

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
PUBLIC HEARING (Continuation)
MAY 6, 2014

A Public Hearing was held by the Board of Trustees on Tuesday, May 6, 2014 at 7:30 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Peter Swiderski, Trustee Bruce Jennings, Trustee Marjorie Apel, Trustee Meg Walker, Trustee Nicola Armacost, Village Manager Francis A. Frobels, Village Attorney Linda Whitehead, and Village Clerk Susan Maggiotto

CITIZENS: Nine (9).

Mayor Swiderski declared the Board in session for the purpose of continuing a Public Hearing opened on Apr. 23, 2014 in accordance with the legal notice that appeared in the March 28, 2014 issue of *The Rivertowns Enterprise* to consider the advisability of adopting Proposed Local Law No. 4 of 2014 as attached amending Chapter 244 (Solid Waste) of the Code of the Village of Hastings-on-Hudson to Ban Plastic Checkout Bags and Styrofoam Containers. (Updated Language).

Mayor Swiderski: There have been two small changes to the law, and our Village Attorney will step through those changes.

Village Attorney Whitehead: They are both in Section 244-21(b). It was previously numbered subparagraphs 1, 2, and 2, so we changed one of the 2s to a 3. In 3 there was a slight change; it reads that it does not apply to "expanded polystyrene containers used to store raw meat, pork, fish, seafood or poultry sold from a butcher case or similar retail appliance." That was a clarification. It did not change anything substantively. There was some different wording. Where it said "meats" it did not specifically say pork. It said "fish;" it did not say seafood. It was a clarification to make it more clear as to what is excluded from the ban. Those were the only changes.

Mayor Swiderski: Anyone who would like to comment please approach the mic.

Jay Peltz, Food Industry Alliance of NYS: Thank you for the opportunity to continue my testimony tonight. I am the general counsel and vice president of government relations for the Alliance. I would like to thank Linda Whitehead, Village Attorney, and Jean Hamerman of the Conservation Commission for working with me with respect to the polystyrene provisions of the law and other aspects of the law.

I would like to begin by finishing my comments regarding reusable bags and completing my remarks concerning false, exaggerated and uncorroborated claims related to alleged harm

caused by plastic bags. Then I will respond to some assertions made by ban proponents on April 23. I will conclude by proposing a compromise.

Reusable Bags

"We sell reusable bags and encourage their use through signage and rebate programs. However, let us understand that reusable bags are only part of the solution when they are used properly. For example, a 2011 study released by the United Kingdom's Environment Agency found that the average supermarket shopper would have to reuse the same cotton tote from 94 to up to 1,899 times before it had less environmental impact than the disposable plastic bags needed to carry the same amount of groceries. The wide-varying amount of reuse that is required until the break-even point is reached depends on the type of environmental impact. But the median is 314 times, and it is more than 170 times for all but one of nine impact categories. For example, a shopper would need to reuse the same cotton tote some 350 times before it caused less freshwater aquatic ecotoxicity than all the plastic bags it would replace over this period."

"Why is this? This is because the environmental impacts of various types of supermarket bags are dominated by the energy and raw materials needed to manufacture them. Plastic bags are inexpensive because relatively small amounts of energy and raw materials are needed to make them. In fact, plastic grocery bags require 40 percent less energy than paper bags to manufacture, and consume less than 4 percent of the water needed to make paper bags. The attributes that make plastic bags affordable and light also make them easier on the environment than alternatives like paper bags and reusable totes. Accordingly, all interests are served: customers, employees and suppliers benefit indirectly from the lower cost of plastic bags, customers get the convenience of plastic bag use, and the environment is more sustainable."

"In addition, policymakers should be mindful that unlike plastic bags reusable bags require ongoing maintenance. It is recommended that reusable bags be washed in 140-degree soapy water to negate the possibility of cross-contamination. In addition storing reusable bags in a hot trunk should be avoided, since such storage may cause bacteria to grow 10 times faster. To the extent consumers ignore these protocols, the chance of transmission increases. For example, a study of a norovirus outbreak affecting nine members of a girls soccer team in Oregon was associated with consuming food directly from a reusable grocery bag."

The Widespread Failure to Corroborate Claims by Ban Supporters

I spoke about that last time. I would like to finish up those remarks, please.

"On April 23 I, discussed how false, exaggerated or untrue claims by ban proponents had been accepted by localities throughout the country without corroboration. Tonight, I would like to complete those remarks by noting comments by David Santillo, A Greenpeace marine biologist. Regarding alleged harm to marine wildlife, Mr. Santillo, quoted in an article in the London Times, said, quote, 'It is very unlikely that many animals are killed by plastic bags. It doesn't do the government's case any favors if you've got statements being made that aren't supported by the scientific literature that's out there. On a global basis, plastic bags are not an issue. It would be great if statements like this weren't made.' Moreover, the National Oceanic and Atmospheric Administration has stated that it is unable to find studies to support many of the statements that plastic bags cause harm to marine wildlife, and that quotes about plastic marine debris are false, unproven or exaggerated."

Response to Comments Made on April 23

Now I would like to respond to some comments that were made by ban supporters during the April 23 portion of public hearing.

"During testimony on April 23, reference was made to the bag ban enacted in the city of Rye. To our knowledge, however, there were no supermarkets in the city of Rye when its ban was enacted, and there are still no supermarkets in that locality."

"Europe, in general, and Ireland in particular were repeatedly cited as examples of successful plastic bag regulation. Ireland, however, did not ban plastic bags. According to a the New York Times, it imposed a tax that is about 30 cents per bag. (To be clear, we do not support bag taxes). The point is, however, that the proposed local law would impose a ban, not a tax, so Ireland's law is not really relevant. Moreover, Europe has been in a severe state of fiscal and economic distress for an extended period due, in large part, to regulatory overreach. So we do not think we should use the European approach as a template for regulatory policy. Similarly, California, which has led the way in terms of plastic bag regulation, is also in a state of severe fiscal distress due, in large part, to regulatory overreach. So it does not seem as though the California approach to regulation should be copied, either."

"Reference was also made to Costco and Whole Foods not providing plastic bags. For Costco, that is a not a matter of choice. Enormous club pack items simply cannot fit in a standard-sized grocery bag. Whole Foods is very different from the food retailers that dominate the overall food market. It operates a highly-segmented format that caters to a customer base that is wealthier than the market as a whole. Additionally, it is a non-union operator which provides it with a lower cost base."

Conclusion

"So where does this leave us? I would like to note two circumstances. First, A&P operates the only full-service supermarket in the Village. It is also a union store that is part of a company that emerged from bankruptcy just a little over two years ago and is still in turnaround mode. Its competitors include Stu Leonard's and ShopRite in Yonkers, Stop & Shop in Dobbs Ferry, and Decicco's in Ardsley, all of which provide free plastic bags at checkout. We respectfully request that the Board consider the impact of this cost-raising measure on the competitiveness of the Village's only full-service supermarket."

I would like to note that after the ban went into effect in the Village of Mamaroneck that A&P sales did decline significantly.

"Second, in my testimony on April 23 I described the leadership role that grocery stores have established in pursuing environmentally sustainable solutions. Included in those efforts are ongoing successful initiatives to reduce, reuse and recycle plastic bags and increase the use of reusable bags."

"Accordingly, we respectfully request that in lieu of a ban the Village establish a dialogue with FIA and A&P, as other New York localities have done, with the goal of establishing a collaborative approach focused on education, outreach and collection to accelerate these ongoing successful efforts. Please note that education and outreach by a locality after a ban is enacted is not collaboration. Rather, that would be a unit of local government assisting regulated parties in an effort to facilitate compliance with a mandate."

"As part of that collaborative effort, we would like to explore the possibility of working with a company called MY ECO on this issue. Their Web site is www.getmyecho.com. The president and found of MY ECO is Kristen Brown, former EPA consultant and daughter of the inventor of the disposable plastic bag. MY ECO is a sustainability business that uses technology to measure and influence consumer reuse behavior. The MY ECO approach helps consumers break the

disposable bag habit through positive reinforcement, social engagement and financial incentives. It creates a collaborative relationship between consumers and retailers to benefit all stakeholders: retailers, schools, local governments, consumers and the environment."

"Briefly, MY ECO sells 4-in-1 and 2-in-1 shopping bag sets. The 4-in-1 set consists of our oversized reusable shopping bags with wide comfortable handles in one convenient pouch. The company asserts that the four reusable bags hold the equivalent of 30 disposable shopping bags. MY ECO's reusable bags are easily cleaned."

"The company usually sells the bags through local schools, so each sale is part fund-raiser for those schools. The bag-selling effort also provides an opportunity for schools to educate children and parents about sustainability. Reusable bag usage is recorded at the point of sale by participating retailers, which also usually make a donation to the schools based on usage so that the program is an ongoing fund-raiser for those schools. The reuse data can be monitored to assess reuse rates and to estimate the reduction in plastic bag use. The reuse of any bag can be tracked, whether it is a MY ECO reusable bag, or not."

"In light of the foregoing, we respectfully request that the plastic bag ban provisions of proposed local law number four be stricken, and that this public hearing be kept open while the Village Board considers FIA's request on behalf of itself and A&P to establish a collaborative effort as outlined in my testimony."

Thank you very much for your time and for your attention to the Food Industry Alliance's concerns.

Tim Downey, 520 Farragut Parkway: I have not followed this dialogue much. I have not looked at the archives or attended recent meetings. But as a resident of the Village who works in the Village, I have never had to chase down a reusable bag or a paper bag in the street. But daily and weekly, I chase these bags down the road. People do not have the discipline. I have a problem within my own family, where I cannot keep certain stuff out of the garbage. They do not have the maturity and discipline to separate at all times. So if people do not have the maturity and the self-discipline, then you have to treat them like children and just take it away. We can talk all we want about cotton cloth bags versus plastic. Let us look at the true, entire scientific data set. Let us talk about reusable plastic bags, let us talk about different fabrics other than this cotton one that was cited tonight. I always look at the total cost of what goes into anything. It is not just the plastic bag here. What about the mining that goes on for the cotton and the bleach, and the mills and so forth.

But at the end of the day, there needs to be behavior change. This material is forever in the landscape, right here in the Village. I am not going to worry about the oceans in my dialogue because I have never gone out in the ocean in a ship to do the research. So I am not going to pretend to echo those points. The fact of the matter is, I see this stuff trapped in bushes all the time, flying down the street, and it does not belong. It is time we grow up and go back to a method that ensures that this does not continue to be the condition of our environment around here.

Mayor Swiderski: Thank you. Any other comments from the public?

Should we close the public hearing, or are we interested in hearing any more from the public, via e-mail or otherwise?

Trustee Jennings: Just because a public hearing is closed does not mean that we cannot receive communications.

Mayor Swiderski: Are the communications part of the record if they are received after the close of the hearing?

Village Attorney Whitehead: If you want to consider them, you can consider them.

Trustee Apel: That is fine.

Mayor Swiderski: Then we close, and continue to receive them.

Village Attorney Whitehead: You can also close it and leave open a written comment period, for seven days or whatever. So you can close this part of the hearing, that you are no longer going to take testimony but you will accept written comments for seven days.

Mayor Swiderski: I am comfortable with that.

Trustee Apel: That sounds fine.

ADJOURNMENT

On MOTION of Trustee Jennings, SECONDED by Trustee Armacost with a voice vote of all in favor, Mayor Swiderski closed the Public Hearing at 7:50 p.m., keeping open a written comment period for seven days.