



# Village News

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January 2007

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Hon. Eugene Scarpato  
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Mayor, Village of Lynbrook

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Gary Fishberg, Esq.  
Counsel

Eric Ricioppo  
Public Information Officer

## January 2007

# General Membership Meeting

## Tuesday, January 9, 2007

**The Inn at New Hyde Park**  
**200 Jericho Turnpike**  
**New Hyde Park, NY**

\*\*\* Note: New Meeting Location

### Guest Speaker:

**Hon. Howard Weitzman**  
**NC Comptroller**

*“The Financial State of Nassau County”*

### Coming Attractions:

**Tuesday, February 14, 2007**  
**The Inn at New Hyde Park**

### Guest Speaker

**Hon. James Callahan**

**NC Commissioner of Emergency Management**  
*“Coordination of Towns, Villages and the  
County in Evacuation Mode”*

*(More in our February Newsletter)*



## From the Desk of the President

Dear Colleagues:

This is the time when one looks back on the past year and looks forward to the new one, including setting priorities and making resolutions.

Among the things to be thankful for in 2006:

Despite all the dire warnings from weather prognosticators, we dodged the bullet on a hurricane event... County Executive Tom Suozzi followed through on his promise to have our villages share in sales tax receipts, adding another \$250,000 despite the County's strained finances, bringing the annual total to \$1,250,000.... On the "affordable" housing front, Mayor Joe Troiano, although a non-voting but still committed member of the L.I. Regional Planning Commission, has been doing a wonderful job of presenting the villages' rationale for opposing the Balboni-DiNapoli legislation that would mandate property set-asides and instead offering realistic alternatives.

The previously discussed HELP initiative sponsored by Senator Dean Skelos does a much better job of making home ownership a realistic possibility by partnering business, government and individuals themselves... The County has been in the van of Emergency Management planning and aid, with Mayor Angel Soto coordinating our involvement... A good many villages are well on the way with their POD implementation, as well..

The other side of the coin:

Huge payments into the State Retirement Fund continuing, in the face of a soaring stock market... The burden of ever-increasing school taxes that are forcing many residents to consider moving elsewhere... The overhanging issue of the LIRR third rail for villages the border the tracks... The unnecessary taxi/limousine licensing turf war between New York City and Nassau County that threatened back-and-forth passage, now hopefully resolved by the intercession of the NCVOA and the Towns.

Among the things to work toward in 2007 :

On the local level, continued progress on the four phases of Emergency Management—Mitigation, Planning (Training), Response and recovery. This means actively working with the County's new Director Jim Callahan and Mayor Soto. A number of villages have made great strides, but others of us lag. Who needs to be caught short in case of a health or natural emergency?

If you have spare time or are looking for something to read when trying to get to sleep, there are various web sites that provide information:

<http://www.fema.gov/emergency>

<http://www.fema.gov/emergency/nims/compliance/2007.shtm>

<http://www.fema.gov/emergency/nims/compliance/assist.local.shtm>

<http://www.fema.gov/emergency/nims/mutual.aid.shtm>

On the State level, with a new Controller on the way, realistic future payments into the State Retirement Fund hopefully are achievable... Also advancement of our legislative priorities including: repeal of the Wicks Law; a realistic threshold above the current multiple bid requirement for any project over \$20,000 that at least catches up to inflation; restoration of revenue sharing to at least 1989 levels; additional roads funding; and telecommunications legislation that includes maintaining home rule ability to charge utilities for right-of-way use. Since our newsletter is now on line, please refer back to my last month's letter on the importance of making a big showing at NYCOM's Winter Legislative Meeting in Albany, Sunday, February 25—Tuesday February 27. With the change in administration, you can be sure that there will be plenty of lobbying competition.

As my term is winding down, I must admit to one regret. So far I haven't been any more successful than past President Steve Mahler was in convincing anyone from Baxter Estates to attend.

In closing, I wish to thank all of the members of our Executive Board for their support over the past year, and particularly Executive Director Warren Tackenberg, who is not only tireless, but so effective on behalf of NCVOA. And to all, best wishes for a successful, trouble free and healthy New Year.

Sincerely,  
**Jack Williams**

## Holiday Spirit Soars as Village Officials Hold December Meeting at Cradle of Aviation



Enjoying the delicious hors d'oeuvres are Malverne Mayor Tony Panzarella, Great Neck Plaza Trustee Jerry Schneiderman, NCVOA Executive Director Warren Tackenberg, and Aurelia Panzarella.



Russell Gardens Mayor Steve Kirschner and Trustee Harriet Surks



Village Clerks Helen Averso of Munsey Park and Palma Sumcizk of Mill Neck, and East Williston Trustee David Tanner



Manorhaven Mayor Nick Capozzi and Lynbrook Mayor Gene Scarpato



Plandome Heights Trustee Alvin Solomon, Joanne Solomon, and NCVOA Executive Director Warren Tackenberg



Cedarhurst Village Attorney Jerome Levenberg at the buffet table.

## **NYCOM to Hold Main Street Conference**

The New York Conference of Mayors (NYCOM) will be conducting one of its Main Street Economic Development Conferences May 2 – 3, 2007 at the Fox Hollow Inn in Woodbury. This particular NYCOM conference is focused on revitalizing downtowns, business districts, and main street corridors.

I am seeking input from municipal officials that may be interested in assisting NYCOM with ideas of session topics, speakers, or organizations that they would like to see as a part of the agenda for this 1 1/2 day conference. We are aware of other conferences that have taken place in your region which have addressed topics such as smart growth, affordable housing, transit oriented development, and a variety of other issues and we want to be sure the topics that we offer are of interest to our membership of city and village officials. We are just looking for some direction on the types of issues you and your members would be interested in hearing more about. Please feel free to contact me regarding this request. Any suggestions are greatly appreciated.

NYCOM's Main Street Economic Development Conference has evolved over the past several years to become two condensed meetings with a more regional focus. These meetings provide elected and appointed local government officials, economic

development professionals, merchants, and real estate developers with a forum to meet to exchange ideas, experiences, and discuss mutually beneficial development opportunities.

An east and west conference will be held each year, along with additional one day workshops throughout the state, to offer attendees greater convenience and relevance to their communities. Each of the two-day conferences will include general and concurrent training sessions on a range of subject matter related to economic development, comprehensive mobile workshops of the host and surrounding communities, and will provide a Technical Assistance Center with free one-on-one consultations with experts on a variety of issues pertaining to downtown revitalization. Although the sessions vary from meeting to meeting, there are classes that appeal to both new entrants into the field as well as seasoned veterans.

For additional information about the May 2, 2007 conference, please contact:

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## **Legislative Breakfast to be Held January 5 at the Cradle of Aviation**

A Legislative Breakfast will be held Friday, January 5, 2007 at the Cradle of Aviation in Garden City.

The breakfast will begin at 8 am and should conclude by 10 am. We recommend arriving promptly at 8 am so we can have breakfast, followed by the program.

All members of the State Legislature's Nassau delegation have been invited to join us to discuss the following issues:

- Reform of the State pension system
- Collateral source Bill
- Injunctive relief A3898
- Work Force housing Bill # A2050 /S3966 and the "third track" planned by the MTA.
- Taxi Bill S8400 (Amendments)

If your village (mayor or trustees) is interested in being represented at this important meeting, please R.S.V.P. to Executive Director Warren Tackenberg at (516) 437-1455.

# Cable Franchising Update

by John Pestle

Varnum, Riddering, Schmidt & Howlett LLP

More details are emerging about the FCC order to expedite cable franchising for phone companies. It is in the process of being circulated among FCC Commissioners for issuance later this month. According to reports, it includes the following elements, among others:

\* Cities (technically, the entity authorized by state law to issue cable franchises) would have 90 days to negotiate a cable franchise with an entity such as a phone company that has a preexisting right to use the public rights of way. Cities would have 180 days to negotiate with entities that do not have such a pre-existing right.

\* If a city does not grant a franchise in 90 days, then apparently the provider gets the right to provide cable service without a franchise until such time as the parties reach agreement on a franchise, which would then be retroactive.

\* Many residents would not get competition in cable, at least not quickly, as no build out requirement would be allowed by cities beyond that which is proposed by the applicant and in no case beyond the area where the provider provides telephone service. Other reports said providers could not be required to build out their service territory faster than the incumbent cable company was required to do so.

\* City compensation would be limited to a 5% franchise fee. Any requests for PEG support, free service to municipal buildings or I-Nets would be deducted from the 5% franchise fee!

It is not clear how the order will affect either state cable legislation passed at the instigation of phone companies in recent years in Texas and other states, or franchises issued under such legislation. The order, if similar to the preceding, is beyond the scope of FCC authority and will likely be overturned on appeal for several reasons. Among these are:  
**(1)** The jurisdictional issue that in the Cable Act Congress gave the courts, not the FCC, the exclusive

authority to address “unreasonable” denials of second or subsequent cable franchises (the FCC apparently grounds its authority for the order in the need to prevent unreasonable denials by cities),

**(2)** The direct conflict with the Cable Act’s requirement for cable operators to obtain a franchise before providing service,

**(3)** The Act’s placing with cities, not the FCC, the authority to decide cable franchise terms,

**(4)** The Congressional exclusion of in-kind services from being deducted from the 5% cable franchise fee, and

**(5)** The 10th Amendment (states rights) as recently used by the courts to reign in Federal actions, because the FCC would be impermissibly treading on local turf, and blurring the lines of political accountability (public unsure as to which unit of government to hold responsible for poor franchise terms, lack of build out requirements and the like).

For many years, we have been assisting municipalities nationwide on cable and telecom issues (most recently, municipal Wi-Fi). In recent years this has involved opposing phone company efforts to overturn local cable franchising, which included assisting the National Association of Telecommunications Officers and Advisors in preparing a model form of comments for municipalities to submit to the FCC in this rule making.

If you have any questions, please contact John Pestle at Varnum, Riddering, Schmidt & Howlett LLP:

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## Solid Waste Committee Report

The Solid Waste Committee, under the direction of Malverne Trustee Joe Hennessy, will meet in early 2007 to discuss contract negotiations for the 2009 contract with Covanta (formerly known as American Re-Fuel). As there are 20 villages in the Town of Hempstead with contracts expiring in 2009, now is the time to assess the value of negotiating from a cooperative base.

Two years to contract expiration is not a long time in municipal years. Because of the myriad of players involved in the discussions and negotiations, there likely will be long delays in approvals among our members.

The next committee meeting will be held Tuesday, January 16, 2007, 9:30 a.m. at Malverne Village Hall. Please email Warren Tackenberg at [exec@ncvoa.org](mailto:exec@ncvoa.org) if you will be attending.

HAPPY  
NEW YEAR  
TO ONE  
AND ALL

Remember  
to log on to  
[NCVOA.com](http://NCVOA.com)  
for the latest  
information.

## 2007 Nominating Committee Named

In accordance with Article XIII of the Association's by-laws, NCVOA President Jack Williams has appointed the following members to the nominating committee for 2007:

- Bayville Mayor Victoria Siegel (Chair)
- Atlantic Beach Mayor Stephen Mahler
- North Hills Mayor Marvin Natiss
- Lynbrook Mayor Eugene Scarpato
- Massapequa Park Deputy Mayor Joseph Pinto

The Association officers subject to election include:

President  
1<sup>st</sup> Vice President  
2<sup>nd</sup> Vice President  
Treasurer

Any member interested in being considered for an officer position should send his/her resume to Executive Director Warren Tackenberg at [execdirector@ncvoa.org](mailto:execdirector@ncvoa.org) or fax to 516-437-1455.

The election for the 2007/2008 year will be held at the April 10, 2007 meeting.

## General Meetings Move to Inn at NHP

As indicated on the front page, we are moving our General Membership meeting location to the newly refurbished Inn at New Hyde Park, formerly known as the New Hyde Park Inn.

While La Marmite provided excellent food and service, the proposed price increase for 2007 exceeded our budget. Consequently, we signed a contract for 2007 with the Inn at New Hyde Park; however our Annual Dinner/Testimonial will be held at the Crest Hollow Country Club in May 2007.

## The Last Word

"My great concern is not that you have failed, but whether you are content with your failure."

- Abraham Lincoln.