

20th Day
Wednesday, December 9, 2009
7:00 p.m.

The regular meeting of the Board of Supervisors was held in their chambers in the Court House, Chairman Hoffman presiding.

The Pledge of Allegiance was led by Supervisor Fabino, followed by Chairman Hoffman giving the invocation.

Upon roll call, all Supervisors were present.

County Administrator James Marquette and County Attorney Daniel Wyner were also present.

The Clerk read the title of the Notice of Public Hearing, as follows:

"A local law amending Local Law No. 7-89, as amended by Local Law No. 3-91, establishing a plan for the Management of Solid Waste generated or originated in the County of Wayne".

The Notice of Public Hearing appeared in its entirety in the official newspapers as follows:

COUNTY OF WAYNE

**NOTICE OF PUBLIC HEARING ON PROPOSED LOCAL LAW
INTRO NO. 2/LOCAL LAW NO. ___ FOR THE YEAR 2009**

NOTICE IS HEREBY GIVEN that the Wayne County Board of Supervisors will hold a public hearing on Wednesday, December 9, 2009, at 7:00 p.m. in the Supervisors Chambers in the County Court House, 26 Church Street, Lyons, New York, on the following proposed local law:

COUNTY OF WAYNE - STATE OF NEW YORK

A local law amending Local Law No. 7-89 as amended by Local Law No. 3-91 establishing a plan for the Management of Solid Waste generated or originated in the County of Wayne.

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF WAYNE, as follows:

SECTION 1: Section II of Local Law No. 7-89 as amended by Local Law No. 3-91 is amended to read as follows:

Section II. Purposes

This law is adopted pursuant to Chapter 627 of the Laws of 1986 of the State of New York to:

- A. Implement a plan for the management of solid waste generated or originated in the County of Wayne, to promote the safety, health and well-being of persons and property within the County of Wayne; and to
- B. Implement the express policy of the State of New York authorizing the County of Wayne to impose appropriate and reasonable limitations on competition to require that all solid waste generated or originated within the County's boundaries, subject to such exceptions as may be determined to be in the public interest, shall be delivered to a specified facility or facilities; and to
- C. Implement the express policy of the State of New York encouraging solid waste

volume reduction through recycling.

SECTION 2: Section III of Local Law No. 7-89 as amended by Local Law No. 3-91 is amended to read as follows:

Section III. Definitions

Acceptable Solid Waste means all solid waste which is not hazardous waste, designated recyclable material or unprocessable waste.

Board of Supervisors means the Board of Supervisors of the County of Wayne.

County means the County of Wayne.

Designated Recyclable Materials means recyclable materials designated for source separation by rules and regulations promulgated pursuant to Section IV(A)(2) of this law.

Facility means any solid waste management-resource recovery facility employed beyond the initial solid waste collection process which is to be used, occupied or employed for or is incidental to the receiving, transporting, storage, processing, or disposal of solid waste or the recovery by any means of any material or energy product or resource there from including recycling centers, transfer stations, processing systems, resource recovery facilities, sanitary landfills, plants and facilities for composting or landspreading of solid waste, secure land burial facilities, reprocessing and recycling facilities, surface impoundments and waste oil storage, incinerators, and other solid waste disposal, reduction or conversion facilities.

Hazardous Waste means:

1. Waste which appears on the list of hazardous waste promulgated by the Commissioner of the Department of Environmental Conservation pursuant to Section 27-0903 of the Environmental Conservation Law and the regulations there under or waste which exhibits any of the characteristics of hazardous waste identified in 6 N.Y.C.R.R. §371.3.
2. Special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended.

Person means any natural person, partnership, association, joint venture, corporation, estate, trust, county, city, town, village, improvement district, governmental entity or other legal entity.

Recyclable Materials means solid waste which can be recycled.

Recycling or Recycled means any method, technique or process utilized to separate, process, modify, convert, treat or otherwise prepare solid waste so that its component materials or substances may be beneficially used or reused as raw materials.

Solid Waste means all putrescible and non-putrescible solid wastes generated or originated within the County, including, but not limited to, materials, or substances discarded or rejected, whether as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection or for any other reason, or are being accumulated, stored, or physically, chemically or biologically treated prior to being discarded, have served their intended use, or are a manufacturing by-product, including, but not limited to, garbage, refuse, and other discarded solid materials, including solid waste materials resulting from

industrial, commercial and agricultural operations and from community activities, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris or offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, or hazardous waste as defined in this law.

Solid Waste Volume Reduction Program includes source separation, recycling programs, changes to the packaging portion of the waste stream to reduce solid waste generated, the activities and enterprises of scrap dealers, processors and consumers and other programs designed to reduce the volume of solid waste or enhance reclamation and recovery of materials. For purposes of this paragraph, such volume reduction programs shall not include the processing of waste for incineration or disposal by other means.

Source Separation means the segregation of recyclable materials for solid waste at the point of generation for separate collection, sale or other disposition.

Specified Facility or Facilities means a facility or facilities for certain solid waste specified in the rules and regulations promulgated pursuant to Section IV(A) of this law.

Unprocessable Waste means (a) dirt, concrete and other nonburnable construction material and demolition debris; (b) refrigerators, washing machines and similar "white goods"; (c) large items of machinery and equipment, such as motor vehicles and major components thereof (e.g., transmissions, rear ends, springs and fenders), agricultural equipment, trailers and marine vessels, or any other item of waste exceeding six feet in any one of its dimensions; and (d) liquid waste, large concentrations of plastics other than PET and HPDE containers, explosives, oil, sludges, highly inflammable substances, tires, ashes, contained gaseous materials, incinerator residue, and offal.

SECTION 3: Section IV of Local Law No. 7-89 as amended by Local Law No. 3-91 is amended to read as follows:

Section IV. Powers of the Board of Supervisors/Delegation of Powers

- A. The Board of Supervisors is authorized and empowered to:
1. Promulgate and publish rules and regulations from time to time which:
 - a. aid in identifying and defining categories of solid waste, including acceptable solid waste, recyclable materials and unprocessable solid waste;
 - b. specify one or more facilities to which all acceptable solid waste generated or originated in the County shall be delivered;
 - c. specify one or more facilities to which designated recyclable materials may be delivered, subject to such exceptions as the Board of Supervisors may determine to be in the public interest;
 - d. direct that acceptable solid waste generated or originated within the County be delivered to or disposed of only at one or more specified facilities;
 - e. prohibit delivery to or disposal of a category of solid waste generated or originated within the County at one or more specified facilities.

In promulgating such rules and regulations, the Board of Supervisors or its designee shall consider the capacity, handling, disposal and marketing capabilities of available facilities, the geographical location of facilities and such other factors as will enable the Board of Supervisors or its designee to determine that the public interest is served by the rule of regulation.

2. Promulgate and publish rules and regulations for a program to implement source separation of recyclable materials and encourage solid waste volume reduction and to maximize the opportunity for the reclamation and recovery of materials. These rules and regulations shall designate recyclable materials to be source separated and prescribe methods of source separation, and may reflect local differences in population density, accessibility and capacity of markets and facilities, collection practices and waste composition. In promulgating such rules and regulations, the Board of Supervisors or its designee shall also consider other on going, proposed or reasonably anticipated future solid waste volume reduction programs and shall not interfere with them.
3. Approve, deny, suspend or revoke Solid Waste licenses or subject a license holder to reprimand, as provided in Section VI.
4. Promulate, Revise, amend, and publish rules, regulations, and orders necessary to carry out the purposes of this law.

SECTION 4: Section V of Local Law No. 7-89 as amended by Local Law No. 3-91 is amended to read as follows:

Section V. Waste Delivery and Disposal: Source Separation

- A. Subject to promulgation of applicable rules and regulations pursuant to Section IV(A) of this local law, all acceptable solid waste generated or originated within the County shall be disposed of as follows:
 1. All acceptable solid waste generated or originated within the County must be delivered to a specified facility; and
 2. No facility shall receive acceptable solid waste generated or originated within the County except as permitted under this law.
- B. Disposal of solid waste which is barred from all specified facilities by rules, regulations or orders promulgated pursuant to Section IV of this law, shall not otherwise be regulated by this law.
- C. No hazardous waste may be delivered to a specified facility.
- D. Designated recyclable materials shall not be commingled with other solid waste, and shall be handled as follows:
 1. Prior to initial collection or transport, designated recyclable materials shall be separated, prepared, and set out for collection as provided in the rules and regulations promulgated pursuant to IV of this law.
 2. Designated recyclable materials shall not be commingled with other solid waste during collection, transportation or storage following collection. The Board of Supervisors or its designee may order such exceptions as they may reasonable determine to be in the public interest.
- E. Any recyclable materials generated or originated in the County may be delivered to a solid waste volume reduction program. All designated recyclable materials must be delivered to either a solid waste volume reduction program or a specified facility.
- F. Each commercial and residential waster generator in the County shall provide for the removal of recyclables from the property on which they are generated either through a service provided by the municipality; or a private hauler; or by direct haul by the individual waste generator to a disposal location permitted by law.

- G. No person shall dispose of solid waste along the roadside or on public or private property within the County, unless the owner of the property has given his consent, in which case the property owner assumes responsibility for proper disposal of the material.

SECTION 5: Section VI of Local Law No. 7-89 as amended by Local Law No. 3-91 is amended to read as follows:

Section VI. License Requirement

- A. Except as otherwise provided in this Section VI or in the rules and regulations promulgated pursuant to Section IV of this law, No person may engage in the business of collecting, transporting or handling solid waste generated or originated within the County without a solid waste license issued by the Board of Supervisors or its designee pursuant to this law, provided that only persons who collect, transport or handle solid waste for compensation shall be required to obtain a solid waste license.
- B. No person engaged solely in recycling or a solid waste volume reduction program shall be required to obtain a solid waste license.
- C. All applications for licenses or renewal of licenses shall be in writing, on a permit application form provided by the County and shall contain such information as required by the rules and regulations promulgated pursuant to this law and shall be verified by the applicant.
- D. This form shall contain or be accompanied by, at a minimum, the following information and items:
 - 1. Name of applicant, street address, and mailing address of principal place of business. Person or persons desiring a permit shall explain ownership interest. Partnerships, corporations or other business entities shall furnish names and mailing addresses of principal owners, officers, managers and supervisors who will be in charge of the operations within the County.
 - 2. A full description of all collection vehicles and equipment owned, leased, or controlled by the applicant which will be used in the collection, transportation and/or disposal of solid waste and/or recyclable generated, originated or brought within the County.
 - 3. Detailed listings of any previous or existing enforcement actions by any environmental regulatory agency for violations of rules relating to solid waste and/or recyclable handling, transport or disposal.
 - 4. A signed letter of certification, that the applicant has read and is familiar with the terms and conditions of the permit and the provisions of this Local Law; including the Recycling Rules and Regulations (Appendix I) and the Permit Rules and Regulations (Appendix II) that the applicant agrees to operate in accordance with such terms and conditions in the event a permit is issued, and that all the information provided by the applicant is factual.
 - 5. A signed letter of certification of ultimate disposal sites for recyclable materials as well as solid waste.
- E. Within ten days of receipt of the properly completed and signed application, the Board of Supervisors or its designee shall either issue a license or inform the applicant in that the license applied for has been denied with an explanation for the denial. The decision shall be sent to the applicant by certified mail.

- F. 1. When the Board of Supervisors or its designees determines that a failure to comply with a solid waste license conditions in Section VII(B) of this law may have occurred it shall recommend to the Board of Supervisors or its designee that the solid waste license application be granted with conditions or denied, or the existing solid waste license be granted with conditions, suspended, revoked or its holder subjected to a reprimand. Notice and an opportunity to be heard shall be provided prior to the denial of a solid waste license application, the suspension or revocation of a solid waste license, or the issuance of a reprimand.
2. The Board of Supervisors or its designee shall notify the affected solid waste license applicant or licensee of the alleged failure in writing. The notice shall include:
- a. a statement of time, place, and nature of the hearing;
 - b. a statement of the solid waste license condition allegedly violated, referring to the pertinent law, rule or regulation; and
 - c. a short and plain statement of the alleged misconduct.
- The notice shall be personally served or sent by registered mail to the applicant or licensee's last known address.
3. Hearings
- a. Hearings shall be held before the Board of Supervisors or its designee within a reasonable period, which shall be at least ten (10) days after the service of the notice.
 - b. The applicant or licensee may be represented by counsel at the hearing, and may offer evidence and cross-examine witnesses.
 - c. Within twenty (20) days after the close of the hearing, the Board of Supervisors or its designee shall:
 - i. determine whether the alleged failure to comply with a solid waste license condition has occurred; and
 - ii. if it is determined that such a failure has occurred, decide whether the solid waste license application shall be denied, or an existing solid waste license shall be suspended, revoked, or its holder subjected to a reprimand; and issue an order carrying out its decisions; and
 - iii. if it is determined that such a failure has not occurred, the Board of Supervisors or its designee shall approve the issuance of a solid waste license.
4. Determination, Decisions and Orders.
- a. Disposition may be made by stipulation, agreed settlement, consent order, default or other informal method.
 - b. A final determination, decision or order adverse to a party shall be in writing and shall include a statement of facts and reasons supporting the determination, decision or order.
5. The Board of Supervisors or its designee shall promptly notify the applicant or licensee in writing of its final determination, decision or order. Such determination, decision or order shall become effective fifteen (15) days after the date of service or mailing.
6. Renewal licenses shall be applied for and issued in the same manner and subject to the same requirements as original licenses, and also shall be subject to any additional requirements in effect at the time of application for renewal. A complete and timely submitted application for renewal shall result in the applicant's existing license remaining in effect until the renewal application is acted upon by the Board of Supervisors or its designee.
7. Failure to pay fees and charges as established from time to time shall constitute a violation of this law.

SECTION 6: Section VII of Local Law No. 7-89 as amended by Local Law No. 3-91is amended to read as follows:

Section VII. Issuance and Conditions of Solid Waste License

A. Solid Waste License Issuance

1. Solid waste licenses must be obtained and renewed annually from the County.
2. The solid waste license fee for each vehicle used to collect or transport solid waste by or on behalf of the licensee shall be established by resolution of the Board of Supervisors.
3. A solid waste license sticker shall be prominently displayed on each vehicle operated by or on behalf of the licensee as provided by the rules and regulations.

B. Conditions of Solid Waste License

Solid waste licenses and renewals shall be subject to the following conditions:

1. All licensees must comply with this law and the rules, regulations, and orders promulgated pursuant to this law.
2. All licensees, as a term and condition of being issued a solid waste license, shall agree to defend, indemnify and hold harmless the County of Wayne for any pending, threatened or actual claims, liability or expenses arising from waste disposal by the licensee in violation of this law.
3. All Waste Haulers in the County shall offer or cause to be offered to their customers' collection, transportation and service for Recyclables to the same extent any such waste hauler offers collection, transportation and disposal services for solid waste.
4. All Waste Haulers must maintain all records and supply the Board of Supervisors or its designee with a quarterly report of its activities. Such quarterly report shall include: the tonnage of Solid Waste collected in the County and the dates collected in the County; the location of disposal of Solid Waste collected in the County; the tonnage of Recyclables collected in the County and the dates collected; and the market(s) for the Recyclables collected in the County.
5. Quarterly reports shall be provided no later than thirty (30) days after the end of the quarter with the first quarter being January, February and March; the second quarter being April, May and June; the third quarter being July, August and September; and the fourth quarter being October, November and December.

SECTION 7: Section IX of Local Law No. 7-89 as amended by Local Law No. 3-91is amended to read as follows:

Section IX. Civil remedies: Criminal Penalties

A. Civil Remedies

The County may commence a civil action to enjoin or otherwise remedy any failure to comply with this law or the rules, regulations and orders promulgated pursuant to this law.

B. Criminal Penalties

1. Failure to comply with the rules and regulations promulgated pursuant to Section IV(A) subparagraphs 1 and 2 of this law or with the provisions of Section V(D)(1)

of this local law shall be a violation as defined in Section 55.10 of the Penal Law. Any person convicted of such a violation shall be liable for:

- a. A fine of \$25.00 for the first conviction;
- b. A fine of \$50.00 for the second conviction
- c. A fine of \$100.00 for the third conviction
- d. fine of \$250.00 for the fourth conviction and each succeeding conviction; or
- e. Imprisonment for a term not to exceed fifteen days.

Each day such violation occurs or continues shall constitute a separate offense.

- 2. Failure to comply with Sections V(A), V(C), V(D)(2) V(E), VI(A) of this local law shall be a violation as defined in Section 55.10 of the Penal Law. Any person convicted of such a violation shall be liable for:
 - a. A fine of \$250.00 for the first conviction;
 - b. A fine of \$500.00 for the second conviction and each succeeding conviction; or
 - c. Imprisonment for a term not to exceed fifteen days.

Each day such violation occurs or continues shall constitute a separate offense.

- C. Any penalties or damages recovered or imposed under this law are in addition to any other remedies available at law or equity.

SECTION 8: Section X of Local Law No. 7-89 as amended by Local Law No. 3-91 is repealed in its entirety.

SECTION 9: Section XI of Local Law No. 7-89 as amended by Local Law No. 3-91 is renumbered section X.

SECTION 10: Section XII of Local Law No. 7-89 as amended by Local Law No. 3-91 is renumbered section XI.

SECTION 11: Section XIII of Local Law No. 7-89 as amended by Local Law No. 3-91 is repealed and replaced with a new Section XII which reads as follows:

Section XII: Effective Date

The provisions of this Law shall become effective on July 1, 2010. The Clerk of the Board of Supervisors shall give notice of the effective date of this local law by publishing notice thereof at least once in the official newspapers of the County, not less than thirty (30) days prior to said effective date.

Dated: November 25, 2009
Lyons, New York

Sandra J. Sloane, Clerk
Wayne County Board of Supervisors

The Chairman announced that the purpose of this public hearing is to give everyone the opportunity to express their views on the subject of proposed amendments to the local law that established a plan for the Management of Solid Waste generated or originated in the County of Wayne. These views become part of the record, which the Board of Supervisors relies on for its findings, conclusions and decisions.

The Chairman opened the floor for public comment and requested persons interested in addressing the Board regarding the proposed amendment to the Local Law to come forth.

The following citizens addressed the Board:

Terry VanStean
Sylvia Albrecht

Michele Fabrizio
Ross Marshall

Raymond Stiefel
Sharon Beneway

Susan Gateley
Walter Gilges
Dan Winkler
Carol VanEnwyck
Peter Evans
Steve MacNeal

Dan Hall
Gail Ellsworth
Ed Lavin
Katherine Bennett Roll
Douglas Knipple
Rob Williams

David Stern
Zachary Luckin
Jim Lethe
Nancy Kasper

The Chairman requested for any additional citizens that wish to voice their comments regarding the proposed amendments to the Local Law to come forth.

After time was given for all interested people to be heard, Mr. Kelsch moved, seconded by Mr. Plant, that the public hearing be closed. Upon roll call, carried.

ADJOURNMENT:

The next scheduled meeting of the Board is Tuesday, December 15, 2009 at 9:00 a.m.

Mr. Fabino moved, seconded by Mrs. Bender, that the board adjourn at 8:26 p.m. Carried.

Sandra J. Sloane, Clerk, Wayne County Board of Supervisors
