

PUBLIC HEARING PLL6-2008 p. 1

MINUTES OF A PUBLIC HEARING OF THE BOARD OF TRUSTEES OF THE VILLAGE OF MAMARONECK HELD ON MONDAY, JULY 28, 2008 AT 7:30 P.M. IN THE COURTROOM AT VILLAGE HALL, MAMARONECK, NEW YORK

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

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that a public hearing will be held by the Board of Trustees of the Village of Mamaroneck on the 28th day of July, 2008 at 7:30 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. 6-2008, a local law amending Section 254-3 (Specific Prohibitions) and Section 254-8 (Penalties for Offenses) of Chapter 254 (Noise) of the Code of the Village of Mamaroneck, by regulating operation of leaf blowers and increasing the penalties for violations of the Chapter.

PLEASE TAKE FURTHER NOTICE that a copy of Proposed Local Law No. 6-2008 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: July 18, 2008

Village Attorney Insardi gave an overview of the Proposed Local Law and the rationale behind the law; which are the reduction of noise and improvement of air quality. She stated that the air quality in Westchester County is rated F and that the health implications of this law will be addressed.

Trustee Ryan, as liaison to the Committee for the Environment stated that she has witnessed the Committee gather information, research information, contact other communities, and do all the work necessary to bring new evidence on the health detriment of leaf blowers to the public, which facilitated the proposed changes in this law.

The following members of the Committee for the Environment addressed the Board:

Chair of the Committee, Alice Pernick of Woodbine Avenue. Ms. Pernick read a statement in support of the ban of leaf blowers during the summer months. She thanked fellow Committee members for their research and hard work in getting this Proposed Local Law to the Board. She spoke about the poor air quality in our area and the rising incidence of childhood asthma. She also informed the Board that the Committee has met with landscapers and gardeners to listen to their concerns regarding this law. She stated that although the Committee would have liked to ban the use of blowers during all seasons except fall, they realized that this would not be feasible, therefore they have recommended the ban during the summer months when emissions from these machines as well as the particulate matter that they cause to collect and stay in the air is the worst during this time. Ms. Pernick informed the Board that other neighboring communities have enacted a seasonal ban on leaf blowers; they are Larchmont, Town of Mamaroneck, New Rochelle, White Plains, Pelham Village, Pelham Manor, Scarsdale, Rye, Yonkers and Hastings.

Ms. Anne Marie Terrone, former Chair, of Warren Avenue spoke in support of the law. She brought with her letters and articles she received and collected regarding the health benefits of passing this law. Ms. Terrone read a list of letters received in support of this law, which will be given to the Board. She then quoted parts of these letters regarding the increase in childhood asthma which state a direct correlation between air quality and pollution and asthma. Ms. Terrone asked what the Village's policy will be in complying with this law. Village Manager Verrastro stated that the Village operations will comply with the new law except after a storm emergency or a major event (i.e. Harbor Street Fair) cleanup. Ms. Terrone thanked him for having our Village be a role model to other communities.

Ms. Sarah Evans of Walton Avenue spoke in support of the law. Ms. Evans talked about the emissions and pollution caused by the use of leaf blowers and the lack of regulations on these and other small machines.

Kathryn Hearst of Constable Drive and Mary Landrigan of Stuart Avenue, both with the Committee for the Environment also spoke in support of the law.

Yonkers City Councilman John Murtagh spoke in support of the restriction. Yonkers enacted a seasonal leaf blower ban two years ago and he has only had two complaints regarding it, but overwhelming support. He also stated that enforcement has not been an issue. He guaranteed that this law will be a success, will lead to the awareness of other environmental issues and that the phones of the Village office will not ring with complaints.

Mr. Norman Rosenblum of Carroll Avenue asked if there is the ability for the Village to enforce this law on utilities, school and county and state departments of transportation. Village Attorney Insardi informed Mr. Rosenblum that there are no exceptions stated in the legislation and that all entities will be required to comply.

Mr. Bert Siegel of Greacen Point Road spoke in opposition to the law. He believes there are many other sources of noxious fumes in the Village that can be addressed and that leaf blowers are a small contributor. He also believes there will be a 20% increase in what gardeners charge their customers with the enforcement of this law.

Dr. Philip Landrigan, of Stuart Avenue appeared in support of the law. Dr. Landrigan is also a Pediatrician and Professor of Pediatrics at the Mount Sinai School of Medicine and Director of the Mount Sinai Children's Environmental Health Center. Dr. Landrigan spoke about the links between air pollution and asthma and the effect leaf blowers have on asthma. Dr. Landrigan sent a letter to the Board dated July 11, 2008 which has been filed for the record.

Mr. Mark Solomon, Past President of the New York State Turf and Landscapers Association, resident of Bedford Hills spoke in opposition of the law. He stated that most leaf blower laws have come from the California Report published in 1999. Since then, the Federal government has begun regulating leaf blowers. He also takes issue with the reported plant and grass damage done by leaf blowers and claims there have been no studies on this done. Mr. Solomon feels that taking this and other equipment away from workers could cause health issues.

Dr. Sheila Palevsky, President of NY Chapter 3 of the American Academy of Pediatrics, resident of New York City appeared in support of the law. She appeared representing approximately 2000 Pediatricians in the New York area. She too discussed the airborne particulates and the resultant air pollution from leaf blowers and the damage that can be done by the noise of these machines to both children and the operators. Dr. Palevsky sent a letter in support of this law to the Board, dated July 18, which has been filed for the record.

Mr. John Farrell of North Barry Avenue appeared in opposition to the law. He would like them regulated and not banned.

Ms. Catherine Wachs of Larchmont appeared in support of the law. She spoke about how the ban has worked for the past 8 years in Larchmont. She stated that enforcement is problematic. She has seen landscapers and residents use leaf blowers when they do not see police officers around. She urged all residents to become advocates for environmentally safer blowers.

Ms. Anne Gaillard, landscaper from Pelham appeared in support of the law. She stated that the ban is working nicely in Pelham. Ms. Gaillard spoke about the damage done to grass, plants and soil by leaf blowers.

Mr. Joseph Tardio of Fifth Street appeared in opposition of the law. Mr. Tardio is a local landscaper. He uses a vacuum system to clean yards. He also does driveway and road resurfacing, which is a seasonable business and cannot be done in October. This requires blowers to clean and dry the surfaces being coated. This law will severely hurt his ability to do this work and will therefore be a detriment to his business. The Mayor of the City of Rye has given him an exception to run blowers for his driveway resurfacing work.

Mr. Ron Trucchio of Sunset Road appeared in support of the law; however has issue with the hours of operation of leaf blowers as they conflict with family life. Mayor Savolt informed Mr. Trucchio that the hours of operation are in the current law and this has not been changed. Mr. Trucchio

understands this, but asked that as the law is being changed, perhaps this is the time make the change to the operation hours.

Mr. Carlo Recca of Melbourne Avenue appeared in support of the law, as blowers should not be used to blow debris from hard surfaces. He suggested the Board look at all machines that emit harmful gases.

Ms. Lordonna Galinelli, resident of Port Chester appeared in opposition of the law. Ms. Galinelli's family owns four homes in Mamaroneck. She is office manager of a landscape group and informed the Board of the potential for injury of workers by the competitive motion needed to be done if blowers cannot be used. She also did a study on how much longer it would take the landscapers to complete the work needed to be done if blowers could not be used. Ms. Galinelli suggested that instead of a seasonal ban, the Village work with the industry in the regulation of leaf blowers.

Mr. Glen Tippet on Hill Street appeared. Mr. Tippet believes the environmental impact would be zero for the amount of emissions that are put out by leaf blowers. He believes that noise is the issue and that the decibel level should be regulated.

Mr. Larry Wilson appeared on behalf of the NY State Turf and Landscapers Association. Mr. Wilson is a resident of Yonkers. He gave a history of the Association. He believes this law is due to politics. He suggests legislating a one back pack blower per property law, not a seasonal ban. He also believes it is a waste of police resources.

Mr. Mark Dascall of N. Barry Avenue appeared. He asked the Board to look at this with common sense and not pass this law just because it is politically correct.

Mr. Bob Katz of Fairway Avenue appeared. He uses an electric blower to clean his porch and this law will be a hardship for him.

Ms. Susan LaSalle of Oakhurst Road appeared in support of the law.

Ms. Sally Roberts, Deputy Clerk read a letter from Ms. Rena Hart in support of the law into the record.

Ms. Insardi stated that a letter was received from the Mr. Michael Seilback, Vice President of Public Policy & Communications for the American Lung Association in support of the law. This letter was filed for the record. It was also recorded that a letter in support from resident, Stuart Tiekert was received by the Clerk-Treasurer's office.

On motion of Trustee Ryan, seconded by Trustee Hofstetter:

RESOLVED that the Public Hearing on Proposed Local Law 6-2008 be and is hereby closed.

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

Trustee Ryan thanked all residents and professionals who appeared this evening. Trustee Ryan believes that the Committee for the Environment has done their homework on this proposed local law and she feels comfortable that this law does not deny the use of leaf blowers for the intended use: blowing leaves in the fall. The proposed law is stating that using blowers for other uses during the summer months contributes to respiratory diseases and she feels it is her responsibility to pass this law to protect the residents of the Village.

Trustee Hofstetter stated that when this originally rose, he was indifferent to it, as he did not know all of the facts. Upon reading the information given to him, he realized that blowers did not need to be used during the summer months for purposes other than blowing leaves. He believes that the amount charged to him by his gardeners will probably go up with this law, but he is okay with that realizing the health issues and believes it is in the best interest of the community.

Trustee Murphy thanked all for presenting their opinions in a respectful way. He remembers a time when leaves and garbage was burned. No one thought anything of this until it was banned and people realized that the air was cleaner. Mr. Murphy's family is genetically predisposed to asthma and his mother died of an asthma attack in their home. He believes that blowers do contribute to asthma and it is his responsibility to help protect the welfare of the residents.

Trustee Robinowitz also thanked all for conducting themselves with respect for each other. She believes this is the right thing to do for the time period in which the ban is proposed.

Mayor Savolt stated that she is trying to make changes in the Village and one change is to make the Village more green and environmentally friendly. She has done what she could at her home by removing her grass. She thanked everyone who worked so hard on this issue and who came to the meeting tonight to speak their piece. She is not going to vote to approve this law because it is politically correct, she is going to vote because she is sure it is the right thing to do for the residents of the Village.

On motion of Trustee Murphy, seconded by Trustee Ryan:

RESOLVED that Proposed Local Law 6-2008 be and is enacted as Local Law 6-2008 and shall read as follows:

LOCAL LAW NO. 6-2008

A Local Law amending Section 254-3 (Specific prohibitions) and Section 254-8 (Penalties for Offenses) of Chapter 254 (Noise) of the Code of the Village of Mamaroneck.

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

SECTION 1. Section 254-3R of Chapter 254 of the Code of the Village of Mamaroneck is hereby amended in part to read as follows:

- R. Leaf blowers: the operation of leaf blowers is prohibited between May 15 and September 30. From October 1 through May 14, when the use of leaf blowers is permitted, use of leaf blowers is permitted only between the hours of 8:00 a.m. to 6:00 p.m. on weekdays and between the hours of 10:00 a.m. and 4:00 p.m. on Saturday. No such activity shall be permitted on Sunday or on any of the following holidays: New Year's Day, Martin Luther King's Birthday, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Yom Kippur, Rosh Hashanah, Thanksgiving and Christmas. No more than one leaf blower may be operated at any time on property with an area of five thousand square feet or less. No more than three leaf blowers shall be operated at any time on any property. From May 15 to September 30 after significant storm events or during other emergency circumstances, the supervisor of the Mamaroneck Department of Public Works will determine whether the use of leaf blowers shall be permitted; in that case, the period of time for such use shall not exceed seven days.

SECTION 2. Section 254-8 of Chapter 254 of the Code of the Village of Mamaroneck is amended in part to read as follows:

§ 254-8 Penalties for offenses.

Any person violating any of the provisions of this chapter shall be deemed guilty of a violation and, upon conviction for a first offense thereof, shall be punishable by a fine in an amount not exceeding two hundred fifty dollars (\$250), for the second offense within one year, by a fine not to exceed five hundred dollars (\$500), and for any subsequent offense within one year from the date of the first offense, by a fine not exceeding one thousand dollars (\$1000). Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

SECTION 3. 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. This Local Law shall become effective on May 1, 2009.

BY ORDER OF THE BOARD OF TRUSTEES OF
THE VILLAGE OF MAMARONECK

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

RESPECTFULLY SUBMITTED BY:

AGOSTINO A. FUSCO, CLERK-TREASURER