PUBLIC HEARING
OF THE
BOARD OF TRUSTEES
OF
EAST HILLS

PRESENT:  MICHAEL R. KOBLENZ, Mayor
          EMANUEL ZUCKERMAN, Deputy Mayor
          GARY LEVENTHAL, Trustee
          CLARA POMERANTZ, Trustee
          PETER ZUCKERMAN, Trustee

DATE:     April 30, 2012

TIME:     8:00 p.m.

PLACE:    VILLAGE HALL
          209 Harbor Hill Road
          East Hills, New York 11576

COUNSEL
REPRESENTING
VILLAGE OF
EAST HILLS:  WILLIAM C. BURTON, ESQ.

REPORTED BY:  JOANNE HORROCKS, CSR
THE MAYOR: The purpose tonight is a public hearing, phase one, relating to the tree law, Chapter 186 which has been on the website, and copies were available tonight which some of you have picked up. And the purpose is to hear from residents as to areas of the tree preservation law tonight, which is Chapter 186 as to changes or recommendations or suggestions to that law.

Persons speaking will identify themselves by their name and their address. They will have three minutes to present their case, and the record will remain open two weeks after tonight. And anyone who feels they want to say more things or someone who wasn't here who would like to say more things can do so merely by submitting it in writing. It will be part of the record before the record is closed.

Okay, I have one letter that needs to be read into the record, and then the first witness can be called. This is from Hilda Yohalem, 76 Great Oaks Road, East Hills, New York. "Dear Mayor Koblenz and Village Trustees, as I will be out of the country, I ask that these written comments be included in the record of the public hearing on April 30th regarding tree protection laws.

"I urge the Village to revise the tree
protections laws to better protect East Hills and in particular Norgate's beautiful mature trees. In the meantime, I agree that a moratorium is needed until the laws are improved.

"I have been the president of the Norgate Civic Association for many years. I was a member of the Architectural Review Board and part of the committee that created the Architectural Review Laws as well as the tree protection laws.

"As you know, I have resigned from the ARB because I was opposed to the way the tree protection laws were being applied. As I told the ARB again on April 2nd, the tree protection laws were supposed to prevent healthy trees from being removed in order to protect the tree canopy for current and future generations as stated in the Village Code.

"At 37 Laurel Lane behind my home, two healthy trees were recently removed with the approval of the ARB. One was a beech tree about 50 feet in height, and one was an oak tree over 100 feet in height. Both were healthy and sound. They were removed only because the builder wanted a new home to occupy their space, and the ARB approved:

"I'm very disappointed this happened. I believe the law should be amended or whatever it takes
to prevent this from happening over and over again throughout the Village.

"Until that happens, no more trees should be removed unless they are clearly sick or dead. I appreciate your attention to this. Sincerely, Hilda Yohalem."

That will be part of the record.

Okay, first person wishing to address the Board?

MR. KANIS: Good evening, Mayor Koblenz, Board of Trustees and citizens.

THE MAYOR: You've got to identify yourself.

MR. KANIS: My name is Spencer Kanis. I reside at 105 Andover Road.

I am here tonight as a 30-year resident. I am also here as the current chairman of the Architectural Review Board which has responsibility for the Tree Review Board.

I'm here not as an architect. I am not here as an arborist. I'm here to state the facts. I have been an active member of the Architectural Review Board for over six years. I was here with some of the founding coworkers, and we put together the statute for the review board and also for the Tree Review Board. So I'm here to state the facts based upon my actual
experiences which can be verified by the colleagues that are sitting here.

There are two areas of responsibility for some of the tree issues that have faced this Village. One is current homeowners, and the other is new home construction. They are two different responsibilities that have had a serious impact on the tree canopy and should be addressed this evening.

Some of the key issues that face us are the environmental, the economic and the safety. The environmental, I don't believe there's anybody in this room that disagrees with the environmental impact of trees. We understand about mother nature, how it works. We understand about the organisms. We understand how it purifies the air. Economics, everybody's in agreement, trees are one of the most valuable as assets that this community has and must be maintained and protected. There is no qualm when it comes to the first two.

Amazingly enough, the third one, safety, never comes up in any of the conversations, never comes up in the Roslyn News in all the editorials that come out when safety is one of the major issues that the Architectural Review Board and the Tree Review Board review whenever it comes before us on a permit on a
tree. And safety of the tree comes from taking care of it, maintaining it, feeding it and making sure that its healthy.

All of us were amazed last August and September when one of the major storms came up the coast and came across Long Island, and we were amazed by the devastation that a tree can do to personal property, to wires, the electricity, the inconvenience. And fortunately, fortunately we have not had any serious injuries, at least that I know about, from the falling trees. But safety is a major element that this Village must address and does address.

The Architectural Review Board in the six years that I've been on it, safety is the number one reason for removal of a tree, and neglect is the number one cause of that tree being removed. The homeowner responsibilities, and a lot of people, believe it or not, do not really know how to take care of their trees. They do not understand pruning, deep root feeding, cabling, everything that is required to make sure that a tree is maintained. There's also poor quality of maintenance, and there's a lot of reasons for this. And I have some resolutions at the end that I'd like to present. Some of them are the cost involved in maintaining the trees.
Also there are our so-called arborists and landscapers in the community that are not as professional as they should be. I have photographs that I have a given you of trees that were supposedly pruned, and they were totally done unprofessionally to the point of hurting the trees, hurting their beauty, and people were paying for this type of work to be done.

There's also an apathy. I have heard many times mother nature is at fault. If mother nature put the tree there, mother nature will take care of it, and if mother nature decides that the tree shall die, so be it.

We have heard that leaves, pine needles are all reasons for trees to come down. We've heard the whole spectrum. And one of the ones that always stays in my mind, although I am not making light of it, a gentleman wanted a tree removed because the acorns were falling down on his Ferrari. Needless to say we did not approve it.

We've are going to hear about the responsibility for new home construction. The role of the Architectural Review Board is key in that because we review the plans, and we also review the landscape plan. Every house that is being designed or changed
has a landscape plan. That landscape plan is reviewed in detail by the trees being removed. It is inspected personally by every one of us. We know what it's being replaced with, the size and the type.

But what people have to understand is I've heard a lot where people say, Well, let's move the house 10 inches to the left, 10 inches back, 10 inches to the right, and we'll save trees. Anybody who hears that, it may sound totally plausible, it's totally illogical. It's also unreasonable. Just ask any builder in this community.

A lot of the trees that have been put into question over the past couple of months have been in the Norgate region in particular where the lots are 100 by 110. Everybody knows that there are zoning requirements, setbacks on side yards, backyard and front yards, and these are very important to the community. They should remain, and there are no issues with the zoning requirements. The zoning requirements not only set the setbacks but also the slope of the roof so that the sunshine can come down and hit the ground.

If you have 100 by 110 lot and you're putting a new home up and you put in a foundation, it is required that the foundation, the digging of the
foundation is usually two feet out of the perimeter outside of this new foundation. When you do that and you have a tree that's 20 or 30 years old, remember the canopy of the tree is the size of the roots. That means you will hit the roots. You will damage roots. By damaging the roots, you can damage the tree. Many times it is required to remove the tree so that the construction can take place, because if you leave the tree up, it will be dangerous, it will fall down during a storm, it will cause damage to people and property. And that is all acknowledged in how we act.

I've heard other things such as let's replace it with bigger trees. It sounds nice. Personally I'm putting a white birch in my front yard now, and it's only 14 feet in height, and the cost is $1,500.

The one word that we hear in the Architectural Review Board consistently is the word budget. Everybody who works on their house has a budget. If you increase the size and mandate 20-foot trees, there will be in my opinion unintended consequences. Everybody does a budget. If you spend more on trees that have to be taller, there's less they are going to put on flowering bushes, and we allow the people the way the Architectural Review Board to pick and choose how they wish to spend the money. But we do
require replacement of trees, but we do not do it in such a way that it becomes exorbitant or a burden in the budgeting in the process.

Also I heard of a moratorium being read into the minutes. I'm very much against a moratorium at this point in time. We are coming into the hurricane season. There is a lot we have to do.

I know the Board is actively pursuing the services of an arborist. I would like to pursue that and allow the arborist to review whether a moratorium is needed or not, because there's a lot of work that needs to be done. If we waste time and we call the moratorium, we will find ourselves into July right before the hurricane season when trees need to be pruned, they need to be cabled, they need to be deep root fed to protect our properties.

So my suggestions are that we proceed with the acquisition of the services of an arborist. It also would help the Architectural Review Board because when we have tree permits, we do require that an arborist, a certified arborist do a letter to us telling us their opinion whether the tree is ill and why it's ill and what can be done about it. However, we cannot verify his credibility or his credentials. We have our own arborist. We know where he comes from,
and we know we can rely on what he says.

Education is key. Like I said, a lot of people as they come before us really don't know how to take care of trees. There is an excellent newsletter that's put out periodically. The Village of East Hills puts out a newsletter. There's no reason there can't be a section in there by the arborist how to take care of the trees in the summertime, what to do in the wintertime and what to do before the storm comes on so that if you want to talk about cabling.

The other thing that we can do is also sponsor services. We can have an arbor day event, an earth day event where people can come and speak to the arborist and talk about what the problems are on their property. They can also from possibly a nominal fee have the arborist visit their house and talk about what are the key issues facing that property and the danger.

We also should have a publish -- we should also publish the suggested tree list. There is a publication with a suggested tree list for this community that when you take out a tree, it be replaced with a certain type. Because of environmental issues that we face today, many of the trees that we have will die, and I have a heard that from a number of arborists they cannot be saved. And when you replace them, you
should replace them with certain trees that are doing well and adapting to the new environment, and that should be published.

Penalties, I am for a review of penalties. I think they are on the low side. I think when somebody spends $150,000 on landscaping, a $1,000 penalty for not listening to the Architectural Review Board becomes meaningless. So I think that is another alternative to review.

In conclusion, this is not about a crisis. I can assure you. What it's about is a major amount of misinformation by less than a handful of people.

THE MAYOR: Thank you. Just for the record, now that we've authorized the hiring of that arborist that you have suggested from Garden City --

MR. KANIS: Fantastic. Thank you.

THE MAYOR: -- what we need to do is bring him in and set him down. It's the same guy that you suggested.

Okay, next person who wishes to address the Board on the tree preservation law? Nobody? Yes, sir? Step up.

MR. SCHEINBAUM: Charles Scheinbaum, 260 Revere Road. I have been a resident of East Hills for 45 years. I never argue with success. What we have is
a lot of failure. The number of trees that have been removed seems excessive. There can't be that many sick trees.

With respect to the building code, I'm not an expert on building codes. I just see that too many trees are being removed.

THE MAYOR: Thank you. Anyone else? Yes, please stand up, identify yourself and your address.

MS. BRUMMELL: Sheila Brummell, 15 Laurel Lane. I'm reading your replacement. This is number 186-6. Whenever a tree is removed, a replacement tree shall be with a caliber of not less than three inches? I mean this is three inches? Is this how trees are replaced? Simply a question.

THE MAYOR: Do you have a recommendation?

MS. BRUMMELL: Yes. I recommend that when a substantial tree is taken out, something substantial should be --

THE MAYOR: When you say substantial, residents have to take on the burden of replacing the tree. What is the suggestion for the size of the replacement?

MS. BRUMMELL: Certainly not more than a twig.

THE MAYOR: Okay. But you don't have any
other suggestion in terms of the size, right?

MS. BRUMMELL: A foot.

THE MAYOR: Now I got it out of you finally.
Thank you. No cross discussion, please, please.

MR. DRISTOLL: Very quickly. My name is Ken
Dristoll, 66 Oakdale lane. I have been a resident for
23 years.

I just replaced two trees in the last week.
A three-inch caliber tree -- and this is from -- it can
be from the Cornell Extension. This is North Carolina
State, their Forestry Department. The average height
is 15 feet for a three-inch caliber tree.

Were you aware of that?

MS. BRUMMELL: No, I'm not.

MR. DRISTOLL: Do you know what the root ball
weighs? It weighs 500 pounds. Do you know what a
20-foot tree, what the weight of the ball is? Almost a
ton.

In order to dig that hole, you need 15 feet
of circumference and six feet down. Six feet is kind
of a weird number to pick. But in order to do that,
you have to get involved with cesspools. You have to
get involved with the building code of how far it has
to be from foundation, and you're talking about the
inability of a normal landscaper to replace that tree.
That requires a winch and a crane.

I think when you say three-inch caliber and it sounds bad, go to Martin Viette. Go to Hick's. I think we all know those two establishments. And they may be expensive, but they do a good job, and that's who I use. And they explain to you that in Matinecock and Locust Valley and to recommended a tree in Old Brookville, to replace a fallen tree is a three-inch caliber tree. And the reason is the size is appropriate for weathering storms and for survival. The chance of a three-inch caliber tree surviving to adulthood is about 90 percent with proper simple care. Once you go above that, every inch in caliber, the survival rate of that tree falls. And what you have to do is monitor that on a yearly basis which is hugely expensive.

We have one arborist coming on board?

THE MAYOR: Yes.

MR. DRISTOLL: So when you say only three inches, like everybody else in this room who thinks this way, make an effort to learn what it is.

MS. BRUMMELL: Thank you very much.

THE MAYOR: Anyone else who wishes to address us? Anyone? Yes, ma'am? Step up.

MS. PACE: Judy Pace, 105 Magnolia Lane. I
I have been a resident for 25 years. I have several
trees on my property, and I'm a very avid gardener. I
grow fruits, vegetables, herbs organically. I do my
own composting. I'm very user echo friendly.

What I don't understand of the replacement is
that I have three trees that have been deemed diseased
and dead. I have gotten estimates from six to $8,000
to have them taken down. My big question is these are
trees that shouldn't be where they are in the first
place. They are too close to the street. And what I
am wondering if I do take them down, do I have to put
the tree in the same place? Because it doesn't make
sense to me that these trees were ever put there to
begin with.

THE MAYOR: You don't.

DEPUTY MAYOR E. ZUCKERMAN: No.

MS. PACE: And what about the expense? I
asked this many years ago. Is there any way that the
Village with this arborist could work something? I
mean who has $8,000 to spend taking down trees, and
then you have to buy three more trees?

THE MAYOR: Well, the Village doesn't have
the capability of providing that service. It just
doesn't. We don't have the equipment. We don't have
the men that know what to do.
All of us have retained tree people who come in with trucks and cranes and everything else, because that's what you need. We just don't have the capability.

MS. PACE: And I think there are so many dead and diseased trees. First the Norwegian maples which is the majority of the trees in our neighborhood, they are only supposed to live 50 to 60 years, and they are way past that. They are even older than me. But that's the problem.

People have many, many dead trees on their property, and they just say I can't afford to spend the money on something like this. It isn't a matter of being negligent. But it's a lot of money to put out on something -- it's not like you get a return. It's not like an addition to your house. And I know it's about --

THE MAYOR: The same is said about cesspools, my dear.

MS. PACE: I know.

THE MAYOR: There's no return.

MS. PACE: Well, there is a return. But anyway, so I just wanted to say that there are many people who in their hearts want to do the right thing by taking down the dead trees.
vague in this Village. Isn't a resident somebody that has just a mailing address in this Village and sleeps in someone's house two nights a month, or a resident is someone who lives here at least six months out of the year?

THE MAYOR: Right.

MR. LEVENTHAL: Mineola?

THE MAYOR: I understand that, but that's not the purpose of this hearing. It's restricted to the tree statute.

MR. EMOUNA: I understand. I'm on a little tangent. The other thing is one of my dearest friend's mother passed away about 17 years ago in Village of Great Neck. A big tree fell on her car as she was driving by. It did not touch her steering wheel. It exactly landed on the car and killed her.

Now, the fact that some people want to make the tree law more strict, you know, when a tree falls -- if a tree is on your house and they are saying you have to give all sorts of permits to remove a tree, what happens if a tree falls on people's cars or like Mr. Spencer brought up, the safety of the people? If a tree falls on someone's car or falls on somebody, who is at risk over here? All the residents are at risk over here. I believe if you have a tree law saying
that a tree law saying that the tree, certain tree should come down and not come down, by the same time you should have a tree warden reporting to the Village to have certain trees cut down because go down on Chestnut Drive, go down Harbor Hill Road. There is a lot of trees. Wait until we get the next hurricane. You are going to see, we are all going to be -- it's -- the road is all going to be closed off. It may fall on someone's head or someone's car. Whose fault is that?

THE MAYOR: Thank you. Anyone else wish to speak on the tree statute? Yes, ma'am?

MS. MANDELBAUM: Mina, M-I-N-A, Mandelbaum. I have a question not so much to help the outcome here. But what percent would you say is just arbitrary taking down versus that really need to come down?

THE MAYOR: Well, it's a good question. I have not personally seen people just -- who live here, I am not talking about developers, just taking trees down for the sake of taking trees down. I have seen people taking trees down for safety reasons because the tree was too close to the house. It was destroying the roof because of the leaves and everything. When that happens, you can rot out your roof. If a tree is too close, if the branches are too high, it can affect your buyers, can affect everything else.
But I have not observed, quote, residents, not people that are just coming in, just wiping out the trees in the place, taking out trees that they felt were unnecessary. So I mean that's what I have seen.

And with my own neighbors, they got approval from the ARB to remove trees. They put in whole beautiful landscaping. They easily spend $50,000 with trees and everything else, and they are not gigantic trees, but they are trees, and they will grow in a few years. You would be surprised how fast trees grow.

I have five trees that are five years old that I planted from twigs, because I belong to the National Arbor Association and --

MEMBER OF AUDIENCE: I get those all the time.

THE MAYOR: But they work. And they have grown to major trees. So people can do that. I mean I have six now that are incubating. I call them incubating. It's being done. I mean I haven't seen the abuse.

I have seen abuses where developers come in, that's why they have to go to the ARB where properties are decimated, and that's a different story. You know, we are taking under advisement the issue of the fines and to what level to increase them.
You've got to balance that with the resident and what they -- what they are being faced with and the burden on them and financially. Our economy, if anyone hasn't noticed, hasn't gotten any better. So we have to take that into consideration as well.

Walter? Identify yourself. I know who you are.

MR. REID: You think I can remember? Walter Reid, 25 Primrose lane. And to respond to this gentleman here, I've been here more than 15,000 days.

The question that I have, I'm not sure, I've glanced through this. What happens when a tree is blown over like in Irene? You need a permit to remove it?

THE MAYOR: No. They are emergencies.

MR. REID: The other question is I have been fortunate in that trees have sprung up on my property, and, you know, sometimes they are saplings, and somebody mentioned they had a three-inch thing. I think I have a foot tree. In fact, I remember that when my daughter was 16, the tree didn't exist. It's now a massive tree, and it's from its own.

I have another tree, that pine tree that from the little seedling I planted. Now, am I responsible for getting a permit to take down that tree if it
becomes a nuisance?

THE MAYOR: It's your tree. No matter how it happens, it's your tree.

Anyone else who hasn't been heard?

MS. GOLDENBERG: Janet Goldenberg, 90 Oak Drive. I want to talk about fines. I know that somebody has discussed about raising fines. I am opposed to raising fines for the reasoning being that it's not going to bring the trees back. I mean people are going to cut down the trees because they think that they are above it all or whatever. Raising fines will not do anything to bring back the trees. To make them replant trees and make it a big deal about them putting back the trees, that's one thing we should do, not raising fines because we live in an affluent community is a reason to be raising fines.

So I'm very opposed to raising the fines. What is that going to do? I understand, yes, it will bring more money to the Village. We are not holding a lottery. We are not going to be planting more trees so that the lines will come down from LIPA. I mean it makes no sense to me. So in all honesty to raise the fines is not going to deter a builder from knocking down more trees because they want to knock down the trees when they build a house. So I am totally opposed
to that.

The other thing I have to say is talking when Mr. Brummell talked about him looking at some of those tree permits, I know for a fact being the tree chairman of the ARB, there are landscape plans that go along with those tree permits that are not attached because it's part of the ARB, and we are very cognizant to know that we do make trees be put up in place of those trees that are being taken down.

So, you know, facts have to be known before people speak about things, because I do my due diligence, and I just don't say to somebody, absolutely, take down a tree. Go right ahead. Because we get people that come to the ARB, and they'll say, and we've had this, I'd like to take down 40 trees, and we've all gone as a group. But it's not trees they are taking down. They are literal sticks in the ground that are not -- it's not a tree. So it's not 40 trees that are coming down. It's 40 sticks in the ground that they still need approvals of. So if you are going to count that as a tree, that's not a tree.

So, you know, people really have to understand what is really going on here before they can speak. You can go through boxes at the Village and think you're reading through things and you think you
are reading through a tree permit and you think you are understanding what's going on. I do my homework. I am at that Village every day, okay? I know what's going on. I don't do it -- I don't get paid. I do my research. I do my homework. So if everybody wants to do their research and do their homework and know what's going on, then we have every reason to say what should be going on. But if you don't do your research and don't do you homework, then you can't speak. That's what I have to say.

THE MAYOR: Anyone else who has not been heard? This is not a debate. I told you you can submit whatever you want in writing on the record.

MR. BRUMMELL: I would like to add to my comments.

THE MAYOR: No. You're done. We're waiting for anyone else who wishes to speak.

MR. BRUMMELL: If you received information that contradicts my statement --

THE MAYOR: You can. The record is open for two weeks. You can submit whatever you want for two weeks. That's more than adequate.

MR. BRUMMELL: I would like to speak that you know without having to read the record.

THE MAYOR: I will read the record.
MR. BRUMMELL: I will state into the record so everybody actually hears it. I think I should have a right. If my words were contradicted, I should have a right --

THE MAYOR: This is not trial. This is not a debate.

MR. BRUMMELL: It's a public hearing to take facts.

THE MAYOR: If you have something you wish to submit, I'm more than happy to receive it. But we have the rest of the meeting to do, and if no one else wants to speak on it, we have asked people to write -- we've asked people to write amendments if they wish to the current statute. We've asked them to submit in writing whatever they want. Anyone who isn't here can submit in writing their views on the tree statute. That's more than adequate. We are going to move forward.

MR. BRUMMELL: I am not sure you are actually going to read through the record.

THE MAYOR: We do, and I certainly read it. Okay? So we are going to move. On unless someone else has anything to say, we want to move on with the regular hearing.

Anyone else who hasn't been heard wish to address the Board on the tree statute? Okay.
So what we're doing is we are going to keep the record open for two weeks, and we will receive written comments from anyone who wishes to submit them. And we will analyze it, and then we will reconvene again. And we will make certain decisions and based on the recommendations we receive tonight, okay?

MR. LEVENTHAL: So moved.

THE MAYOR: Second?

DEPUTY MAYOR E. ZUCKERMAN: Second.

THE MAYOR: All in favor?

MR. LEVENTHAL: Aye.

MS. POMERantz: Aye.

MR. P. ZUCKERMAN: Aye.

DEPUTY MAYOR ZUCKERMAN: Aye.

THE MAYOR: Aye. Thank you.

(Time noted: 9:15 p.m.)

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This is certified to be a true and accurate transcript of my stenographic notes taken in the above-captioned matter.

Joanne Horrocks, CSR
Official Court Reporter