

September 9, 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

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

PRESENTATIONS: ZEPPIERI SERVICE STATION was presented with a proclamation in honor of 50 years of service to the community. The Zeppieri family expressed appreciation and thanked the Mayor and the Board.

ADOPTION OF MINUTES

Trustee Quigley made a motion to approve and adopt the minutes of the regular meeting of August 19, 2013; motion was seconded by Trustee Giordano and upon roll call, motion was carried by a vote 5-0.

RESOLUTIONS

RESOLUTION #1 – to enact and adopt Local Law #3 of the year 2013 – 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”

**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 adopt resolution #1; due to lack of a second, motion failed. Mayor Ecklund then asked for a roll call: Trustees Luisi, Giordano, Hayes and Mayor Ecklund voted against the Local Law. Trustee Quigley voted in favor the Local Law.

Mayor Ecklund read the following statement:

The matter of prohibiting plastic garbage bags in our establishments has been an interesting one and I want to thank Trustee Quigley for bringing this issue to the forefront.

For me it has been an issue of impressing upon our constituents and our local businesses that we must take responsibility to address matters such as the ongoing use of plastic or any other type of bags for that matter – when we have the availability to use re-useable shopping bags.

Where I have had difficulty with this all along, is in the legislative component of imposing a financial penalty for something which I believe can and should be a volunteer responsibility by both the consumer and the merchant.

Trustees Giordano, Luisi and Hayes echoed the Mayors sentiments. Trustee Giordano believes in positive enforcement. He hopes for more discussion toward education.

Trustee Luisi agrees with Trustee Giordano and appreciates what Trustee Quigley is trying to accomplish. He believes we have bigger issues to concern ourselves with as a board. It is an issue to look at further down the road. We have a tremendous recycling program. We have to educate the consumers and residents. The majority of the residents and businesses are against this ban. We need to educate the public. Trustee Luisi is glad that we are not burdening the residents and businesses with a useless government mandate.

Trustee Hayes' main concerns are the fines and fees and enforcement as well as targeting this one specific segment of the Village population, the merchants. We all put out garbage in large black bags for Monday and Friday pick up. She believes, as liaison to the Environmental Committee, that people need to be educated on reusable bags and will work with them to further educate the public on recycling.

Trustee Quigley read the following statement:

History has repeatedly demonstrated that good ideas remain just that – ideas – unless there is some measurable enforcement behind them. There are numerous examples, for instance:

- There is a consensus that wearing seatbelts saves lives – yet every state has a mandatory seat belt law with penalties and fines.
- There is also a consensus that texting while driving is dangerous – then why has it been necessary to enact laws against texting?

By our natures, we don't like to be told what we can or cannot do even when we know that what we are being told to do or not do is right. The vote tonight is based at least in part on a presumption that people understand that there should be restrictions on the ever expanding uses of plastic shopping bags but don't need the force of law to reduce their use of such bags and to find less environmentally destructive alternatives for carrying purchased goods.

In reality, this wishing and hoping that we will do the right thing just because it is the right thing is simply not enough. I witnessed an excellent example a couple of year ago. Rhode Island requires motorcyclists to wear helmets. Massachusetts does not. I was driving behind two motorcyclists in Rhode Island. As soon as they crossed into Massachusetts, they stopped and removed their helmets and continued riding. These riders were apparently not concerned with all the studies showing that helmets are literally life-savers – they knew that since helmets were not required in Massachusetts, they were not going to wear them.

I was willing to negotiate with our Board the dollar amounts for the fines in this law which even in its current form would not have been imposed until the second violation -- but there was no support for sanctions of any kind. A toothless law has no reason for existing as it is nothing more than a collection of words encouraging a change in business practices.

The arguments against the law included inconvenience to the shoppers and extra costs to the merchants. These arguments are similar in kind to the outcry against Mayor Bloomberg's plan not all that long ago to ban smoking in all restaurants and bars. Dire predictions of enormous losses to the owners and closings of these establishments were made. Yet, several years later, the bar and restaurant scene in New York City is thriving, as is, by the way the bar and restaurant scene in Tuckahoe where smoking is totally banned. Indeed, this Board recently voted unanimously to ban smoking in Tuckahoe's parks. Do people need to be told that smoking is dangerous and that it certainly should not be done around children? Of course not. Yet, we deemed it appropriate to enact a law banning this activity. Again, it took a law to force a desired objective that has unquestionably benefited everyone.

I would like to believe my colleagues' hope that our residents will take it on themselves to reduce their demands for plastic shopping bags and to recycle the bags they accumulate. Reality suggests otherwise. For example, there is a prominent sign at the entrance of the Stop & Shop supermarket on White Plains Road encouraging the use of re-usable bags which the store has

sold for years. Yet week after week, I watch the majority of shoppers resorting to the supermarket's plastic shopping bags.

Tuckahoe residents can drop their plastic bags at our DPW for recycling – but the weekly pick-up by the DPW does not include plastic bags. And according to a report issued by County Executive Rob Astorino, Tuckahoe recycled only 56% of its waste in 2012. This is better than the county wide average of 52% and considerably better than the nationwide average of 34%. Slightly better than half, however, is not something to be proud of especially in our village where it could not be easier to recycle paper, metal, glass, plastic and cardboard. If many of our residents are not willing to make the minimum effort required to place these recyclable items at the curb, how likely are they to carry plastic bags to the DPW yard?

Finally, it is discouraging that Tuckahoe, rather than being in the forefront of the steadily increasing trend toward banning plastic shopping bags, will actually make news as a municipality that rejected this simple step toward becoming a more environmental and sustainable community. I wonder what it is that my colleagues find objectionable in this law that was not evident to the Democrats and Republicans in Rye and Mamaroneck where virtually identical plastic bag laws have been enacted. Or that was not evident to communities such as Southampton and Westport, Connecticut. These are not, to my knowledge, leftist cities such as San Francisco or Seattle where such laws have also been enacted.

In closing, I hope my colleagues are right – that Tuckahoe retailers and shoppers in Tuckahoe will voluntarily reduce the number of plastic shopping bags. I hope that our residents will carry reusable bags such as this bag, with them; or carry a couple of plastic shopping bags in their pockets, purses, brief cases, backpacks, strollers, and cars; that stores such as Epstein's will begin to sell reusable bags; that all retail stores will ask shoppers whether they want a plastic bag rather than automatically providing one; and that our residents will bring their plastic bags to the DPW.

I will be thrilled if events prove me to have been wrong.

RESOLUTION #2 approving the Junior League of Bronxville request for the use of the Tuckahoe Trolley, to remain stationary at the Immaculate Conception School parking lot, on Saturday, October 5th between the hours of 9:00AM and 3:00pm for the Junior League of Bronxville's "Touch a Truck" event. Trustee Giordano made a motion to adopt resolution #2; motion was seconded by Trustee Hayes and upon roll call, motion was carried by a vote of 5-0.

RESOLUTION #3 - approving refunds totaling \$8,032.43 for the list of properties that follow having received a reduction in the 2013 assessments by the Small Claims Assessment Review (SCAR).

1. M. Pizzuti, 267 Dante Avenue, Section 44, Block 8, Lot 26 - \$868.30
2. Patrick Gallo, 54 Wallace Avenue, Section 34, Block 11, Lot 27 - \$880.53
3. Mario Mignardi, 195 Dante Avenue, Section 38, Block 7, Lot 26 - \$807.15
4. A. Heras, 18 Fairview Avenue, Section 27, Block 1, lot 2 - \$322.86
5. L & M Vetrini, 107 Wallace Street, Section 34, Block 1, Lot 17 - \$577.24
6. S & H Odabasic, 184 Dante Avenue, Section 38, Block 5, Lot 89 - \$97.84
7. M. Schurek, 280 Dante Avenue, Section 42, Block 5, Lot 1 - \$538.11
8. A. Serino, 235 Dante Avenue, Section 38, Block 7, Lot 5 - \$831.62
9. A. Locicero, 113 Wallace Street, Section 34, Block 1, Lot 15 - \$244.60

10. M. Solano, 12 Yonkers Avenue, Section 26, Block 2, Lot 26 - \$1411.30
11. A. Locicero, 41 Marbledale Road, Section 35, Block 5, Lot 17- \$574.79
12. D. Clark, 7 Sylvan Avenue, Section 44, Block 8, Lot 26 - \$878.09

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

RESOLUTION #4 approving the Columbus Day Committee of Eastchester-Tuckahoe request to close off Depot Square for their annual Columbus Day Celebration & St. Pio Feast on September 20, 21 and 22, 2013. Event hours on September 20 and 21 is from 5pm to 11pm and on September 22 from noon to 8:00pm. In addition, they request approval for the use of Village streets for two processions – September 20 the procession begins at Assumption Church 7:00pm and end at Depot Square; on September 22, the closing procession will leave Depot Square between 7:00 and 7:30pm and end at the Assumption Church. A further request is made for the use of the Trolley on Friday, September 20 and again on Sunday, September 22 to transport participants from the church to Depot Square and back to the church. Trustee Quigley made a motion to adopt resolution #4; motion was seconded by Trustee Giordano and upon roll call, motion was carried by a vote of 5-0.

RESOLUTION #5 approving payment of vouchers in the amount of \$229,266.42, consisting of Abstract #9 for \$21,227.35, Abstract #11 for \$203,990.05 and Abstract #12 for \$4,049.02. The three largest invoices paid were: (1) \$126,376.99 for medical insurance premiums for the month of September 2013, (2) \$11,673.40 for carpet tiles for the Community Center and (3) \$11,220.00 for yard waste disposal costs for the period January 01 through June 30, 2013. Trustee Giordano made a motion to adopt resolution #5; motion was seconded by Trustee Hayes and upon roll call, motion was carried by a vote of 5-0.

POLICE- Chief Costanzo announced the 10th Annual Community Day scheduled for September 21st.

Mayor Ecklund announced the following:

1. The Farmers Market we be located on Fisher Ave on Sunday, September 22nd
2. Residents Community Meeting- Wednesday, Sept. 25th – 7:00PM-Winslow Circle Park
3. Gold Stars Mothers' Ceremony- Sunday, Sept. 29th – 11:00AM- Main Street Bridge. It will be called the “Gold Star Memorial Bridge”
4. County Shredder- Fisher Lot- Saturday, October 5th 10:00AM-1:00PM
5. Village Board Meeting, Monday, October 7, 2013

► **TRUSTEE** Giordano spoke about the horn blowing of the trains in Crestwood. He is trying to get a collaboration with other communities to get a reduction of noise.

► **TRUSTEE** Quigley gave an update on Library news and made mention that the library has extended its hours. The Chamber of Commerce's golf outing is scheduled for September 30th.

► **TRUSTEE** Luisi gave an update on the Seniors new meeting place.

► **TRUSTEE** Hayes announced the Tree Committee is scheduled to meet next Wednesday, September 18th at 7:30pm here at Village Hall. The latest edition of the Village Newsletter has been completed, it has been posted to the Village's website and will be distributed to all residents this week.

She then reported on the successful 37th annual Tuckahoe Challenge Road Race. A special thank you to the group of volunteers who helped with this event run the smoothest it has in past years, which includes Loretta Cirrencione, Fay Blasi, Kathleen and Sara O'Toole and Dylan Ecklund, who also was the artist,

once again, with the design on the tee shirt. She thanked again the main sponsor, Hudson Valley Bank, and also to both the owners and staff of The Bagel Loft in Crestwood and Swirl and Joy in the Mini Mall, who had water stations set up along the route for the runners. In addition, many of the wonderful Village businesses donated gift certificates, raffles and other sponsorships which without their help this event would not be possible. Proceeds from this event will be donated to the Village's Beautification Committee, Tuckahoe Seniors, EVAC and ECAP. Over the next two weeks we will work with the time keeper of the event to get all of the participants times posted on the website. During the awards ceremony some of the winners in some of the various categories were not present to receive their award; the clerk's office will work on contacting each of these winners to make arrangements for them to come to Village Hall and pick up their award. There was one final award that was not given out yesterday, so we thought it would be a good idea to give it out this evening and it's for our own Village Trustee Steve Quigley! Steve came in 2nd place in his age category and earned a silver medal for his performance. Congratulations!!!

Finally, County Legislature, Sheila Marcotte, asked me to make an announcement about the upcoming Town Yard Sale that she organizes every year with the help of both the Tuckahoe Beautification Committee and the Eastchester Beautification Committee. The Yard Sale will be taking place on Sunday, September 29th at Lake Isle from 10am - 4pm.

If you would like to participate and become a vendor, the application will be posted on the Village website this week or you can email: townyardsale@yahoo.com for further details.

► MAYOR Ecklund gave an update on the Underground Crestwood Utility Project.

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

Susan Ciamarra, Village Clerk