

Minutes of the Village Board Meeting held at Town Hall on October 27, 2016 at 7PM

Present: Michael Queenan, Mayor
Neil Crouse, Timothy Egan, Thomas Flood and Anthony Mickolajczyk, Trustees
Absent: None
Also Present: Robert Weyant, Village Streets Superintendent; Scott McClennan, Fire Chief; Robert Hunter, Town Council

I. Public Hearings:

a. Introductory Local Law 5 - Filming and Video Productions:

A public hearing was held to entertain comments on Introductory Local Law 5 of 2016 entitled "Filming and Video Productions". The purpose of this law is to encourage and facilitate film and video production activities at locations in Woodbury because of the economic value such activities can bring to the businesses within the Village. However, the Board of Trustees recognizes that provision must be made for the safety of the public and the welfare of the Woodbury residents. The public notice was printed in the Times Herald Record on October 22, 2016. No comments were received.

Motion was offered by Trustee Crouse, seconded by Trustee Flood, to close the public hearing.

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

Motion was then offered by Trustee Crouse, seconded by Trustee Mickolajczyk, to adopt Local Law 4 of 2016 entitled "Filming and Video Productions" as printed at the end of these minutes.

ADOPTED BY ROLL CALL AS FOLLOWS:

Mayor Queenan	AYES
Trustee Crouse	AYES
Trustee Egan	AYES
Trustee Flood	AYES
Trustee Mickolajczyk	AYES

b. Introductory Local Law 6 - Double Utility Poles, Removal of:

A public hearing was held to entertain comments on Introductory Local Law 6 of 2016 entitled "Double Utility Poles, Removal of". The purpose of this law is to require utilities that use Village highways, streets, roads and rights-of-way to promptly remove their plants, cables, lines, equipment and terminals from old and damaged poles and to further require the prompt removal of double poles once all plants, cables, lines, equipment and terminals have been removed. The public notice was printed in the Times Herald Record on October 22, 2016. No comments were received.

Motion was offered by Trustee Egan, seconded by Trustee Flood, to close the public hearing.

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

Motion was then offered by Trustee Egan, seconded by Trustee Flood, to adopt Local Law 5 of 2016 entitled "Double Utility Poles, Removal of" as printed at the end of these minutes.

ADOPTED BY ROLL CALL AS FOLLOWS:

Mayor Queenan	AYES
Trustee Crouse	AYES
Trustee Egan	AYES
Trustee Flood	AYES
Trustee Mickolajczyk	AYES

II. Administrative Business:

a. Acceptance of Minutes:

Motion was offered by Trustee Crouse, seconded by Trustee Flood, to accept the minutes of the regular meeting held October 13, 2016.

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

b. Approval of Abstract:

Motion was offered by Trustee Mickolajczyk, seconded by Trustee Crouse, to approve Abstract 10 containing vouchers 160895 – 160974 and totaling \$543,909.84.

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

c. Fire Department Equipment Requests:

Motion was offered by Trustee Egan, seconded by Trustee Mickolajczyk, to approve Fire Department Equipment Request 2016-23 totaling approximately \$1960.00 for the purchase of a calibration system for existing multi-gas meters; 2016-24 totaling approximately \$2801.63 and 2016-25 totaling approximately \$998 for the purchase of iPad’s, docking stations, mount kits and wireless antenna to allow connection to occupancy premises information database and Active911 database during incidents.

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

EXTRA ITEM - Use of Building Request:

Motion was offered by Trustee Mickolajczyk, seconded by Trustee Crouse, to approve a request to use the meeting room on November 19, 2016 by the John P Burke Memorial Committee for them to hold their annual pasta dinner fundraiser, 4PM - 10PM.

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

III. Old Business:

a. Discussion - Towing Law Amendments:

Based on comments received at the public hearing held on October 13, amendments have been made to the law and presented to the Board for consideration. The Attorney has opined that the changes being proposed are not substantial so a new public hearing is not required. The Board discussed the changes suggested and reached an agreement. Clerk Potvin will make the amendments as discussed and have a final version prepared for the Board to vote upon at the November 10 meeting.

EXTRA ITEM – Allocation of Funds for Litigation:

Motion was offered by Trustee Crouse, seconded by Trustee Mickolajczyk, to allocate \$25,000 to fund the current litigation Village of Woodbury, Town of Woodbury et al against Village of Kiryas Joel, Town of Monroe et al.

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

IV. New Business:

a. Schedule Public Hearing - Acceptance of Apple Hill Drive

Motion was offered by Trustee Flood, seconded by Trustee Egan, to schedule a public hearing to be held at 7PM on November 10, 2016 to entertain public comments on the offer of dedication of Apple Hill Drive.

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

Motion was then offered by Trustee Crouse, seconded by Trustee Mickolajczyk, to declare the Village of Woodbury Board of Trustees as Lead Agency under SEQRA for this application, to type the action as unlisted and to make a determination of significance as a negative declaration.

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

b. Streetlight Installation Proposal - DeSanctis Drive:

A request was received from the residents of DeSanctis Drive for streetlights to be placed on their road since there currently are none. A proposal was received from Orange & Rockland and since there are already poles on the street, the only cost to the Village would be the monthly usage. Therefore, a motion was offered by Trustee Egan, seconded by Trustee Flood, to authorize the Mayor to sign the proposal from Orange & Rockland to install three 70 watt LED streetlights on DeSanctis Drive.

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

EXTRA ITEM - Authorize Mayor to Sign Agreement:

Motion was offered by Trustee Egan, seconded by Trustee Crouse, to authorize the Mayor to sign an agreement with Christine Sattler for the Village to repair damage done to her property due to a water main break that occurred on July 21, 2016 for which the insurance company denied coverage.

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

V. Public Comment:

Robin Crouse thanked the Board for allocated the funds to continue the litigation and for protecting the residents to the extent possible.

VI. Board Member/Department Comment:

Trustee Mickolajczyk congratulated Superintendent Weyant on his permanent appointment to Village Streets Superintendent. He thanked him and the department for the terrific job they do. He then reminded the public that Election Day is November 8 and urged all to exercise their constitutional right to vote. Trustee Crouse reminded all that Halloween is next week and he urged all motorists to drive carefully while children are trick or treating. He also noted the Chamber's Trunk or Treat at Smith Clove Elementary is scheduled for Halloween night. Trustee Egan reiterated what Trustee Crouse said about driving safe at night as it gets darker earlier now. He urged all to drive slow and with caution. Mayor Queenan wished all a very happy and safe Halloween.

VII. Adjournment:

With no further comments received or business to discuss, a motion was offered by Trustee Mickolajczyk, seconded by Trustee Egan, to adjourn the meeting at 7:30PM.

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

Desiree Potvin, Village Clerk

Local Law #4 of 2016

A LOCAL LAW CREATING A NEW CHAPTER 150 OF THE VILLAGE CODE ENTITLED "FILM AND VIDEO PRODUCTIONS".

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

SECTION 1.

Chapter 150 of the Code of the Village of Woodbury is hereby created as following:

CHAPTER 150 - FILMING AND VIDEO PRODUCTIONS

- §150-1** Legislative Intent
- §150-2** Filming on Private Property
- §150-3** Filming on Public Property
- §150-4** Use of Town Employees
- §150-5** Previous Offenses
- §150-6** Fees
- §150-7** Penalties for Offenses

§150-1 Legislative Intent

The Village wishes to encourage and facilitate film and video production activities at locations in Woodbury because of the economic value such activities can bring to the businesses within the Village. However, the Board of Trustees recognizes that provision must be made for the safety of the public and the welfare of the Woodbury residents.

§150-2 Filming on Private Property

- A. No movie, television or internet program or advertisement, documentary or similar audio/visual production, or any portion thereof, shall be filmed, videotaped or recorded in any media format or otherwise made (hereinafter collectively described as "Filming") on any private property in the Village of Woodbury without first obtaining a permit from the Village. Filming is subject to the following conditions:
 - 1) The property must be of adequate size.
 - 2) No heavy equipment shall be permitted on septic tanks or leach fields.
 - 3) All vehicles and equipment associated with the filming must be contained on the site or arrangements made to lawfully park vehicles off site.
- B. Application for a permit shall be submitted on a form provided by the Village Clerk.
- C. Permit applications must be submitted at least 30 days prior to the date any on-site activity in connection with Filming is proposed to be commenced.
- D. Operational limitations:
 - 1) Filming shall not be conducted at the same location (i.e., in the same building or at the same street address) more than 30 consecutive days within any twelve-month period.
 - 2) No applicant shall allow any filming for which a permit has been issued to be conducted prior to 8:00AM or after 10:00PM unless otherwise expressly approved by the Mayor.
 - 3) No applicant shall allow equipment used in connection with such filming, including but not limited to lights, generators and related equipment, to be set up or operated at the location described in the permit application prior to 7:00AM or after 10:00PM unless otherwise expressly approved by the Mayor.

- 4) The Board of Trustees may, in its discretion, waive any of the restrictions in this subsection if in the public interest, and shall be permitted to impose reasonable conditions in doing so.
- E. The Board of Trustees shall have the authority to approve or disapprove an application for a permit and to establish such conditions for filming as deemed necessary to protect the health, safety and welfare of the residents of the Woodbury.
- F. A certificate of insurance must be submitted with the application, naming the Village of Woodbury as an additional insured in the following minimum amounts:
 - 1) Property damage: \$2,000,000 per individual; \$2,000,000 per occurrence; and
 - 2) Personal injury: \$2,000,000 per individual; \$2,000,000 per occurrence.

§150-3 Filming on Public Property

- A. No filming may be made on any public property in the Village of Woodbury without first obtaining a permit from the Village. A permit shall be required for the running of cable, the placing or storing of equipment of any kind, the parking of vehicles or any other Film-related activity on any public property or any other use of public property for the purpose of making audio/visual productions.
- B. Application for a permit shall be submitted to the Village Clerk on a form provided by the Village Clerk.
- C. Permit applications must be submitted at least 30 days prior to the date any on-site activity in connection with filming is proposed to be commenced.
- D. A certificate of insurance must be submitted with the application, naming the Village of Woodbury as an additional insured in the following minimum amounts:
 - 1) Property damage: \$2,000,000 per individual; \$2,000,000 per occurrence; and
 - 2) Personal injury: \$2,000,000 per individual; \$2,000,000 per occurrence.
- E. Operational limitations:
 - 1) No applicant shall allow any filming for which a permit has been issued to be conducted prior to 8:00AM or after 10:00PM.
 - 2) No applicant shall allow any equipment used in connection with such filming, including but not limited to lights, generators and related equipment, to be set up or operated at the location described in the permit application prior to 8:00AM or after 10:00PM.
- F. The Board of Trustees shall have the authority to approve or disapprove an application for a permit and to establish such conditions for filming as deemed necessary to protect the health, safety and welfare of the residents of Woodbury. The Board of Trustees may extend the hours of filming on public property, subject to any conditions and additional fees deemed necessary and appropriate.

§150-4 Use of Town/Village Employees

- A. Applicants shall be responsible for all costs incurred by the Town of Woodbury in assigning police or other Town employees to facilitate or monitor the Filming process.
- B. Applicants shall be responsible for all costs incurred by the Village of Woodbury in assigning Village employees to facilitate or monitor the Filming process.
- C. The decision to assign Town employees shall be at the discretion of the Town of Woodbury Town Board.
- D. The decision to assign Village employees shall be at the discretion of the Mayor, in consultation with the Department Heads.
- E. Provisions for billing and collection of costs shall be determined at the time of the issuance of the permit.

§150-5 Previous Offenses

Notwithstanding any section of this Chapter, no applicant who has been previously convicted of a violation of this Chapter shall be granted a permit hereunder for a period of 18 months from the date of such conviction.

§150-6 Fees

- A. Fees shall be adopted by resolution of the Board of Trustees for:
 - 1) Filming by or for a not-for-profit organization or the filming of a documentary, for each day, on either private or public property - \$100 per day.
 - 2) Filming by a production company by or for a for-profit entity, for each day, on either private or public property - \$250 per day.
- B. The Board of Trustees may revise the fees due under this Chapter by resolution.

§150-7 Penalties for offenses

- A. Any person who violates the provisions set forth in this Chapter shall be subject to a fine of not more than \$250 per day for each day that the violation continues and/or imprisonment not to exceed 15 days.
- B. The imposition of such penalty shall not be the Village's exclusive remedy in the event of a violation of this Chapter. The Village may pursue any and all other legal or equitable remedies available in connection with any violation of this Chapter.

§150-8 Exceptions

- A. A property owner may conduct Filming on his/her own property, or permit an invited guest to do so, provided that it is not undertaken for a commercial or for-profit purpose.
- B. Television or Internet based news organizations may record news events without the need for a permit from the Village.
- C. Recording of municipal public meetings, consistent with New York State Open Meetings Law and Village polices, are allowed without the need for a permit from the Village.

SECTION 2. Savings Clause

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 Superseding Provision

To the extent that any State or local laws fail to provide specific authority for this Local Law or the procedures necessary for its adoption, or otherwise appear to be in conflict with this Local Law or the procedures followed for its adoption, then such laws are hereby superseded by this Local Law pursuant to New York Municipal Home Rule Law and the common law.

SECTION 4. Effective date.

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

Local Law #5 of 2016

A LOCAL LAW CREATING A NEW CHAPTER 122 OF THE VILLAGE CODE ENTITLED "DOUBLE UTILITY POLES, REMOVAL OF".

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

SECTION 1.

Chapter 122 of the Code of the Village of Woodbury is hereby created as follows:

CHAPTER 122 – DOUBLE UTILITY POLES, REMOVAL OF

- §122-1** Legislative intent
- §122-2** Definitions
- §122-3** Permit requirements
- §122-4** Department notification, timeframe for removal
- §122-5** Extensions authorized, temporary emergency suspension
- §122-6** Penalties for offenses
- §122-7** Applicability

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**§122-1 Legislative intent.**

The Board of Trustees hereby finds and determines that:

- a) Public utility companies place poles on Woodbury highways, streets, roads and rights-of-way to facilitate the delivery of electric, telephone, cable television and other telecommunications services to the residents of Woodbury;
- b) Local governments have the authority to regulate their highways, streets, roads and right-of-way to protect the public;
- c) Utility poles are damaged from time to time;
- d) Public safety can be compromised when utility lines and equipment remain affixed to utility poles that are weathered or otherwise damaged;
- e) When a new pole is installed, a utility's delay in removing lines and equipment from old poles also delays the removal of the pole itself, which causes a proliferation of aesthetically unpleasant double poles along highways, streets, roads and right-of-ways, as well as obstructing the paths of pedestrians;
- f) The interest of the public is best served by cooperation and communication between public utilities and the Village Board;
- g) Therefore, the purpose of this Chapter is to require utilities that use Village highways, streets, roads and rights-of-way to promptly remove their plants, cables, lines, equipment and terminals from old and damaged poles and to further require the prompt removal of double poles once all plants, cables, lines, equipment and terminals have been removed.

**§122-2 Definitions.**

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

*DANGEROUS/DAMAGED POLE* Any utility pole that is structurally compromised due to weather, a traffic incident and/or age and poses a potential threat to public safety.

*DOUBLE POLE* Any old utility pole which is attached or in close proximity to a new utility pole.

*PLANT* The cables, terminals, conductors and other fixtures necessary for transmitting electric, telephone, cable television or other telecommunications service.

*PUBLIC UTILITY* Any utility company or public utility company that is subject to the jurisdiction, supervision and regulations of the New York State Public Service Commission.

*UTILITY POLE* A column or post used to support services lines for a public utility.

*VILLAGE STREETS SUPERINTENDENT or SUPERINTENDENT* The Village of Woodbury Village Streets Superintendent or his/her designee.

*WRITTEN NOTIFICATION/WRITTEN NOTICE* A writing directed to a representative of a public utility, who may be designated by the utility to receive such notice, sent by regular mail, facsimile transmission or electronic mail.

**§122-3 Permit requirements.**

No person, firm or corporation subject to the jurisdiction and regulation of the New York State Public Service Commission ("PSC") shall place or erect any pole for any purpose on any Village highway, street, road or right-of-way, or change the location of any existing pole on any Village highway, street, road or right-of-way, without first having provided notification to the Village through the required and accepted PSC electronic notification system being utilized by said utilities.

**§122-4 Department notification; timeframe for removal.**

- A. When the Village Streets Superintendent is properly notified of the pending installation of a utility pole which is directly next to or in close proximity to another utility pole on a Village highway, street, road or right-of-way, the Superintendent will provide written notice to the public utility which has the top plant on the double pole that the plant must be removed within 30 days or be subject to penalty. Upon the removal of each plant, the Superintendent shall provide written notice to the public utility that owns the subsequent plant on the pole that the plant must be removed within 30 days or be subject to penalty. The last utility to remove its plant is responsible for removing the double pole within an additional 30 days. Failure to comply with the requirements of this provision may result in penalties as provided for in **§122-6** of this Chapter.
- B. When the Village Streets Superintendent determines that a utility pole on a Village highway, street, road or right-of-way is damaged and poses a potential threat to public safety, the Superintendent shall provide written notice to any public utility with a plant on the damaged pole that it must remove its plant from the pole within 15 days or be subject to a penalty as provided for in **§122-6** of this Chapter. The last utility to remove its plant is responsible for removing the double pole. Failure to comply with the requirements of this provision may result in penalties as provided for in **§122-6** of this Chapter. The affected utility may present documentary evidence to the Village in the form of a report from a licensed engineer certifying



that the plant and/or pole is not a threat to public safety within ten (10) days from the date of the Superintendent's notification. In the event that the Superintendent is satisfied that the plant and/or pole no longer poses a threat to public safety, he/she shall have the discretion to withdraw the removal notice.

- C. When the Village Streets Superintendent determines that a double pole is on a Village highway, street, road or right-of-way, the Superintendent will provide written notice to the public utility which has the top plant on the double pole that the plant must be removed within 30 days or be subject to a penalty as provided in **§122-6** of this Chapter. Upon removal of each plant, the Superintendent shall provide written notice to the public utility that owns the subsequent plant on the pole that the plant must be removed within 30 days or be subject to a penalty as provided in **§122-6** of this Chapter. The last utility to remove its plant is responsible for removing the double pole within an additional 60 days. Failure to comply with the requirements of this provision may result in penalties as provided for in **§122-6** for this Chapter.

**§122-5 Extension, authorized; temporary emergency suspension.**

- A. Notwithstanding any provisions of this Chapter to the contrary, the Village Streets Superintendent may extend the timeframe of any written notice provided under this Chapter for an additional period not exceeding the original statutory timeframe set forth in this Chapter. The public utility shall make a request for an extension in writing to the Superintendent prior to the expiration of the timeframe contained in the original written notice, together with the basis for the request. The Superintendent shall determine whether the request for extension should be granted or denied, and provide a written response to the public utility. In such instances where the request is granted, the Superintendent shall issue another written notice, which shall then be applicable instead of the previously issued notice.
- B. In the event of an emergency that affects the repair, replacement, removal or installation of utility poles or plants, the Village Mayor may temporarily suspend the deadlines in **§122-4** of this Chapter for periods not exceeding 30 days.

**§122-6 Penalties for offenses.**

- A. Any person, firm, corporation or public utility convicted of a violation of the provisions of this Chapter shall be guilty of a violation, and, for a first conviction, punishable by a fine not less than \$500 and not exceeding \$1000; for a second or subsequent conviction, punishable by a fine not less than \$1000 and not exceeding \$2000. Every day that the violation continues shall be deemed a separate violation.
- B. Any public utility found guilty of violating this Chapter and that fails to remove its plant for a damaged pole within 15 days of receiving notification from the Village pursuant to this Chapter, shall be punished by a fine of not less than \$100 and not exceeding \$250 for each such violation. Each day that the violation continues shall be deemed a separate violation. Notwithstanding anything to the contrary contained in this Chapter, no such fines or penalties shall be assessed for violations of this Chapter that occur within six (6) months as a result of natural disasters, major weather events and similar circumstances affecting the Village.
- C. Any public utility that fails to remove a double pole within 90 days of receiving notification from the Village pursuant to this Chapter shall be punishable by a fine of \$1000 per full calendar month that the violation continues.
- D. If a person, firm or corporation or public utility violates the provision of this Chapter, the Village Attorney may commence an action in the name of the Village of Woodbury in a court of competent jurisdiction seeking any remedy provided by law or equity, including any civil and/or

injunction proceeding necessary to enforce compliance and/or enjoin noncompliance with this Chapter. Such action may seek to remove damaged poles and/or double poles, to remove plants from such poles, to impose civil penalties as authorized by this Chapter, to recover costs of the action and such other remedies as may be necessary to prevent or enjoin a dangerous condition from existing on a Village highway, street, road or right-of-way.

**§122-7 Applicability.**

- A. This Chapter shall apply to all utility poles located on any Village highway, street, road or right-of-way, and to all utility poles installed hereafter.
- B. The provisions of this Chapter shall be deemed to supplement applicable State and local laws, ordinances, codes and regulations; and nothing in this Chapter shall be deemed to abolish, impair, supersede or replace existing remedies of the Village, County or State or existing requirements of any other applicable State or local laws, ordinances, codes or regulations. In case of conflict between any provisions of this Chapter and any applicable State or local law, ordinance, code or regulation, the more restrictive or stringent provision or requirement shall prevail.

**SECTION 2. Savings Clause.**

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.