

August 19, 2013

Regular Meeting of the Board of Trustees
Called to Order at 8:00PM

PRESENT:

TRUSTEE Giordano
TRUSTEE Quigley
TRUSTEE Luisi
TRUSTEE Hayes
MAYOR Ecklund

Mayor Ecklund held a moment of Silence in memory of Ernie Zocchi.

PRESENTATIONS: Eric Lorberfeld – Growlers Oktoberfest – Sat. Sept. 28 & Sun. Sept. 29th.
Trustee Quigley mentioned that Growlers was voted Best of Westchester in Westchester Magazine.

PUBLIC HEARINGS

Public Hearing #1 – PROPOSED LOCAL LAW

Motion to open Public Hearing.

A LOCAL LAW AMENDING AND ADDING ARTICLE V OF CHAPTER 15, ENTITLED “MISCELLANEOUS OFFENSES AND PROVISIONS,” SECTIONS 15-55 THROUGH 15-59 OF THE VILLAGE CODE OF THE VILLAGE OF TUCKAHOE, ENTITLED “REUSABLE SHOPPING BAG INITIATIVE”

At a regular meeting of the Village Board of the Village of Tuckahoe, New York (the "Village") held at Village Hall, 65 Main Street, Tuckahoe, New York on February 4, 2013.

WHEREAS, legislation has been requested amending and adding Article V of Chapter 15, entitled, “Miscellaneous Offenses and Provisions,” Sections 15-55 through 15-59 of the Village Code of the Village of Tuckahoe, entitled “Reusable Shopping Bag Initiative;” and

WHEREAS, according to the Clean Air Council, Americans use approximately 1 billion plastic non-biodegradable plastic shopping bags per year; and

WHEREAS, according to the United States Environmental Protection Agency, only 12% of plastic bags and plastic wraps in the U.S. were recycled in 2010; and

WHEREAS, non-biodegradable plastic bags last hundreds of years in landfills and are a potential source of harmful chemicals when they do break down; and

WHEREAS, non-biodegradable plastic bags often are discarded into the environment polluting our waterways, clogging sewers, endangering marine life and causing unsightly litter; and

WHEREAS, a resolution was duly adopted by the Village Board of the Village of Tuckahoe, New York for a public hearing to held by the Village Board on the 11th day of March 2013 at 8:00 p.m. at Village Hall, 65 Main Street, Tuckahoe, New York, to hear all interested parties concerning certain amendments and additions to the Village Code of the Village of Tuckahoe pertaining to Retail Carryout Bags; and

WHEREAS, notice of said public hearing was duly advertised in the Journal News, one of the official newspapers of said Village, on the 7th day of February 2013, and on the 19th day of March 2013; and

WHEREAS, said public hearing was duly held on the 11th day of March 2013, on the 8th day of April 2013, on the 13th day of May 2013; on the 10th day of June at 8:00 p.m. at Village Hall, 65 Main Street, Tuckahoe, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to certain amendments and additions to the Village Code of the Village of Tuckahoe pertaining to Retail Carryout Bags; and

WHEREAS, pursuant to 6 NYCRR Part 617 of the implementing regulations pertaining to Article 8 of the State Environmental Quality Review Act (SEQRA) it has been determined by the Village Board of said Village that adoption of said proposed Local Law would not have a significant effect upon the environment; and

WHEREAS, the Village Board, after due deliberation, finds it in the best interest of said Village to adopt said Local Law.

Be it enacted by the Village Board of Trustees of the Village of Tuckahoe as follows:

Section 1. Article V of Chapter 15, entitled “Miscellaneous Offenses and Provisions”, Sections 15-55 through 15-59, entitled “Reusable Shopping Bag Initiative” of the Village Code of the Village of Tuckahoe is hereby amended and added as follows:

Article V. Retail Carryout Bags

§ 15-55. **Purpose.**

The intent of this Local Law is to improve the environment and quality of life in the Village of Tuckahoe by encouraging the use of reusable carryout bags and banning the use of plastic bags for retail carryout of purchased goods. Retail establishments are encouraged to make reusable bags available for sale.

§ 15-56. **Definitions.**

The following words and terms, when used in this Local Law, shall have the meanings ascribed to them in this section:

Carryout Bag – A bag that is provided to a customer at the point of sale for the purpose of carrying away goods or other materials from the point of sale. This term does not include Plastic Produce Bags, Plastic Garment Bags, or plastic bags measuring 28” by 36” or larger in size.

Customer – Any person purchasing goods from a Retail Store or other retail seller.

Operator – Any Person in control of or having responsibility for the operation of a Retail Store, who may include, but is not limited to, the owner of the Retail Store.

Person – Any natural person, firm, corporation, company, partnership, business, organization or group however organized.

Plastic Garment Bag – A flexible container made of very thin plastic material with a single opening that is used to transport clothing from a dry cleaner.

Plastic Produce Bag – Any bag with a single opening without handles and other packaging made of very thin plastic material that is used exclusively to carry produce, meats, fish or other food items to the point of sale in a Retail Store or to prevent such food items from coming into direct contact with other purchased items.

Post-Consumer Recycled Material – Material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Such material does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.

Recyclable – Material that can be sorted, cleansed, and reconstituted using available recycling collection programs.

Recyclable Paper Bag – a paper bag that has the following characteristics: (1) contains no old growth fiber; (2) is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content; (3) is capable of composting consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400; (4) is accepted for recycling in curbside programs in the Village of Tuckahoe, Town of Eastchester, and Westchester County; (5) has printed on the bag the name of the manufacturer, the country where the bag was manufactured, and the percentage of postconsumer recycled material used; and (6) displays the word “Recyclable” in a highly visible manner on the outside of the bag.

Retail Sale – The transfer to a customer of goods in exchange for payment occurring in a Retail Store. The term Retail Sale does not include sales of goods at yard sales, tag sales and other sales by residents at their home, and sales by not-for-profit organizations.

Retail Store – Shall include, but not be limited to, retail stores, sidewalk sales venues, farmers' markets, flea markets, restaurants, and other retail food outlets.

Reusable Bag – A bag with handles that is specifically designed and manufactured for multiple reuse and is (1) made of cloth or other fabric; and/or (2) durable plastic that is at least 2.25 mils thick; and (3) washable or is made from a material that can be cleaned or disinfected.

§ 15-57. Restriction on Carryout Bags.

- A. Any person engaged in Retail Sales shall provide only Reusable Bags and/or Recyclable Paper Bags as Carryout Bags to customers.
- B. Nothing in this section shall preclude persons engaged in Retail Sales from making Reusable Bags or Recyclable Paper Bags available for sale to customers.
- C. Nothing in this section shall prohibit customers from using bags of any type that they bring to the Retail Store themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the store.
- D. Nothing in this section shall prohibit the uses of Plastic Garment Bags or Plastic Produce Bags in the manners specified in this Local Law.

§ 15-58. Effective date.

This Local Law shall become effective six (6) months following its filing in the Office of the Secretary of State to allow retail establishments to dispose of their existing inventory of plastic bags and convert to alternative packaging materials.

§ 15-59. Penalties for offenses.

- A. The Code Enforcement Officer has primary responsibility for enforcement of this Local Law and is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this Local Law, including, but not limited to investigating alleged violations, issuing fines and entering the premises of any Retail Store during business hours.
- B. In the event that there is a violation of this Local Law, the Code Enforcement Officer will issue a written notice of the violation to the Operator of the Retail Store in which the violation has occurred and the potential penalties that will apply for future violations. The notice shall be served by personal delivery or by certified mail.
- C. There shall be no penalty for the first violation. Penalties for subsequent violations shall be imposed as follows:
 - 1. For the second violation, a fine not exceeding \$100.
 - 2. For the third violation, a fine not exceeding \$250.
 - 3. For the fourth and any subsequent violations, a fine not exceeding \$500.

- D. Each occurrence of a violation, and each day that such violation continues following receipt of the notice of violation, shall constitute a separate violation and shall be subject to the penalties set forth in Paragraph C of this Section.
- E. All fines collected pursuant to this Local Law shall be used for an environmental purpose as determined in the sole discretion of the Village Board of Trustees.
- F. Any Operator of a Retail Store who receives a notice of violation or fine may request an administrative review of the accuracy of the determination or the propriety of the violation or any fine by filing a written notice of appeal with the Village Clerk no later than 30 days after receipt of the notice or fine. The notice of appeal must include all facts supporting the appeal and any statements and other evidence, including copies of all written documentation and a list of any witnesses that the appellant wishes to be considered in connection with the appeal. The appeal shall be heard by a hearing officer designated by the Village Clerk. The hearing officer will conduct a hearing concerning the appeal within 45 days from the date that the notice of appeal is filed, or on a later date if agreed upon by the appellant and the Village, and will give the appellant 10 days prior written notice of the date of the hearing. The hearing officer may sustain, rescind, or modify the violation or fine by written decision. The hearing officer will have the power to waive any portion of the fine in a manner consistent with the decision. The decision of the hearing officer is final and effective on the date of service of the written decision, is not subject to further administrative review, and constitutes the final administrative decision.

Section 2. Nothing in this Local Law is intended to create any requirement, power or duty that is in conflict with any federal, state, county or town law or regulation.

Section 3. If any section of this Local Law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this Local Law.

Section 4. Insofar as the provisions of this Local Law are inconsistent with the provisions of any other local law, the provisions of this Local Law shall be controlling.

Section 5. This Local Law will take effect six (6) months following filing in the Office of the Secretary of State.

Section 6. The Village Clerk be and she hereby is directed to enter this Local Law in the minutes of this meeting and give due notice of the adoption of said Local Law to the Secretary of the State of New York.

Trustee Quigley made a motion to open the public hearing; was seconded by Trustee Hayes and upon roll call was carried by a vote 4-1. Trustee Luisi opposed.

Trustee Giordano made a motion to close public hearing open; was seconded by Trustee Hayes and upon roll call was carried by a vote 5-0.

ADOPTION OF MINUTES

Trustee Hayes made a motion to approve the minutes of the regular meeting of July 15, 2013; motion was seconded by Trustee Giordano and upon roll call motion was carried by a vote 4-0. Trustee Quigley abstained.

RESOLUTIONS

RESOLUTION #1 – A RESOLUTION AUTHORIZING THE MAYOR TO RETAIN THE SERVICES OF STEPHEN P. MYLENSKI, CONSULTANT

At a regular meeting of the Village Board of Trustees of the Village of Tuckahoe, New York (the "Village Board") held at Village Hall, 65 Main Street, Tuckahoe, New York on August 19, 2013.

WHEREAS, the Mayor has requested legislation authorizing the Mayor to enter into an agreement and retain the services of Stephen P. Mylenski, Consultant as it concerns the Columbus Avenue Overhead Utility Relocation Project.

NOW, THEREFORE, BE IT RESOLVED

Section 1. The Village Board hereby authorizes the Mayor to enter into an agreement and retain the services of Stephen P. Mylenski, Consultant as it concerns the Columbus Avenue Overhead Utility Relocation Project.

Section 2. That the fees for the consultant services provided by Stephen P. Mylenski in connection with the Columbus Avenue Overhead Utility Relocation Project shall not exceed five thousand (\$5,000.00) dollars.

Section 3. That this resolution shall take effect immediately.

Trustee Quigley made a motion to adopt resolution #1; motion was seconded by Trustee Hayes and upon roll was carried by a vote of 5-0.

RESOLUTION #2 ratifying the approval of the closure of Oak Avenue, waiving liability insurance, for a neighborhood block party on Saturday, August 17th from 2pm to 10pm with cleanup between 10pm-11pm. Trustee Giordano made a motion to adopt resolution #2; motion was seconded by Trustee Luisi and upon roll was carried by a vote of 5-0.

RESOLUTION #3 authorizing the use of Village streets for the ICS students' Walkathon on Friday, October 18th, rain date, Friday, October 25. Walkathon will start at the Church on Winterhill Road at 10:30 AM and proceed down Main Street to the Generoso Pope Foundation returning back to the school at 12noon. Trustee Quigley made a motion to adopt resolution #3; motion was seconded by Trustee Hayes and upon roll was carried by a vote of 5-0.

RESOLUTION #4 authorizing the Mayor to sign an agreement between the Village of Tuckahoe and the Department of Correction to provide Prisoner Transportation between the Village of Tuckahoe and the Westchester County Jail for the term commencing January 1, 2013 and terminating December 31, 2014. Document is available for inspection at the Village Clerk's office and at meeting. Trustee Hayes made a motion to adopt resolution #4; motion was seconded by Trustee Giordano and upon roll was carried by a vote of 4-0. Trustee Luisi abstained.

RESOLUTION #5 a resolution to dedicate the Main Street Bridge as the Gold Star Mothers' Memorial Bridge. Trustee Hayes made a motion to adopt resolution #5; motion was seconded by Trustee Quigley and upon roll was carried by a vote of 5-0.
Bob Foster remarked on the renaming of the Main Street Bridge and thanked mayor Ecklund.
The ceremony is scheduled for September 29th at 11:00AM.

RESOLUTION #6 authorizing the Senior Citizens Council use of the Tuckahoe Trolley for transportation on Saturday, Sept. 28 for "Salute to Seniors" day in Bronxville. The route begins at Lawrence Hospital to Midland Gardens and end at Bronxville Village Hall from 8:45AM-9:00AM, no return trip. Trustee Giordano made a motion to adopt resolution #6; motion was seconded by Trustee Hayes and upon roll was carried by a vote of 5-0.

RESOLUTION #7 approving payment of vouchers in the amount of \$456,398.01, consisting of Abstract #5 for \$37,764.26, Abstract #6 for \$110,185.28, Abstract # 7 for \$20,163.85, Abstract #8 for \$191,790.75 and Abstract #10 for \$96,493.87. The three largest invoices paid were: (1) \$125,609.01 for medical insurance premiums for the month of August 2013, (2) \$26,898.40 for professional fees associated with the Village's Workers' Compensation insurance policy for FY2013/2014 and (3) \$25,203.00 for the purchase of a police car. Trustee Giordano made a motion to adopt resolution #7; motion was seconded by Trustee Hayes and upon roll was carried by a vote of 5-0.

RESOLUTION #8 authorizing the approval of a tax certiorari settlement for Maynard Street Realty, LLC located at 34 Maynard Street, Tuckahoe, Section 34, Block 10, Lot 3 in the amount of \$3,287.62 for assessment year 2011. Trustee Quigley made a motion to adopt resolution #8; motion was seconded by Trustee Hayes and upon roll was carried by a vote of 5-0.

RESOLUTION #9 authorizing the approval of a tax certiorari settlement for R&G D'Agostino/91 Main Street located at 91 Main Street, Tuckahoe, Section 33, Block 6, Lot 18A in the amount of \$7,727.21 for assessment years 2009 through 2012. Trustee Quigley made a motion to adopt resolution #9; motion was seconded by Trustee Hayes and upon roll was carried by a vote of 5-0.

RESOLUTION #10 authorizing the approval of a tax certiorari settlement for 108 Sagamore Road Corp. located at 108 Sagamore Road, Tuckahoe, Section 27, Block 7, Lot 6 in the amount of \$102,910.13 for assessment years 2008 through 2012. Trustee Quigley made a motion to adopt resolution #10; motion was seconded by Trustee Hayes and upon roll was carried by a vote of 5-0.

RESOLUTION #11 authorizing the approval of a tax certiorari settlement for Robert & John D'Agostino/51 Washington Street located at 51 Washington Street, Tuckahoe, Section 29, Block 8, Lot 8 in the amount of \$3,237.98 for assessment years 2009 through 2012. Trustee Quigley made a motion to adopt resolution #11; motion was seconded by Trustee Hayes and upon roll was carried by a vote of 5-0.

RESOLUTION #12 allowing the Village Treasurer, John Pintos, to attend the NYCOM 2013 Fall Training Seminar in Saratoga Springs on September 09 - 12, 2013. Trustee Giordano made a motion to adopt resolution #12; motion was seconded by Trustee Hayes and upon roll was carried by a vote of 5-0.

RESOLUTION #13 authorizing the Village Clerk to issue a Special Permit under the Cabaret Law to Growlers Beer Bistro celebrating Oktoberfest with Rock and Jazz music on September 28th and 29th from 1pm to 11pm on both days. Liability Insurance will be provided satisfactory to the Village Attorney by Growlers Beer Bistro. Such insurance submission is a condition of this approval. Trustee Hayes made a motion to adopt resolution #13; motion was seconded by Trustee Luisi and upon roll was carried by a vote of 5-0.

MISCELLANEOUS BUSINESS

Mayor Ecklund announced the next Village Board Meeting, Monday, September 9, 2013, Community meeting at Winslow Circle Park on September 25, 2013 at 7:00PM and the Tuckahoe Challenge Road Race on September 8.

BOARD OF TRUSTEES MEMBER REPORTS

- ▶ TRUSTEE Giordano announced upcoming Zoning and Planning meetings. Trustee Giordano and Mayor Ecklund had met with representatives from MTA regarding the loud horn blowing in Crestwood. The horn blowing was according to procedures while work was being done. The work will be complete and there will be less horn blowing.
- ▶ TRUSTEE Quigley announced upcoming Golf outing for the Chamber of Commerce and upcoming events at the library. The library has restored some hours on Wednesdays and Saturdays. Growlers, Epsteins, and Ki Martial Arts won Westchester Magazine's- *Best of Westchester*.
- ▶ TRUSTEE Luisi announced that the Senior Center has moved to Fr. Fata hall and that their phone number will remain the same. The Senior Bazaar is scheduled for October 5th.
- ▶ TRUSTEE Hayes announced the upcoming Environmental and Tree Committee meetings. The Road race is scheduled for September 8th. Kick off is at the Community Center.
- ▶ MAYOR Ecklund gave an update on the Crestwood utility underground project. He will hold a merchant/resident meeting to keep all informed. The taxi shack will be removed in a couple of days and replaced with a park. The ribbon cutting at Broken Bow was on Saturday August 17th and Swirl and Joy Yogurt will have their grand opening in a couple of weeks.

SECOND OPPORTUNITY TO ADDRESS THE BOARD

MaryEllen Chaves from 82 Wallace Street asked for an explanation regarding parking where she lives. Mayor Ecklund explained that this is a landlord issue.

John Arvonio from Oakland Avenue, Eastchester, asked about dead trees on Lincoln, Columbus and Fisher. Frank DiMarco explained that where there are wires in the trees, it is a Con Edison issue. Con Edison has been notified and the trees are red flagged.

Mr. Arvonio also asked what is being done with the bridge over the train tracks near the library. Mayor Ecklund explained that the bridge is coming down and will not be replaced.

There being no further business, the unanimously voted to adjourn the meeting at 8:50PM.

Susan Ciamarra, Village Clerk