

**VILLAGE OF UPPER BROOKVILLE  
BOARD OF TRUSTEES' MEETING  
DECEMBER 19, 2016**

Public hearings on proposed Local Laws E-2016 & D-2016 and a regular meeting of the Board of Trustees 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 December 19, 2016 at 6:30 P.M.

Present:	Elliot S. Conway	Mayor
	Francis J. Russo	Trustee
	Michael F. Schwerin	Trustee <i>(via video conference)</i>
Absent:	William R. Campbell	Trustee
	Antje B. Dolido	Trustee

Also Present:  
Tracy L. Lynch, Village Clerk/Treasurer  
Samuel Vergata, Street Commissioner  
Ted Dogonniuck, Village Resident  
Peter P. MacKinnon, Esq. of Humes & Wagner, LLP  
Attorneys for the Village

**HEARING ON PROPOSED LOCAL LAW E-2016**

The Mayor called the hearing on proposed Local Law E-2016 to order at 6:30pm. 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 E-2016, which will repeal Chapter 134, "Lighting, Exterior," and add new Chapter 134, "Lighting, Exterior" of the Code of the Village of Upper Brookville. Proposed Local Law E-2016 will establish new regulations for outdoor lighting permitted in the Village. The proposed Local Law will regulate the type of fixtures permitted, their direction and orientation, permitted wattage, the intensity level depending on zoning district and restrict the time of use. Any exterior lighting not presently complying with the provision of Proposed Local Law E-2016 shall be brought into compliance within ninety (90) days from the date of its adoption.

The Mayor called for comments in favor of, or in opposition to, the proposed Local Law. The Board proposed limiting the shut off of lighting to motion activated exterior lighting only & eliminate the restriction of operating this lighting after 11pm.

A resident proposed including the lumen equivalent when making reference to foot-candle units of illumination.

There being no further comments or questions, the hearing was closed.

## **HEARING ON PROPOSED LOCAL LAW F-2016**

The Mayor called the hearing on proposed Local Law F-2016 to order at 6:45pm. 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 F-2016, which will add new Chapter 99, "Municipal Energy Benchmarking," of the Code of the Village of Upper Brookville. The proposed Local Law will add regulations for Building Energy Benchmarking to promote the public health, safety, and welfare by making available good, actionable information on municipal building energy use to help identify opportunities to cut costs and reduce pollution in the Village of Upper Brookville.

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 4-2016**

The Board then considered the adoption of Local Law 4-2016 (Proposed E-2016) entitled "Lighting, Exterior". 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 4-2016 entitled "Lighting, Exterior" shall be classified as an "Unlisted Action" and will and will not have a significant adverse impact on the environment, because the proposed local law regulates outdoor lighting permitted in the village, and further

**RESOLVED** that Local Law 4-2016 entitled "Lighting, Exterior" 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 E-2016  
REPEAL CHAPTER 134 'LIGHTING, EXTERIOR'  
AND ADD NEW  
CHAPTER 134 "LIGHTING, EXTERIOR"**

A local law to repeal Chapter 134 entitled "Lighting, Exterior" and add new Chapter 134 entitled, "Lighting, Exterior" to 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 September 19, 2016 by Local Law 3-2016.

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

**SECTION 1.** Chapter 134 entitled, “Lighting, Exterior,” is hereby repealed in its entirety and new Chapter 134, “Lighting, Exterior,” is hereby adopted to read as follows:

**Chapter 134**  
**Lighting, Exterior**

**§134-1. Restriction on installation and operation.**

No person, firm or corporation, their agents, servants or employees, shall install, operate or maintain on private property in the village any exterior light, lamp or other artificial illumination which is not in compliance with §134-2.

**§134-2. Standards of operation.**

A. All exterior lights, lamps and other artificial illumination (“exterior lighting”) shall be arranged, placed, oriented and operated with the required wattage, reflectors, refractors and screening that will ensure:

- (1) The light beam or any part thereof will not project beyond the property line of the premises of the owner or occupant.
- (2) The light emitted will not be directed at or towards an adjoining property or residence on an adjoining property.
- (3) The light source will be oriented, hooded and shielded to the degree necessary and equipped with the minimum wattage so that glare from the light source will not be an unreasonable nuisance to the adjoining property. For purposes of this chapter, lighting glare shall constitute an unreasonable nuisance to an adjoining property if the light projected exceeds 0.2 of a foot-candle (2.152 lumens) at any point on the adjoining property in the OP1 (five acre) and the R1 (two acre) Zoning Districts.
- (4) No light shall be directed upon any surface which shall reflect the beam beyond the property line of the premises of the owner or occupant. Light overspill shall not create shadowing discernible without instruments on any residentially zoned premises.
- (5) Exterior lighting controlled by an automatic activated motion device shall turn off after 10 minutes. Exterior lighting fixtures shall be located no closer to the property line than four times the mounting height of the fixture, and shall not exceed the height of other structures on the lot.

(6) No exterior light shall be placed so as to shed light directly upon any public street so as to interfere with motorists' vision or otherwise affect safe driving conditions on any street.

B. No flashing, fluorescent or neon exterior lights shall be permitted in any Residential district. Holiday lighting, comprised of string lighting and other illuminated articles, shall be permitted only during the traditional holiday period.

**§134-3. Lighting of tennis and athletic courts.**

No tennis or other athletic court shall be illuminated by artificial lighting.

**§134-4. Existing Lights.**

Any exterior lighting presently installed on the effective date of this chapter in violation of the above standards shall be brought into compliance with the provisions hereof within nine months thereafter.

**§134-5. Waiver.**

The Zoning Board of Appeals of the village, after a public hearing, may grant a waiver from the requirements of this chapter if it is found that such waiver will not adversely impact the neighboring properties or the Village.

**§134-6. Penalties for offenses.**

Any person who violates any provision of this chapter shall be guilty of a violation, punishable by a fine of \$250 or a term of imprisonment of not more than 15 days, or both.

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

Votes in favor of adoption: Elliot S. Conway Aye  
Michael F. Schwerin Aye  
Francis J. Russo Aye

Votes against adoption: None

Not voting as not having  
been present: Antje B. Dolido  
William R. Campbell

**ADOPTION OF LOCAL LAW 5-2016**

The Board then considered the adoption of Local Law 5-2016 (proposed F-2016) entitled "Municipal Energy Benchmarking". 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 5-2016 entitled “Municipal Energy Benchmarking” shall be classified as an “Unlisted Action” and will not have a significant adverse impact on the environment, because the proposed local law implements energy conservation measures, and further

**RESOLVED** that Local Law 5-2016 entitled “Municipal Energy Benchmarking,” 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 F-2016  
ADDITION OF NEW CHAPTER 99  
“MUNICIPAL BUILDING ENERGY BENCHMARKING”**

A local law to add new Chapter 99 entitled, “Municipal Building Energy Benchmarking” to 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 September 19, 2016 by Local Law 3-2016.

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

**SECTION 1.** Chapter 99 entitled, “Municipal Building Energy Benchmarking,” is hereby adopted to read as follows:

**Chapter 99  
Municipal Building Energy Benchmarking**

**§99-1. PURPOSE**

Buildings are the single largest user of energy in the State of New York. The poorest performing buildings typically use several times the energy of the highest performing buildings for the exact same building use. As such, this Chapter’s regulations will use Building Energy Benchmarking to promote the public health, safety, and welfare by making available good, actionable information on municipal building energy use to help identify opportunities to cut costs and reduce pollution in the Village of Upper Brookville.

Collecting, reporting, and sharing Building Energy Benchmarking data on a regular basis allows municipal officials and the public to understand the energy performance of municipal buildings relative to similar buildings nationwide. Equipped with this information, the Village of Upper Brookville is able to make smarter, more cost-effective

operational and capital investment decisions, reward efficiency, and drive widespread, continuous improvement.

## **§99-2. DEFINITIONS**

(1) “Benchmarking Information” shall mean information generated by Portfolio Manager, as herein defined including descriptive information about the physical building and its operational characteristics.

(2) “Building Energy Benchmarking” shall mean the process of measuring a building’s Energy use, tracking that use over time, and comparing performance to similar buildings.

(3) “Mayor” shall mean the head of the Department.

(4) “Covered Municipal Building” shall mean a building or facility that is owned or occupied by the Village of Upper Brookville that is 1,000 square feet or larger in size.

(5) “Department” shall mean Clerk/Treasurer’s office.

(6) “Energy” shall mean electricity, natural gas, steam, hot or chilled water, fuel oil, or other product for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities, as reflected in Utility bills or other documentation of actual Energy use.

(7) “Energy Performance Score” shall mean the numeric rating generated by Portfolio Manager that compares the Energy usage of the building to that of similar buildings.

(8) “Energy Use Intensity (EUI)” shall mean the kBtUs (1,000 British Thermal Units) used per square foot of gross floor area.

(9) “Gross Floor Area” shall mean the total number of enclosed square feet measured between the exterior surfaces of the fixed walls within any structure used or intended for supporting or sheltering any use or occupancy.

(10) “Portfolio Manager” shall mean ENERGY STAR Portfolio Manager, the internet-based tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative Energy performance of buildings nationwide, or successor.

(11) “Utility” shall mean an entity that distributes and sells Energy to Covered Municipal Buildings.

(12) “Weather Normalized Site EUI” shall mean the amount of Energy that would have been used by a property under 30-year average temperatures, accounting for the difference between average temperatures and yearly fluctuations.

### **§99-3. APPLICABILITY**

(1) This Local Law is applicable to all Covered Municipal Buildings as defined in §99-2 of this Local Law.

(2) The Mayor may exempt a particular Covered Municipal Building from the benchmarking requirement if the Mayor determines that it has characteristics that make benchmarking impractical.

### **§99-4. BENCHMARKING REQUIRED FOR COVERED MUNICIPAL BUILDINGS**

(1) No later than December 31, 2016, and no later than May 1 every year thereafter, the Mayor or his or her designee from the Department shall enter into Portfolio Manager the total Energy consumed by each Covered Municipal Building, along with all other descriptive information required by Portfolio Manager for the previous calendar year.

(2) For new Covered Municipal Buildings that have not accumulated 12 months of Energy use data by the first applicable date following occupancy for inputting Energy use into Portfolio Manager, the Commissioner or his or her designee from the Department shall begin inputting data in the following year.

### **§99-5. DISCLOSURE AND PUBLICATION OF BENCHMARKING INFORMATION**

(1) The Department shall make available to the public on the internet Benchmarking Information for the previous calendar year:

(a) no later than December 31, 2016 and by September 1 of each year thereafter for Covered Municipal Buildings; and

(2) The Department shall make available to the public on the internet and update at least annually, the following Benchmarking Information:

(a) Summary statistics on Energy consumption for Covered Municipal Buildings derived from aggregation of Benchmarking Information; and

(b) For each Covered Municipal Building individually:

(i) The status of compliance with the requirements of this Local Law; and

(ii) The building address, primary use type, and gross floor area; and

(iii) Annual summary statistics, including site EUI, Weather Normalized Source EUI, annual GHG emissions, and an Energy Performance Score where available; and

(iv) A comparison of the annual summary statistics (as required by §99-5(2)(b)(iii) of this Local Law) across calendar years for all years since annual reporting under this Local Law has been required for said building.



## **MINUTES**

The Mayor called for approval of the minutes of the Trustees' meeting held on November 21, 2016, which on motion duly made and seconded, were unanimously approved as amended.

## **BILLS**

The bills listed on Warrant No. 007 in the total sum of \$330,962.02 dated December 19, 2016, copies which are annexed to these minutes, were, on motion duly made and seconded, ratified and approved for payment.

## **FINANCIALS**

The Treasurer's Report for the month ending November 30, 2016, was presented, examined, approved and ordered filed.

## **VILLAGE CLERK'S REPORT**

### **Film Permit**

The Village Clerk noted that a film permit request had previously been approved by the Board. Thereafter, the Board, on motion duly made and seconded, ratified their approval of a film permit at 38 Chestnut Hill Drive on December 10<sup>th</sup>, 12<sup>th</sup> & 13<sup>th</sup> 2016.

### **North Shore Land Alliance Walk in the Woods**

The Village Clerk reported that the North Shore Land Alliance (NSLA) wishes to hold their first 2017 Walk in the Woods at the Hope Goddard Iselin Preserve on Saturday, January 7<sup>th</sup> & ask permission to park cars along Laurel Woods Lane near the Preserve on Chicken Valley Road. After discussion, the Board indicated it had no objection to such an event provided the residents of Laurel Woods Lane & the police were notified.

### **SBAA Opt-Out Date**

The Clerk requested that the Board defer the exclusion date from the SBAA established at the September 19, 2016 trustee meeting following formal notification to residents of the bid results. After discussion and on motion duly made and seconded, the Board unanimously

**RESOLVED**, that the date to "Opt-Out" of the SBAA has been deferred to the date which is 60 days after the date residents are notified of the final bids, price, pick-ups schedule and terms of the garbage collection.

## **Street Lights**

The Clerk and Road Commissioner conducted an audit of the Village Street Lights and found a total of 51 lights: seven (7) 150W, forty (40) 70W and four (4) 53W LED's. In order to comply with the requirements of the Clean Energy Community Grant, the Village must replace half of the cobra-head-style street lights with energy-efficient LED technology. Additional savings would include a 25%-30% reduction in the street light bill and the elimination of the annual street light maintenance contract. The Board requested the clerk to obtain three written proposals to replace the fixture & arm. After discussion and on motion duly made and seconded, the Board unanimously

**RESOLVED**, to spend up to \$750 per light to replace half of the existing light fixtures in the Village with LED's.

## **Use Permit Fee**

The Clerk reported that she collected the first 'Use Permit' fee for film production related vehicles using the village roads and parking within the boundaries of the village at the Planting Fields Arboretum. The [\$3,000] fee is the first since its adoption at the October 17, 2016 Trustee Meeting. The Mayor proposed that the fees collected for parking at Planting Fields be used to permit residents with Village of Upper Brookville stickers, to enter Planting Fields at no charge. After discussion and on motion duly made and seconded, the Board unanimously

**RESOLVED**, to use the 'Use Permit' fees paid related to film production vehicles using the village roads and parking within the boundaries of the village at the Planting Fields Arboretum to provide Village residents displaying Village of Upper Brookville stickers on their cars access to Planting Fields Arboretum at no charge.

## **Disclaimer**

The Clerk reported that village tax information was now available on-line through the Village website. The Village Attorney recommended adding a disclaimer to the site instructing users to confirm all tax information with the Village Clerk.

## **Trustee Meeting Dates**

The Clerk would circulate alternative meeting dates with the Board for the Trustee meetings scheduled on Federal Holidays in January & February 2017.

## **MAYOR'S REPORT**

### **Proposed LL G-2016**

Proposed amendments to Chapter 197 'Vehicle, Unregistered' are deferred to January.

### **Check Signing**

The Mayor reported that Cullen & Danowski, LLP recommended lowering the threshold for dual signatures on checks, currently set at \$10,000. After discussion and on motion duly made and seconded, the Board unanimously

**RESOLVED**, to lower the check signing threshold to \$7000 for dual signatures,

### **Proposed Fireworks Fee**

The Mayor proposed introducing a fee of \$1500 to residents and organizations wishing to apply for a permit to discharge fireworks in the Village. At this time, the Board agreed not to charge for this type of activity.

## **ROAD COMMISSIONER/CODE ENFORCEMENT REPORT**

The Street Commissioner reported on the Friendly and Chapel Gate Road reconstruction projects. He conducted a final inspection with the Village Engineer & all outstanding items were completed.

He also reported that Grader Contracting completed the asphalt work on Mill River Road & Ripley Lane.

The Commissioner issued another warning to contractors working weekends on a Colonial Drive property.

He also reported that there were a number of street lights out on Northern Boulevard between Wolver Hollow Road & Cedar Swamp Road. He would work with the Clerk in obtaining the proper permits from the State for Anker to conduct work on these fixtures.

## **BUILDING DEPARTMENT REPORT**

The Clerk/Treasurer referred to the report submitted by the Building Department Clerk for November activity. Discussion of permit renewal fees has been deferred to January.

## **POLICE REPORT**

The Mayor reported that one issue remains to resolve to agree to the Joint Protection Agreement (“JPA”) among the Six Villages. Discussions continue among the Mayors and it is hoped that the matter will be resolved soon. The current agreement expires in June 2017.

## **FIRE & STORM WATER REPORT**

The Mayor reported that he met with the East Norwich Fire Company Chief and is working on resolving a number of issues related to the Fire Protection Contract. If the matters are resolved favorably, a hearing to approve the contract will be scheduled for January or February 2017.

## **ARCHITECTURAL REVIEW BOARD REPORT**

No Report

## **LEGAL REPORT**

No report.

## **EXECUTIVE SESSION**

There being no further business, the meeting was adjourned.

Signed by the Village Clerk