

Minutes of the Village Board Meeting held at Town Hall on September 24, 2015 at 7PM

Present: Michael Queenan, Mayor
Neil Crouse, Timothy Egan, Thomas Flood and David Sutz, Trustees

Absent: None

Also Present: Dennis Lynch, Attorney for the Village; Jessica McClennan, Deputy Village Clerk; Sandra Capriglione, Zoning Board

I. Public Hearing:

a. Introductory Local Law – Fill:

A public hearing was held to entertain public comments on Introductory Local Law 3 of 2015 entitled “Fill” to create a new Chapter 149 of the Village Code which will control fill material being placed on residential and commercial properties in the Village of Woodbury. The public notice was printed in the Times Herald Record on September 17, 2015 and the following comments were received:

NOTE – During the public hearing Attorney Lynch stressed this law will not supersede State, County or any other local laws. He also noted that when a law is enacted comments made during the public hearing are taken into consideration when an interpretation is needed. He also noted that principal of law states that what is not included is deemed to be excluded. He also reminded the Board and public the law could always be amended in the future if the need arises.

Amidee Haviland asked for clarification on the definition of “clean fill” and it was provided to him. He then asked if the law pertains to a specific quantity of fill and Mayor Queenan stated he spoke with Building Inspector Thomasberger about that and was told it pertains specifically to when a portion of a property is being “filled”, it does not pertain to topsoil or other landscaping materials. Mr. Haviland suggested that wording be included in the law so that it is clear. Attorney Lynch stated he believes there is no doubt that the law would allow residents to transport into Woodbury landscaping supplies such as topsoil and decorative stone. Mr. Haviland again stated that based on his experience he feels that these issues should be clarified in the law. Mayor Queenan stated the law is being implemented to help protect the welfare of the residents. He added that the law provides an avenue for those that need to transport fill into Woodbury to obtain a permit to do so, which will be a safeguard to protect our community and residents.

Mike Kizun thanked the Board for looking into this situation but feels that the old law is already sufficient. Mayor Queenan clarified that this law will not change existing laws. Mr. Kizun noted he would like to help the Board with some of the terms used in the proposed law due to how the current law has been interpreted in relation to the Highland Sand & Gravel C&D (“HS&G C&D”) application. In construction terminology the phrase “to place” means permanently and the phrase “to store” means temporarily. Proposed Section 149-4 uses the phrase “to place” and he feels this can get the community in trouble in the future. Attorney Lynch stated the common, ordinary definition of a word is used in laws. Mr. Kizun stated for the HS&G C&D application the Board has interpreted the definition of “dumping” to meaning something other than what was intended and Mayor Queenan corrected this statement by clarifying that the Village Board has never made such a determination, it was done so by the Zoning Board and/or Planning Board. Trustee Crouse asked Mr. Kizun what his suggestion would be for the wording instead of what was proposed and Mr. Kizun stated he would need more time to prepare one. Trustee Crouse added that he was on the Village Board when the definition of “dumping” was created in the law and he feels it has been misused over the past few months. The intent was to prohibit construction materials and other such debris from being dumped and buried in fields. It was not the intent to include processed materials. Mr. Kizun stated the proposed law pertains to residential and commercial properties so he would like to know what HS&G would be classified as. Trustee Crouse stated it is his opinion that HS&G would not fall under this law since they are processing materials, not

Trustee Crouse	NO
Trustee Egan	YES
Trustee Flood	YES
Trustee Sutz	YES

Trustee Crouse stated he feels a lot of information was presented this evening and he would like to have time to review/analyze it and compare it to Chapter 124.

II. Presentation – Recognition of Community Generosity:

Colleen Pearce, owner/operator of Jay’s Deli in Highland Mills, was recognized for her generosity to the Woodbury community. Mayor Queenan stated Mrs. Pearce is always “ready to step-up to the plate and help by sponsoring an event or organizations. Colleen is a kindhearted person who never seeks recognition or praise. She has and continues to be very supportive of our Village and Town especially our municipal workers and volunteers.” Unfortunately, Mrs. Pearce was unable to attend the meeting due to her duties at her deli but the Board announced that she has been bestowed the “Key to the Village” and they will bring it to her after the meeting adjourns this evening.

III. Administrative Business:

a. Acceptance of Minutes:

Motion was offered by Trustee Egan, seconded by Trustee Flood, to accept the minutes of the regular meeting held September 8, 2015.

ADOPTED AYES 5 Queenan, Crouse, Egan, Flood, Sutz
 NOES 0

b. Approval of Abstract:

Motion was offered by Trustee Crouse, seconded by Trustee Flood, to approve Abstract 8 containing vouchers 150448 – 150530 (voiding check #13927) and totaling \$285,396.69.

ADOPTED AYES 5 Queenan, Crouse, Egan, Flood, Sutz
 NOES 0

c. Use of Building Requests:

Motion was offered by Trustee Egan, seconded by Trustee Sutz, to approve a request to use the meeting room received from the Woodbury Girl Scouts for their monthly evening leadership meetings for the following dates: 2015 - October 1, November 18; 2016 - January 21, February 24, March 17 and April 20.

ADOPTED AYES 5 Queenan, Crouse, Egan, Flood, Sutz
 NOES 0

Motion was then offered by Trustee Crouse, seconded by Trustee Sutz, to approve a request to use the meeting room received from the John P Burke Memorial Committee for November 14, 2015, 5PM-9PM for their annual pasta dinner fundraiser.

ADOPTED AYES 5 Queenan, Crouse, Egan, Flood, Sutz
 NOES 0

Motion was then offered by Trustee Egan, seconded by Trustee Crouse, to approve a request to use the meeting room received from firefighter Michael Hanson for October 18, 2015, 2PM-6PM, for a family event.

ADOPTED AYES 5 Queenan, Crouse, Egan, Flood, Sutz
 NOES 0

d. Acceptance of Resignation – Stephen Deutsch:

Motion was offered by Trustee Sutz, seconded by Trustee Egan, to accept, with regrets, the resignation of Stephen Deutsch as site inspector engineer for the Village of Woodbury effective October 16, 2015.

ADOPTED AYES 5 Queenan, Crouse, Egan, Flood, Sutz
 NOES 0

Mayor Queenan noted that Mr. Deutsch has been a “fixture in the Town and Village of Woodbury for more than 48 years. He served in many capacities over the years including Town Engineer, Zoning and Building Inspector, Deputy Town Clerk, Natural Disaster Coordinator, Woodbury representative on the Monroe Woodbury Harriman Regional Planning Board, Consulting Engineer and last but not least Site Work Engineer Inspector.” The Village Board then bestowed upon Mr. Deutsch the “Key to the Village”. Mr. Deutsch then spoke about the time he served, the changes he has witnessed and the people he has had the honor to work with.

IV. Old Business:

EXTRA ITEM – Authorize Mayor to Sign Engagement Letter:

Motion was offered by Trustee Egan, seconded by Trustee Sutz, to authorize the Mayor to sign an engagement letter with Bryan Cave LLP to serve as the Village’s Special Litigation Counsel.

ADOPTED AYES 5 Queenan, Crouse, Egan, Flood, Sutz
 NOES 0

EXTRA ITEM – Resolution Authorizing the Filing of Litigation:

Motion was offered by Trustee Crouse, seconded by Trustee Egan, to adopt the following resolution authorizing the filing of litigation:

WHEREAS, the Village of Woodbury, New York (“Village”) from time to time must initiate the filing of litigation as authorized by the Village Board of Trustees (“Board”) to protect the interests of Village residents; and

WHEREAS, the Board has reviewed the facts and circumstances regarding the recent Annexation Petitions that were filed to annex property from the Town of Monroe into the Village of Kiryas Joel, New York; and

WHEREAS, the Board has received information from Professionals retained by the Village regarding the lack of compliance in that Annexation process with New York State laws, rules and regulations; and

WHEREAS, the Board after consultation with Village Professionals has determined that the initiation of all appropriate litigation is necessary to have all appropriate Courts review the legality of issues with regard to the Annexation Petitions and the recent actions by the Town of Monroe and the Village of Kiryas Joel regarding reviewing those Petitions and granting certain approvals; and

WHEREAS, the Village Board has determined that the initiation of all appropriate and required litigations as determined by Special Counsel for the Village, Feerick Lynch MacCartney, Esqs. as well as Special Litigation Counsel to the Village, Bryan Cave, LLP, is required and shall be initiated in all appropriate Courts and on all issues as deemed necessary by either of said Special Counsel without the need for further Board approvals; and

WHEREAS, the Board has entered into an appropriate agreements for the filing of said litigation with the aforementioned Attorneys to protect the interest of Village residents to be certain all laws, rules and regulations have been complied with in the Annexation process and matters relating directly and indirectly to the Annexation process, including but not limited to, issues regarding environmental impacts, compliance with the General Municipal Law, compliance with all Federal Laws as well as compliance with all constitutional requirements concerning the Annexation process and land use issues impacting upon the Village and its residents resulting from any issues surrounding the plans for

Annexation either directly or indirectly; as well as other litigation challenges deemed appropriate by either of the aforementioned Special Counsels for the Village.

NOW, THEREFORE, it is Resolved as follows:

1. All "WHEREAS" paragraphs are incorporated herein by reference as though set forth in full herein.
2. The aforementioned Special Counsels are hereby authorized to initiate any and all litigations required to be certain that all State and Federal laws, rules and regulations are adhered to and said Special Counsels shall be compensated for said services at the agreed upon rates set forth in the Village records concerning the same.
3. The Village Mayor is authorized to execute all pleadings and other documents necessary to effectuate the purposes of this Resolution.
4. This Resolution shall take place effective immediately.

ADOPTED AYES 5 Queenan, Crouse, Egan, Flood, Sutz
 NOES 0

V. New Business

a. Resolution – Tax Re-Levy for Previously Exemption Eligible Property:

Motion was offered by Trustee Sutz, seconded by Trustee Flood, to adopt the following resolution to re-levy a prorated tax amount due on property located at 9 Falkirk Avenue, Central Valley (Section 231, Block 2, Lot 7) that was previously eligible for an age exemption:

WHEREAS, on July 15, 2015, the owner of 9 Falkirk Avenue, Central Valley, passed away; and

WHEREAS, the owner of the property was eligible for an age exemption on her property taxes and upon her death this exemption must be removed; and

WHEREAS, notification was received by the Village Clerk on August 18, 2015 from the Woodbury Assessor that the prorated amount that needs to be re-levied onto the FY16/17 taxes for this property is \$126.29.

NOW THEREFORE, BE IT

RESOLVED that the Village Board directs the Village Clerk, Village Tax Collector and any other Village official, employee or agent of the Village to take any and all necessary actions to levy and collect the amount of \$126.29 upon the affected land in the same manner as all other Village Charges and to take any necessary actions to execute and record a lien upon such land.

ADOPTED AYES 5 Queenan, Crouse, Egan, Flood, Sutz
 NOES 0

VI. Public Comment:

Carol Mullally stated there was a report on New 12 that Country Crossings Water Company was having problem with their water possibly being contaminated. She understands the water company is privately owned but was curious as to what type of enforcement the Village has. Trustee Crouse stated he has spoken to residents in the development and he was informed the OCDOH has tested the water and has found no contamination. There is nothing the Village can do to a private water company. Trustee Egan stated the Board is concerned about the situation and they have been monitoring it by speaking to residents. Mayor Queenan added the OCDOH would be the enforcement agency. Mrs. Mullally then asked if that water company was connected to any public wells and she was told it was not connected to any Woodbury municipal water wells.

VII. Board Member Comments:

Trustee Sutz reminded everyone that the Woodbury Chamber of Commerce will be hosting their annual "Trunk of Treat" for Halloween.

Trustee Egan announced that last week the Highland Mills Fire Company held their annual awards dinner. Thomas Lakis was awarded "Firefighter of the Year" and Zachory Egan was named "Junior Firefighter of the Year".

VIII. Adjournment:

With no further comments received or business to discuss, a motion was offered by Trustee Egan, seconded by Trustee Flood, to adjourn the meeting at 8:05PM.

ADOPTED AYES 5 Queenan, Crouse, Egan, Flood, Sutz
 NOES 0

Desiree Potvin, Village Clerk

**VILLAGE OF WOODBURY
INTRODUCTORY LOCAL LAW 3 OF 2015**

**A LOCAL LAW CREATING A NEW CHAPTER 149 OF THE CODE OF THE VILLAGE OF WOODBURY
ENTITLED "FILL" TO CONTROL FILL MATERIAL BEING PLACED ON RESIDENTIAL AND COMMERCIAL
PROPERTIES IN THE VILLAGE OF WOODBURY.**

BE IT ENACTED by the Village Board of Trustees the Village of Woodbury, Orange County, New York, as follows:

SECTION 1. Chapter 149 is hereby enacted as follows:

Chapter 149 - Fill

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| § 149-1. Legislative intent. | § 149-6. Village Board approval required. |
| § 149-2. Findings. | § 149-7. Enforcement. |
| § 149-3. Definitions. | § 149-8. Penalties for offenses. |
| § 149-4. Prohibited acts. | § 149-9. Conflicts with other laws. |
| § 149-5. Permit required. | |

§149-1 Legislative Intent

It is the intent of this chapter to protect the general health, safety and welfare of the people of the Village of Woodbury and its natural resources by controlling fill material being placed on residential and commercial properties in the Village of Woodbury.

§149-2 Finding

The Village Board has found that persons with properties within the Village have been permitting the dumping of fill material that has been determined to be unsuitable for the use of clean fill. The Village Board has determined the need to control and prohibit such activity as it deems necessary to protect such properties and to protect the natural resources located within the Village. The Village Board finds it necessary to enact such legislation which shall afford such protection.

§149-3 Definitions

CLEAN FILL - A combination of dirt and natural rock, stone or gravel that has not been processed or altered from its natural state

PROCESSED FILL - Any material that has been crushed, sifted, or processed by machinery

CONSTRUCTION AND DEMOLITION (C & D) MATERIAL - Any material that has been used for other purposes in the use of building or construction which has been removed such as, but not limited to, brick, block, concrete, asphalt, pavers, wood, roofing material, steel, sheetrock, etc.

§149-4 Prohibited Acts

It shall be prohibited to place or bury any construction and demolition material on any lot within the Village of Woodbury. Furthermore, it shall be prohibited to place or bury any processed fill unless in conjunction with the building or construction of a building, roadway, drainage, or driveway.

§149-5 Permit Required

It shall be required that placement of only clean fill is permitted and that only clean fill that is taken from within the Village of Woodbury is permitted to be used. A Building Permit is required to place fill on any premises in accordance with established procedure.

§149-6 Village Board Approval Required

Any person, owner, occupant that wishes to place clean fill within the Village limits where-as such fill is obtained or located outside Village limits must secure approval from the Village Board. The Village Board may require that an independent inspector be on-site during the duration of the placement of such clean fill material to inspect and test the material. All expenses to conduct such inspection and testing shall be paid by the applicant by means of posting a deposit in escrow that will be used to pay invoices associated with said inspections. An estimate will be prepared by the Village and must be posted prior to a building permit being issued. Should the escrow become in default, a “stop work” order will be issued until replenishment is made.

§149-7 Enforcement

Enforcement of this Chapter shall be conducted by the Village Code Enforcement Officer and/or the Assistant Code Enforcement Officer.

§149-8 Penalties for Offences

Any person, contractor, corporation committing an offence against any provision of this Chapter shall upon conviction, be guilty of a violation pursuant to penal law of the State of New York punishable by a fine of \$500.00 per day or by imprisonment of a term not exceeding 15 days or both.

§149-9 Conflicts with Other Laws

To the extent that the Federal, State, or County law is more restrictive, the more restrictive laws shall govern control.

SECTION 2

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 3 Effective date.

This local law shall take effect immediately upon filing with the Secretary of State in Albany.