

November 22, 2010

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

**PRESENT: TRUSTEE ECKLOND
TRUSTEE GORMAN
TRUSTEE QUIGLEY
TRUSTEE GIORDANO
MAYOR FITZPATRICK**

The meeting opened with the Pledge of Allegiance and Salute to the Flag.

SPECIAL PRESENTATION

Anti littering commercial presentation with students, director, videographer, and concept creator. Trustee Gorman thanked all involved .

PUBLIC HEARINGS

**I. PUBLIC HEARING ON PROPOSED LOCAL LAW AMENDING AND SUPPLEMENTING
THE VILLAGE CODE OF THE VILLAGE OF TUCKAHOE CONCERNING LEAF BLOWER AND
OTHER ENGINE-DRIVEN POWER EQUIPMENT REGULATIONS**

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 October 4, 2010.

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 25th day of October 2010, at 8:00 p.m. at Village Hall, 65 Main Street, Tuckahoe, New York, to hear all interested parties concerning an amendment to the Village Code of the Village Tuckahoe concerning leaf blower and other engine-driven power equipment regulations; and

WHEREAS, notice of said public hearing was duly advertised in the Journal News, the official newspaper of said Village, on the 2nd day of October 2010; and

WHEREAS, said public hearing was duly held on the 25th day of October 2010, 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 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.

The Village Code is hereby amended and supplemented to add an Article IV of Chapter 15, entitled "Leaf Blower And Other Engine-Driven Power Equipment Regulations" as follows:

Chapter 15

Article IV Leaf Blower And Other Engine-Driven Power Equipment Regulations

§ 15-50. Purpose.

The Village Board of Trustees finds that the reduction of noise, emissions of gases, the blowing of dust particles and other airborne pollutants into the air and onto other nearby properties from the use of leaf blowers and other engine-driven power equipment is a public concern that affects the public health, welfare and environment of the Village of Tuckahoe and its citizens.

§ 15-51. Definitions.

Leaf Blower - Leaf blowers are defined as portable, handheld or back pack style power equipment that is powered by fuel or electricity and used in any landscape maintenance, construction, property repair, or property maintenance for the purpose of blowing, moving, removing, dispersing, vacuuming or redistributing leaves, dust, dirt, grass clippings, cuttings, and trimmings from trees and shrubs or any other type of litter or debris.

§ 15-52. Limitations On Use.

- a) The use of gasoline-powered Leaf Blowers in the Village of Tuckahoe is prohibited from June 1st through and including September 30th of each year.
- b) Subject to subsection (a) of this Section, during the period of June 1st through and including September 30th of each year, the use of power lawn mowers, power hedge trimmers, electric leaf blowers and any other engine-driven power tool or motorized equipment may be used during the following hours:

- (1) Monday through Friday – 8 AM through 6 PM
 - (2) Saturday – 9 AM through 5 PM
 - (3) Sunday and Holidays – Noon through 5 PM
- c) During the period of October 1st through and including May 31st of each year, the use of Leaf Blowers, power lawn mowers , power hedge trimmers, and any other engine-driven power tool or motorized equipment may be used during the following hours:
- (1) Monday through Friday – 8 AM through 6 PM
 - (2) Saturday – 9 AM through 5 PM
 - (3) Sunday and Holidays – Noon through 5 PM
- d) The foregoing provisions of this section 15-52 (b) and (c), above, shall not apply to snow blowers, chain saws, and other tools and equipment that may be used to clear and plow walks, streets, sidewalks and/or driveways during and within forty-eight (48) hours of snow, rain, ice, or wind storms or other similar emergencies.
- e) Leaf Blower operations shall not cause leaves, dirt, debris, grass clippings, cuttings or trimmings from trees or shrubs or any other type of litter or debris to be blown on any adjacent parcel of land or lot other than the parcel, land or lot upon which the Leaf Blower is being operated. Leaves, dirt, debris, grass clippings, cuttings or trimmings that are blown onto a public right-of-way shall be promptly removed.
- f) All Leaf Blowers, power lawn mowers, power hedge trimmers, electric Leaf Blowers and any other engine-driven power tool or motorized equipment must comply with all local, county, state and Federal laws. The sound emanating from any Leaf Blower or any other engine-driven power tool or motorized equipment operating within the Village shall be no greater than 65 decibels as measured from a point nearest to the Leaf Blower or such other engine-driven power tool or motorized equipment during its operation.

§ 15-53. Enforcement.

- a) The Code Enforcement Officer, Building Inspector, the Superintendent of Public Works and any police officer in the Village Police Department shall have the authority to enforce the provisions of this article.

§ 15-54. Penalties For Offenses.

- a) Subject to the terms set forth in subsection (b) of this Section, a violation of the provisions of this article shall be punishable, upon conviction thereof, by a fine not exceeding \$350 or imprisonment not exceeding 15 days, or both, which shall be enforceable by the Code Enforcement

Officer, Building Inspector, the Superintendent of Public Works and any police officer in the Village Police Department. All persons shall be entitled to one warning before the Village proceeds with a prosecution of such person under this article.

- b) Where the operator of a Leaf Blower, power lawn mower, power hedge trimmer, electric Leaf Blower, or any other engine-driven power tool or motorized equipment ("Equipment") is an employee of a business that owns the Equipment and the operator is operating the Equipment pursuant to his or her employment duties, the employer of the operator of the Equipment shall be deemed in violation of the provisions of this article and, upon conviction, punished by a fine not exceeding \$350.
- c) In addition to the penalties indicated in subsection (a) and (b) above, the Code Enforcement Officer, Building Inspector, the Superintendent of Public Works and any police officer in the Village Police Department shall have all other remedies and techniques for the enforcement granted by this article or any other law, statute or regulation, including, but not limited to, summary action, injunctive relief and civil actions for damages to the environment.

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.

Trustee Gorman made a motion to open public hearing was seconded by Trustee Quigley and upon roll call was carried by a vote 5-0.

Trustee Gorman said that at the Community meeting there was a discussion regarding changing the ending hour from 6:00PM to 7:00PM Trustee Ecklund questioned the wording in paragraph (e) . Trustee Quigley asked if leaves should be removed or put in proper location. Mayor Fitzpatrick said that the attorney will tune up section (e). Trustee Giordano questioned why some months have a ban and not others. Trustee Gorman responded saying that summer months have the worst air quality.

Peter Telesco who sells leaf blowers said emissions are heavily regulated since 1998 by the EPA.

Lori Minarik , a Tuckahoe resident, supports the ban.

Anthony Lore opposes it.

Marcello Solano, a landscaper, opposes the ban and said that most landscapers use the leaf blowers illegally in the other municipalities.

Jeff Forgiano, a landscaper opposes the ban.

Jeff Zuckerman commented on Mr. Solano's remark that everyone is cheating and breaking the law.

Mayor Fitzpatrick said that Bill Williams and Mike Seminara will be at the December meeting to address this.

Larry Wilson said electric blowers do not do the job that gas blowers do.

Charles Cinquemani supports the ban.

Elaine Garry supports the ban.

Anthony Lore wants a moment of silence in commemoration of Kennedy's assassination. Mayor Fitzpatrick said there will be a moment of silence at the end of the meeting.

Trustee Ecklund made a motion to keep open public hearing was seconded by Trustee Gorman and upon roll call was carried by a vote 5-0.

1. Mayor Fitzpatrick offered a RESOLUTION - authorizing advertisement calling for sealed proposals for the Village of Tuckahoe cleaning and Janitorial Services Contract.

Trustee Ecklund made a motion to adopt resolution #1; motion was seconded by Trustee Giordano and upon roll call was carried by a vote 5-0.

2. RESOLUTION to approve the hiring of a RAKOW, Real Estate Broker, to market the rental of the 3rd floor, 10,000 sq. ft., in Village Hall.

Trustee Ecklund made a motion to adopt resolution #2; motion was seconded by Trustee Quigley and upon roll call was carried by a vote 5-0.

3. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH A CONSORTIUM OF MUNICIPALITIES CONCERNING PUBLIC FIRE HYDRANT EXPENSES AND MAINTAINING ADEQUATE WATER PRESSURE TO PUBLIC FIRE HYDRANTS

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 November 22, 2010.

WHEREAS, a consortium of municipalities, including the Village, have agreed to review the options available to municipalities to recoup all or a portion of public fire hydrant expenses through the retaining of counsel; and

WHEREAS, the consortium of municipalities also seeks to explore the options available to municipalities to use their inherent police powers to adequately provide water pressure to public fire hydrants; and

WHEREAS, the consortium has agreed to retain the law offices of David M. Wise, Esq. in connection with such matters; and

WHEREAS, as part of the consortium each municipality has agreed to set aside a sum certain to cover the costs of counsel in connection with such matters; and

NOW, THEREFORE, BE IT RESOLVED

Section 1. The Village Board hereby authorizes the Mayor to execute an agreement with a consortium of municipalities for the retaining of counsel to review the options available to municipalities to recoup all or a portion of public fire hydrant expenses and further explore the options available to municipalities to use their inherent police powers to adequately provide water pressure to public fire hydrants.

Section 2. In connection with the authorization granted in Section 1 hereof, the Village agrees to set aside a sum not to exceed \$553.50 for the retaining of counsel in connection with such matters.

Section 3. That this resolution shall take effect immediately.
Trustee Ecklund made a motion to adopt resolution #3; motion was seconded by Trustee Quigley and upon roll call was carried by a vote 5-0.

4. RESOLUTION –to approve the Eastchester Fire Dept. request for the use of the Community Center as a polling place for the Fire District’s 2010 Annual Election on Tuesday, December 14th between 4:00 pm and 9:00 pm.
Trustee Ecklund made a motion to adopt resolution #4; motion was seconded by Trustee Quigley and upon roll call was carried by a vote 5-0.

5. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH BOND, SCHOENECK AND KING, PLLC

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 November 22, 2010.

WHEREAS, legislation has been requested authorizing the Village to enter into a Retainer Agreement with Bond, Schoeneck and King, PLLC for professional legal services concerning labor and employment matters.

NOW, THEREFORE, BE IT RESOLVED

Section 1. The Village Board hereby authorizes the Mayor to execute a Retainer Agreement with Bond, Schoeneck and King, PLLC for professional legal services.

Section 2. The retainer agreement with the Village and Bond, Schoeneck and King, PLLC shall be for professional legal services concerning labor and employment matters.

Section 3. That this resolution shall take effect immediately.

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

6. RESOLUTION SCHEDULING A PUBLIC HEARING ON AMENDING SECTIONS 5-26 AND 5-27 OF THE VILLAGE CODE OF THE VILLAGE OF TUCKAHOE, ENTITLED "ARTICLE VIOLATIONS; PENALTY" AND "LICENSING FEES" OF ARTICLE II, ENTITLED "DOGS"

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 November 22, 2010.

WHEREAS, this Board of Trustees wishes to conduct a public hearing relating to amendments to Sections 5-26 and 5-27 of the Village Code of the Village of Tuckahoe, entitled "Article Violations; Penalty" and "Licensing Fees" of Article II, entitled "Dogs"; and

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 6th day of December 2010, 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 Sections 5-26 and 5-27 of the Village Code of the Village of Tuckahoe, entitled "Article Violations; Penalty" and "Licensing Fees" of Article II, entitled "Dogs" 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.

LOCAL LAW NO. _____ OF 2010

A LOCAL LAW AMENDING SECTIONS 5-26 AND 5-27 OF THE VILLAGE CODE OF THE VILLAGE OF TUCKAHOE, ENTITLED "ARTICLE VIOLATIONS; PENALTY" AND "LICENSING FEES" OF ARTICLE II, ENTITLED "DOGS"

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 November 22, 2010.

WHEREAS, the Village Clerk has requested legislation amending Sections 5-26 and 5-27 of the Village Code of the Village of Tuckahoe, entitled "Article Violations; Penalty" and "Licensing Fees" of Article II, entitled "Dogs"; and

WHEREAS, notice of said public hearing was duly advertised in the Journal News, the official newspaper of said Village, on the _____ day of _____ 2010; and

WHEREAS, said public hearing was duly held on the _____ day of _____ 2010, 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. Section 5-26, entitled "Article Violations; Penalty" of Article II, entitled "Dogs" of the Village Code of the Village of Tuckahoe, is hereby amended as follows:

§ 5-26. Article violations; penalty.

Except as provided in § 118 of the Agriculture and Markets Law, any person violating any of the provisions of this Chapter shall, upon conviction thereof, be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or by both such fine and imprisonment.

[A violation of this article is hereby declared to be an offense. Any person who himself or itself or by his or its agent or employee shall violate any of the provisions of this article shall, upon conviction of such violation, be punished by a fine not exceeding \$100 or imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$100 nor more than \$200 or imprisonment for a period not to exceed 15 days, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$200 nor more than \$250 or imprisonment for a period not to exceed 15 days, or

both. Each day any violation of any provision of this article shall constitute a separate offense.]

Section 2. Section 5-27, entitled "Licensing Fees" of Article II, entitled "Dogs" of the Village Code of the Village of Tuckahoe, is hereby amended as follows:

§ 5-27. Licensing fees.

(a) In addition to any licensing fees imposed by the state pursuant to the Agricultural and Market Laws of the state, any resident of the village owning a dog or dogs [must] shall apply for individual licenses for any such animal to the Clerk of the Town of Eastchester. [A fee of five dollars (\$5.) shall be charged for each dog license upon application to the Village Clerk, and such license shall be effective for one (1) year regardless of renewal date. Failure to obtain such a license as it is required shall submit the violator to a penalty in accordance with § 5-26 above.]

[(b)] [Dog owners who are sixty (60) years or older shall be exempt from payment of local fee set forth in § 5-27(a) upon application to the Village Clerk with proof of age.]

(b) The seizure, redemption, fees and disposal of dogs pursuant to this Chapter shall be governed by Article 7 of the Agriculture and Markets Law.

Section 3. 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 4. If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section 5. This Local Law shall take effect on January 1, 2011.

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.

New Matter Underlined

Deleted Matter in Brackets []

Trustee Quigley made a motion to adopt resolution #6; motion was seconded by Trustee Giordano and upon roll call was carried by a vote 5-0.

7. RESOLUTION approving payment of vouchers in the amount of \$293,771.44 consisting of abstract #26 for \$60,523.18, abstract #27 for \$39,167.02, abstract #28 for \$3,395.02 and abstract #29 for \$190,686.22. The three largest invoices paid were: (1) \$90,316.12 for employee health insurance premiums for the month of December 2010, (2) \$40,660.00 for work performed on the Main Street Tennis Court and (3) \$15,306.33 for electricity charges for the month of October 2010.

Trustee Gorman made a motion to adopt resolution #7; motion was seconded by Trustee Quigley and upon roll call was carried by a vote 5-0.

8. A RESOLUTION SCHEDULING A PUBLIC HEARING ON AMENDING SECTION 15-40 OF THE VILLAGE CODE OF THE VILLAGE OF TUCKAHOE, ENTITLED "DEFINITIONS" OF ARTICLE II, ENTITLED "NOISE AND OTHER ENUMERATED NUISANCES"

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 November 22, 2010.

WHEREAS, this Board of Trustees wishes to conduct a public hearing relating to an amendment to Section 15-40 of the Village Code of the Village of Tuckahoe, entitled "Definitions" of Article II, entitled "Noise and Other Enumerated Nuisances"; and

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 6th day of December 2010, 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 the definition of "Legal Holiday" in Section 15-40 of the Village Code of the Village of Tuckahoe, entitled "Definitions" of Article II, entitled "Noise and Other Enumerated Nuisances" 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 Quigley made a motion to adopt resolution #8; motion was seconded by Trustee Gorman and upon roll call was carried by a vote 5-0.

Mayor Fitzpatrick said this resolution was placed on the agenda to address whether Veterans Day and Martin Luther King should be considered Village holidays.

Trustee Ecklund motioned to approve the minutes of the regular meeting of October 25, 2010; motion was seconded by Trustee Giordano and upon roll call was carried by a vote of 5-0.

Sheila Marcotte gave a legislative update discussing new retro fitting recycling of plastic.

The Snow Angel's are back. Remember they only shovel sidewalks and path to the door; not cars, not driveways.

Police- Chief Costanzo "Click it or Ticket" began again on November 15. During the holiday season there will be a stronger police presence at the train stations.

Next Village Board Meeting – December 6 , 2010

TRUSTEE ECKLOND – DPW building ribbon cutting is Friday Nov 26th .

TRUSTEE GORMAN - The Library will have its annual "Giving Tree" .

TRUSTEE QUIGLEY- Tuckahoe High School football team is on its way to Syracuse.

TRUSTEE GIORDANO – encouraged people to shop locally to help support the merchants.

MAYOR FITZPATRICK- reminded everyone that the Senior Raffle will be drawn at the Dec 6th Board meeting.

Jeff Meyer of Terrace Place, a retired Eastchester police officer, made allegations as well as claiming disappointment with the Eastchester Police Department.

Mayor Fitzpatrick suggested that the allegations be forwarded to the D. A.'s Office. He would asks for an amendment from the State legislature on Westchester Police Act of 1934 explaining that in those areas we can support you but it is not in our jurisdiction. It is in the town's jurisdiction.

Mayor Fitzpatrick asked everyone to rise and pause for a moment of silence in commemoration for the assination of President Kennedy.

There being no further business, the Board unanimously voted to adjourn the meeting at 10:30 PM.

Susan Ciamarra, Village Clerk