

MINUTES OF THE TOWN BOARD
September 5, 2017

Minutes of a Meeting of the Town Board of the Town of Eastchester held on September 5, 2017 at 8:00 p.m., at the Town Hall, 40 Mill Road, Eastchester, New York.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Present: Supervisor Anthony Colavita
Councilman Glenn Bellitto
Councilman Joseph Dooley
Councilwoman Theresa Nicholson
Councilman Luigi Marcoccia

Present: Town Clerk Linda Laird
Comptroller Dawn Donovan
Town Attorney Louis Reda

IV. OPPORTUNITY TO ADDRESS THE BOARD ON AGENDA ITEMS - none

V. APPOINTMENTS

A) APPOINTMENT- ASSISTANT COURT CLERK

Supervisor Colavita offered a motion that was seconded by Councilman Bellitto to approve the provisional appointment of Patricia Marinello of Tuckahoe, New York to the position of Assistant Court Clerk effective September 22, 2017 at the annual salary of \$54,566. Funds have been provided in the 2017 budget.

Ms. Marinello understands that she must successfully pass the civil service exam for this position when it is given.

On the roll call, all voted "AYE." Motion carried.

B) APPOINTMENT- SOCIAL WORKER (SR. CITIZENS PROGRAM)

Councilman Dooley offered a motion that was seconded by Councilman Marcoccia to approve the provisional appointment of Jenny McFadden of Scarsdale, New York to the position of Social Worker (Sr. Citizen Program), effective October 2, 2017 at the annual salary of \$59,856. Funds have been provided in the 2017 budget.

On the roll call, all voted "AYE." Motion carried.

VI. APPROVAL OF MINUTES

Councilman Marcoccia offered a motion that was seconded by Councilman Dooley to approve the Minutes of the August 15, 2017 Town Board Meeting as prepared by Town Clerk Linda Laird.

On the roll call, all voted "AYE." Motion carried.

VII. REPORTS OF DEPARTMENTS, BOARDS AND COMMISSIONS

A) LAW DEPARTMENT REPORT

1. RESOLUTION AUTHORIZING PAYMENT OF A CLAIM TO NICOLE VACCARO

Supervisor Colavita offered a motion that was seconded by Councilman Marcoccia to approve a RESOLUTION authorizing the payment of a claim to Nicole Vaccaro against the Town of Eastchester that represents a compromise of a disputed claim and is not an admission of liability by the Town, in the amount of \$5,000.00 for injuries she claims to have sustained on March 2, 2014.

On the roll call, all voted "AYE." Motion carried.

2. INTRODUCTION OF A PROPOSED LOCAL LAW PROVIDING FOR THE AMENDMENT TO LOCAL LAW NO. 7 – 2006 AND ALL ITS AMENDMENTS THEREAFTER KNOWN AS THE PEDDLERS LAW WITHIN THE TOWN OF EASTCHESTER AND TO SET A DATE FOR A PUBLIC HEARING

Supervisor Colavita offered a motion that was seconded by Councilman Marcoccia to approve the INTRODUCTION of a proposed local law providing for the amendment to Local Law No. 7 – 2006, and all its amendments thereafter, known as “The Solicitor Permit and Do Not Knock Registry Law” within the Town of Eastchester and to set a date for a public hearing for September 19, 2017 at 8:00 p.m. at Bronxville Village Hall.

LOCAL LAW NO. 4- 2017
LOCAL LAW TO REGULATE SOLICITORS
AND TO ESTABLISH A DO NOT KNOCK REGISTRY
IN AND FOR THE UNINCORPORATED TOWN OF EASTCHESTER
To be known as the “Solicitor Permit and Do Not Knock Registry Law”

ARTICLE I

APPLICABILITY and REVOCATION OF PRIOR ORDINANCES OR INCONSISTENT LOCAL LAWS

This local law shall apply to the territory of the Town of Eastchester outside of the incorporated villages situated in said Town and is hereinafter defined as “The Town of Eastchester” and shall Repeal upon the effective date of this Local Law, Town of Eastchester Ordinance No. 21 Adopted July 2, 1941, amended December 14, 1962, and Local Law No. 7 – 2006 amended on November 21, 2006 and this Local Law shall take the place and stead of said Ordinance.

ARTICLE II

DEFINITIONS

Licensee: Any person holding a Solicitors licensed/permit issued by the Town Clerk of the Town of Eastchester. A corporation, LLC, PLLC or any other form of corporate entity or partnership shall not be permitted to obtain a License, only persons.

Town of Eastchester (the “Town”): The unincorporated areas of the Town of Eastchester not including the villages of Tuckahoe and Bronxville.

Soliciting: The soliciting upon private residential property in the Town of Eastchester for the purpose of vending, peddling or soliciting purchase orders for any merchandise, device, book, periodical or printed matter whatsoever; or for services to be performed in the future; or for the purpose of conducting any consumer or other surveys; or for soliciting alms; or for a subscription or contribution to any church, charitable or public institution; or for the purpose of distributing any handbill, pamphlet, tract, notice or advertising matter; or for the purpose of selling or distributing any ticket of chance. The act of offering anything not already regulated or forbidden by Federal State or local law for sale in a vehicle such as a food vending truck.

Solicitor: Any person soliciting.

Solicitors License/Permit: A permit required to engage in Soliciting in accordance with this law.

CHARITABLE ORGANIZATION: An organization which has received a letter of determination approving tax exempt status under title 26 of the United States Code Section 501(c)(3).

DO NOT KNOCK REGISTRY: A list of residential addresses in the Unincorporated Town of Eastchester, organized alphabetically by street name, indicating those residential properties where the owner or occupant has indicated they do not want to be solicited and do not want Solicitors to enter their property.

ARTICLE III

LICENSE REQUIRED AND FEES

Section 1a. No person shall Solicit in or upon any street, park or other public place, private property or door to door in the Town of Eastchester without first obtaining a license from the Town Clerk.

1b. All Applicants are required to pay a permit fee. Fees for such license shall be as set from time to

time by the Town Board.

1c. No license shall be issued to any Solicitor who has been convicted of a Felony.

Section 2. Application for License.

2a. Each application for a license required by this article must be filed with the Town Clerk and must be accompanied by the required license fee. Such application shall be on a form provided by the Town Clerk and must be sworn to before a notary public and contain, among other things, the following information concerning the applicant: Applicant's full name, residence, place of residence for five (5) years previous to applicant's present address; date and place of birth, height, color of eyes and hair, length of time applicant has resided at said address; [whether a citizen of the United States and, if a naturalized citizen, the place and date of securing such citizenship; names and addresses of previous employers for the past 5 years]; list all criminal convictions; what, if any, licenses for peddling or soliciting issued by any state, municipality or other such authority have previously been held by applicant; all instances in which any such licenses may have been revoked or suspended and the details thereof; for Solicitors who intend to operate a vehicle to sell food or beverage the applicant must provide a valid NYS Drivers License and valid vehicle registration which the License will be attached to and only that License, Licensee and vehicle will be permitted to operate with said License, and any other information of similar nature that may reasonably be required.

2b. Fingerprints of Applicants.

Each applicant for a license shall be required to electronically submit their fingerprints to the New York State Division of Criminal Justice Service (DCJS). Upon receipt of the applicant's fingerprints DCJS will provide their response electronically to the Eastchester Police Department. No license shall be issued under provisions of this article until the Chief Of Police has filed their report with the Town Clerk, indicating the results of the investigation and submission of electronic fingerprints.

Section 3. Issuance of License.

3a. If the applicant satisfactorily meets the foregoing requirements for the issuance of a license required by this article the Town Clerk shall issue to the applicant a license.

3b. Every Licensee licensed in accordance with the provisions of this Local Law shall immediately post such license and keep the same posted while in force in a conspicuous place on their person.

3c. Each permit holder, under the provisions of this chapter, shall carry a copy of such permit and Identification at all times while engaged in soliciting and shall produce and exhibit the same at any such time upon demand therefor being made by any police officer of this town or by any citizen who resides in this town. A refusal to comply with the provisions of this section shall constitute presumptive evidence that the person, so refusing, is peddling or soliciting without having procured a license therefor pursuant to the requirements of this chapter, and such a refusal shall be deemed to be a violation of the provisions of this chapter.

Section 4. Do Not Knock Registry.

The Do Not Knock Registry shall be established and maintained by the Town Clerk's Office. Residents may submit their property address for inclusion on the list without charge to the Town Supervisor's Office or Town Clerk's Office, in writing or via the Do Not Knock Registry on the Eastchester website. An updated list will be provided to the Eastchester Police Department monthly.

Upon approval and issuance of a Town of Eastchester Soliciting Permit, each Solicitor shall be provided with a copy of the Do Not Knock Registry. It will be the responsibility of the permit holder to ensure each Solicitor has a copy of the Do Not Knock Registry. Solicitors or peddlers shall not solicit or peddle wares at any address on the Do Not Knock Registry.

ARTICLE IV
RESTRICTIONS and APPLICABILITY

Section 1a. No person soliciting shall make use of any horn, bell or other noise-making device to attract attention to; nor shall the licensee otherwise disturb the peace and quiet of any part of said Town of Eastchester in any manner whatsoever.

1b. Soliciting is hereby prohibited, except between the hours of 10:00 a.m. and 7:00 p.m. House to house

soliciting is prohibited altogether on Sundays and Federal Holidays.

1c. A Licensee and or the Licensee's vehicle used for such purpose is strictly forbidden from (1) standing or remaining in any way within 500 feet of any grounds occupied by a school during school hours, or within one hour before or after school hours, or (2) within 100 feet of any street intersection where either of the intersecting streets is over 30 feet in width from curb to curb or within 50 feet of any other street intersection in said Town, or (3) in any one place or within 500 feet thereof, longer than 10 consecutive minutes, or (4) in front of any premises for any time if the owner or lessee thereof objects.

1d. No Licensee shall be permitted to sell food or beverages within 500 feet of a food or beverage establishment without permission from the Town Board.

1e. Food Vendors must obtain a permit from the Westchester County Department of Health if one is required to sell food or beverages.

1f. Alcoholic beverages of any kind are strictly forbidden to be sold or distributed in any way.

1g. A Solicitor shall not enter within the perimeter of any residential property included on the Do Not Knock Registry, or any residence where a "No Soliciting," "No Trespassing" or similar sign is posted at or near the entrance(s) to such a residence. No Solicitor shall solicit sales from a person situated within a residential property included on the Do Not Knock Registry from a street, sidewalk or other adjacent property.

1h. No Solicitor shall engage in abusive solicitation, including but not limited to:

1. Blocking or impeding the passage of the person solicited;
2. Repeating the solicitation after the person solicited has indicated his or her objection to the solicitation;
3. Threatening the person solicited with physical harm by word or gesture; and
4. Touching the solicited person without consent.

1i. Children soliciting under the age of 16 must be accompanied by a parent, guardian or an adult over the age of 21.

1j. With the exception of Article III, Section 1b., all permit requirements contained in this chapter shall also apply to solicitation by Charitable Organizations. Charitable organizations must apply to the Town Clerk to confirm the 501-C-3 status. Once 501-C-3 status has been confirmed by the Town Clerk and a permit application for each solicitor has been received, then a permit for each solicitor will be issued.

SECTION 2. NON TRANSFERABILITY OF LICENSE

Only the person who receives the license is permitted to operate within the Town of Eastchester and if the Licensee intends to sell food or beverage from a cart, mobile stand or vehicle, the license must also include the vehicle registration so that the license shall only be used in connection with that cart, mobile stand or vehicle. The license is nontransferable.

Section 3. LICENSE REVOCATION

All licenses may be revoked by the Town Clerk of the Town of Eastchester at any time for disobedience of any law, ordinance or regulation and when such license is revoked or forfeited no refund of any unearned portion of the license fee shall be made.

Section 4 EXEMPTIONS FROM THIS LOCAL LAW.

4a This Local Law shall not apply to but an honorably discharged soldier, sailor or marine who is a cripple as a result of injuries received while in the military or naval service in the United States and who is the holder of a license issued pursuant to Section 32 of such General Business Law.

4b This Local Law shall not apply so as to unlawfully interfere with interstate commerce.

4c This Local Law shall not apply to political activity or any other type of public advocacy.

In the event a resident or property owner in the Town of Eastchester does not wish to be solicited for the permitted activities, they may place a sign stating NO SOLICITATIONS in an open and obvious location so as to give reasonable notice to the person soliciting that they are not to bother that business or resident.

**ARTICLE V
PENALTIES FOR VIOLATING THIS LOCAL LAW**

Violation of this ordinance shall constitute disorderly conduct and any person violating the same shall be a disorderly person and shall also be liable for a penalty of not less than \$500.00 five hundred dollars and not more than \$5000.00 five thousand dollars for each such violation and shall forfeit such license.

**ARTICLE VI
SEVERABILITY**

If any word, clause, sentence, paragraph, subdivision or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be limited in its application to the word, clause, sentence, paragraph, subdivision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**ARTICLE VII
SUPERSEDING OTHER LAWS**

All ordinances or parts of ordinances or local laws or parts of local laws, or State laws which conflict with the provisions of this local law are hereby superseded and rendered temporarily null and void to the extent necessary to give this local law full force and effect, pursuant to Article 2, Section 10 of the New York State Municipal Home Rule Law.

**ARTICLE VIII
EFFECTIVE DATE**

This Local Law shall take effect immediately upon filing in the Office of the Secretary of State in accordance with section twenty-seven of the Municipal Home Rule Law.

On the roll call, all voted "AYE." Motion carried.

B) BUILDING DEPARTMENT REPORT for July 2017 was received for filing.

C) TOWN CLERK'S REPORT for July 2017 was received for filing.

Town Clerk Linda Laird announced there have been no changes to the Polling Locations for the September 12th Democratic party Primary Election for County Executive.

VIII. CORRESPONDENCE

A) MEMORANDUM FROM COMPTROLLER RE: BUDGET TRANSFERS/REVISIONS

Supervisor Colavita offered a motion that was seconded by Councilman Bellitto to approve the following Budget Transfers:

From:	Personal Services	B3120.100	\$ 15,500.00
To:	Small Equipment	B3120.203	\$ 15,500.00
From:	Maint. & Repairs (Auto)	B3120.415	\$ 3,000.00
To:	Materials & Supplies	B3120.401	\$ 3,000.00
From:	Board of Assessment Review	A1355.452	\$ 850.00
To:	Training	A1355.430	\$ 850.00

On the roll call, all voted "AYE." Motion carried.

B) MEMORANDUM FROM COMPTROLLER RE: SEPERATION INCENTIVE

Councilman Dooley offered a motion that was seconded by Councilman Marcoccia to approve a RESOLUTION that a separation incentive be offered to eligible Town of Eastchester employees who meet the criteria of being age 55 or older

with at least 10 years full time service with the Town. The retirement incentive program would be \$500.00 for every year of full time service to the Town. The Town would reserve the right to deny a retirement based on department support levels and the continuity of Town services.

On the roll call, all voted "AYE." Motion carried.

C) MEMORANDUM FROM SUPERINTENDENT OF HIGHWAYS RE: EXTENSION OF LUMP SUM MUNICIPAL SNOW AND ICE AGREEMENT - 2017/2018

Councilwoman Nicholson offered a motion that was seconded by Supervisor Colavita to approve a RESOLUTION authorizing the Supervisor to enter into an agreement with the NYS Department of Transportation to extend the current Municipal Snow & Ice Agreement for the 2017/2018 Snow Season.

Under this indexed Lump Sum Agreement the guaranteed annual minimum payment to the Town for the 2017/2018 winter season is 67% of the agreement's annual estimated expenditure of \$15,791.60 – or a minimum payment of \$10,580.37. The maximum amount may increase depending on the severity of the season.

On the roll call, all voted "AYE." Motion carried.

D) MEMORANDUM FROM SUPERINTENDENT OF HIGHWAYS RE: APPROVAL OF AMENDMENT B - TO CHANGE ESTIMATED EXPENDITURE FOR SNOW AND ICE AGREEMENT 2015/2016 SNOW AND ICE SEASON

Supervisor Colavita offered a motion that was seconded by Councilman Marcoccia to approve a RESOLUTION to approve and execute Amendment B, to revise the Estimated Expenditure of the Municipal Snow and Ice Agreement for the 2015/2016 snow season. The amendment will reflect additional plowing of state roadways during the winter season.

On the roll call, all voted "AYE." Motion carried.

E) MEMORANDUM FROM SUPERINTENDENT OF PARKS AND RECREATION RE: REQUEST TO BID FOR CLEANING OF TOWN OF EASTCHESTER BUILDINGS

Councilman Marcoccia offered a motion that was seconded by Councilman Dooley to approve a RESOLUTION authorizing the Parks, Recreation Buildings and Grounds Department to go out to bid for the cleaning of three Town of Eastchester Buildings. The Parks, Recreation, Buildings and Grounds Department would like to again request to go out to bid for a cleaning contract for one year with the option for renewal at contract termination. We did not receive any bids when we attempted this process in March and respectfully request to try to bid again.

Cleaning Services are required at the following locations:

- Haindl Field- Gabriel Resigno Drive, Scarsdale, New York 10583
 - 3 times per week
- Police Station – 40 Mill Road, Eastchester, New York 10709
 - 3 times per week
 - 2 times per month Deep Cleaning in Large Locker Room
- Highway Department- Burnham Road (Dead End), Scarsdale, New York 10583
 - 1 time per week
- Lake Isle Country Club- addition of new building to be completed.

On the roll call, all voted "AYE." Motion carried.

F) MEMORANDUM FROM SENIOR PROGRAMS AND SERVICES RE: DIRECT CARE WORKER AGREEMENT BETWEEN THE TOWN OF EASTCHESTER AND WESTCHESTER COUNTY DEPARTMENT OF SENIOR PROGRAMS AND SERVICES

Councilman Bellitto offered a motion that was seconded by Councilman Marcoccia to approve a RESOLUTION authorizing Supervisor Colavita to sign the Direct Care Worker Agreement with Westchester County Department of Senior Programs and Services for Program Year 2016-2017 in an amount not exceed \$19,010.

On the roll call, all voted "AYE." Motion carried.

LATE FLYING ITEM

Supervisor Colavita offered a motion that was seconded by Councilman Dooley to enter into Executive Session after the Second Opportunity to address the Board, to discuss the employment history of a particular person relating to their demotion or discipline. The Supervisor explained it is the intention of the Town Board to return to the Regular Town Board Meeting at the conclusion of the Executive Session.

On the roll call, all voted "AYE." Motion carried.

IX. MISCELLANEOUS BUSINESS - none

X. COUNCIL MEMBER REPORTS

Councilman Marcoccia announced several programs being offered in the children's room of the Eastchester Library: Baby Lap Time: For ages 6-23 months with caregiver incorporates traditional nursery rhymes, finger plays and very short picture books. This is an intimate program for parents/guardians to bond and interact with lap babies to have a fun time together exploring songs and basic kinesthetic movements. Toddler Story Time for ages 24-36 months with caregiver focuses more on themed based stories, flannel board storytelling and nursery rhymes. Pre-registration is required for Preschool Story Time, the most popular story time which meets once a week and runs for two semesters a year.

Councilman Bellitto referred to the notification that Moody's has reaffirmed the Town of Eastchester's credit rating at Aaa as a "great accomplishment." Mr. Bellitto congratulated Comptroller Donovan and Supervisor Colavita on the rating as it reflects the town's healthy reserve, liquidity and very low debt burden.

Further, Councilman Bellitto reported the mobile speed signs are making a difference in keeping the speed limit enforced in neighborhoods throughout town.

Councilwoman Nicholson announced the 9th annual Eastchester Environmental Committee's *Green Day Festival* will be held on Saturday, September 16th, at Anne Hutchinson School.

Supervisor Colavita thanked the members of the Eastchester Police Department for addressing the 'back to school' traffic flow, drop off issues and parking concerns of the Eastchester and Tuckahoe School Districts

XI. SECOND OPPORTUNITY TO ADDRESS THE BOARD

Mike Denning inquired if the cater will be required to pay for cleaning services at the, as to be built, Community Center at Lake Isle. Supervisor Colavita responded the caterer may occasionally use the Center, when not in use by the Town, and will be responsible for the cleaning after use.

In addition, Mr. Denning inquired as to the reasoning behind the 'Town suing the Fire District.' Supervisor Colavita explained that since the final quarter of 2014, the Fire District has refused to forward to the town the funds the District budgeted for and collected for fire hydrant maintenance. Since then over \$400,000, that was to be paid to the town in accordance with an agreement that dates back for over 50 years, has been refused and the town is seeking a resolution.

The Supervisor provided the background by explaining that for decades the payment to United Water of New Rochelle for fire hydrant maintenance has been shared by the Fire District and local municipalities. For maintenance of the hydrants located in the 'town-outside,' the town budgeted 72% of the cost in 'town-outside' budget and the Fire District budgeted 28% of the cost in the Fire District Budget. Similarly, the Fire District offset 60% of the cost of maintenance for the hydrants in the Village of Bronxville and 20% of the cost of maintenance for the hydrants in the Village of Tuckahoe.

In 2013 the New York State Assembly passed legislation allowing municipalities to pass along the hydrant maintenance fee directly to the rate payer. The Villages of Bronxville and Tuckahoe opted to participate, while the cost of maintaining the hydrants in the 'Town-outside' would remain the responsibility of the Town and the Fire District. The Supervisor explained the newly adopted law was silent on the method used to calculate the rate payer's surcharge, nor did it address the impact on schools, churches and not-for profit institutions whose water bills would now increase with the maintenance surcharge. Further, Supervisor Colavita explained the law stated that any savings achieved as a result of passing the surcharge to the rate pay is to be applied to the property tax levy of the municipality in an amount equal to the savings in the following fiscal year, thereby preventing the surcharge from becoming a 'double tax.'

Mr. Denning stated he thinks the Town should negotiate a settlement outside the legal system. Supervisor Colavita spoke in agreement and explained multiple letters have been sent and attempts have been made to resolve the matter.

At 8:55 p.m. the Town Board moved into Executive Session in the Supervisor's Conference Room. Supervisor Colavita noted the presence of the Town Board, Town Attorney Lou Reda, Comptroller Dawn Donovan, Police Chief Tim Bonci and Town Clerk Linda Laird.

The probationary review of Employee #2832 was discussed.

At 9:15 p.m. Supervisor Colavita offered a motion that was seconded by Councilman Dooley to end the Executive Session and move back to the Regular Town Board Meeting.

On the roll call, all voted "AYE." Motion carried.

Pursuant to the Executive Session, Supervisor Colavita offered a motion that was seconded by Councilman Dooley to approve a RESOLUTION; whereas Police Officer ID#2832 is employed by the Town as a Probationary Police Sergeant; and, whereas, the performance of Employee #2832 during his probationary period has been reviewed now, therefore, be it resolved, that Employee #2832 shall be immediately returned to his permanent position of Police Officer.

On the roll call, all voted "AYE." Motion carried.

There being no further public business, the meeting was closed with a moment of silence for the victims, including emergency responders, of hurricane Harvey that hit the Texas in late August.

Minutes prepared by;

Linda Laird
Town Clerk