

INCORPORATED VILLAGE OF LAUREL HOLLOW  
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May 29, 2018

Dear Neighbor:

This has been a very busy year for our Village. We are moving ahead with our road reconstruction project, which will begin this summer. As we previously reported, the project will be financed through the sale of municipal bonds by the Village. Because of the Board of Trustees' conservative management and budgeting over the past several years, we achieved an AAA bond rating from S & P Global ratings agency, which had the effect of attracting more bidders to the bond sale resulting in a lower than expected interest rate on our repayment.

In addition to our regular Board meetings, we held a number of special Board meetings on the roads, as well as public meetings on a number of topics of interest, including shellfish gardening, bullying, and opioid abuse with Narcan training (co-hosted with our County Legislator Josh Lafazan). In addition, all indoor and outdoor Village facilities have now been upgraded with high-efficiency LED lighting and we are about to put our solar energy project for the Village Hall out to bid.

#### **Village Taxes**

The Board has completed its budgeting for the June 1, 2018 through May 31, 2019 fiscal year. To fund the repayment of the road bonds, the tax levy (the amount of money the Village raises in taxes) will increase. At our public meeting in February, we estimated the road bond alone would be responsible for a tax levy increase of 10.62%. However, even with the slightly lower interest rate we received on the sale of our bonds, we will need to increase the tax levy by 11.5%, as a result of increased police expenditures. Please note that your own tax bill may vary up or down from the 11.5% because of changes in assessed property values.

#### **Charitable Gifts Fund and Property Tax Credit**

In order to circumvent the newly imposed \$10,000 limit on state and local income tax and property tax deductions (SALT) by the recently implemented federal tax reforms, in April the state legislature passed a law allowing schools and municipalities to set up charitable gift funds. The legislature theorized that local property tax payments would be deductible as a donation to government if they were made to a special gift fund instead of the locality's general fund. However, the locality still needs money to pay its bills. The donation, therefore, must then be transferred by the Village to its general fund to pay expenses. Without getting too deep into the weeds, the taxpayer can only claim credit for taxes up to 95% of his/her tax bill. Therefore, a payment of 105% of one's tax bill would be necessary to claim the entire tax bill as a tax credit (some view it as a hidden 5% tax increase).

Laurel Hollow will not participate in this process. Its legality, at the very least, is unproven. It is fraught with peril both for residents and for the Village. While the IRS has not yet issued regulations on this plan, it did issue a Notice IR-2018-122) on May 23rd reminding taxpayers

that federal law controls what is deductible, not state law. Federal law on charitable deductions prescribes that for a donation to be a lawful deduction a donor cannot receive a substantial benefit in exchange for a donation. The new state law attempts to circumvent that requirement by having the "donation" of 105% of your tax bill deposited in a separate bank account called a "charitable fund." This fund is controlled by the Village. The Village then must transfer these monies to the normal Village general fund by the last day taxes are due. The New York Department of Taxation and Finance has ordered that all municipalities sign a form to be given to the "donor" bearing the legend "No goods or services were provided in exchange for this donation." The State, therefore, places the burden and responsibility squarely on the Village to certify there were no goods or services are given in exchange for the "donation." The taxpayer would then use this document as proof of a legitimate donation if questioned by the IRS.

The problems here are several and serious. First, as Mayor, I would never direct an employee of the Village to sign something that is not true. It simply is not true that no goods or services are being exchanged for the donation when in fact the entire amount will be spent as if normal taxes were collected. Using that money, bills will be paid for police, fire, road maintenance, the building department, lifeguards, and on and on. Some may say well try it anyway. The problem is that the IRS will likely disavow this process which means that such a deduction will be disallowed. Then the taxpayer is open to interest and penalties by the IRS for taking an illegal deduction. The taxpayer might possibly seek to recoup those monies from the village for providing a false document. After all, the Village would have given a document certifying that no goods or services were exchanged for the donation. Furthermore, if a Village representative did sign such a document, that could subject the Village to federal fraud charges. One more thing, under the law, the extra 5% over and above the tax bill amount a "donor" paid to receive a deduction for the full amount of their property tax is nonrefundable, even if the deduction is disallowed.

Last week, the Wall Street Journal called the idea "fake philanthropy" and "legally dubious." Also, the nonpartisan Tax Foundation has written several informative articles on this tax scheme, which are posted on our website along with this letter.

Finally, if at some future date, the IRS issues regulations and allows this scheme to go forward in whole or in part, we shall participate to the fullest extent of the law. However, until then we are exercising our option to not participate.

### **Route 25A Potholes**

The continued existence of the field of potholes on 25A at the entrance to Laurel Hollow Road is extremely frustrating. The New York State Department of Transportation's refusal to repair is completely wrong and downright disgraceful. Our elected officials, Senator Marcellino and most recently Assemblyman Charles Lavine have worked hard to get this resolved. Assemblyman Lavine has sent several communications and had the issue moved to DOT's legal department where hopefully clear thinking will prevail.

A little history is necessary. In 1998-99, the State undertook to redevelop entirely the whole area of 25A from west of the triangle to the east down the hill toward Bungtown Road. One of the changes the state made was to change substantially the grade of the eastern portion of the road. In addition the state redesigned and reconstructed 168 feet of Laurel Hollow Road from where it connects to 25A. Under "Maintenance Responsibility," DOT documents from the project specify: "After completion of the contract, all items constructed under this contract will

be maintained by the New York State Department of Transportation.” Until recently, the state did maintain this area. In fact, only recently in 2016 DOT patched this same area and put new white striping down. However, over time, the patches did not hold and we are left with the dangerous mess around which we must maneuver.

If there is any doubt as to the state’s responsibility based on the above, which there is not, state statutory law requires the state maintain 100 feet of any public road intersecting a state highway. Again, on yet another level the state has failed its legal responsibilities.

Some have asked, why not patch it ourselves? The problem becomes a legal one. As Trustees, we have a fiduciary obligation to ensure that the Village taxes collected are only spent on legitimate Village obligations. The repair of the damaged portion of the road is clearly the responsibility of the DOT. It is just as clearly not a Village obligation. In addition, we would be exposing the Village to legal liabilities. If someone bends a rim or is involved in an accident there, the Village would be responsible whereas the state is now responsible. Moreover, why should the Village take on an expense and responsibility simply because the state refuses to do what it contractually promised and what it is statutorily required to do. We have been considering legal options such as a lawsuit. However, those options are expensive and time consuming. Hopefully, we will have success working with Assemblyman Lavine’s office and the legal department of the DOT. I will keep you posted.

I close with the reminder that all elected and appointed Laurel Hollow Village Officials serve without compensation other than the satisfaction that comes with helping our community. As always, you can call me personally, as well as the other Board members, with any questions or concerns.

Very truly yours,



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