the subject
22 property. Actual construction of the
23 project as shown in Figure 4, requires that
24 the project will likely be converted to a
25 narrow portion of the taking area along with

1 the shoreline. The remainder of the
2 easement that is sought through this
3 condemnation is to facilitate the
4 construction work necessary to build the
5 reinforced rock core dune. Notably, the
6 Glanzes' use of the subject property will
7 only be minimally impaired as a result of
8 the easement, if at all. Glanzes access to
9 the subject property will be limited for
10 roughly one week while reinforced rock core
11 dune is built and then again for sand
12 replenishment that is to be scheduled.
13 However, as the subject property is
14 currently vacant, the potential to the
15 Glanzes to be adversely impacted is even
16 more limited.

17 Overall, the Village's residents living
18 in the District stand to benefit
19 substantially from the project. The project
20 will prevent or at least mitigate that beach
21 erosion which has detrimentally affected the
22 community. Moreover, by constructing rock
23 core dunes, the Village should also be able
24 to restore the natural dune habitat and
25 aesthetics of the shoreline to the benefit

1 of the residents and the environment.
2 According to that, I would recommend the
3 Board come to a resolution authorizing the
4 condemnation of the easement so that Phase 2
5 of the project, Beach Stabilization, can
6 move forward.

7 So this is just, in essence, showing
8 that there is a public purpose behind this
9 condemnation being necessary because the
10 landowner is not, at this point, willing to
11 sign a license agreement.

12 MAYOR VEGLIANTE: We would make a
13 motion --

14 MR. GLANZ: May I speak?

15 MAYOR VEGLIANTE: Yes.

16 MR. GLANZ: If you extend the hearing
17 for me for a week for the purposes we
18 discussed, I don't have to make a
19 presentation I can save everybody time.

20 And the other thing is, Mark, I don't
21 have a copy of your presentation. Do you
22 have an extra?

23 MR. CUTHBERTSON: Sure. I can send you
24 what I just read. I can send you that.

25 MR. GLANZ: Yeah, please.

1 MR. CUTHBERTSON: At this point, if
2 anyone wants to be heard, Mr. Mayor, on the
3 public purpose or the impact on the
4 environment, I think we'd be open to that.

5 MAYOR VEGLIANTE: We are open to public
6 comment.

7 VILLAGE RESIDENT: I just have a
8 question. Why is it -- why are you fighting
9 the village? I'm just curious.

10 MR. GLANZ: It's a combination of
11 issues which I've discussed.

12 TRUSTEE TRIMARCHI: He's fighting the
13 VID.

14 MR. GLANZ: And its expense, it's
15 having a permanent easement against the
16 property. I am not as confident this
17 project will work as they are, but I'm happy
18 to be proven wrong in the future if that's
19 what it comes to. I have some other issues
20 as well.

21 But I don't really want to take up your
22 time. And again, if I get -- if I hear an
23 official resolution or movement that you're
24 going to extend this hearing for a week,
25 I'll get you my comments in writing.

1 MAYOR VEGLIANTE: Joe, can you make --

2 VILLAGE RESIDENT: Just one other
3 question. Is the reason why you're moving
4 for the easement though because the license
5 agreement wasn't -- originally there wasn't
6 a need for an easement. Is that my
7 understanding?

8 Originally, it was just to -- you were
9 going to pose a license agreement like you
10 would with the other properties, correct?

11 MAYOR VEGLIANTE: Yes.

12 TRUSTEE TRIMARCHI: So the only reason
13 that that's what this is all ability.

14 VILLAGE RESIDENT: You need an easement
15 to enter onto the property.

16 MAYOR VEGLIANTE: It's an agreement for
17 the Village District for all the homeowners.

18 VILLAGE RESIDENT: For an easement?

19 TRUSTEE TRIMARCHI: The Village is
20 really just the facilitator -- I don't know
21 if I'm using the right word. I mean it's a
22 VID, it's a Village Improvement District.

23 VILLAGE RESIDENT: I understand.

24 TRUSTEE TRIMARCHI: It's controlled by
25 the residents of those people that are

1 included in this project.

2 VILLAGE RESIDENT: But it's the Village
3 that's paying for --

4 MAYOR VEGLIANTE: No.

5 TREASURER VEGLIANTE: No. The Village
6 Improvement District is paying for
7 everything.

8 VILLAGE RESIDENT: I see.

9 TRUSTEE GOLDFEDER: All the Village has
10 done is guaranteed payment for the VID. And
11 in the spirit of helping them acquire sand,
12 the Village has come forward.

13 VILLAGE RESIDENT: I see. Okay. Then
14 I don't have any questions.

15 TREASURER VEGLIANTE: I have a
16 question.

17 If this gets extended, do we have to go
18 through anything else again? Is it going to
19 cost the Village, you know, the VID any more
20 to go through this process?

21 MR. PROKOP: No. It would be a motion
22 to conclude the hearing and keep the record
23 open, subject to -- I can comment only on
24 the procedure itself.

25 MAYOR VEGLIANTE: Right.

1 MR. PROKOP: Procedurally, it would be
2 to conclude the hearing, public hearing,
3 however, keep the record open for seven days
4 to accept written testimony.

5 MAYOR VEGLIANTE: Let's set a date for
6 seven workdays. Today is May 18th. We'll
7 set a date.

8 MR. GLANZ: But with the understanding
9 it's the equivalent of my making objections
10 here which I would other otherwise have to
11 do to preserve those objections if we
12 doesn't resolve it.

13 MR. CUTHBERTSON: The record is the
14 record. So to receive that as a part of the
15 record, that if there were further
16 litigation, would go to the appellate
17 division.

18 TRUSTEE TRIMARCHI: Seven days, period.

19 CLERK SADELI: May 25th.

20 TRUSTEE TRIMARCHI: Correct?

21 MR. CUTHBERTSON: Correct.

22 MR. GLANZ: Mark, I'll submit to you by
23 e-mail. Is that acceptable?

24 MAYOR VEGLIANTE: Yes.

25 VILLAGE RESDENT: I apologize for my

1 lack in background, but this address that's
2 being referenced for erosion, is that -- is
3 there any tie in with the home that's being
4 proposed to become an unstoppery?

5 MAYOR VEGLIANTE: No. No.

6 VILLAGE RESIDENT: What's the address
7 of that?

8 TRUSTEE CRAIG: 656.

9 MAYOR VEGLIANTE: 656.

10 VILLAGE RESIDENT: 656, and what is
11 this? 678?

12 MAYOR VEGLIANTE: 686.

13 VILLAGE RESIDENT: 686.

14 MAYOR VEGLIANTE: The home that we
15 purchased at 656 is on not on the VID, it's
16 just a small easement.

17 VILLAGE RESIDENT: I'm unfamiliar with
18 it, I'm on the bay side, so I'm getting up
19 to speed.

20 MR. CUTHBERTSON: Well, you are
21 familiar with the ocean side?

22 (Laughter)

23 MAYOR VEGLIANTE: The Village is a
24 vehicle by which they can finance their
25 project. It's a project that's funded

1 completely by the homes. The Village,
2 taxpayers do not pay anything.

3 TRUSTEE TRIMARCHI: That's totally on
4 the individual homeowners of the district.
5 That's why they call it a VID.

6 MAYOR VEGLIANTE: Otherwise, the cost
7 would be spread upon the whole Village.

8 TRUSTEE TRIMARCHI: It's only upon the
9 people that are involved in this particular
10 project.

11 MAYOR VEGLIANTE: Okay. Then we make a
12 motion to close the hearing and allow seven
13 days for comments; is that correct?

14 MR. PROKOP: I think it would really be
15 to keep the record open until the 25th. And
16 thereafter -- the Board, thereafter, would
17 adopt findings as dictated by the --

18 TRUSTEE GOLDFEDER: Can we do that
19 electronically, close the hearing? Or do we
20 need to be here?

21 MR. PROKOP: No. I think you're saying
22 that the record will close on the 25th.

23 MAYOR VEGLIANTE: It's over.

24 TRUSTEE CRAIG: So are we adopting the
25 resolution so that it's closed pursuant to

1 the 25th? Because we don't want to have to
2 meet again.

3 MR. PROKOP: No. You're saying today
4 that you're keeping the record open until
5 the 25th. It closes by virtue of the fact
6 that you're saying today that it closes the
7 25th.

8 TRUSTEE CRAIG: I think we had a secret
9 resolution that was part of this?

10 MR. PROKOP: But you're going to accept
11 further comments issued. Wait until you get
12 the comment.

13 TRUSTEE TRIMARCHI: What? I'm sorry.

14 MR. CUTHBERTSON: After this, you have
15 to adopt findings, secret findings and
16 finding under the evidence, we can't --

17 TRUSTEE CRAIG: Prior to the 25th. Is
18 that what you're saying?

19 TREASURER VEGLIANTE: But how do you
20 adopt that?

21 TRUSTEE TRIMARCHI: A motion. Is the
22 motion on the next Village meeting?

23 MR. CUTHBERTSON: Yeah, you would.

24 TREASURER CRAIG: And does that need to
25 be re-advertised?

1 MR. CUTHBERTSON: No, I don't believe
2 so. I'll double check it.

3 MR. PROKOP: No, it just needs to be a
4 public meeting in the Village. It could be
5 a special meeting or it could be the regular
6 meeting.

7 MAYOR VEGLIANTE: So we make a motion
8 to keep it open for seven days for comments.
9 That's it.

10 TRUSTEE EFF: What time would it close
11 on the 25th?

12 MAYOR VEGLIANTE: End of business,
13 5:00 PM eastern time.

14 MR. CUTHBERTSON: Close of business,
15 5:00 PM?

16 MAYOR VEGLIANTE: Yes.
17 Okay. All in favor?

18 ALL TRUSTEES IN UNISON: Yes.

19 MAYOR VEGLIANTE: All opposed?
20 (Negative response).

21 Done.

22 (This proceeding concluded. Hearing
23 stipulated to remain open until May 25th,
24 2018, at 5:00 PM for further comments).
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C E R T I F I C A T E

I, SARA GALANTE, a Notary Public in and
for the State of New York, do hereby
certify:

THAT the within transcript is a true
record of the proceedings held on such date;

I further certify that I am not related
either by blood or marriage, to any of the
parties in this action; and

THAT I am in no way interested in the
outcome of this matter.

SARA GALANTE

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