

MINUTES OF A PUBLIC HEARING OF THE BOARD OF TRUSTEES OF THE VILLAGE OF MAMARONECK HELD ON MONDAY, MARCH 23, 2009 AT 7:30 P.M. IN THE COURTROOM AT VILLAGE HALL, MAMARONECK, NEW YORK

PRESENT:	Mayor	Kathleen Savolt
	Trustees	Thomas A. Murphy Toni Pergola Ryan John M. Hofstetter Randi Robinowitz
	Acting Village Manager	Robert A. Yamuder
	Village Attorney	Janet Insardi
	Police Department	Edward Flynn
	Clerk-Treasurer	Agostino A. Fusco
ABSENT:		None

PLEASE TAKE NOTICE that a public hearing, subject to a MANDATORY REFERENDUM, will be held by the Board of Trustees of the Village of Mamaroneck on the 23<sup>rd</sup> day of March, 2009, at 7:00 p.m., or as soon thereafter as all parties can be heard, at the municipal building located at 169 Mount Pleasant Avenue, Mamaroneck, New York, to consider PROPOSED LOCAL LAW NO. 6-2009, a local law amending Chapter 60 (Police Department) of the Village of Mamaroneck by adding a new Article III entitled "Administration" which will transfer the hearing of disciplinary matters from the Board of Police Commissioners to a hearing officer.

PLEASE TAKE FURTHER NOTICE that a copy of Proposed Local Law No. 6-2009 is on file with the Clerk-Treasurer of the Village of Mamaroneck.

PLEASE TAKE FURTHER NOTICE that at said public hearing, all persons interested will be given an opportunity to be heard.

BY ORDER OF THE BOARD OF TRUSTEES OF  
THE VILLAGE OF MAMARONECK, NEW YORK

Agostino A. Fusco  
Clerk-Treasurer

Dated: March 16, 2009

On motion of Trustee Murphy, seconded by Trustee Ryan:

RESOLVED that the Public Hearing on Proposed Local Law 6-2009 be and is hereby opened.

Ayes:	Robinowitz, Hofstetter, Ryan, Murphy, Savolt
Nays:	None

Trustee Murphy gave background on this proposed law. In the past, the Board of Trustees, sitting as the Board of Police Commissioners would hear Police Department disciplinary matters. The scheduling of these hearings is difficult as the majority of Board members have full time jobs and others work part time. Trustee Murphy also stated that as no member of the Board is an attorney, they may not be the best individuals to be hearing these cases. It also essentially freezes local government as the Board is tied up at these hearings. Also, as police officers are suspended without pay during the hearing, this may go on longer as the officer waits for five individuals to free their schedules.

This law proposes that charges shall be heard by a hearing officer appointed by the Board of Police Commissions and upon receipt of the report and recommendation by the hearing officer, the Board of Police Commissioners shall review said report and any written submission by the parties and make a determination with respect to such charges. This proposed local law is also subject to a mandatory referendum to be voted on in November. If it passes in November, it will then become law.

Mr. Norman Rosenblum of Carroll Avenue appeared. Mr. Rosenblum believes that the Board would be abdicating their duties by having one individual hear the cases and, would in effect, be creating a police czar. Mr. Rosenblum would be in favor of a panel of three individuals, consisting of a chief hearing officer and two additional hearing officers and that the chief hearing officer be a member of the New York State Bar Association. Mr. Rosenblum also believes that the hearing and/or trial should adopt the rules and regulations in effect in any New York State court of law and that the Board of Trustees should have the final say in the case.

Trustee Murphy thanked Mr. Rosenblum for offering his opinion. His concern in having a three person panel is that it would be expensive for the Village, especially if these individuals are all lawyers.

Trustee Ryan stated that the person chosen would be an expert in this field and that is what appeals to her as those who serve on the Board generally are not experts. She is concerned that scheduling three people might again be difficult. She also believes that the Board is not abdicating their duty, but is making the process better for the officer.

Trustee Hofstetter agrees that the hearing should be as expeditious as possible and the best way to achieve this is to have one hearing officer.

Mayor Savolt reminded all that at many hearings and trials a judge is the only individual making the decision, where people's freedom is being decided; therefore proving that one individual can and does make a decision in a court of law.

Trustee Robinowitz agrees that it is the right thing to do to help streamline our government in addition to the other reasons mentioned and that residents will have the opportunity to vote on it in November.

Irving Scharf of Richbell Road appeared. Mr. Scharf believes that this law should have a sunset provision included.

On motion of Trustee Hofstetter, seconded by Trustee Murphy:

RESOLVED that the Public Hearing on Proposed Local Law 6-2009 be and is hereby closed.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

On motion of Trustee Murphy, seconded by Trustee Ryan:

RESOLVED that Proposed Local Law 6-2009 be and is hereby adopted after approval by the qualified voters of the Village of Mamaroneck and shall read as follows:

#### LOCAL LAW NO. 6-2009

A Local Law, subject to a mandatory referendum, to amend Chapter 60 (Police Department) of the Village of Mamaroneck by adding a new Article III entitled "Administration"

Be enacted by the Board of Trustees of the Village of Mamaroneck as follows:

SECTION 1. A new Article III entitled "Administration", is hereby added to Chapter 60 (Police Department) of the Code of the Village of Mamaroneck, which shall read as follows:

#### ARTICLE III Administration

§60-8 Purpose.

The purpose of this article shall be to provide for a more efficient administration of the Village's Police Department by transferring the hearing of disciplinary proceedings to a hearing officer.

§60-9 Board of Police Commissioners powers and duties.

In accordance with the §5711-q of the Unconsolidated Laws, the Board of Trustees is authorized to adopt rules and regulations for the hearing and determination of charges against members of the Village Police Department.

§60-10 Conduct of disciplinary hearings.

Except as to the discipline of the Chief of Police, all formal departmental charges shall be brought by the Chief of Police, subject to the requirements of applicable law. All such charges shall be heard by a hearing officer appointed by the Board of Police Commissioners, and the hearing officer shall make a report and recommendation to the Board of Police Commissioners. In the case of discipline of the Chief of Police, such charges shall be brought by the Board of Police Commissioners and shall be heard by a hearing officer appointed by the Board of Police Commissioners. Upon receipt of the report and

recommendation by the hearing officer, the Board of Police Commissioners shall review said report and any written submission by the parties and make a determination with respect to any such charges.

§60-11 Inconsistencies with State law.

It is the purpose and intent of this article to supersede §5711-q of the Unconsolidated Laws, as amended, to transfer the responsibility for hearing disciplinary matters from the Board of Police Commissioners to a hearing officer. The Board of Trustees, pursuant to the Municipal Home Rule Law, may supersede a special act of the legislature, and to the extent that this Article is inconsistent with the §5711-q of the Unconsolidated Law as amended, §5711-q is superseded.

§60-11 Applicability of other laws.

In all other respects, the Village of Mamaroneck Police Department shall be governed by applicable law.

SECTION 2. 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 3. This Proposed Local Law is subject to and shall be submitted for approval of the qualified voters of the Village of Mamaroneck at the General Election to be held on November 3, 2009. A proposition in the following form shall be included in the ballot at such General Election and the law shall take effect only if the proposition is approved by the majority vote of the qualified voters voting thereon. (Shall Proposed Local Law No. 6-2009 which transfers the hearing of police disciplinary hearings from the Board of Police Commissioners to a hearing officer be approved).

SECTION 4. This Local Law shall become effective immediately upon filing in the office of the Secretary of State after approval by the qualified voters of the Village of Mamaroneck.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt  
Nays: None

RESPECTFULLY SUBMITTED BY:

AGOSTINO A. FUSCO, CLERK-TREASURER