

A Regular Meeting of the Board of Trustees of the Village of Port Washington North was held on Tuesday, **December 13, 2022** at 7:30 p.m. at the Village Hall, 3 Pleasant Avenue, Port Washington, New York

Present:	Mayor	-	Robert Weitzner
	Trustees	-	Matthew Kepke
		-	Michael Malatino
		-	Andrea Scheff
	Clerk	-	Palma Torrisi
	Attorney	-	Stuart Besen
	Court Reporter	-	Melinda Leon

Excused: Trustee Cohen

1. Public Hearings

A. Fire & Emergency Medical Service 2023 Contract

Mayor Weitzner opened the Public Hearing, advertised in the November 25, 2022 *Port Washington Times*, to consider the Fire Protection & Emergency Medical Services 2023 contract with the Port Washington Fire Department Inc. at a cost of \$345,993.00. A stenographic transcript of the hearing is on file with the Village Clerk. All those present wishing to speak having been heard, on motion of Trustee Kepke, seconded by Trustee Scheff, it was unanimously RESOLVED that the public hearing be closed. Whereupon the Mayor closed the public hearing.

B. Bill 2 of 2022 - Amending Village Code Chapter 143 – Excavation, Paving & Repaving of Village Roads and Protecting Village Streets & Roadways

Mayor Weitzner opened the Public Hearing, duly advertised in the November 25, 2022 *Port Washington Times*, with respect to amending Chapter 143 of the Port Washington North Village Code Streets and Sidewalks with respect to modifying, adding and amending said Sections regarding the excavation, paving and re-paving of roads located in the Village of Port Washington North; and with respect to amending Chapter 143 of the Port Washington North Village Code Streets and Sidewalks with respect to protecting streets and roadways from excavation and openings for a period of three years, except for emergency or limited circumstances, once a streets or roadway in the Village of Port Washington North has been paved or re-paved by the Village of Port Washington North. All those present wishing to speak having been heard, the Mayor closed the public hearing. A stenographic transcript of the hearing was made and is on file with the Village Clerk. On motion of Trustee Malatino, seconded by Trustee Kepke, it was unanimously RESOLVED that Bill 2 of 2022 be adopted as Local Law No. 1 of 2023 to read as follows:

Local Law No. 1 of 2023

Chapter 143

STREETS AND SIDEWALKS

Definitions and Word Usage

(BOLD WORDS ARE THE PROPOSED CHANGES TO THE CODE EXCEPT FOR TITLES)

§ 143-1. Permit required for street and sidewalk excavations

No person, firm, or corporation, public service water, light or power company shall excavate in any street, highway or sidewalk in the Village for any purpose without first obtaining a permit from the Village Clerk as hereinafter provided.

§ 143-2 Application for permit; security deposit; insurance requirements; bond. [Amended 12-4-1978 by L.L. No. 6-1978; 11-3-1980 by L.L. No. 5-1980]

A. Upon application, in writing, filed with the Village Clerk, stating the purpose, extent and location and nature of a proposed excavation or other disturbance of a street or highway in the Village, the Village Clerk may grant or refuse a permit therefor. Except where such excavation or disturbance shall be directly authorized by law, the Village Clerk shall require the applicant to deposit with the Village Clerk a sum of money which shall be deemed by him to be adequate to pay all of the expenses to which the Village will be put to replace the street, highway or sidewalk, pavement, curb or gutter in proper condition. Every application for a permit hereunder shall be accompanied by certificates of insurance, in a form approved by the Village Clerk and issued by an insurance company authorized to do business within the state, evidencing the existence of the following insurance coverage:

(1) Comprehensive general liability insurance including the Incorporated Village of Port Washington North as an additional insured.

(a) Said insurance shall provide minimum limits of \$500,000 personal injury per occurrence and \$100,000 property damage per occurrence, or a combined single limit of \$500,000. The policy shall also include coverage for completed operations and broad-form property damage.

(b) In addition, the policy shall contain a provision that any aggregate limit contained in the policy shall not apply to the additional insured Incorporated Village of Port Washington North, or, in lieu thereof, a separate owner's protective policy shall be issued or endorsed to the existing policy with the Incorporated Village of Port Washington North as the named insured.

(2) Workers' Compensation insurance.

(3) New York State Disability Benefits insurance.

B. All evidence of insurance shall provide a thirty-day notice of cancellation or change of coverage to be furnished to the Incorporated Village of Port Washington North.

- C. In the event that any applicant is a self-insurer, information regarding his insurance program should be submitted to the Village. The applicant will be advised of the requirements of the Village as determined by the Board of Trustees.

§ 143-3. There shall be no permit issued for and no excavation of any street, highway, or roadway that has been resurfaced, reconstructed, or paved by the Village of Port Washington North in the last five years from the date it was completed. The five-year period begins retroactively from July 21, 2021. The purpose of placing a street, highway or roadway in protected status is to maintain the integrity of the new surface. A list of protected streets, highways and roadways shall be maintained by the Village Clerk and shall be updated semi-annually. Notwithstanding this provision, the Superintendent of Buildings with consultation with the Mayor, may issue a permit to open a street, highway or roadway within the five-year period upon a finding of necessity therefor.

§ 143-4. Notice to public utilities.

No work shall be commenced under any permit granted pursuant to this article unless or until such notice as shall be directed by the Village Clerk shall have been given to public service corporations having lines, mains or other property in the streets for the protection of their property.

§143-5. Protective barriers and lighting required.

All excavations in streets or sidewalks shall be surrounded by suitable barriers or guards for the protection of persons using the streets in the daytime and, in addition thereto, by lights or flares from twilight continuously until daylight. Such barriers and lights shall conform in kind and numbers to the requirements of the Village Clerk. Failure to provide barriers and lights conforming to the requirements of the Village Clerk shall be prima facie evidence of a failure to provide suitable barriers and lights.

§143-6. Protection of property.

All permits granted for Village street, highway or sidewalk excavations for any purpose shall be conditioned upon the adequate protection, at the expense of the applicant, to the property, to the Village and to public service corporations. All excavations shall be backfilled properly upon completion and a written notice thereof given to the Village Clerk. All excavations shall be maintained for six months after such notice of completion has been given.

§ 143-7. Penalties for offenses [Amended 4-14-2003 by L.L. No. 1-2003]

Any person violating the provisions of this article shall be liable to a fine or penalty of not more than \$250 and/or 15 days' imprisonment for each offense.

§ 143-8. Title.

This article shall be known and may be cited as “An Ordinance Regulating Excavations in Streets or Highways in the Incorporated Village of Port Washington North.”

§143-9. Materials on streets and sidewalks; permit required; renewal; fee.

- A. No person shall leave or deposit any material of any kind for building or other purposes in or upon any public road, street, highway, parkway, sidewalk (whether paved or unpaved) or other public place in the Village of Port Washington North, or remove or cause or permit to be removed therefrom any earth, stone, sand or gravel, or move or cause or permit to be moved any building or structure upon, along or across any road, street, parkway, highway, sidewalk or public place without first having obtained from the Village Clerk a written permit for that purpose. Such permit shall be conditioned upon said work being performed in such manner that a sufficient and safe passageway for pedestrians and vehicular traffic will be kept clear at all times, upon the proper guarding of same both by night and day so as to avoid accidents and danger, and upon the complete restoration of said road, street, highway, parkway, sidewalk or public place to its original condition.
- B. All such permits shall be issued for a period of one year and may be renewed, at the discretion of the Village Clerk, for additional periods of one year each upon the payment of a renewal fee as set from time to time by resolution of the Board of Trustees.

[Amended 4-14-2003 by L.L. No. 1-2003; 6-14-2004 by L.L. No. 4-2004]

§ 143-10. Relocation of structures; fee; bond; permit [Amended 4-14-2003 by L.L. No. 1-2003; 6-14-2004 by L.L. No. 4-2004]

Each applicant for a permit to move or cause to be moved any dwelling, house, barn, garage, outbuilding or other structure from one place to another upon, along or across any road, street, parkway, highway, sidewalk or public place in the Village of Port Washington North shall pay a fee as set from time to time by resolution of the Board of Trustees, in addition to meeting the requirement of posting the bond referred to hereafter in § 143-13 of Article I to secure the proper restoration and indemnity for liability from injury, loss or damage as specified therein, and shall also notify and secure the permission of the applicable public utilities organizations and other agencies having jurisdiction or interest therein.

§143-11. Responsibility for backfilling openings and restoration of streets and sidewalks.

If any person to whom a permit to open a street, road, highway, parkway, sidewalk or public place in the Village of Port Washington North shall fail, neglect or refuse promptly to backfill or cause any such opening to be backfilled and covered with pavement and restored to its original condition, such opening may be backfilled, covered with pavement and restored to its original condition by the Village of Port Washington North, and such person shall pay for such backfill, pavement and restoration, and the Village Clerk may deduct the amount of money necessary to discharge said payment from any moneys deposited by the applicant with the Village Clerk, or if there be not sufficient moneys on deposit, the Village may pursue such other remedies as are provided by law.

§143-12. Restoration of street, highway or roadway.

- A. All permittees are to restore all streets, highways and roadways with the exception of concrete, shall be replaced with a sub-base of three-fourths inch asphalt binder mix, compacted in two three-inch lifts per Nassau County specifications, for a total of six inches in depth and surfaced with asphalt, not less than two inches in depth.**
- B. All restorations shall conform with the most current version of Nassau County standard specifications.**
- C. All street highway and roadway openings shall be restored to a full curb to curb restoration.**
- D. Applicants shall be responsible for the proper repair of a street, highway and roadway opening or excavation for a period of two years from the date of its completion.**
- E. Permittees shall notify the Superintendent of Buildings of the Village at least two days before commencement of work and shall be subject to inspection by the Superintendent of Buildings during the course of the work.**

§ 413-13. Bond in lieu of security deposit.

The Village Clerk may, in his/her discretion, in lieu of requiring a deposit of money from the applicant, condition the issuance of any such permit provided for herein upon the making of a bond, made by the applicant as principal, with the surety or insurance company, duly authorized and licensed to do business in the State of New York, as surety, in such amount as the Village Clerk may direct, that the applicant will save and hold harmless from and will indemnify the Village of Port Washington North from any liability for any and all injury, loss or damage to person or property either of the Village of Port Washington North or others, resulting from any cause, by any act or omission of the applicant, or the agents, servants, employees or nominees or any contractor employed by the applicant or the agents, servants, employees or nominees of such contractor. In the event that the issuance of the permit was conditioned upon the making and filing of a bond, and in the event an expired permit is renewed for an additional period or periods, the said bond must be similarly renewed, and the Village Clerk shall take such lawful steps as are necessary on his/her part to effect such renewal of the said bond.

§ 143-14. Applicability.

This article shall apply to all applicants for permits hereunder, whether persons, unincorporated associations, partnerships, private corporations, public agencies, public utilities, municipal corporation and other types of instrumentality or organization.

Vote was recorded as follows: Trustee Kepke-aye, Trustee Malatino-aye, Trustee Scheff-aye, Mayor Weitzner-aye. Motion carried.

2. Clerk

On motion of Trustee Malatino, seconded by Trustee Scheff, it was unanimously RESOLVED that the reading of the minutes of the Board of Trustees meeting of October 11, 2022 be waived and that they be and hereby are approved as prepared by Clerk Torrisi.

3. Treasurer

A. On motion of Trustee Kepke, seconded by Trustee Malatino, it was unanimously RESOLVED that the reading of the Abstract of General Fund Vouchers #252, totalling \$465,678.59, be waived and that they be and hereby are approved as submitted by Treasurer Bella.

B. On motion of Trustee Kepke, seconded by Trustee Scheff, it was unanimously RESOLVED that the budget report for the period ending November 30, 2022, showing a balance of \$4,079,292.11 in the General Fund, and \$18,209.35 in Trust & Agency, and the modifications contained therein, be accepted as prepared by Treasurer Bella.

C. Trustee Scheff stated that she reviewed the bank statement reconciliations for October 2022.

D. Joseph Crocco of Cullen & Danowski LLP, the Village's independent audit firm, addressed the Board with respect to the Independent Auditor's Report for the fiscal year June 1, 2021 to May 31, 2022.

4. Reports

A. Public Works

In the absence of Superintendent Novinski, the Mayor delivered the Public Works report for November/December 2022.

B. Building Department

1. On motion of Trustee Malatino, seconded by Trustee Scheff, it was unanimously RESOLVED that the Building Department report for November/December 2022 be and hereby is accepted as submitted by Superintendent Barbach.

2. Soundview Marketplace Pole/Tower Sign

The Board considered application A2022-0284 of Universal Signs & Service, submitted October 18, 2022, for a 202-inch high by 157-inch long by 24-inch deep Pole/Tower Sign at 171 Soundview Marketplace (premises designated on the Nassau Land & Tax Map as Section 4, Block 129, Lot 1, 10, 12 & 14C). On motion of Trustee Malatino, seconded by Trustee Kepke, it was unanimously RESOLVED that application A2022-0284 of Universal Signs & Service, submitted October 18, 2022, for a 202-inch high by 157-inch long by 24-inch deep Pole/Tower Sign at 171 Soundview Marketplace (premises designated on the Nassau Land & Tax Map as Section 4, Block 129, Lot 1, 10, 12 & 14C) be and hereby is denied.

C. Beautification

On motion of Trustee Scheff, seconded by Trustee Kepke, it was unanimously RESOLVED that the Beautification report for the month of November 2022 be and hereby is accepted.

D. Justice Court

The Board accepted the Justice Court reports for the months of October and November 2022.

5. Public Comment

Robert Carpentier, Esq. discussed the cost-of-living adjustment payment on the Village's lease with Total Dollar.

6. Business

A. Conditional Use – ALK-Abello, 35 Channel Drive

On motion of Trustee Kepke, seconded by Trustee Malatino, it was unanimously RESOLVED that the Conditional Use permit of ALK-Abello to extend the use of existing temporary storage containers at 35 Channel Drive (premises designated on the Nassau County Land & Tax Map as Section 4, Block 123, Lot 4), be approved and that Temporary Structure Permit TS 2015-103 is hereby extended for a period of one year to December 18, 2023.

On motion of Trustee Kepke, seconded by Trustee Malatino, it was unanimously RESOLVED that the meeting be and hereby is adjourned at 8:53 p.m.

Palma Torrisi, Village Clerk