

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**BOARD OF TRUSTEES**  
**PUBLIC HEARING**  
**JUNE 2, 2015**

A Public Hearing was held by the Board of Trustees on Tuesday, June 2, 2015 at 7:35 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Mayor Peter Swiderski, Trustee Marjorie Apel, Trustee Meg Walker, Trustee Nicola Armacost, Trustee Daniel Lemons, Village Manager Francis A. Frobel, Village Attorney Linda Whitehead, and Village Clerk Susan Maggiotto

**CITIZENS:** Ten (10).

Mayor Swiderski declared the Board in session for the purpose of conducting a Public Hearing in accordance with the legal notice that appeared in the May 29, 2015 issue of *The Rivertowns Enterprise* to consider the advisability of adopting Proposed Local Law B of 2015 amending Article VII of Chapter 252 of the Code of the Village of Hastings-on-Hudson, Westchester County, New York with respect to requirements for street openings.

Be it enacted by the Board of Trustees of the Village of Hastings-on-Hudson as follows:

**SECTION 1.** Section 252-41 of the Code of the Village of Hastings-on-Hudson is hereby amended to add new subsections K and L as follows:

K. If any restoration completed by a permittee is not satisfactory to the Superintendent, and the permittee shall fail to correct the work to the satisfaction of the Superintendent, the Superintendent may cause such work to be done to his satisfaction. All expenses incurred by the Village shall be recovered from the deposit or bond provided by the permittee under this Article.

L. If any excavation for which a permit has been issued hereunder exceeds 25 feet in length, the permittee shall be responsible for resurfacing the street from curb to curb over the entire area in a manner and with materials approved by the Superintendent. Where no curb exists, the resurfacing shall extend to the existing pavement limits.

**SECTION 2.** Section 252 of the Code of the Village of Hastings-on-Hudson is hereby amended to add new section 252-49.1 as follows:

**§252-49.1 Traffic Control for Excavations.**

A. A Village police officer to direct traffic around the excavation shall be provided

by any permittee when any excavation hereunder shall be likely to impede traffic. The Chief of Police shall determine whether the excavation will impede the flow of traffic or constitute a safety hazard so as to require a police officer.

B. The cost of said police officer shall be paid by the permittee.

### **SECTION 3. SEVERABILITY**

If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

### **SECTION 4. EFFECTIVE DATE**

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

**Mayor Swiderski:** We are addressing the problem of Con Ed or another utility opening up the street and then not adequately fixing it. There is other language about these two changes, superseding other language, et cetera as well as an effective date that takes place when this is filed with the New York State secretary of state. These are the two changes we are looking to add to the law to allow changes that excavations be handled more gracefully.

Does anyone want to speak to these changes, as part of this public hearing?

**Tim Downey, 520 Farragut Parkway:** I mentioned in the past, and I do not hear it specifically stated. You were talking about both the paved surface areas and policing. But I address a concern of off-road areas being damaged; namely, as I pointed out, on the top of Mt. Hope. And recently last year, the park at the bottom of Villard, where Persico had staged equipment, scuffed the area up, and we have yet to see even a bag of seed there. Eventually, nature will heal it with weeds. But that is a damage to Village property, or it could be a homeowner's property. So I think not only the road, but where they would stage or store materials in the course of doing their work.

**Patrick Randolph Bell:** I think it is a great law. I am surprised that previous boards have never done this before. Warburton is a county road, so would they have to fix Warburton, or

because this is not a county law they do not have to fix Warburton now. They have dug up for the gas lines. Would they have to re-pave Warburton from curb to curb like they would Spring, which looks like zebra stripes now?

**Village Manager Frobel:** No, when they do work on state or county roads they have their own standards. Under this law, they would have to pave Spring curb to curb.

**Mr. Bell:** That's a great start. Maybe you could bring this up with the county and see if they could pass that also, maybe with the village officials committee. Put some pressure on the county to try to do this throughout all six towns or whatever it is on the committee. Mr. Downey made a great point. I remember when I was a very young child my grandfather said, when Con Ed came into our street and were digging up the pipeline, whatever the line was on our street, they put one of the little arms down and crushed our sidewalk that leads in. So they had to pay to fix that. Actually, for years it was just still crushed and we finally got it fixed. For the homeowners and for other off-site right off the street, instead of just curb to curb, say if you incur any other damage on Village property maybe you can amend this further on in the future. Or to a homeowner's property who is a Hastings-on-Hudson resident you also have to pay them to fix whatever that property may be.

If they are using our police officers to direct traffic, and the police officer mistakenly directs traffic and there is a car accident, who is to blame for that? Is it the Village, or do they become contractors of Con Ed? Who is the one responsible for a mistake made by someone that Con Ed is forced to hire? Is it going to be us or is it going to be Con Ed? I do not know the answer. Maybe Ms. Whitehead knows. Maybe that is something we should be concerned about. It was something we were very concerned about previously when we had the movie people hiring the police officers. Who is going to get charged, who is going to get sued? Is it going to be us or is it going to be one of these other outside companies?

**Mayor Swiderski:** No, the issue here is that the police presence is required anyway so we are liable out of the gate. It is, in this case, a question that we are going to be compensated for the use of the police that previously was uncompensated. So this is not a new use of the police. It is simply a demand for reimbursement of police.

**Village Manager Frobel:** They have already reimbursed the police, but in this case the Village is responsible for the police officer. They are our employees. Con Ed has hired the Village employees to offer traffic control services. So I am comfortable in saying they are insured under our policy.

**Mr. Bell:** I think police officers, and even all you, if you are acting within your duties you are insured and also almost immune to some suits from other people because you are acting

within your duties. I wonder that if they are acting outside their duties as Village police officers, even though they kind of are but kind of not, could they reimburse you for any other suit. They may be able to pierce that veil of the Village and say they were not acting as official Village employees at that time, they were acting as our employees to direct traffic or whatever they might be doing at the time. Otherwise, I think it is a great thing and I am surprised no other board has r thought of this before. I commend you all.

Hearing no other comments, Mayor Swiderski asked for a motion to close the Public Hearing.

**CLOSE OF PUBLIC HEARING**

On MOTION of Trustee Armacost, SECONDED by Trustee Apel with a voice vote of all in favor, Mayor Swiderski closed the Public Hearing at 7:45 p.m.