

INCORPORATED VILLAGE OF LAUREL HOLLOW
 BOARD OF TRUSTEES
 PUBLIC HEARING
 February 12, 2020
 7:00 p.m.

VILLAGE HALL
 1492 Laurel Hollow Road
 Syosset, New York 11791-9603

PRESENT: DANIEL DeVITA, Mayor
 JEFFREY NEMSHIN, Deputy Mayor
 KEVIN JUSKO, Trustee
 JEFFREY MIRITELLO, Trustee
 RICHARD NICKLAS, Trustee
 MARTIN NOVICK, Trustee
 NICHOLAS TSAFOS, Trustee

ALSO PRESENT:

HOWARD AVRUTINE, Village Attorney
 ELIZABETH KAYE, Clerk/Treasurer

Introductory Local Law A-2020
 - Amend Chapter 85, Village Code
 Peace and Good Order

Introductory Local Law B-2020
 - Overriding Tax Cap fiscal 2020-2

WENDY SILAS
 OFFICIAL COURT REPORTER

MAYOR DeVITA: Next we'll do the local law amending the chapter of the village code regarding peace and good order and specifically regarding permissible hours for construction and commercial landscaping.

MR. AVRUTINE: Yes. The exhibits in connection with this public hearing are as follows:

First, the affidavit of publication from the North Shore Leader that the legal advertisement was published on January 22, 2020.

The next exhibit is an affidavit from Elizabeth Kaye that the legal notice was posted at the village hall on January 17, 2020.

The next exhibit is an e-mail from the village clerk to the mayor and the board of trustees sent on January 30, 2020 with the local law in final form attached.

The next exhibit is a confirmation that the notice of public hearing was published to the Village of Laurel Hollow website on January 17, 2020.

The next exhibit confirms that the notice of hearing was sent to village website news subscribers on January 21, 2020.

And the final exhibit is a letter from the Nassau County Planning Commission dated January 14,

2020 that the local law is referred to the village to take action as it deems appropriate.

MAYOR DeVITA: So, just briefly, history here is traditionally our village has allowed construction and landscaping to occur six days a week, Monday through Saturday, from 8 a.m. through 6 p.m.

Due to a number of complaints about Saturday construction and the lack of suitable peacetime during the weekend for our residents we -- the board had many, many discussions over a period of months over this issue, including we really, in a rare instance, sent out an e-mail to our residents looking for their input about this because, quite frankly, our board was divided and the way the responses came in so, too, was the village in many ways.

So there were people who opposed changing the hours, there were a number, including myself, who wanted to eliminate Saturday construction and then there were many in between who said let's try cutting back the hours instead of eliminating it all together and that was the compromise that we struck and that's what this ordinance is about.

And on further discussion it seemed that the noise from commercial landscapers on Saturday was also an issue so in order to address that and for reasons of

consistency, this ordinance, the new ordinance, will also cut back commercial landscaping to the hours of. 9 a.m. to 4 p.m. on Saturday as well as those will be the hours for construction on Saturday. So it would have to start an hour later and end two hours earlier. And that's really the genesis of this.

And then we had a number of meetings and members of the public were here about this and at this point the board feels this is the compromise, the solution, that we can address at this point -- that we can deal with. So that's kind of the genesis of this particular ordinance.

Any comments by the board?

MR. NOVICK: We hashed it through. We went through everything.

MAYOR DeVITA: Yes.

Let me ask the audience, anything further on this particular issue?

I know we had a lot of audience participation. Okay.

Anything else?

MR. AVRUTINE: I would just like the record to reflect that this matter is Type II under the New York State Environmental Quality Review Act requiring no further environmental review.

Can I have a motion to close the public hearing?

MAYOR DeVITA: Motion to close the public hearing -- wait, hold on.

MR. O'HARA: Just one last thing.
Ray O'Hara.

Some of you may remember, I was here with my wife Theresa a few weeks ago and we had discussed this and some may recall her passion towards this. I don't have the same passion, but she is my wife so I'm here representing both of us.

She didn't want to come because last time she felt she was frustrated. She asked me to either hand this to you to have you read it or I can read it or we can send it to the folks up there by e-mail or something like that.

MAYOR DeVITA: You can do both.

MR. O'HARA: Whatever you guys want.

MAYOR DeVITA: I can read it and she can send it, e-mail it, to the village. I'm happy to read it and make it part of the record.

Now, is it more about this ordinance or the issues at 32 Hilltop?

MR. O'HARA: I believe it hinges on both, but probably more the issues we're having now.

And, first of all, thank you for diminishing the work on Saturday, but I think some of the things she says in here will address that as well in that it's fine to change the law to lessen the hours, let's say, on a Saturday, but if there's no way of enforcing that it's kind of mute. So that is the point here.

I can certainly wait until later on and read it when you think it's appropriate, but I wanted to at least bring it up.

MAYOR DeVITA: Look, we can --

MR. AVRUTINE: I would recommend it be made part of the record either by being read in or just simply submit it.

MR. O'HARA: Again, it refers to both.

MAYOR DeVITA: It's okay, we can also discuss it later, later when the issue comes up. It's not a public hearing, but we can still bring it up.

The important part is to make that part of this hearing so it will be part of the official passing of this ordinance.

MR. O'HARA: Thank you.

(Shown to Mayor.)

MR. O'HARA: Dan, I don't expect you to read it with with the passion with which it was written, okay?

MAYOR DeVITA: I know. I get the texts.

MR. O'HARA: An Irish guy married an Italian girl.

MAYOR DeVITA: I understand that.

MR. O'HARA: It's what it is.

MAYOR DeVITA: What I'll do, Ray -- did Theresa really want it read out loud?

If that's the case I'll just read it, otherwise I'll submit it as part of the record, but if she would rather it be out loud I'll read it. Let's just read it then --

MR. O'HARA: There's no curse words.

MAYOR DeVITA: I know. It deals with this issue, but also other issues, ongoing construction issues, which was Theresa's argument, kind of, anyway.

MR. O'HARA: Dan, she'll go into it in great detail there, but basically to give you a little bit of a history, we live at 44 Picardy across the way from Dan and some next-door neighbors were doing construction for about four years. They kind of got away with murder, so to speak, working Sundays working late at night, and we felt as though even though we were complaining they just blew us away, blew the neighborhood away.

They were done, now there's a construction

right next to us. They seem to be doing the exact same thing. Even though there's laws and ordinances in place they just totally disregard it. It was as late as today.

So she's frustrated. Truthfully, I go to work so I don't hear it, she's home she does hear it, so while I don't agree with everything, it's not --

MAYOR DeVITA: No, I get it.

MR. O'HARA: It's crazy.

MAYOR DeVITA: You go home and tell her it wasn't read, my phone will be burning up before I get home, so let's just read it and get done.

It's dated February 11, 2020. This is the letter.

"I would like to ask the board to address a few things since the last meeting I attended where I expressed many of the same concerns. I was hoping you could see the frustrations we have had in our neighborhood regarding construction. We have been battling these issues for close to ten years and nothing seems to ever improve.

"The previous problem was at 36 Hilltop where the homeowner and contracted violated countless laws, damaging neighboring properties and had no real consequences. I came and spoke to the board back then

a few years ago and at the time they seemed upset and concerned that all of this had taken place. This particular property's projects, although many had no permits, lasted four years. Four years of calling the police, calling the village and meeting with the building inspector at that time, Anthony DiProperzio, with photos and countless violations. Nothing has improved since then as now we're facing the same problem at 32 Hilltop.

"At the first meeting Daniel Cartagena promised he would respect the neighbors and their properties and build within the guidelines of the rules and laws of the village. Well, that certainly has not been the case.

"I came and spoke to the board back in November of 2019 pleading with them to consider changing the Saturday construction law as it was quite obvious to me and many others that this project was going to be another nightmare. The board saw this differently and did not change the law in any significant way. I was advised once again to continue to call the police and report law breaking. One of the major issues is they start noisy construction and have deliveries way before the 8 a.m. hour.

"I will document just the last five and a

half weeks.

"December 31, 2019, photos and videos taken of very loud dumpster deliveries and pick up and Porta Potty deliveries at 6:50 a.m. at 32 Hilltop, 39 Hilltop and 41 Picardy. Police were called and never showed. I believe it was a personal health issue. The project at 39 Hilltop was done by Premier who I understand lives in Laurel Hollow. For the month of November work started at that location daily before the 8 a.m. hour. That project I believe is now complete. The project at 41 Picardy I am told has no permits, yet a number of dumpsters have come and gone.

"January 15, 2020 I am again woken up before 7 a.m. by a huge dry well delivery, again photos and videos taken. He sat in front of my house on the wrong side of the street forcing school buses, etcetera, to go around him. Again I called the police. They came, drove past, saw him on the wrong side of the street and left. Then a little before 8 a.m. he tried to make the turn onto Hilltop to do his delivery and he caused damage to the corner and took out the stop sign. He jackknifed it for a bit making it impossible for residents to drive by. At this point I called Dan who came out, reprimanded them and I believe issued a stop work order."

I didn't, Mike did.

"Then, just this week, on Monday, February 10th, 2020, I hear the chronic beeping that we live with 60 hours a week and I see the truck backing up from 32 Hilltop to the fire hydrant on the corner of Picardy and Hilltop. I took a walk out there and saw two men stealing water from our hydrant. I took photos again and explained to him that it was against the law to steal water from a white-capped water hydrant. He had a huge wrench in his hand, leered at me, disconnected and drove off, I'm sure to search for water illegally from another hydrant. He came back later and was on the job site supplying water while cement was being poured.

"I went to the Jericho water department and they told me it was an illegal act, could, in certain situations, contaminate the water and the wrench he was using could strip and damage the mechanism making it inoperable for use when it is needed for its proper use in an emergency. I called the company who had an answering machine and called Daniel Cartagena who said he had no idea who that sub was. The water department said if it happens again to call them and the police and that it was an offense that could result in an arrest.

"Well, we know how that goes. The police cannot get here in time to witness it, that's why I take photos, but then I'm told in order to enforce the law I have to testify.

"Today, February 11th, 2020, again another noisy 7 a.m. Porta Potty clean out. Photos and video taken. Also, eight vehicles parked on the road. The job site is a pig sty, mud all over the street and the fence is falling down.

"Now I'm told that Mr. Cartagena wants to rip up our newly-paved roads for his water, even though he could have done this prior to our roads being paved. So break the laws and then ask for things?

"None of this seems right and I'm frustrated that we have to live like this. That's why the Saturday law was so important because even though many of you think it's no big deal, it IS," capital IS, "a quality-of-life issue. It is unacceptable for all these laws to be broken and properties damaged with no ramifications. It would be more tolerable if you knew the weekend was going to be peaceful.

"We moved here 22 years ago for the beauty and tranquility and all of that has been lost. Neighboring villages recognize the importance, I don't know why Laurel Hollow doesn't. So now I jeopardize my

safety trying to document all the illegalities and nothing is done. So I'm asking the board what do you propose to do? I feel I've done my part and, once again, I am disappointed and frustrated. I am not at the meeting because I feel the issue is being dismissed, patronized and not taken seriously."

MR. O'HARA: Now let me say something.

MAYOR DeVITA: Sure.

MR. O'HARA: I disagree with my wife. Easy to do when she's not here.

I believe you folks did hear us out and you thought about it and came to a different conclusion and I have no problem with that.

What she's saying with that is that even if you change the law and you make it from 9 to 4 on Saturdays, how is that even enforceable if it's not enforceable now?

That's my question.

MAYOR DeVITA: I agree with you.

MR. O'HARA: She was blowing off steam because she's had it there.

MAYOR DeVITA: I agree with you and you know, Ray, that weekday, I mean, I look out my door, I see four, five, people on the corner and eventually went over and to know that the police had been there and

just cruised by and left when this monstrosity was blocking our little streets, my -- what I did then was call a sergeant who, you know --

MR. O'HARA: Promptly came.

MAYOR DeVITA: I said, "Teddy," if nothing else, get this guy out of here until he is ready to deliver his load," and he did, but it shouldn't have to come to that, it should be one call to the police.

And I'm equally frustrated and I actually have a meeting with them now, this Friday morning, and we're going to discuss this kind of thing.

So I agree with you, it's frustrating, it's very frustrating. What's the good of having laws or changing the laws if they're not enforced?

TRUSTEE NICKLAS: How did you get in touch with Teddy?

MAYOR DeVITA: I called his cell, which is really not proper, I should be calling 911, so I'm kind of taking a little advantage because everyone else has to call 911.

TRUSTEE NICKLAS: I agree. I figured you must have done something like that.

MAYOR DeVITA: But something like this, this is the second call, and it's creating real concern.

TRUSTEE MIRITELLO: This is a different

matter all together. It's a bad player. It's something -- we have to be able to enforce our laws. I'm for that. Certainly, why we can't stop these guys -- I would be willing -- you could call me if you want me to go over and talk to these guys. I'll give you my number. I don't mind.

MR. O'HARA: He just walked in.

TRUSTEE MIRITELLO: You got to change the methods if this is happening.

TRUSTEE NICKLAS: Is he the contractor?

TRUSTEE MIRITELLO: If I go down there you'll have to change your methods.

MR. O'HARA: Again, I do realize my wife made a proposal, you voted against it, we totally respect it. She just wanted to say this is fine to make this change, but it's not really enforceable, is it?

That's the whole thing.

MAYOR DeVITA: I understand.

MR. O'HARA: We do know you took it seriously. Although we disagree, we appreciate you taking a look at that.

MAYOR DeVITA: It's a valid point. You can make all the changes you want, but even as changed that's not enforced, what good is it?

That's part of her point.

MR. O'HARA: Thank you.

MAYOR DeVITA: So I get that.

So we'll make this part of the record and we'll give a copy to Wendy, our court reporter, and we'll deal with the rest of the other issues on Hilltop after -- during our building department report, but we have to finish this public hearing.

MR. PITON: Tony Piton, 16 Springwood Path, P-i-t-o-n.

First of all, about the police, so when I first came to the village I called the phone number for the police. It's never been answered, but then you told me just call 911.

MAYOR DeVITA: Yes.

MR. PITON: And I had a problem on the weekend, call 911, the Laurel Hollow police was there in seven minutes and it really helped.

But at the same time I want to make one point and again I hope I'm not stepping on nobody's toes or trying to make or point a finger or something like that, it's just fact.

Sometime I feel like I complain about something, about your neighbors, the same thing is done to me, but when I complain nothing is being done. I had a trailer on my property as my contractor lived all

the way in the back. I got a letter. At 2 Springwood Path there is three trailer, two pickup trucks and a Bobcat on the driveway. Check the e-mail. I e-mailed. I send a letter. You have everything.

MAYOR DeVITA: They were in court. We cited them and they were in court, but we're getting a little off track.

MR. PITON: Sorry.

MAYOR DeVITA: Mr. Piton, because you came in late, this public hearing we're in the middle of is about changing the construction and landscaping hours on Saturday, which we've talked about at a number of meetings, to 9 -- from 8 to 6 to 9 to 4, so that's the adoption of this law tonight. So that's --

MR. PITON: About the enforcement, call 911 and the Laurel Hollow police, seven minutes. You call the phone number, they don't answer.

MAYOR DeVITA: If there's any other comments directed to that issue that's what -- we're just trying to finish the public hearing on that.

So we need a motion.

MR. AVRUTINE: Motion to close the public hearing?

MAYOR DeVita: Motion by Trustee Nicholas, seconded by Deputy Mayor Nemshin.

All in favor?

TRUSTEE JUSKO: Aye.

TRUSTEE NICKLAS: Aye.

DEPUTY MAYOR NEMSHIN: Aye.

MAYOR DeVITA: Aye.

TRUSTEE MIRITELLO: Aye.

TRUSTEE TSAFOS: Aye.

TRUSTEE NOVICK: Aye.

MR. AVRUTINE: Motion to adopt the public law -- local law --

MAYOR DeVITA: Okay, a motion to adopt the public law.

MR. AVRUTINE: As presented.

MAYOR DeVITA: Trustee Novick, seconded by Mayor DeVita.

All in favor?

TRUSTEE JUSKO: Aye.

TRUSTEE NICKLAS: Aye.

DEPUTY MAYOR NEMSHIN: Aye.

MAYOR DeVITA: Aye.

TRUSTEE MIRITELLO: Aye.

TRUSTEE TSAFOS: Aye.

TRUSTEE NOVICK: Aye.

MAYOR DeVITA: We have another public hearing on the tax cap override.

MR. AVRUTINE: This is the public hearing on Introductory Local Law B-2020 regarding authorization to exceed the statutorily-mandated tax cap in connection with the village budgeting.

This is done because in the event the village, in adopting its budget, exceeds the mandated tax cap, which for this coming fiscal year has been set at 1.8 percent, there would be penalties imposed by the state.

This legislation simply allows the board, in adopting its budget, to exceed the tax cap without any penalties being imposed. It does not mean that the village will be exceeding it, but without this law if it does wind up exceeding it the penalties are avoided.

In connection with this hearing the exhibits are as follows:

First, a copy of the legal advertisement as it appeared in the North Shore Leader stating that the legal notice was published in the North Shore Leader on January 22, 2020.

The next exhibit is an affidavit from Elizabeth Kaye that the legal notice was posted at the village hall on January 17, 2020.

The next exhibit is an e-mail from the village clerk to the Mayor and board of trustees sent

on January 30, 2020 with the local law in final form attached.

The next exhibit is confirmation that the notice of public hearing was published to the Village of Laurel Hollow website on January 17, 2020.

The next exhibit is confirmation that the notice of public hearing was sent to village website news subscribers on January 21, 2020.

The final exhibit is a letter from the Nassau County Planning Commission that the local law is referred to the village to take action as it deems appropriate and we were advised that letter will be forthcoming.

MAYOR DeVITA: Okay, so as we discussed at the last meeting this is a law that we pass every year since the tax cap law was introduced and made law.

So -- and the reason -- what the law does it allows us, if necessary, to override the tax cap by I guess it's -- they call it a super majority of the board, of any municipal board.

Right?

THE CLERK: Correct.

MR. AVRUTINE: Three-quarters.

MAYOR DeVITA: So --

MR. AVRUTINE: The majority.

MAYOR DeVITA: The reason we pass it every year even if they don't anticipate exceeding the tax cap, let's say we guarantee ourselves we'll never exceed the tax cap, if for some reason a last-minute emergency, arithmetic mistake, we exceed the tax cap and we hadn't passed this law there's penalties handed down by the state.

So in order to to avoid that every year, and I use this phrase every year, it's municipal malpractice not to pass this law because, you know, it it absolutely does no harm and it usually just sits there and it used to be we have to retract it, now it just expires in time on its own whether or not you utilize it by exceeding the cap.

So it's a precautionary measure, preventive measure, and it has to be passed now because, as you can see, it takes a couple of months to pass an ordinance. You have to have discussion and then schedule a public hearing and then have a public hearing and then it's got to get filed with the Secretary of State and if you wait until the last minute until all your budgeting is finally done you're in danger of rubbing up against the budget deadline that we have to file by New York State. So that's why we pass this.

We're still early in our budgeting process and obviously we'll keep everyone informed as we go along.

MR. NOVICK: Dan?

MAYOR DeVITA: Yes.

MR. NOVICK: When they legislated to make this law in New York State and we -- and they have in the law the ability for a village to override it, is there a limit on what you can do or is it open?

In other words can you raise it five percent, 20 percent, there's no limit?

MAYOR DeVITA: There's no limit -- I mean, the tax cap --

MR. NOVICK: Is it just advisory, guidance?

MAYOR DeVITA: It's not in the sense you need the super majority to override it, you need to pass this law to override it, so there's a certain guard to it, but if you do decide to exceed the cap as far as I know there's no limit.

Now, for instance, I think it was --

THE CLERK: Pardon me, there's a report I have to file every year. It's called a Constitutional tax limit report and that tests whether your proposed levy exceeds. So there is a limit.

MAYOR DeVITA: Okay, I stand corrected. We

haven't tested that yet.

MR. AVRUTINE: But you still can do it, you just have to report it.

THE CLERK: You can't just raise taxes --.

MR. NOVICK: Indiscriminately, there's a limit?

THE CLERK: Correct, based on that Constitutional tax limit report that I file, they sign off.

MAYOR DeVITA: In any event, it's academic, really.

MR. NOVICK: Well, you should really know what the thing is because emergency, whatever comes, legal fees, that we stay within according to the law.

MAYOR DeVITA: When we borrowed the \$3M to redo our roads, okay, that was probably one of the more substantial tax increases that had we had to pass and it was 11.3 or 11.5 percent and we've never come close to that before or after - maybe before, I don't know ancient history - and I can't imagine that was anyone's concern, certainly no eyebrows were raised.

TRUSTEE MIRITELLO: We're at a disadvantage, too, because we have a relatively small budget, so percentages are a very difficult thing.

MAYOR DeVITA: Good point, correct.

MR. TSAFOS: So because of our budget if you increase the taxes by 300,000 you're increasing by ten percent.

MAYOR DeVITA: Right.

Anybody else on the board?

We'll ask the audience.

Any comments?

Okay.

MR. AVRUTINE: Let the record reflect that this matter is Type II under the New York State Environment Quality Review Act.

Can we entertain a motion to close the public hearing?

MAYOR DeVITA: Motion to close the public hearing?

Trustee Miritello, seconded by Trustee Tsafos.

All in favor?

TRUSTEE JUSKO: Aye.

TRUSTEE NICKLAS: Aye.

DEPUTY MAYOR NEMSHIN: Aye.

MAYOR DeVITA: Aye.

TRUSTEE MIRITELLO: Aye.

TRUSTEE TSAFOS: Aye.

TRUSTEE NOVICK: Aye.

MR. AVRUTINE: And a motion to adopt the law as proper?

MAYOR DeVITA: Deputy Mayor Nemshin, seconded by Trustee Nicklas.

MAYOR DeVITA: All in favor?

TRUSTEE JUSKO: Aye.

TRUSTEE NICKLAS: Aye.

DEPUTY MAYOR NEMSHIN: Aye.

MAYOR DeVITA: Aye.

TRUSTEE MIRITELLO: Aye.

TRUSTEE TSAFOS: Aye.

TRUSTEE NOVICK: Aye.

(Public hearing adjourned 7:33 p.m.)

* * * *

It is hereby certified that the foregoing is a true and accurate transcript of the proceedings.

WENDY SILAS
OFFICIAL COURT REPORTER