

**VILLAGE OF UPPER BROOKVILLE  
PUBLIC HEARINGS  
on  
2017/18 VILLAGE BUDGET  
and  
PROPOSED LOCAL LAW B-2017  
and  
REGULAR BOARD OF TRUSTEES' MEETING  
APRIL 10, 2017**

Public hearings on the Village budget for the fiscal year June 1, 2017 – May 31, 2018, proposed Local Law B-2017 and a regular meeting of the Board of Trustees of the Incorporated Village of Upper Brookville, Nassau County, New York, were held at the Annex on the grounds of the Planting Fields Arboretum located on Planting Fields Road in the Village on Monday April 10, 2017 at 6:00 P.M.

Present:	Elliot S. Conway	Mayor
	Francis J. Russo	Trustee <i>(via video conference)</i>
	William R. Campbell	Trustee <i>(via video conference)</i>
	Antje B. Dolido	Trustee
	Edward J. Madden, Jr	Trustee Appointed

Also Present:

Tracy L. Lynch, Village Clerk/Treasurer  
Ms. Santolli, Village Resident  
Mr. Pappas, Village Resident  
Mr. Madden, Village Resident  
Peter P. MacKinnon, Esq. of Humes & Wagner, LLP  
Attorneys for the Village

The Mayor called the meeting to order at 6:00 P.M. He requested that the affidavits of mailing and posting of the Public Information Notice in compliance with the Open Meetings Law be presented and annexed to the minutes of this meeting.

**TRUSTEE APPOINTMENT**

The Mayor stated that he has appointed Edward J. Madden, Jr. to the Board of Trustees to fill the unexpired term vacated by Michael F. Schwerin, which term will expire on the first Monday of July 2017. He requested that the Board of Trustees confirm his appointment.

Thereafter, on motion duly made and seconded, it was unanimously

**RESOLVED**, that appointment of Edward J. Madden Jr., to Trustee of the Board of Trustees, to fill the unexpired term of Michael F. Schwerin, which term will expire on the first Monday of July 2017, be and it hereby is confirmed.

Trustee Madden accepted the appointment, duly signed his Oath of Office and joined the Board. Trustees Russo & Campbell then excused themselves from the meeting due to prior engagements.

**BUDGET HEARING**

The Mayor called the Budget hearing to order. He announced that the public hearing was on the Village's 2017/18 tentative budget, which had been on file at the office of the Village Clerk and open to public inspection since the date of publication of the notice of this hearing on March 29, 2017. The affidavit of publication of the notice of the hearing was presented and ordered annexed to these minutes.

The Board then reviewed the proposed budget item by item, including a 3% raise for Village staff employed as of February 1, 2017. The Mayor noted that the proposed Village tax rate for the 2017/18 fiscal year is \$143.27 per \$100 of assessed valuation, which remains unchanged from the prior 2016/17 rate.

After further discussion, the Mayor called for comments in favor of, or in opposition to, the proposed budget. There being no comments and after full opportunity had been given to the public to appear and speak on the proposed budget, the Mayor declared the Budget Hearing closed. Thereupon, the Board convened in meeting with the same officers of the Village as above set forth.

#### **ADOPTION OF BUDGET**

The Board, on motion duly made and seconded, unanimously

**RESOLVED**, that the budget which was the subject of a public hearing be, and the same hereby is, adopted as the budget of this Village for the fiscal year June 1, 2017 through May 31, 2018, and

**FURTHER RESOLVED**, that a tax of the Incorporated Village of Upper Brookville, Nassau County, New York, be, and the same hereby is, levied for the fiscal year June 1, 2017 through May 31, 2018 in the sum of \$3,063,355 at the rate of \$143.27 per \$100 of assessed valuation, and

#### **TAX WARRANT AND ASSESSMENT ROLL**

**RESOLVED**, that the Mayor or Deputy Mayor be, and they hereby are, authorized and directed to sign the proper warrant to the Treasurer to collect said taxes and that the Clerk be, and she hereby is, authorized and directed to attest the same under the corporate seal of this Village and to deliver the assessment roll with said warrant thereto annexed to the Treasurer, and

#### **TREASURER'S NOTICE**

**FURTHER RESOLVED**, that the Treasurer be, and she hereby is, directed to publish the notice required by Section 1428 of the Real Property Law in the Locust Valley Leader in its issues of May 17 and May 24, 2017, and the Oyster Bay Guardian in its issues of May 19, and May 26, 2017, the official newspapers of this Village, and

**FURTHER RESOLVED**, that pursuant to Section 1430 of the Real Property Law, the Village Treasurer be, and she hereby is, directed to mail tax bills to all persons whose names appear on the 2017/18 tax assessment roll, and

#### **DEPARTMENT OF AUDIT AND CONTROL**

**FURTHER RESOLVED**, that a copy of the adopted 2017/18 budget be attached to the minutes of this meeting and a certified copy thereof forwarded to the Department of Audit and Control at Albany, New York.

#### **HEARING ON PROPOSED LOCAL LAW B-2017**

The Mayor called the hearing on proposed Local Law B-2017 to order. The affidavits of publication of the notice of hearing and mailing of the local law and notice were presented and ordered annexed to the minutes of this hearing.

The Board discussed and considered proposed Local Law B-2017, which would amend Chapter 172, Solid Waste, to allow Village residents, on or before June 5, 2017, to elect in writing to either opt-out of, or be reinstated in the Special Benefitted Assessment Area ("SBAA"). The proposed law required a final list of properties to be included in the SBAA to be filed with the Village Clerk on June 6, 2017. For those property owners included in the SBAA, collection and assessment costs will begin on July 1, 2017 and they will be invoiced for the first 11 months of collection. For subsequent years, property owners will be billed annually in June for collection and assessment costs.

The Mayor called for comments in favor of, or in opposition to, the proposed Local Law. There being no further comments or questions, the hearing was closed.

#### **ADOPTION OF LOCAL LAW 1-2017**

The Board then considered the adoption of Local Law 1-2017 (Proposed B-2017) entitled "Amendment to Chapter 172 Solid Waste". After discussion, and on motion duly made and seconded, the Board unanimously

**RESOLVED**, that in accordance with Article 8 of the State Environmental Quality Review Act, the adoption of Local Law 1-2017 entitled "Amendment to Chapter 172 Solid Waste" shall be classified as an "Type II action", which will not have a significant adverse impact on the environment, and

**FURTHER RESOLVED**, that Local Law 1-2017 entitled "Amendment to Chapter 172 Solid Waste" be, and the same hereby is, enacted by the Board of Trustees of the Incorporated Village of Upper Brookville as follows:

#### **INCORPORATED VILLAGE OF UPPER BROOKVILLE LOCAL LAW 1-2017 AMENDMENT TO CHAPTER 172 "SOLID WASTE"**

A local law to amend Chapter 172, "Solid Waste," of the Code of the Village of Upper Brookville. The Code was adopted on September 9, 2000 by the Board of Trustees and last amended on December 19, 2016 by Local Law 5-2016.

**BE IT ENACTED** by the Board of Trustees of the Incorporated Village of Upper Brookville as follows:

**SECTION I.** Amend Article IV, entitled "*Special Benefit Assessment for Solid Waste Collection,*" to read as follows:

#### **ARTICLE IV**

#### **Special Benefit Assessment for Solid Waste Collection**

##### **§172-35. Authorization**

Pursuant to Municipal Home Rule Law §10(1)(ii)(e)(2), the Incorporated Village of Upper Brookville hereby creates a Special Benefitted Assessment Area ("SBAA") and authorizes the imposition of a Special Benefit Assessment on all improved residential properties in the SBAA area in order to provide for the on-going collection of solid waste generated from those residential dwellings, which are within the SBAA.

##### **§172-36. Legislative Findings and Purposes**

The Village of Upper Brookville hereby determines that the creation of a SBAA and the imposition of a Special Benefit Assessment for the on-going collection of solid waste generated from residential dwellings within the Village is a community improvement that enhances the quality of life in the Village and improves the general welfare of those residents within the SBAA. The SBAA will significantly reduce the number of pickup trips and vehicles size and weight on Village roads, reducing road wear, emissions and noise all of which will preserve and protect the health, safety, comfort and general welfare of those Village residents. The Special Benefit Assessment will allow for the annual assessment of the cost incurred by the Village to provide on-going solid waste collection to be equitably shared on a per unit cost basis, for each dwelling, fairly distributing the collection and incremental out-of-pocket administrative costs incurred by the Village among those benefitted residential dwellings within the SBAA.

## §172-37. Definitions

### SPECIAL BENEFIT ASSESSMENT

An annual assessment set by the Board of Trustees and levied on all improved residential real properties situated and located within the Benefitted Area of the Village. The total assessment shall be based upon the total cost for the removal of solid waste, including incremental out-of-pocket administration expenses incurred by the Village in providing this service to the benefitted residential dwellings within the Village. The assessment shall be allocated equally among the benefitted properties within the Benefitted Area on a per dwelling basis.

### SPECIAL BENEFITTED ASSESSMENT AREA and BENEFITTED AREA

All parcels of land located and situated within the Village of Upper Brookville which are currently improved with a residential dwelling unit; excluding those properties that have requested to be excluded from solid waste collection, and those properties that are operated under special use permit, or are legally used for commercial purposes.

### SOLID WASTE

Solid waste includes garbage, recyclables, trash, refuse and rubbish, but shall not include hazardous waste and non-processible waste. The Board of Trustees, may, by resolution, modify the materials that are either included, or excluded as solid waste under this article.

## §172-38. Establishment of Special Benefitted Assessment Area

The Board of Trustees shall file with the Village Clerk a list of all properties constituting the SBAA. The Village Clerk will notify all property owners of the monthly cost to be assessed to properties in the SBAA, along with the rules and regulations for the SBAA. Any property owner desiring to have their property excluded from the SBAA, or if previously filed to be excluded, and now wish to be reinstated to the SBAA, shall file a written election with the Village Clerk on or before June 5, 2017. The final listing of properties to be included in the SBAA shall be filed with the Village Clerk on June 6, 2017. Property owners will be invoiced for the first 11 months collection and assessment costs and on July 1, 2017 collection of solid waste from all properties then included within the SBAA will commence. For subsequent years, property owners will be billed annually for collection and assessment costs for the period then commencing June 1, 2018 to May 31, 2019 and yearly thereafter.

For subsequent calendar years, any property owner seeking to have their property either excluded from or included in the SBAA, must file a written election on or before March 15 of the preceding year. A property owner, who within sixty (60) days of purchasing property previously excluded from the SBAA, may petition to have the property included within the Benefitted Area. A property owner entering a contract of sale may petition to have the property excluded from the SBAA. The Board of Trustees shall be authorized to add to or remove properties from the Benefitted Area in its sole discretion.

## §172-39. Levy and Collection of Special Assessments

The Village Board of Trustees may annually by resolution establish, levy and collect the special assessments on all properties within the SBAA. A listing of all property within the SBAA and the assessment to be levied by the Board of Trustees on those properties shall be filed with the Village Clerk.

## §172-40. Payment

Once levied, the SBAA shall be a lien on all properties within the Benefitted Area for the full amount of the annual assessment. The assessment must be paid by each property owner in the SBAA without penalty on or before July 1 of the year assessed, unless otherwise required by the Board of Trustees. If any Special Benefit Assessment is not timely paid, penalties shall be computed at a rate not to exceed 1% per month until the Special Benefit Assessment is paid or discharged.

§172-41. Administration

The Board of Trustees of the Incorporated Village of Upper Brookville shall be authorized by resolution to establish, amend or repeal rules, regulations, fees, schedules and procedures pertaining to the administration, implementation and operation of the SBAA and of collection and disposal of solid waste within the Special Benefitted Assessment Area as it shall determine, in its sole discretion, necessary and proper.

SECTION II. This local law shall take effect upon filing with the Department of State.

Votes in favor of adoption:	Elliot S. Conway	Aye
	Antje B. Dolido	Aye
	Edward J. Madden Jr.	Aye

Votes against adoption: None

Not voting as not having been present:	Frank J. Russo
	William R. Campbell

**MINUTES**

The Board deferred approval of the March minutes.

**FINANCIAL REPORT**

**Bills**

The bills listed on Warrant No. 011 in the total sum of \$124,054.32 dated April 25, 2017, copies which are annexed to these minutes, were, on motion duly made and seconded, ratified and approved for payment.

**Treasurer's Report**

The Treasurer's Report for the month ending March 31, 2017, was presented, examined, approved and ordered filed.

**VILLAGE CLERK'S REPORT**

**Bank Accounts**

The Board approved the Village Clerk/Treasurer establishing two new interest bearing checking accounts with the First National Bank of LI for the following:

- 1) A Sanitation District Account for annual residential deposits & payments to the garbage carting contractor; and
- 2) A Capital Account for road bond deposits & payments to road repair contractors.

**Charity Rides Through Village**

Rolling Thunder Chapter 1 New York has requested permission to hold its first annual Gold Star Family charity motorcycle ride on June 25, 2017, between the hours of 11am - 1:30pm. A portion of the

route will involve 70-100 riders along Route 25A, escorted by the Old Brookville Police Department, in both eastbound & westbound directions.

The Huntington Bicycle Club has also requested permission to hold its 35<sup>th</sup> annual Gold Coast Tour on July 9, 2017. This bicycle tour of the North Shore will include several county roadways in the Village of Upper Brookville (e.g. Chicken Valley & Piping Rock Road).

On motion duly made and seconded, the Board unanimously approved the following resolutions:

**RESOLVED**, that the application of Huntington Bicycle Club for its 35<sup>th</sup> Gold Coast Tour through the Village on July 9, 2017, and the application of Rolling Thunder Chapter 1 New York first annual Gold Star Family charity motorcycle ride through the Village on June 25, 2017 for permission to hold the noted events in the Village on the designated dates be, and they are hereby, approved, subject to the strict compliance with following conditions:

- a) All race activities shall occur between the hours of 11:00 a.m. and 4:00 p.m;
- b) There shall be no parking along any street within the Village;
- c) The race sponsor/applicant shall be responsible for providing appropriate supervision and adequate protection for all participants, workers, volunteers, motorists and spectators;
- d) The race/sponsor shall provide to the Village a Certificate of Liability Insurance for the event naming the Village as an additional insured in the minimum amount of \$5,000,000 which certificate shall be delivered to the Village Clerk at least two (2) days in advance of the use of the premises for event activity;
- e) The race sponsor/applicant shall complete the Village's Indemnification and Hold Harmless Agreement releasing the Village from any and all claims and liabilities, which arise in connection with the event by a participants, workers, volunteers, motorists and spectators;
- f) All roads in the Village used in connection with this event are to be used by each participant, worker, volunteer, motorist and spectator at his or her own risk. The race sponsor/applicant shall be responsible for obtaining releases from all participants stating that all Village roads are to be used at the risk of each participant;
- g) All activities occurring within the Village are to be coordinated with the Old Brookville Police Department. If the Old Brookville Police Department requires additional personnel to provide adequate protection, the sponsor shall pay for all cost and charges, including, but not limited to, overtime payment for all police officers used;
- h) After the conclusion of the event, the race sponsor/applicant shall promptly remove from the Village of Upper Brookville all signs and collect and remove all debris generated by race participants, workers, volunteers, motorists and spectators;
- i) Any breach of the foregoing conditions, or any violation thereof of the local laws of the Village, shall be in and of itself grounds for the Village to immediately revoke Village approval; and

**FURTHER RESOLVED**, that the certificate of insurance and evidence that liability coverage remains in force and effect from the preparation for the event until the race is concluded and all equipment removed from the Village, and

**FURTHER RESOLVED**, that failure to comply with any of the above requirements shall result in immediate revocation of this permit.

**Planning Board Legal Deposit**

The Clerk reported that the Oaks at Mill River LLC had reached the maximum allowed reimbursement amount to the Village for the Village's legal expenses incurred in the Planning Board subdivision application. The Board agreed that this was a unique project and would not require raising the limit from \$200,000 at this time.

**MAYOR'S REPORT**

The Mayor followed up on a prior discussions begun at the Board of Trustees in September 2016 on how to assist residents who live on one of the Village's 35 private roads to form a special district, to have the Village provide snow removal and road maintenance for those private roads at municipal rates. A number of private road residents have expressed strong interest in pursuing this initiative and with approximately half of Village residents residing on private roads, the Board agreed that it should be studied.

The Village Attorney agreed to research the legal issues and procedures to establish a district to allow the Village to provide snow removal and road maintenance for private roads in the Village at municipal rates. Pending further information and research, discussion on this issue was deferred to the May meeting.

**ROAD COMMISSIONER/CODE INSPECTOR REPORT**

No Report

**BUILDING DEPARTMENT REPORT**

The Clerk referred to the March 2017 report submitted by the Building Department and requested that the Building Dept. Clerk include property addresses on future reports.

**POLICE REPORT**

No Report

**FIRE & STORM WATER REPORT**

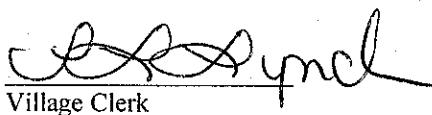
No Report

**ARCHITECTURAL REVIEW BOARD REPORT**

No Report

**LEGAL REPORT**

No report.

  
Village Clerk