

## **MARCH 2, 2009**

Regular Meeting of Board of Trustees  
Called to order 8:00 PM

Present: Mayor John Fitzpatrick  
Trustee Steve Ecklund  
Trustee Clare Gorman  
Trustee Luigi Marcoccia  
Trustee Margaret Coleman

The meeting opened with the salute to the flag and Pledge of Allegiance.

### **IV. SPECIAL PRESENTATION(S)**

1. **Eagle Scout Conor McNamara** presented his Eagle Scout Project with American Red Cross on "Emergency Preparedness Day" scheduled for March 28, 2009 at Cottle School from 10-3. Mayor Fitzpatrick said the information would be posted on the Village's website and Cable, and that either he or Trustee Ecklund would speak at the event.
2. **Eastchester Irish Club, Stephen Huvane**, spoke about the upcoming 5<sup>th</sup> annual Irish Parade on Sunday, March 15, 2009 at 3:00PM. Molly Spillane is the sponsor, Grand Marshal is Eamon Fitzpatrick and the honoree is Alicia Quigley. Mayor Fitzpatrick mentioned that he had attended the sash ceremony. Pat Murtagh said that Tuckahoe is a huge supporter of the parade and Eamon Fitzpatrick is a tireless worker.

### **V. PUBLIC HEARINGS**

#### **PUBLIC HEARING I.**

**CONTINUATION OF PUBLIC HEARING ON A PROPOSED LOCAL LAW TO REZONE THE MARBLEDALE ROAD INDUSTRIAL CORRIDOR TO A GENERAL BUSINESS OR COMMERCIAL ZONING DISTRICT IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE VILLAGE COMPREHENSIVE PLAN, ADOPTED MAY 2008.**

**Trustee Ecklund motioned to open the public hearing, was seconded by Trustee Coleman and upon roll call was carried by a vote 5-0.**

**Frank Fish made a presentation based on his February 18, 2009 memorandum to the Village Board outlining recommendations for the Marbledale Road industrial corridor. Full text attached.**

**Trustee Ecklund motioned to continue the public hearing, was seconded by Trustee Gorman and upon roll call was carried by a vote 5-0.**

**PUBLIC HEARING II.**

**LOCAL LAW #4 of 2009 AMENDING SECTION 3-25 OF LOCAL LAW NO. 1 OF 2008, COMMONLY KNOWN AS THE "SIGN AND AWNING LAW"**

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 March 2, 2009.

WHEREAS, a resolution was duly adopted by the Village Board of Trustees of the Village of Tuckahoe, New York for a public hearing to be held by the Village Board on the 2nd day of March 2009, at 8:00 p.m. at Village Hall, 65 Main Street, Tuckahoe, New York, to hear all interested parties on whether section 3-25 of the Sign and Awning Law shall be amended to include the words "a permit" that were inadvertently omitted from the original text of the local law; and

WHEREAS, notice of said public hearing was duly advertised in the Journal News, the official newspaper of said Village, on the 24th day of February 2009; and

WHEREAS, said public hearing was duly held on the 2nd day of March 2009, 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 amendment to the Local Law, or any part thereof; and

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

*Section 1.*

Section 3-25 of Local Law No. 1 of 2008 is hereby amended as follows:

3-25 Violations, Penalties, and Enforcement

1. Any person, who himself or by his agent or employee shall construct, erect, relocate, alter, repair, maintain or use a sign or awning without a permit or shall violate any of the provisions of this Article or who, having had his permit revoked, shall continue to construct, erect, relocate, alter, repair, maintain or use a sign or awning shall, upon conviction thereof be subject to a penalty as prescribed in Section 1-7, and each day on which such violation continues shall constitute a separate offense. In addition to any penalty imposed, the permit of the person violating same shall be canceled or revoked.
2. Any person who has received notification of a violation of this Article by the Code Enforcement Officer must file an application for a compliant sign or awning with the Sign and Awning Review Board within thirty (30) days of such notification. Such applicant must then procure a permit within ninety (90) days of said notification by the Sign and Awning Review

Board. During this one hundred twenty (120) day period, there will be a stay of enforcement of penalty fees. Upon expiration of said one hundred twenty (120) days, a fine will be applied for each day he/she remains in violation as stated above in Section 3-25.1.

*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.* This Local Law shall take effect immediately.

*Section 4.* 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 [ ]

**Trustee Ecklund motioned to open public hearing, was seconded by Trustee Coleman and upon roll call was carried by a vote 5-0.**

**Trustee Ecklund motioned to close public hearing, was seconded by Trustee Gorman and upon roll call was carried by a vote 5-0.**

**Trustee Ecklund motioned to adopt Local Law # 4 of 2009 was seconded by Trustee Coleman and upon roll call was carried by a vote 5-0.**

### **PUBLIC HEARING NO. III**

**LOCAL LAW #5 of 2009 AMENDING SECTIONS 15-46 THROUGH 15-49 OF THE VILLAGE CODE OF THE VILLAGE OF TUCKAHOE, ENTITLED "ALCOHOLIC BEVERAGES" AND COMMONLY KNOWN AS THE "OPEN CONTAINERS LAW"**

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 March 2, 2009.

WHEREAS, the Chief of Police has requested legislation amending Sections 15-46 through 15-49 of the Village Code of the Village of Tuckahoe, entitled "Alcoholic Beverages" and commonly known as the "Open Containers Law"; and

WHEREAS, notice of said public hearing was duly advertised in the Journal News, the official newspaper of said Village, on the 24th day of February 2009; and

WHEREAS, said public hearing was duly held on the 2nd day of March 2009, 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, the Village Board, after due deliberation, finds it in the best interest of said Village to adopt said Local Law.

NOW, THEREFORE, be it enacted by the Village Board of the Village of Tuckahoe, as follows:

Section 1. Sections 15-46 through 15-49 of the Code of the Village of Tuckahoe, entitled "Alcoholic Beverages" and commonly known as the "Open Containers Law" are hereby amended and supplemented as follows:

**Legislative Intent**

The Village of Tuckahoe has determined that the consumption of alcoholic beverages in public places often leads to disorders, nuisance and related problems, as well as the littering of such public places, and is disturbing to the public and threatens peace and good order.

The purpose of this article is to prohibit the consumption of alcoholic beverages in certain public places in order to prevent disorderly behavior and the littering of public places and to protect the public health, safety and welfare and to promote the public good.

**§15-46 Definitions:**

[As used in this article, the following shall have the following meanings:]

[*Park or parks* shall mean and include all dedicated public parks, playgrounds, athletic fields, recreation centers, open spaces, natural and underdeveloped areas and other areas used for park conservation and recreation purposes, beautification projects, including all buildings, structures, equipment and appurtenances, as well as entrances and approaches thereto, and roads and parking places located in such park or parks and such other rights and appurtenances as the village may have or utilize for such park purposes, whether the same be under the care and control of the village by reason of ownership, lease or use or otherwise, and whether same be under the care and control of any school district, provided only that the same be used for park and recreation or conservation purposes.]

[Public places shall mean and include all streets, highways and thoroughfares and the sidewalks or curbside adjacent thereto, all real property owned, operated or

maintained by this village and any appurtenances thereto.]

As used in this article, unless the context or subject matter otherwise requires, the following words shall have the following meanings:

**ALCOHOLIC BEVERAGE:**

Includes all such beverages as defined in § 3 of the Alcoholic Beverage Control Law of the State of New York.

**CONTAINER:**

Any bottle, can, glass, cup or similar receptacle suitable for or used to hold any liquid.

**PUBLIC PLACE:**

A place to which the public or a substantial group of persons has access, and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks and playgrounds, and hallways, lobbies and other portions of apartment houses not constituting rooms or apartments designed for actual residence.

**TRANSPORTATION FACILITY:**

Any conveyance, premises or place used for or in connection with public passenger transportation, whether by railroad, motor vehicle or any other method.

**§ 15-47 Consumption in public places; Possession of open containers; presumption.**

[Public sale, possession and consumption.]

[(a) *In parks.* No person shall carry, deliver, consume, transport, sell, serve or in any way deal with any beer, wine, spirit or alcoholic beverages in any park or parks in the village, except pursuant to a license by the Village Clerk.]

[(b) *In public places.* No person shall carry, deliver or transport any beer, wine, spirit or alcoholic beverages in any public place except in a closed container, and no person shall serve or consume any beer, wine, spirit or alcoholic beverage in any public place in the village except pursuant to a license issued by the Village Clerk.]

(a) Prohibited. No person shall, within the Village of Tuckahoe, drink or otherwise consume liquor, wine, beer or other alcoholic beverages while such person is in or upon any public sidewalk, street, highway, transportation facility, parking lot, swimming pool, public park or such other public place, as defined by § 240.00 of the Penal Law of the State of New York.

(b) Possession of open containers. No person shall carry or have in his or her

possession, within the Village of Tuckahoe, any open bottle, can or open container containing liquor, wine, beer or other alcoholic beverages with the intent of the possessor or another to consume same in any of the public places described in Subsection (a) of this section.

(c) Presumptions.

(1) The possession of an open, unsealed, resealed or partially full bottle, can or container which contains an alcoholic beverage, unwrapped or with the top exposed in a public place, as herein defined, shall be presumptive evidence that such open bottle or open container is intended to be consumed in a public place.

(2) Such an open bottle, can or container in any vehicle while in or on any public sidewalk, street, highway, parking lot, public park or other public place, as defined by § 240.00 of the Penal Law of the State of New York, shall be presumptive evidence that the same is in the possession of all the occupants thereof.

(3) The holding of such open bottle, can or container to the mouth in a drinking manner, or the placing, throwing or otherwise disposing of such container or its contents in a public place shall be presumptive evidence that the person doing such act did consume or ingest an alcoholic beverage in a public place.

(d) The foregoing prohibition against drinking alcoholic beverages in public places or possessing open, unsealed, resealed or partially empty bottles, cans or containers of such alcoholic beverages shall not apply nor be a violation of this chapter in the event of a gathering which has been granted a special permit by the Village Clerk according to regulations approved by the Village Board nor to any place licensed by the State of New York to sell alcoholic beverages for on-premises consumption.

**§15-48 Licenses.**

The Village Clerk may issue a license authorizing the sale or other distribution and consumption of alcoholic beverages in any park or parks or public place in the village. Such license shall be issued only in connection with a recreation event sponsored by a bona fide charitable, educational, health, religious or civic organization upon payment of a fee in the amount of \$100. [\$10.]

**§15-49 Penalties for offenses.**

Any person who shall violate any provision of this article shall be guilty of a violation and shall be subject to a fine of not less than \$50 [\$10] nor more than \$250.

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. This Local Law shall take effect immediately.

Section 4. 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 [ ]

**Trustee Gorman motioned to open a public hearing, was seconded by Trustee Coleman and upon roll call was carried by a vote 5-0.**

**No public comment.**

**Trustee Gorman motioned to close public hearing, was seconded by Trustee Marcoccia and upon roll call was carried by a vote 5-0.**

**Trustee Ecklund motioned to adopt Local Law #5 of 2009, was seconded by Trustee Gorman and upon roll call was carried by a vote 5-0.**

#### **VI. OPPORTUNITY TO ADDRESS THE BOARD ON AGENDA ITEMS**

**No public comments.**

## **RESOLUTIONS –**

**1. Mayor Fitzpatrick offered a resolution** authorizing Request for Proposal (RFP) for auditing and accounting services beginning with the audit for fiscal year of June 1, 2010 to May 31, 2011.

**Trustee Marcoccia made a motion to adopt resolution #1, seconded by Trustee Coleman and upon roll call was carried with a vote of 5 – 0.**

**2. Mayor Fitzpatrick offered a resolution** to approve request of 212 Marketing Solutions to solicit Verizon Fios services to local residents of the Village of Tuckahoe for one week from date of approval with hours of operation from 1:30pm to 7:30pm Monday through Friday and Saturday from 12pm to 5pm.

**Trustee Gorman made a Motion to adopt resolution #2, seconded by Trustee Marcoccia and upon roll call was carried with a vote of 5 – 0.**

**3. Mayor Fitzpatrick offered a resolution** authorizing payment of vouchers in the amount of \$370,964.01 consisting of abstract # 36 for \$63,116.75; abstract #37 for \$209,296.39 and abstract #38 for \$98,547.87. The largest are: \$98,971.14 health insurance premium for March; \$16,988.80 Village Share of fines and fees due the State and \$82,834.65 principal and interest on a \$782,000 bond issued in February 2006.

**Trustee Gorman made a Motion to adopt resolution #3, seconded by Trustee Marcoccia and upon roll call was carried with a vote of 5 – 0.**

**4. Mayor Fitzpatrick offered a resolution** approving request by the United States Census Bureau for the use of the meeting room two days Wednesday, March 4<sup>th</sup> and March 11<sup>th</sup> between the hours of 10AM and 12 Noon for the purpose of conducting testing for new applicants for census work in Tuckahoe, Bronxville and Eastchester.

**Trustee Gorman made a Motion to adopt resolution #4, seconded by Trustee Coleman and upon roll call was carried with a vote of 5 – 0.**

**5. Mayor Fitzpatrick offered a resolution** authorizing the Treasurer to deposit Village funds with Webster Bank.

**Trustee Gorman made a Motion to adopt resolution #5, seconded by Trustee Coleman and upon roll call was carried with a vote of 5 – 0.**

**6. Mayor Fitzpatrick offered a resolution** authorizing for the advertisement to receive sealed bids for the Emergency Generator Tuckahoe Community Center Project.

**Trustee Ecklund made a Motion to adopt resolution #6, seconded by Trustee Coleman and upon roll call was carried with a vote of 5 – 0.**

**7. Mayor Fitzpatrick offered a resolution** authorizing for the advertisement to receive sealed bids for the Village of Tuckahoe Cleaning and Janitorial Services Contract.

**Trustee Ecklund made a Motion to adopt resolution #7, seconded by Trustee Coleman and upon roll call was carried with a vote of 5 – 0.**

**8. Mayor Fitzpatrick offered a resolution** authorizing for the advertisement to receive sealed bids for the Thompson Street Parking Lot Improvements Project.

**Trustee Ecklund made a Motion to adopt resolution #8, seconded by Trustee Gorman and upon roll call was carried with a vote of 5 – 0.**



**9. Mayor Fitzpatrick offered a resolution** authorizing Bill Williams, Building Inspector and Mike Seminara, Code Enforcement Officer to attend the 2009 NYSBOC training conference on March 9, 10 and 11 in Rye Brook.  
**Trustee Ecklund made a Motion to adopt resolution #9, seconded by Trustee Gorman and upon roll call was carried with a vote of 5 – 0.**

**10. Mayor Fitzpatrick offered a resolution** authorizing modifying the 2008-09 budget by transferring the following amounts:

\$3,980 from account #9010-125 to 3120-101

\$1,548 from account #9010-125 to 7141-101

\$2,500 from account #9010-125 to 3620-101

\$2,110 from account #9010-125 to 1420-101

\$2,000 from account \$9010-125 to 1420-102

**Trustee Gorman made a Motion to adopt resolution #10, seconded by Trustee Coleman and upon roll call was carried with a vote of 5 – 0.**

**11. Mayor Fitzpatrick offered a resolution** SCHEDULING A PUBLIC HEARING ON AMENDING LOCAL LAW NO. 1 OF 1967 ENTITLED "DANCE HALLS AND CABARETS"

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 March 2, 2009.

WHEREAS, this Board of Trustees wishes to conduct a public hearing relating to amendments to Sections 101 and 109 of Local Law No. 1 of 1967, entitled "Dance Halls and Cabarets."

NOW, THEREFORE, BE IT RESOLVED

Section 1. That in accordance with the provisions of the Municipal Home Rule Law, a public hearing shall be held on or about the 30<sup>th</sup> day of March 2009, at 8:00 o'clock p.m., at Village Hall, 65 Main Street, Tuckahoe, New York, at which hearing parties in interest and citizens shall have an opportunity to be heard and at which time and place it shall be determined by the said Board of Trustees whether certain sections of Local Law No. 1 of 1967, to wit: Sections 101 and 109 shall be amended.

Section 2. That the notice of the time and place of such public hearing shall be published by the Village Clerk in the manner provided by applicable law.

Section 3. That this resolution shall take effect immediately.

**Trustee Marcoccia made a motion to adopt resolution #11, seconded by Trustee Coleman and upon roll call was carried with a vote of 5 – 0.**

**VII. APPOINTMENTS –**

**Mayor Fitzpatrick recommended for appointment John Santos of 12 Wallace Street as AD HOC member to the Zoning board for a term of one year.**

Motion by Trustee Gorman, seconded by Trustee Coleman and upon roll call vote was carried out by 5-0 to approve the appointment. Mr. Santos thanked the Board for the opportunity to serve the community.

**VIII. APPROVAL OF MINUTES –**

Trustee Ecklund motioned to approve the minutes of the regular meeting of February 9, 2009, was seconded by Trustee Gorman and upon roll call was carried by a vote 5-0.

**IX. REPORTS OF DEPARTMENTS, BOARDS AND COMMISSIONS –**

**POLICE DEPARTMENT –** Chief Costanzo spoke about the strict enforcement of the new speed limit on Oakland Avenue. He reported on the most recent incident involving a 48 year old female who had car trouble and was approached by a man on Main St. who offered to help and in doing so the suspect, Tony Sacco, took her vehicle with her child in it. The vehicle then broke down again near the Bronxville border; the suspect fled on foot but was apprehended in White Plains the next morning and is now in the county jail.

Mayor commented that there have been a couple of incidents and thanked the Bronxville, Eastchester and Tuckahoe police for all their efforts.

**BUILDING DEPARTMENT-** Bill Williams reported that he was in receipt of a complaint involving the project at 72 Maple Ave. Mayor Fitzpatrick referenced a letter from the residents of Maple Ave who are concerned that this project is unsafe. The contractor has been spoken to and a summons has been issued. He also noted that the Village will save roughly \$20,000.00 a year by going back to Hudson Energy, Con Edison, as the energy suppliers for heat.

**CLERK'S OFFICE -**

**TREASURER -**

**X. CORRESPONDENCE**

**XI. MISCELLANEOUS BUSINESS –**

The next scheduled Village Board Meeting is Monday, March 30<sup>th</sup>

**XII. BOARD OF TRUSTEES MEMBER REPORTS:**

- **TRUSTEE MARCOCCIA** thanked Elaine Pagliaroli for her donation to the recently installed Lakeville sign. The Library Board is working on their budget. The Library calendar is on line. Village Hall has rental office space vacancies. The old Crestwood market building has a new face and the scaffolding down. He said the Village Board is working on the tentative budget for the upcoming fiscal year.

Susan Ciamarra, Village Clerk, noted that the budget is filed with the Village Clerk on March 20<sup>th</sup> and budget hearing by April 14<sup>th</sup>.

The Mayor inquired about the Library Board cutting evening hours stating that in a bad economy library usage goes up. He remarked that today, in the snow with schools closed, the Library should not have been closed.

- TRUSTEE ECKLOND spoke about the snow storm and thanked Jimmy Gizzo and the DPW personnel on a job well done. The design team for the DPW building on Marbledale Road will be meeting soon and said this is a shovel ready project.
- TRUSTEE GORMAN reported on the various scheduled meetings for the month of March; Planning Board work session on March 3 with a Planning Board meeting on March 17; Zoning Board work session is March 4 and the meeting is on March 11; Environmental Committee meeting March 4, Tree Committee meeting March 11 and a Sign & Awning Committee meeting March 17. She mentioned that packages are still being sent to Camp Bucca.
- TRUSTEE COLEMAN wished good luck to the students taking State Assessment tests.
- MAYOR FITZPATRICK reminded everyone that March 18 is Election Day. The Mayor congratulated Lucille Sorzo on her appointment as Sunshine Lady of the Tuckahoe Seniors. The Census will be conducting two days of testing for positions available. Board prime concern is the budget and ideas are welcome on saving money. March 30 is the next Village Board meeting.

### **XIII. SECOND OPPORTUNITY TO ADDRESS THE BOARD**

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

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Susan Ciamarra, Village Clerk