July 16, 2012

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

PRESENT: TRUSTEE Giordano TRUSTEE Quigley TRUSTEE Luisi TRUSTEE Hayes MAYOR Ecklond

The meeting opened with the Salute to the Flag and the Pledge of Allegiance led by Commander Bob Foster, VFW 2285.

PRESENTATIONS:

Commander Bob Foster VFW 2285 addressed the board stating that the post is very much interested in moving the Gold Star Monument in Depot Square and having the Main Street Bridge named the Gold Star Mothers' Bridge. MTA is also being commissioned about having the station name changed. He then made a further request to the Village Board about having that small strip of Dante Avenue to Columbus Avenue dedicated to honor Robert Murray.

<u>PUBLIC HEARING #1</u> – ON A PROPOSED LOCAL LAW AMENDING LOCAL LAW NO. 1 OF 1967, AS AMENDED, ENTITLED "DANCE HALLS AND CABARETS"

Trustee Giordano motioned to open public hearing; motion was seconded by Trustee Quigley and upon roll call, motion was carried by a vote of 5-0.

Trustee Giordano motioned to close public hearing; motion was seconded by Trustee Quigley and upon roll call, motion was carried by a vote of 5-0.

Mayor Ecklond said the Village Board will hold off on the resolution at this time.

A RESOLUTION OF THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF TUCKAHOE DETERMINING THAT THERE ARE NO ADVERSE IMPACTS ON THE ENVIRONMENT FROM THE ADOPTION OF A LOCAL LAW AMENDING AND SUPPLEMENTING CHAPTER 15, ARTICLE II, SECTIONS 15-30 THROUGH 15-34 OF THE VILLAGE CODE OF THE VILLAGE OF TUCKAHOE CONCERNING THE REGULATION OF SMOKING IN CERTAIN PUBLIC AREAS

WHEREAS, the Village Board of Trustees is adopting a Local Law to amend and supplement Chapter 15, Article II, Sections 15-30 through 15-34 of the Village Code of the Village of Tuckahoe concerning the regulation of smoking in certain public areas; and

WHEREAS, the possible environmental impacts of the adoption of this Local Law have been considered by the Village Board;

NOW THEREFORE BE IT RESOLVED.

Section 1. That the Village Board of Trustees has determined that the adoption of a Local Law to amend and supplement Chapter 15, Article II, Sections 15-30 through 15-34 of the Village Code of the Village of Tuckahoe concerning the regulation of smoking in certain public areas will not have significant adverse impacts on the environment.

Section 2. That this resolution shall take effect immediately.

PUBLIC HEARING #2 ON A PROPOSED LOCAL LAW FOR REGULATING SMOKING IN CERTAIN PUBLIC AREAS IN THE VILLAGE OF TUCKAHOE

Trustee Quigley motioned to open public hearing; motion was seconded by Trustee Giordano and upon roll call, motion was carried by a vote of 5-0.

LOCAL LAW NO. - 2012

A LOCAL LAW AMENDING AND SUPPLEMENTING CHAPTER 15, ARTICLE II, SECTIONS 15-30 THROUGH 15-34 OF THE VILLAGE CODE OF THE VILLAGE OF TUCKAHOE CONCERNING THE REGULATION OF SMOKING IN CERTAIN PUBLIC AREAS

At a regular meeting of the Village Board of Trustees of the Village of Tuckahoe, New York (the "Village") held at Village Hall, 65 Main Street, Tuckahoe, New York on July 16, 2012.

WHEREAS, a resolution was duly adopted by the Village Board of Trustees of the Village of Tuckahoe, New York for a public hearing to held by the Village Board on the 16th day of July 2012, at 8:00 p.m. at Village Hall, 65 Main Street, Tuckahoe, New York, to hear all interested parties as to whether a proposed Local Law concerning the regulation of smoking in certain public areas in the Village of Tuckahoe should be adopted and enacted; and

WHEREAS, the proposed Local Law would amend and supplement Chapter 15, Article II, Sections 15-30 through 15-34 of the Village Code of the Village of Tuckahoe; and

WHEREAS, notice of said public hearing was duly advertised in the Journal News, the official newspaper of said Village, on June 21, 2012; and

WHEREAS, a public hearing was duly held on July 16, 2012 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 said proposed Local Law, or any part thereof; 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 Trustees of said Village that the adoption of said proposed Local Law would not have a significant effect upon the environment; and

WHEREAS, the Village Board of Trustees adopts a negative declaration pursuant to SEQRA and its implementing regulations; 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 II of Chapter 15, entitled "Miscellaneous Offenses and Provisions," of the Village Code of the Village of Tuckahoe is hereby supplemented (by adding an Article II entitled, "Ban on Smoking") and amended as follows:

Section 15-30. Definitions.

As used in this article, the following terms shall have the meanings indicated:

Ball Field

Any public property owned by the Village of Tuckahoe which is to be used for sporting events, such as but not limited to, baseball, softball, soccer or football.

Playground

An outdoor area designated for children to play, often containing equipment, including, but not limited to, a seesaw, merry-go-round, swing set, slide, jungle gym, chin-up bars, sandbox, springrider, monkeybars, overhead ladder, trapeze rings, playhouses, and mazes, now or hereafter under the jurisdiction, charge or control of the Department of Public Works.

Smoking

The burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco.

Section 15-31. Ban on Smoking in Municipal Buildings.

The Village Board of Trustees of the Village of Tuckahoe does hereby ban smoking in all municipal buildings in the Village of Tuckahoe including the Department of Public Works yard and within and on or within fifty (50) feet of the children's play area located within the Village Hall parking lot.

Section 15-32. Ban on Smoking in Village Parks and Ball Fields.

The Village Board of Trustees of the Village of Tuckahoe does hereby ban smoking in all Village Parks and Ball Fields located within the Village of Tuckahoe.

Section 15-33. Ban on Smoking in Village Playgrounds.

The Village Board of Trustees of the Village of Tuckahoe does hereby ban smoking in any Playground, or within fifty (50) feet of any play equipment under the jurisdiction of the Department of Public Works; provided, however, that this Section shall not apply to the sidewalks immediately adjoining the playgrounds.

Section 15-34. Enforcement.

Any violation of Chapter 15, Article II shall result in a penalty and/or fine in accordance with the general penalty and continuing violations provisions of Section 1-7 of the Village Code of the Village of Tuckahoe.

Section 2.

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 3.

Should any section, sub-section, paragraph, sentence, clause, provision or phrase of this Local Law be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect any other portion of this Local Law.

Section 4. This Local Law shall take effect immediately.

Section 5. 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.

New Matter Underlined

Deleted Matter in Brackets []

A discussion followed among board members for some additional tweaking to the law as it relates to enforcement and strengthening the meaning of playgrounds, open fields, etc. This law is about modeling good behavior for children and promoting healthy habits. Chief Costanzo said that enforcement will be treated similar to other ordinances not so criminal in nature. There will be an education period for people to adjust and be aware of the new law before summonses are issued.

Maureen Kenney, Director of POW'R Against Tobacco, praised the Village board for taking this action and offered the Village free signage for the smoking ban. She said modeling good behavior for children is essential and designating smoking areas is something that is not encouraged since children are still able to see the behavior. Further, by having adequate signage and information, these laws are widely self-enforced. She added that no summonses have been issued by those municipalities they have been involved with.

John Cavallaro stated that a section dealing with enforcement by police and code enforcement will be added.

Trustee Quigley motioned to keep the public hearing open; motion was seconded by Trustee Giordano and upon roll call, motion was carried by a vote of 5-0.

ADOPTION OF MINUTES

Trustee Quigley motioned to approve the minutes of the regular meeting of June 11, 2012; motion was seconded by Trustee Hayes and upon roll call, was carried by a vote of 5-0.

CORRESPONDENCE- The Clerk reported that correspondence was received from the Westchester County Department of Planning with comments about the Glenmark project.

RESOLUTION #1 Ratifying Village Board action authorizing emergency repairs for HVAC at the Community Center/Library. PE Controls being the lowest proposal received was authorized to make the necessary repairs. Three proposals were received Blackstone \$13,625, CV/Williams \$12,500 and PE

Controls \$12,000. Trustee Quigley motioned to adopt resolution #1; motion was seconded by Trustee Giordano and upon roll call, motion was carried by a vote of 5-0.

RESOLUTION #2 Ratifying Village Board actions approving Two Beer Guys, LLC d/b/a Growlers Beer Bistro request to waive the 30 days notice requirement to upgrade their liquor license.

Trustee Quigley motioned to adopt resolution #2; motion was seconded by Trustee Giordano and upon roll call, motion was carried by a vote of 5-0.

RESOLUTION #3 - Standard Work Day and Reporting -

BE IT RESOLVED, that the Board of Trustees hereby establishes the following as standard work days for elected and appointed officials and will report the following days worked to the New York State and Local Employee's Retirement Systems based on the record of activities maintained and submitted by these officials to the Village Clerk:

<u>Title</u>	$\underline{\text{Name}}$		Registrati	Standard	<u>Term</u>	<u>Participate</u>	Days/Month
			<u>on</u>			<u>s</u>	
		<u>Social</u>	$\underline{\mathbf{Number}}$	$\underline{\text{Work}}$	<u>Begins</u>	<u>In</u>	(based on
					<u>/</u>	$\underline{Employer's}$	
		$\underline{\mathbf{Number}}$		<u>Day</u>	$\underline{\mathbf{Ends}}$	$\underline{\text{Time}}$	Record of
						<u>Keeping</u>	
		(last 4 dig	its)	(Hrs/day	•	System	Activities
						(Y/N)	
Trustee	Janette Hayes	9458	5039611-8	_	4/4/12- 4/3/14	N	6.57

Trustee Quigley motioned to adopt resolution #3; motion was seconded by Trustee Giordano and upon roll call, motion was carried by a vote of 5-0.

RESOLUTION #4 authorizing Todd Doria and Patrice Indiviglio to participate, as a vendor, in the Farmers Market, on certain Sundays paying a weekly fee of \$25 until the end of the season as well as to authorize Green Mountain Energy Co. to participate every Sunday during the farmers market season at a fee of \$625.

Trustee Quigley motioned to adopt resolution #4; motion was seconded by Trustee Luisi and upon roll call, motion was carried by a vote of 5-0.

RESOLUTION #5 authorizing the Village Clerk to issue a Solicitors License to Justin Ennis of Bonney Lake, Washington to sell educational resources; books, software for South Western Advantage for a period of 3 mos.

A discussion followed on this resolution with Mayor Ecklond calling to table the motion. Trustee Quigley moved to table the motion; Trustee Giordano seconded the motion and upon roll call the motion by carried by a 3-2 vote in opposition to table the motion. Trustee Quigley then moved to adopted resolution #5; motion was seconded by Trustee Giordano and upon roll call, vote was 5-0 to deny request in Resolution #5.

RESOLUTION #6 authorizing the Mayor to sign an Inter-municipal Agreement between the Town of Eastchester, Village of Tuckahoe, Village of Bronxville, Eastchester Union Free School District, the Tuckahoe Union Free School District as it relates to Street Resurfacing and Repairs of Asphalt Concrete – 2012.

- Trustee Quigley motioned to adopt resolution #6; motion was seconded by Trustee Hayes and upon roll call, motion was carried by a vote of 5-0.
- **RESOLUTION** #7 approving the Bronxville Adult School request to use the Trolley for two historic tours of Eastchester, Bronxville and Tuckahoe on Wednesday, September 19th from 9am to 12pm and on Wednesday, October 3rd from 9am to 12pm.
- Trustee Quigley motioned to adopt resolution #7; motion was seconded by Trustee Luisi and upon roll call, motion was carried by a vote of 5-0.
- **RESOLUTION** #8 Approving payment of vouchers in the amount of \$712,239.13 consisting of Abstract #01 for \$43,508.04, Abstract #02 for \$343,863.52, Abstract #03 for \$3,065.50, Abstract #04 for \$17,817.46, Abstract #05 for \$273,743.83 and abstract #06 for \$30,240.78. The three largest invoices paid were: (1), \$216,628.38 for the Village's Umbrella Liability insurance premium for Fiscal Year 2012/2013, (2) \$167,434.82 for Workers' Compensation premiums for Fiscal Year 2012/2013 and (3) \$109,330.05 for medical insurance premiums for the month of July 2012.
- Trustee Giordano motioned to adopt resolution #8; motion was seconded by Trustee Hayes and upon roll call, motion was carried by a vote of 5-0.
- **RESOLUTION** #9 authorizing the closure of Oak Avenue, waiving liability insurance, for a neighborhood block party on Saturday, August 25th from 3pm to 10pm. Mayor Ecklond added that residents will provide for cleanup between 10pm-11pm.
- Trustee Hayes motioned to adopt resolution #9; motion was seconded by Trustee Quigley and upon roll call, motion was carried by a vote of 5-0.
- **RESOLUTION #10** to accept proposal submitted by John Meyer Consulting for Engineering Design Services for the Columbus Avenue Overhead Utility Relocation & Streetscape Restoration pending review by the Village Attorney. John Cavallaro will speak with Jim Pinto regarding technical aspects.
- Trustee Quigley motioned to adopt resolution #10; motion was seconded by Trustee Hayes and upon roll call, motion was carried by a vote of 5-0.
- **RESOLUTION** #11 to approve the new hire of John DeBenedictis as an MEO driver for the Department of Public Works effective with the start date of July 23, 2012 subject to a physical by the Village Physician and fingerprint check clearance.
- Trustee Giordano motioned to adopt resolution #11; motion was seconded by Trustee Hayes and upon roll call, motion was carried by a vote of 5-0. Mayor Ecklond added it is an emergency hire due to the resignation of another employee in that department.
- **Bldg. Inspector/Facilities Manager** Bill Williams reported that the generator at the DPW facility is no longer functioning and needs to be replaced. Three proposals were solicited and will be added to the August 20th meeting agenda for consideration.

Mayor Ecklond announced the next Village Board Meeting - Monday, August 20, 2012

BOARD OF TRUSTEES MEMBER REPORTS

► TRUSTEE Giordano announced the upcoming Planning and Zoning Boards meetings and said the Sign and Awning Board meeting was postponed.

- ▶ TRUSTEE Quigley spoke about the Chamber of Commerce Golf outing, upcoming library events and noted that the Library is open on Saturdays from 10am-1pm but is closed on Sundays. He congratulated those local businesses that were named Best of Westchester.
- ► TRUSTEE Luisi gave an update on the upcoming Senior Center activities and trips for July with the Center being closed for the month of August.

He then read the following statement regarding the Yonkers Avenue Project's delay.

"As of today, July16, 2012, I have been silent about the Yonkers Ave project. Outside of a few cursory questions that I had for Karen Ashton of the Army Corp, I have trusted the expertise of both the Army Corp and Hirani. Today, I can no longer remain silent. As of today, we are now 8 months behind schedule. The residents and business owners that attended the special meeting on July 12th asked a multitude of tough questions and were given what I believe were adequate answers. What I have a hard time wrapping my hands around, is why should I believe them? Believe them, meaning the Army Corp and Hirani. I say this for several reasons.

The initial completion date of November 2011 came and went without a hint of construction activity.

The second completion date of April/May 2012 arrived with the road remaining closed – but the project was 10-11 days ahead of schedule as we were told at one of our board meetings. We were assured that Hirani would work late during the week and if need be, on weekends to have the job finished by the new completion date of June 29th. The only construction deadline that was met was the delivery of steel columns in December 2011. With all the test borings, site inspections and pull test that were done (these are terms I picked up going thru the videos of the last year), the stop work order was issued just two weeks before the completion date of June 29th.

The Village is being held hostage by this construction fiasco and I cannot help but wonder if Hirani is up to the task of completing this project within the new time frame of September-October of this year."

▶ TRUSTEE Hayes – reported on the Environmental Committee meeting held with a local Westchester Company "Sun Blue Energy" regarding the advancements of solar energy. They will provide a complementary cost analysis for the Village on the three municipal buildings to help determine the overall expected costs, savings and payback time frame if solar panels were installed on these buildings. The Environmental group will be meeting again with the Eastchester Environmental committee and members of the Tuckahoe school district Mid-August to help finalize preparation for the large scale recycling revamp to take place at the beginning of school year. Cottle School will be the first to roll out this enhanced recycling initiative. She thanked the local businesses and the Generoso Pope Foundation for their support of this year's Fireworks Event as well as the Clerk's office for their help in organizing the event. The 36th Annual Tuckahoe Challenge will take place on Sunday, September 9th at 9am with the 1 and 5 mile race. Registration forms for the event will be sent out to past participants in the next few weeks and will also be posted with additional details on the Village website.

Trustee Hayes then read the following statement regarding the Yonkers Avenue Project.

"And finally, I just wanted to talk for a few minutes about our emergency meeting regarding the Yonkers Avenue project that took place this past Thursday evening July 12th.

We had 4 members of the Army Corp present, also E-Force Sciences who works in conjunction with the Army Corp and is responsible for creating the specifications for this project and the contractor Hirani Engineering and Land Surveying.

The initial comments I had prepared for last Thursday night's meeting included a Recap of the timeline from when we first were told it was OK to close the road and start working, which was over one year ago July 5th of 2011 and taking us through present day.

However, when I spoke on Thursday night I changed the focus of my report to the public and felt that what the dozens and dozens of residents and business owners really wanted to know from all 3 Contracting parties involved was to find out why the work stopped on Yonkers Avenue this past June 14th and to get an understanding of what the issues are today, and how everyone is going to move forward and correct them and how much longer it will take until we can once and for all re-open the road.

During the Question and Answer portion of last Thursday night's meeting one of the Army Corp Representatives, Mr. John Pavone stated that he wasn't sure where my comment came from during my opening remarks regarding the road now being 8 months overdue and behind schedule for completion.

When I heard Mr. Pavone make that comment, I decided to just let the Corp and Contactors continue on with their explanations regarding what is really going on and taking place down on Yonkers Avenue. In addition, I just continued to listen to our very intelligent residents and business owners continue to ask questions and try and get answers from the experts, therefore, I decided to let the comment slide.

However, I have thought about this over and over since Thursday night's special meeting and wanted to set the record straight.

I think our residents and anyone who knows me, knows that before I make any statement or comment publicly regarding a serious issue, such as a major project like Yonkers Avenue I do my due diligence and homework first.

During the July 4th holiday two weeks ago, I went back and watched every single board meeting and read over every note I had relating to this project, which went back well over a year.

During my review, what I found was that this Village Board notified the pubic that Yonkers Avenue would be closed starting on July 5th of 2011 through November of 2011, for an approximate total of 4 months for work to begin and to be completed. In addition, we posted notices regarding this project and road closure on our Village website and in our Village Newsletter.

I know that we didn't just pull this first November 2011completion date out of thin air. We were given notice from someone, and could only assume that it had to come from prep meetings held with the Army Corp, and gave the Village the OK to go ahead and close Yonkers Ave and start the excavation of the road in July of 2011. So, our DPW crew immediately began tearing up the road and completed their 1st phase of this project on time.

Regardless of whether or not the date written in the contact with Hirani states differently and shows a completion date of June 30th of this year, the Village had to have been told that the first expected completion date of this project would be November of 2011, and this is why the Village moved forward back in July of 2011 with our 1st phase of work.

Then as we all know, issues came up once the road was excavated by our DPW crew and the utility wires came down. Hirani and the Army Corp now realized that longer pipe piles were needed than originally anticipated from the 1st and 2nd set of boring tests which then caused this first delay in not meeting a November 2011 completion date.

So, reviews needed to be done again, approvals needed to be given and orders needed to be placed for pipe pile which then had a 2 month average lead time, and then left us with a December 19th delivery date of materials.

We all have been patient, and we all understand that during any construction project issues do come up. You don't know 100% what is beneath the ground, we all get that.

When we do work in our homes, we don't know what is inside the walls or what is underneath our sub flooring until we begin to do work and begin to open everything up, we understand this.

However, my advice to the Army Corp is that for future projects when you do boring tests and there are overhead utilities wires which don't allow you to get as close as you would like to the area you need to survey and test, you should maybe just wait for the utility companies to come and remove what they have to. I think a minor time delay like this up front is more manageable and understandable by everyone and it is basically out of your control. The issue then for a delay would then be placed on the utility companies.

So the first expected completion date of November 2011 came and went, and we moved to an April or May completion date which was announced by the Army Corp at multiple Village Board Meetings. Then a second delay occurred due to the contactor Hirani having an equipment failure.

So, once the equipment was fixed and/or replaced a new completion date was announced at our more recent Board meeting which was to be June 30th.

We all are aware now that this June 30th completion date has come and gone due to a work stoppage being placed on this project by the Army Corp on June 14th. This 3rd delay is now due to the fact that more boring tests are needed once again to now determine if the

contractor lost ground under the sub surface while drilling in his first few casings and pipe piles.

We were all told by the Contractor Hirani and the Army Corp Representative Mr. John Pavone that 2 weeks from this past Thursday is the time frame that is needed to finish approvals for where the new boring testing will take place, then physically taking the boring tests and then finally reading the test results and determining hopefully, nothing has been compromised.

Once this final testing is completed and the OK is given to the Contactor, stating that all new boring have passed the test, Hirani will then need 2 more months to finish the pile driving.

This now takes us to a new completion date of Thursday, September 28th.

And then of course the Village will need a week or two to prep the area so it can be open once again for traffic.

My request to Army Corp is that they give the Mayor and Village Board a written update that we can distribute to our public and also post on our website on Friday July 27th, which is 2 weeks after our emergency meeting was held, so that we can let everyone know whether or not the testing results came back OK and that the contactor Hirani can move forward and complete this job."

►MAYOR Ecklond addressed the flooding issue at Garret and lower Lake Avenues. He and Frank DiMarco had met with Westchester County representatives on the building of a berm along the property on Garrett Avenue; however, before going forward assistance is needed from the County to accomplish this task. After the day of the meeting, the County representative came down to identify some of the County owned trees that need to be removed first. At this point the County tree committee needs to approve the removal and a tree permit is required to remove one or more trees that are in the way of the proposed berm. It is hoped this project can move forward by next month

Mayor Ecklond reported that two residents had approached him about train noise at all hours of night. It appears that Metro North has been using the horn all hours of the night and according to the MTA liaison, the conductor has the right to lay on the horn for safety concerns; however, the matter will be researched and get back to us.

Mayor Ecklond asked Karen Ashton from the Army Corp. to give an update on the Yonkers Avenue Project and address the delays and questions.

Karen Ashton said the meeting held on July 12th was productive and then went on to address some of the scheduling issues and delays. She agreed with Trustee Hayes' comments and apologized for Mr. Pavone's comment. She explained further that the original deadline was November 2011 and the June 29th deadline should not have been missed; however, problems were encountered and a stop work order had to be issued due to safety concerns. She expressed her disappointment with Hirani's performance and, as of now, the project is 16 days behind. Before going forward, corrective procedures need to be put in place and, in the event corrective action is required, the stop work order will be lifted with a

revised drilling plan in place. The work plan for additional drilling is due on July 17th; photographs showing each boring and density tests are also necessary. There are specific requirements of what the Federal government can and cannot do and, at times, there are things that tie the hands. She added that since the meeting, they have been more responsive and there is a solution to the problem. There will be corrective drilling methods and quality control on site. Construction should be completed in 8 weeks.

Mayor Ecklond added that the Yonkers Avenue meeting of July 12th will be running on the cable channels for the residents to watch. The public will be updated twice a month, possibly by an e-mail blast.

There being no further business, the board unanimously voted to adjourn the meeting at 10:00PM PM.

Susan Ciamarra, Village Clerk