

**VILLAGE OF UPPER BROOKVILLE  
BOARD OF TRUSTEES' MEETING,  
HEARING ON  
PROPOSED LOCAL LAW C-2018  
AND ANNUAL ORGANIZATION MEETING  
JULY 23, 2018**

A regular meeting of the Board of Trustees, a hearing on Proposed Local Law C-2018 and the Annual Organization Meeting of the Incorporated Village of Upper Brookville, Nassau County, New York, was held at the Annex on the grounds of the Planting Fields Arboretum, located on Planting Fields Road in the Village, on Monday July 23, 2018 at 6:30 P.M.

|          |                   |         |
|----------|-------------------|---------|
| Present: | Elliot S. Conway  | Mayor   |
|          | Edward J. Madden  | Trustee |
|          | Carl A. Friedrich | Trustee |
|          | Innis O'Rourke    | Trustee |

|              |                 |         |
|--------------|-----------------|---------|
| Not Present: | Antje B. Dolido | Trustee |
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|               |   |
|---------------|---|
| Also Present: | Tracy L. Lynch, Clerk/Treasurer                 |
|               | Sam Vergata, Road Commissioner                  |
|               | Village Residents:                              |
|               | Stylios Kyritsis, Tracy Donnelly,               |
|               | Ira Gross, Regina & Jonathan Adler,             |
|               | Linda Santolli, Lou & Anne Rohrberg,            |
|               | Mary & Dean Pappas, Lyle Lunson &               |
|               | Andy Belfer                                     |
|               | Paul Stevens, Village Engineer, LiRO            |
|               | Peter P. MacKinnon, Esq. of Humes & Wagner, LLP |
|               | Attorneys for the Village                       |

The Mayor called the meeting to order at 6:30 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.

**HEARING ON PROPOSED LOCAL LAW C-2018**

The Mayor called the hearing on proposed Local Law C-2018 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 C-2018 which amends Chapter 130 entitled, "*Property Maintenance*." The proposed Local Law designates specific private roads in the Village as subject to the provision of property maintenance Chapter 130 and provides for establishment of a minimum road condition standard by the Village in consultation with the Village Engineer using New York State Department of Transportation (NYSDOT) criteria. The proposed local law will further require the owners/users of any designated private road that is found to be sub-standard by both 66.67% of the Private Road Users, the Village Engineer and the Village Board of Trustees (following a hearing), to remedy the condition. If necessary, the Village will be

authorized to make the required repairs and charge the property owners/users pro rata for said expenses incurred by the Village, should they fail to make required repairs.

The Mayor noted that the Village will be adopting the NYSDOT Pavement Condition Assessment Manual for the various road condition criteria to be applied under the local law in order to assess and quantify pavement conditions.

The Mayor then 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 3-2018**

The Board then considered the adoption of Local Law 3-2018 (Proposed C-2018).

After discussion, and on motion duly made and seconded, the Board unanimously

**RESOLVED**, that Local law 3-2018 entitled Amendment to Chapter 130 “*Property Maintenance*”, be, and the same hereby is enacted by the Board of Trustees of the Incorporated Village of Upper Brookville as follows:

### **VILLAGE OF UPPER BROOKVILLE PROPOSED LOCAL LAW 3-2018 (PROPOSED LL C-2018) AMENDMENTS TO CHAPTER 164 “PROPERTY MAINTENANCE”**

A local law to amend Chapter 164, “*Property Maintenance*,” 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 January 22, 2018 by Local Law 1-2018.

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

**SECTION I.** Chapter 130, “*Property Maintenance*,” is now renumbered to be Chapter 164, “*Property Maintenance*,” and all subsequent sections are appropriately re-numbered accordingly.

**SECTION II.** Amend Chapter 164, “*Property Maintenance*,” in part, to read as follows:

...

#### **§ 164-2. Intent and purpose.**

It is the intent and purpose of this chapter to provide for and ensure the proper use of property and to prevent unsafe, hazardous or dangerous conditions on private roads and upon property within the Village of Upper Brookville; to provide basic and uniform standards governing the maintenance, appearance and condition of all structures and properties, whether improved or unimproved, residential, commercial or otherwise and private roads. Private roads, sStructures and properties within the Village shall be maintained in conformity with the standards set out in this chapter so as to assure that these structures and properties and private roads will not adversely affect the neighborhood and the community at large. It is found and declared that by reason of lack of appropriate maintenance and progressive deterioration, certain structures and properties have the further effect of creating blighting

conditions, and that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same. By reason of timely regulations and restrictions as herein contained, the growth of blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of the neighborhoods enhanced and the public health, safety and welfare protected and fostered. It is the intent, therefore, of the Village that blight be identified, abated and eliminated and that any and all conditions which pose a threat to the health and safety of the public or to property within the Village be eliminated and to provide for the elimination of such conditions by the Village upon the failure of responsible parties to do so and for the assessment of the cost thereof against the owners, occupants or other persons as set forth in this chapter.

### **§164-3. Definitions.**

The following definitions are applicable to this chapter only:

...

**PRIVATE ROAD** – The following private roads shall be deemed Private Roads applicable to this chapter: Barnside Lane, Bel Air Court, Canon Lane, Carol Lane, Centre View Drive, Charles Way, Chestnut Hill Court, Chestnut Hill Drive, Clews Drive, Colonial Drive, Covey Court, Crosswood Lane, Dogwood Court, Equestrian Court, Fairway Court, Farmwoods Lane, Filasky Court, Fox Run, Hunt Court, Juniper Drive, Laurel Woods Drive, Overbrook Lane, Peacock Lane, Pond View Drive, Revere Court, Shelter Lane, Sterling Lane, Stirrup Drive, Valerie Drive, Quail Path, Red Fox Lane, Wash Hollow Road, West View Drive, Winding Lane and Wood Hill Lane.

**PRIVATE ROAD ASSESSMENT** - The current condition and state of repair of the Roadway of a Private Road as determined by the Village Engineer, or such other Village Representative as designated by the Board of Trustees, applying the Roadway Rating Assessment procedures and criteria. The Private Road Assessment shall assess and identify a Private Road's performance, condition and suitability for its legal users and identify and recommend maintenance and reconstruction needs for the Private Road to meet the designated minimum assessment level as shall be established by the Board of Trustees.

**PRIVATE ROAD ASSESSMENT RATING** – The rating given a Private Road by the Village Engineer or designated Village representative pursuant to the Roadway Rating Assessment.

**PRIVATE ROAD USER** – The current property owner who has the legal right to access the Private Road, either by easement of record, or easement by prescription.

**PRIVATE ROAD USER'S MAINTENANCE CONTRIBUTION** - The current allocation of maintenance expense for the Private Road that is shared by the property owners who have legal rights to access the Private Road, which is either legally allocated by easement of recorded, or if there is no easement of record, maintenance obligation to be shared by NYS common law on equal allocation among users.

**ROADWAY** -That paved portion of a Private Road ordinarily used for motor vehicle traffic.

**ROADWAY RATING ASSESSMENT** – Pavement condition assessment criteria established by resolution of the Board of Trustees in order to assess and quantify pavement condition, roadway surface distress, structural capacity and safety conditions of a Private Road

...

**§164-13. Private Road Assessment Notice To Remedy Substandard Condition, Enforcement, Public Hearing Costs and Expenses.**

- A. Every Private Road User shall be jointly responsible with the other Private Road Users for the maintenance of their Private Road to the designated Private Roadway Assessment Rating for the type of road, taking into account the number of Private Road Users. The Private Roadway Assessment Rating criteria shall be as established by resolution of the Board of Trustees. Upon the written request of 66.67% of the Private Road Users of any Private Road, the Village shall conduct a Private Road Assessment. The written request shall list the name and address of all Private Road Users and their Private User Maintenance Contribution, along with the road assessment fee for the Village Engineer. Upon receipt of the request and fee, the Village Engineer shall perform the Private Road Assessment to determine the Road Assessment Rating and provide recommendations for either repair, maintenance or reconstruction.
- B. If the Private Road Assessment is found substandard. Notice of the determination of the Village Engineer, along with his report, finding and recommendation shall be sent to every Private Road User for the Private Road that was assessed, along with notification of the action to be taken, the timeframe allotted for compliance and each Private Road User's Maintenance Contribution that will be required. The form of

notice, notice procedures and hearing requirements shall comply with the provisions of Section 130-8 above as applicable.

- C. After a public hearing is held, the Board of Trustees may determine that corrective action needs to be taken to address any substandard conditions noted in the Village Engineer’s findings and report. Upon 30 days written notice to all Private Road Users affected, the Board of Trustees may authorize in their discretion the corrective action to be taken. All costs and expenses (including legal fees) (“Expenses”) shall be assessed to all Private Road Users, but prorated to each Private Road User based upon their Private User Maintenance Contribution. Failure of a Private User to reimburse the Village for the Private User’s pro-rata share of the of the expenses shall result in those costs and expenses being assessed against the Private Road User’s property, as a lien to be included on the defaulting Private Road User’s property tax bill and collected as provided by law for the collection of delinquent taxes.

**SECTION II.** This law shall take effect upon filing with the Secretary of State.

**NOTE:** *New words are double underlined. Deletions are struck out. Dotted . . . lines set off that portion of a Section or Subsection which is amended.*

|                             |                   |     |
|-----------------------------|-------------------|-----|
| Votes in Favor of adoption: | Elliot S. Conway  | Aye |
|                             | Edward J. Madden  | Aye |
|                             | Carl A. Friedrich | Aye |
|                             | Innis O’Rourke    | Aye |

|                         |      |
|-------------------------|------|
| Votes against adoption: | None |
|-------------------------|------|

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|--|-----------------|
| Not voting as not having been present: | Antje B. Dolido |
|--|-----------------|

## **ROADWAY RATING ASSESSMENT**

The Board then considered the assessment criteria to be adopted to assess and quantify pavement conditions under Local Law 3-2018. The Board agreed that the NYS Department of Assessment Standard be adopted. Thereafter, on motion duly made and seconded, it was unanimously

**RESOLVED**, that the New York State Department of Transportation Pavement Conditions Standard (V2.OW) dated March 2010 and as hereafter amended shall be the assessment criteria standard to be applied under Local Law 3-2018; and

**FURTHER RESOLVED**, that the minimum private road assessment rating standard for the private roads to be maintained under Local Law 3-2018 shall be level 5 or greater assessment rating as defined under the above NYS-DOT Manual.

## **ANNUAL ORGANIZATION MEETING**

Next, the Mayor called the Annual Organization Meeting to order at 7:00 p.m. and announced that his was a meeting for the purpose of organization of the Village for the new official year commencing at noon on the first Monday in July, 2018. 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.

*\*(See Exhibit B)*

## **MINUTES**

The Mayor called for approval of the minutes of the Trustee meetings held on June 18, 2018. Changes were noted and on motion duly made and seconded, were unanimously approved. *\*(See Exhibit C)\**

## **PUBLIC COMMENT**

A Linden Lane resident reported that the street sign located at the intersection of Linden & Hegemans Lane had been missing since the road work was completed earlier this year by the Village of Old Brookville at the end of Linden Lane. The Mayor noted that the sign is in the Village of Old Brookville and that he would follow up with them regarding the need for a replacement sign.

The same resident commented that better/more prominent signage at the intersection of Linden & 25A was needed. The Mayor said he met recently with another Linden Lane resident on the same issue. He noted the entrance is easy to miss, however, the Village and New York State DOT recently both trimmed and removed some trees to open up the entrance. He said the Village is planning to install two new signs on either side of Linden Lane which are more visible and easier to read.

Another Linden Lane resident asked if the Village could landscape and beautify the intersection of Linden & 25A, now that area has been opened up. The Mayor reported on the Village's recent application for a \$50,000 New York State grant to inventory trees Village-wide. An inventory will identify dangerous trees and limbs that need to be trimmed, de-vined, removed or replaced as well as gap areas that may need new trees. Once the Village has the tree inventory in hand, we will be eligible for a 50% matching grant to cover the cost subsequent tree work and planting. Linden Lane will be one of the areas considered for tree work along with other Village Roads. The Mayor agreed to

consult with the Beautification Committee regarding options for this location as well.

Another Linden Lane resident requested the installation of speed humps on Linden Lane as a safety measure to slow down traffic. The Mayor said that the installation of speed humps was controversial on another Village road. In that case, the Village plans to study the traffic later this year. If excessive speeding is found and over 50% of the residents petition the Village, the Board would consider the installation of traffic calming humps along the road. The Mayor said it is possible for a similar approach to be used on Linden Lane.

A Juniper Drive resident asked if the Village could replace the street light bulb that is out at the intersection of Juniper & Mill River Rd. The Mayor explained that the streetlight is located in the Muttontown right-of-way and therefore it is their responsibility to maintain. He noted that the Village raised the issue with the prior administration on multiple occasions without success. The Mayor said that he plans to raise the streetlight matter and a number of similar inter-municipal issues with the new Village of Muttontown administration soon.

## **FINANCIAL REPORT**

### **Bills**

After presentation by the Mayor, and on motion duly made and seconded, the Board unanimously

**RESOLVED**, to approve payment of the bills listed on Warrant No. 2 in the total sum of \$108,251.44, dated July 23, 2018 which is annexed to these minutes.

*\*(See Exhibit D)\**

### **Treasurer's Report**

After presentation by the Clerk/Treasurer and examination, on motion duly made and seconded, the Board unanimously

**RESOLVED**, to approve and file the Treasurer's Report for the month ending June 2018. *\*(See Attached Exhibit E)\**

The Clerk also presented the Board with recommended budget transfers for yearend May 31, 2018. After examination, and on motion duly made and seconded, the Board unanimously

**RESOLVED**, to approve the year end May 31, 2018 budget transfers as presented. *\*(See Attached Exhibit F)\**

### **Cash Management**

The Mayor recommended the Village invest its \$1,000,000 unassigned fund balance in a 6-month Treasury bill at an interest rate of 2.297%.

After discussion, and on motion duly made and seconded, the Board unanimously

**RESOLVED**, to approve the purchase of a 6-month Treasury bill in the amount of \$1,000,000 through First National Bank of Long Island, using the funds in the Savings Account.

## **VILLAGE CLERK'S REPORT**

### **SCAR Assessment Reduction/Village Tax Refunds**

The Clerk reported that a resident was awarded an assessment reduction in Small Claims Proceedings for the 218/19 tax year against Nassau County. She noted that the Village was served a copy of the Small Claims Petition and recommended that the Board authorized the reduction and refund on the Village assessment roll as require by law. After discussion and on motion duly made and seconded, it was

**RESOLVED**, that the Village Clerk/Treasurer be, and she is hereby authorized to reduce the assessed value for the premises owned by the following resident, and to refund the appropriate Village tax to the respective owner or representative based on the reduction, provided the Village taxes have been paid in full, as follows:

*Japra* – Sec. 18, Blk. A, Lot 1043, assessed value of \$4,160, reduced to \$3,400 for 2018/19 tax year for a total refund of \$1,052.30

### **Charitable Reserve Fund**

The Village Clerk/Treasurer reported receipt of \$300,817.37 in Charitable Reserve Contributions. She received claims from contributors requesting a total of \$285,742.69 to be credited against Village real property taxes and asked the Board to approve the transfer of this amount to the General Fund. After discussion and on motion duly made and seconded, it was

**RESOLVED**, that the Village Clerk/Treasurer be, and she is hereby authorized to transfer \$285,742.69 from the Charitable Reserve Fund to the General Fund.

The Mayor requested that the remaining Charitable Reserve Contributions totaling \$15,074.68, be transferred to the Capital Account to be used for the construction of a new Village Hall. After discussion and on motion duly made and seconded, it was

**RESOLVED**, that the Village Clerk/Treasurer be, and she is hereby authorized to transfer \$15,074.68 from the Charitable Reserve Fund to the Capital Fund to be used for the construction of a new Village Hall.

## **ROAD COMMISSIONER/CODE INSPECTOR REPORT**

Road Commissioner Vergata reported he & the Mayor, after a discussion at the last BOT Meeting, inspected the property off Mill River Road and found the house in an advanced state of disrepair. The ground level floor has collapsed into the basement. Based on the condition description, the Village Attorney recommended that the Village initiate the process to declare the house dangerous. This may ultimately lead to the house being demolished by the Village at the homeowner's expense. After discussion and on motion duly made and seconded, it was



**RESOLVED**, to initiate the process, pursuant to Village Code Section 164, “Property Maintenance,” to take appropriate action to address the dangerous and blighted condition at 89 Mill River Rd

**BUILDING DEPARTMENT REPORT**

The Clerk/Treasurer referred to the reports submitted by the Building Department Clerk for June 2018 activity.

The Mayor noted receipt of a letter from a Wolver Hollow Road homeowner requesting a waiver of the permit-doubling penalty fee described in the Upper Brookville Code for the illegal installation of a propane gas tank.

After discussion, the Board concluded that, given the facts and circumstances, the homeowner should be responsible for the penalty associated with legalizing the new tank after it was installed.

**MAYOR’S REPORT**

The Mayor reported receipt of multiple noise and other complaints received by both the Village and the Old Brookville Police about a massive and continuous fireworks display on a 2-acre residential property. The Village Code Enforcer inspected the area the following day and found considerable debris from the display on abutting Village Roads and a nearby property.

The Mayor noted the sale, distribution or possession of fireworks, as defined in New York State General Business Law § 322-a and Penal Law §§ 270.00 and 405.00, is prohibited without the Village first issuing a license. No such license was requested or obtained by the property owner.

The Board discussed the matter and tabled any further action pending receipt of more information.

**POLICE REPORT**

No Report

**FIRE & STORM WATER MANAGEMENT REPORT**

No Report

**ARCHITECTURAL REVIEW REPORT**

No Report

**LEGAL REPORT**

No Report

The next meeting of the Board of Trustees is scheduled for Monday September 17, 2018.

*Signed September 17, 2018 by*

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Tracy Lynch  
Village Clerk