

**VILLAGE OF TARRYTOWN  
BOARD OF TRUSTEES  
WORK SESSION 6:00 P.M.  
WEDNESDAY, MARCH 2, 2022  
Tarrytown Village Hall  
One Depot Plaza, Tarrytown, New York**

Members of the public may attend in person or remotely. For those members of the public interested in viewing the meeting remotely visit:  
<https://www.tarrytownny.gov/home/events/37561> for instructions on how to view via Zoom.

**Open Session**

1. Board of Trustees Concerns
2. Continued Discussion – Budget
3. Discussion - Village Newsletter
4. Discussion – Summer Day Camp
5. Water Meters Bid Update
6. Placemaking Committee – Call to Artists – Mural
7. Old Police Tahoe for DPW Mechanics
8. Trees on RiverWalk
9. Discussion – Beautification Committee
10. SESAC Music License
11. Fire Department Membership Changes

**Executive Session**

- A. Police Collective Bargaining
- B. Reappointment – Library Board
- C. Village Policy – Displays on Village Property

TYPE OF PERMIT	FEE	Date Amended
Ice Skating	Resident 18+ \$10 season 17 and under \$5 season	
	Resident Senior \$5 season	
	Non-Resident \$5 per day	
Kayak-Boat Permit - Tarrytown Lakes	\$50/boat	7/17/2017
Kayak Storage Rack	Season Rental of Kayak Storage Rack - \$170 per space	3/2/2020
Losee Park Fields	Without Lights \$125/hour (3 hour/\$375 minimum)	2/4/2019
	With Lights \$150/hour (3 hour/\$450 minimum)	2/4/2019
Pierston Park Pavilion	\$275 Residents; \$550 Non-Residents (\$50 non-refundable)	2018
Performance Pavilion	Use of Performance Pavilion for casual use - Resident Fee - \$50/hour up to a 3 hr. maximum	2018
	Non-residents may not rent the Performance Pavilion	
Senior Center Rental, Resident	\$300 for 4 hours, plus \$50 ea. Add'l hour	5/8/2019
Senior Center Rental, Non-Resident	\$600 for 4 hours, plus \$100 ea. Add'l hour	5/8/2019
Swimming Pool Fees - Residents Only	Family Rate (2 Adults and no limit on number of children up to 21 years of age) - \$430.00	2/3/2020
	Individual (21 years of age or over) - \$215.00	2/3/2020
	Senior Citizen (60 and older) - \$105.00	5/8/2019
	Nanny Au pair - \$215.00	2/3/2020
	Daily Rate (age 4 and older)* - \$10/weekday; \$15/weekend	1/17/2017
	Daily Rate (age 3 and younger) - no charge	1/17/2017
	*Maximum number of guests (daily rate) per member - 2	1/17/2017
	Daily Rate/fee per Resident - \$50 for pool card, plus \$10 per day per resident - Monday - Friday and \$15 per day per resident - Saturdays, Sundays and Holidays. No guests allowed for holders of the day passes	4/16/2018
	Early Morning Lap Swim - Monday - Thursday, 5:30 a.m. - 8:30 a.m. and Sunday, 8:00 a.m. - 9:45 a.m. Pool Members - \$60/season - Non-Pool Members - \$100/season	6/19/2017
Summer Day Camp	Paid By: Apr 30 Resident: \$160	2/3/2020
Fee - Per 1-Week Session	Paid By: Apr 30 Non-Resident: \$180	2/3/2020

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TYPE OF PERMIT	FEE	Date Amended
	Paid By: Apr 30 Scholarship: \$118	2/3/2020
	Paid By: May 31 Resident: \$170	2/3/2020
	Paid By: May 31 Non-Resident: \$191	2/3/2020
Summer Day Camp	Paid By: May 31 Scholarship: \$129	2/3/2020
	Paid By: June 30 Resident: \$180	2/3/2020
	Paid By: June 30 Non-Resident: \$201	2/3/2020
	Paid By: June 30 Scholarship: \$139	2/3/2020
Summer Tot Camp	Paid By: Apr 30 Resident: \$139	2/3/2020
Fee - Per 1-Week Session	Paid By: Apr 30 Non-Resident: \$165	2/3/2020
	Paid By: Apr 30 Scholarship: \$98	2/3/2020
	Paid By: May 31 Resident: \$149	2/3/2020
	Paid By: May 31 Non-Resident: \$175	2/3/2020
	Paid By: May 31 Scholarship: \$108	2/3/2020
	Paid By: June 30 Resident: \$160	2/3/2020
	Paid By: June 30 Non-Resident: \$185	2/3/2020
	Paid By: June 30 Scholarship: \$118	2/3/2020
Summer Day Camp	Paid By: Apr 30 Resident: \$319	2/3/2020
Fee - Per 2-Week Session	Paid By: Apr 30 Non-Resident: \$361	2/3/2020
	Paid By: Apr 30 Scholarship: \$237	2/3/2020
	Paid By: May 31 Resident: \$340	2/3/2020
	Paid By: May 31 Non-Resident: \$381	2/3/2020
Summer Day Camp	Paid By: May 31 Scholarship: \$258	2/3/2020
	Paid By: June 30 Resident: \$361	2/3/2020
	Paid By: June 30 Non-Resident: \$402	2/3/2020
	Paid By: June 30 Scholarship: \$278	2/3/2020
Summer Tot Camp	Paid By: Apr 30 Resident: \$278	2/3/2020
Fee - Per 2-Week Session	Paid By: Apr 30 Non-Resident: \$330	2/4/2019
	Paid By: Apr 30 Scholarship: \$196	2/3/2020
	Paid By: May 31 Resident: \$299	2/3/2020
	Paid By: May 31 Non-Resident: \$350	2/3/2020
	Paid By: May 31 Scholarship: \$216	2/3/2020
	Paid By: June 30 Resident: \$319	2/3/2020
	Paid By: June 30 Non-Resident: \$371	2/3/2020

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TYPE OF PERMIT	FEE	Date Amended
	Paid By: June 30 Scholarship: \$237	2/3/2020
Summer Day Camp	Paid By: Apr 30 Resident: \$958	2/3/2020
Fee - 6-Week Session	Paid By: Apr 30 Non-Resident: \$1,082	2/3/2020
	Paid By: Apr 30 Scholarship: \$711	2/3/2020
	Paid By: May 31 Resident: \$1,020	2/3/2020
	Paid By: May 31 Non-Resident: \$1,143	2/3/2020
Summer Day Camp	Paid By: May 31 Scholarship: \$773	2/3/2020
	Paid By: June 30 Resident: \$1,082	2/3/2020
	Paid By: June 30 Non-Resident: \$1,205	2/3/2020
	Paid By: June 30 Scholarship: \$834	2/3/2020
Summer Tot Camp	Paid By: Apr 30 Resident: \$834	2/3/2020
Fee - 6-Week Session	Paid By: Apr 30 Non-Resident: \$989	2/4/2019
	Paid By: Apr 30 Scholarship: \$587	2/3/2020
	Paid By: May 31 Resident: \$896	2/3/2020
	Paid By: May 31 Non-Resident: \$1,051	2/3/2020
	Paid By: May 31 Scholarship: \$649	2/3/2020
	Paid By: June 30 Resident: \$958	2/3/2020
	Paid By: June 30 Non-Resident: \$1,112	2/3/2020
	Paid By: June 30 Scholarship: \$711	2/3/2020
Scaffolding Permit	\$50	
Sanitary Sewer & Stormwater Connection	\$50 application fee + \$40/day for use of parking space \$350 for connection for tap into manhole or catch basin \$1,000 for tap into sewer line	
Shopping Carts Left on Streets	\$25	
Sidewalk Café	Café - \$100 plus \$3.70 s.f.	2/18/2020
Sidewalk Vending	Vending - \$270 Sandwich Boards only - \$110	2/18/2020
Sidewalk Musicians	\$10 annually (a maximum of 4 sidewalk musician permits issued per year)	10/21/2013
Sidewalk Closing	\$25 + \$40 per day for parking spaces + \$250 security deposit	
Sandwich Board Permits	\$105.00/year	10/21/2013

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Memo to Board of Trustees

Subject: RFP for call for artists for mural  
Date: February 22, 2022  
From: Joyce Lannert, Chair, Placemaking Committee

The Placemaking Committee has been working on procuring an artist to complete a mural on the side of the Taste of China on Main/Kaldenberg. The building owner has already given his consent for the mural to enhance the side of his restaurant.

The Committee has decided on a theme for this first of what we hope will be other murals enhancing downtown Tarrytown. Since this is a highly visible wall as people start down Main Street, the decision was to use a vintage postcard theme, Welcome to Tarrytown – along this line – but would read Welcome to Tarrytown instead of Greetings from



We have a private commitment of \$2,500 and plan to raise an equal amount thru GoFundMe. We have spoken to Rich Slingerland about the Village’s providing an amount up to \$5,000 to the project. We expect that \$10,000 will cover the entire amount.

We plan to send this Call to Artists to the Peep Space in Tarrytown, Arts Westchester and Bethel Arts Community in Ossining.

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Our expectation is that we will be able to identify and contract for an artist so that our project can be completed by this summer.

#### **CALL TO ARTISTS**

*The Placemaking Committee of the Village of Tarrytown is seeking an artist to undertake a mural for the Village. The desired mural is to replicate a vintage-style postcard, "Welcome to Tarrytown" and incorporate iconic Tarrytown sites, e.g.: Lyndhurst, Sunnyside, the Music Hall, the monument at Patriots' Park, the Tappan Zee Bridge and Pierson Park.*

*The mural is to be painted on the Kaldenberg Street off Main Street, on the side wall of the Taste of China - an area approximately 12' wide and 8' high.*

*Interested artists should have experience doing outdoor murals and should submit a rendering of their interpretation of this theme, the proposed timing, and the cost and send to Rich Slingerland, Tarrytown Village Manager, [rslingerland@tarrytowngov.com](mailto:rslingerland@tarrytowngov.com).*



## FOR THE RECORD

BY WADE BELTRAMO, NYCOM COUNSEL

### Publicly Performing Copyrighted Works: *Are Blanket Performance Licenses Right for Your Municipality?*

With all of their myriad responsibilities, it is not surprising that most municipal officials rarely think about when and where their municipality publicly performs music. It is not uncommon for municipalities to publicly perform music -- whether it be live or from a recording -- at festivals, concerts, arts & craft fairs, parades, First Night and New Year's Celebrations, fireworks displays, carnivals, swimming pools, community center dances, and aerobic classes to name just a few. However, copyrighted works may only be publicly performed<sup>1</sup> with the copyright holder's permission. Failure to obtain such permission can expose the infringing entity to financial liability.

The International Municipal Lawyers Association (IMLA), working with organizations that license the public performance of copyrighted works, has produced a standard public performance license for local governments. In the past couple of years, the organizations that license public performances -- the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and the Society of European Stage Authors and Composers (SESAC) -- have become more active in contacting local governments about entering into license agreements.<sup>2</sup> These contacts have led to many questions and considerable confusion, with some municipalities coming away from their interactions with the licensing organizations believing that they are *required by law* to enter into the license agreements. This article will provide an outline for determining whether and how to enter into the licensing agreements, including an overview of basic copyright law and the municipal license agreements.

#### THE BASICS OF COPYRIGHT

Copyright is a set of legal rights granted by the federal government to authors of "original works."<sup>3</sup> Copyright owners have the exclusive right to:

- Reproduce the original work;
- Prepare derivative works based upon the original work;
- Distribute copies of the original work to the public; and
- Perform and display the original work publicly.<sup>4</sup>

Ownership of a book, manuscript, painting, or any other copy or phonorecord<sup>5</sup> does not give its possessor the

copyright. Thus, the purchase of a CD does not give the owner of the CD the right to play that CD publicly nor does the purchase of sheet music give its owner the right to publicly perform the music nor does the purchase of play's script give its owner the right to publicly perform the play.

Copyright owners may recover damages via civil litigation in federal court from individuals or entities who copy, prepare derivative works, distribute copies, or publicly perform or display the work without the copyright owner's permission.<sup>6</sup> In addition to recovering the infringer's profits and actual and statutory damages,<sup>7</sup> copyright owners may also recover the full costs and reasonable attorney's fees incurred in any civil actions seeking to enforce the owner's copyrights.<sup>8</sup> As a result, the financial liability from copyright violations can be substantial.

It must be noted that lack of profit or pecuniary gain is not a defense to copyright infringement. Furthermore, a municipality *may* be liable for music performed on municipal property or at municipal events even if it is not directly responsible for putting on the performance, does not pay for the performance, or does not charge any fee for admittance to the performance.

#### LOCAL GOVERNMENT BLANKET PERFORMANCE LICENSES

Prior to 2001, local governments could only obtain performance licenses for each specific location and type of performance. For example, a municipality would have to obtain one license for music performed at its community band shell and another license for music performed at its First Night celebration and yet another license for music performed at the local farmers' market. In addition, because three different licensing organizations -- ASCAP, BMI, and SESAC -- represent separate copyright holders, the local government might have had to obtain a separate performance license from each of those organizations. Needless to say, the pre-2001 licensing structure was cumbersome and unwieldy.

To facilitate the performance licensing process, IMLA worked with ASCAP and BMI<sup>9</sup> to draft blanket licenses that provide annual coverage for almost all non-dramatic performances on property owned by, and at functions and events hosted by local governments. These blanket licenses can save local governments the time and expense of securing permission directly from each copyright owner for music



publicly performed by various public entities within the community, such as community centers, museums, libraries or at special events.

The licensing fees must be paid annually, and local governments may need to obtain a license from each of the three different organizations. However, the licensing process is fairly simple and straightforward. Municipalities complete a form for each licensing organization and submit it, along with payment, to the appropriate licensing organization. The amount of the fee is set forth in a schedule that is adjusted annually and varies depending upon the size of your municipality's residential population. For example, for 2006, a local government with a population of 20,000 would have to pay a licensing fee of \$280 to ASCAP, \$280 to BMI, and \$232 to SESAC, for a total of \$792 per year.

Municipalities may not need to enter into agreements with all three licensing organizations. For example, if a municipality is not publicly performing any music that is licensed by SESAC, there is no need to enter into a licensing agreement with that organization. However, determining whether music that is going to be publicly performed is licensed by ASCAP or BMI or SESAC is often a time-consuming process and may be more costly than simply entering into licensing agreements with all three licensing organizations.

The ASCAP and BMI licensing agreements and rate schedules can be accessed online at [www.imla.org/music\\_licensing/index.html](http://www.imla.org/music_licensing/index.html). The SESAC license and rate schedule can be viewed at [www.sesac.com/pdf/municipality\\_notice\\_2006.pdf?state=NY](http://www.sesac.com/pdf/municipality_notice_2006.pdf?state=NY).

#### ANALYZING YOUR MUNICIPALITY'S RISK

Whether entering into a license agreement with ASCAP, BMI, or SESAC is right for your municipality depends upon a variety of factors. First and most importantly, municipalities should inventory when and where they are publicly performing music. There are undoubtedly municipalities that do not perform any music publicly. For those local governments, the risk of violating a copyright holder's rights is very small and therefore there is little or no need to enter into these blanket licensing agreements.

Many municipalities, however, do have music publicly performed, whether it be at a gazebo in the park or the local swimming pool. For those municipalities performing music, they need to determine whether it is more cost-effective to obtain a license for each location and type of activity or to enter into the blanket licenses.

#### AN ALTERNATIVE TO LOCAL GOVERNMENT MUSIC LICENSING

An alternative to obtaining the annual local government licenses is to require both the groups organizing the activities on municipal property and the groups performing the music to obtain performance licenses *and* to require them to defend and indemnify the municipality for any copyright infringement resulting from their activities and performances. This will not prevent the municipality from being sued or from being found liable for copyright infringement because it is not a defense to copyright infringement that a municipality specifically instructs musicians not to play copyrighted music,

or not to play specific songs, or not to play music in the repertory of a particular performing rights organization. However, having the event organizers and the musical performers defend and indemnify the municipality gives the municipality coverage for the financial liability.

When determining whether to enter into a blanket performance license, municipal officials should consult their municipality's insurance carrier and their municipal attorney. For more information on copyright law and public performance licenses, contact Wade Beltramo at 518-463-1185 or by email at [wade@nycom.org](mailto:wade@nycom.org).

#### Endnotes

1. "Public performance" is defined as performing "at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered." 17 U.S.C.A. § 101.
2. These organizations license the public performances on behalf of the copyright holders they represent.
3. Works of authorship include (1) literary works, (2) musical works, including any accompanying words, (3) dramatic works, including any accompanying music, (4) pantomimes and choreographic works, (5) pictorial, graphic, and sculptural works, (6) motion pictures and other audiovisual works, (7) sound recordings, and (8) architectural works. 17 U.S.C.A. § 102.
4. 17 U.S.C.A. § 106.
5. A phonorecord is the physical object in which works of authorship are embodied. The word "phonorecord" includes cassette tapes, CDs, LPs, 45 r.p.m. disks, as well as other formats.
6. 17 U.S.C.A. § 504.
7. "Statutory damages" are up to \$30,000 for each copyrighted song performed without a license and up to \$150,000 if the infringement is willful.
8. 17 U.S.C.A. § 505.
9. SESAC did not participate in the original process of drafting the blanket municipal license but has since offered a blanket municipal license.



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**Anthony Nash**  
New York City  
(212) 946-2872  
[anash@capmark.org](mailto:anash@capmark.org)

**Mike Neumeister**  
Buffalo  
(716) 662-3910  
[mneumeister@capmark.org](mailto:mneumeister@capmark.org)

**Richard Tortora**  
Great Neck  
(516) 487-9815  
[rtortora@capmark.org](mailto:rtortora@capmark.org)

**Roy McMaster**  
Elmira  
(607) 734-4308  
[rmmaster@capmark.org](mailto:rmmaster@capmark.org)

[www.capmark.org](http://www.capmark.org)