

Village of Tarrytown, NY

One Depot Plaza, Tarrytown, NY 10591-3199
ph: (914) 631-1885

Village Board of Trustees Minutes 08/19/2013

Board of Trustees
Village of Tarrytown
Regular Meeting No. 10
August 19, 2013
8:00 p.m.

PRESENT: Mayor Fixell presiding; Trustees Butler, McGee and Zollo; Administrator Blau; Treasurer Hart and Village Attorney Shumejda

ABSENT: Trustees: Basher; Hoyt and McGovern

The meeting began with the Pledge to the Flag.

REPORTS

There were no Board of Trustee reports.

VILLAGE ADMINISTRATOR'S REPORT

Bats – The Village received notice from the Westchester County Department of Health that during the month of August, residents are most likely to find a bat in their home. Last week alone, 51 bats have been brought to the health department for testing because they were found in a home. This is compared to 30 during the same time period last year. Also, during the first two weeks of August, 16 people have had to start preventive rabies treatment because they were exposed to a bat but did not catch the bat so it could be tested for rabies. According to the County Health Commissioner, "Most of the time, the bats tested are not rabid, so you and your family can be spared unneeded treatment. But rabies is fatal, so without the bat to test, you will most likely have to get rabies shots." For those who capture the bat, 97 percent of the bats tested do not have rabies.

The Village has placed the information provided by the Health Department on our website. There is information on the County Health Department website, www.westchestergov.com/health, explaining how to catch a bat if you have one in your house.

PUBLIC HEARING - HISTORIC COMMONS DISTRICT (adopted)

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 19th day of August 2013, at 8 PM, in the Municipal Building, One Depot Plaza, Tarrytown, New York 10591, to hear, discuss and to act upon a proposed amendment to Local Law No. 5 - 2013 entitled "Moratorium on Development in the Historic Commons HC Zone of the Village of Tarrytown" of the Code of the Village of Tarrytown. A summary of the legislation is available at Village Hall. The complete text of this legislation follows:

A LOCAL LAW to amend Local Law No. 5 - 2013 entitled "Moratorium on Development in the Historic Commons HC Zone of the Village of Tarrytown" of the Code of the Village of Tarrytown.

SECTION 1. LEGISLATIVE INTENT AND FINDINGS OF FACT.

A. Findings of Fact.

The Board of Trustees of the Village of Tarrytown has determined that certain R-40 parcels of property in the Village should be included in "Moratorium on Development in the Historic Commons HC Zone of the Village of Tarrytown" which was established pursuant to Local Law No. 5 - 2013 in order to insure that the intent and purpose of both Chapter 305-28 entitled "Historic Commons HC zone" and the "Moratorium on Development in the Historic Commons HC Zone of the Village of Tarrytown" are fulfilled.

B. Legislative Intent.

It is the intent of the Board of Trustees of the Village of Tarrytown to amend Local Law No. 5 - 2013 entitled "Moratorium on Development in the Historic Commons HC Zone of the Village of Tarrytown" of the Code of the Village of Tarrytown so that certain R-40 parcels of property as specified in this amendment are included in the moratorium.

SECTION 2. Amendment to Local Law No. 5 - 2013 entitled "Moratorium on Development in the Historic Commons HC Zone of the Village of Tarrytown" of the Code of the Village of Tarrytown:

Material to be deleted appears in underline, material to be added is in **bold typeface**.

SECTION 4. APPLICATION

This law shall apply to all real property within the Historic Commons HC Zone of the Village of Tarrytown **and to the following R-40 parcels: Tax Map ID.1.221-129-1; 1.26-134-5 and 1.26-134-7.**

(no further changes)

SECTION 3. EFFECTIVE DATE

This local law shall take effect immediately, as provided by law.

All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; a request must be made to the Village Clerk at least five days in advance of the meeting.

**BY ORDER OF THE BOARD OF TRUSTEES
OF THE VILLAGE OF TARRYTOWN**

Trustee Butler moved, seconded by Trustee McGee and unanimously carried, that the hearing be opened.

Mayor Fixell questioned whether anyone wished to address the Board on this matter. No one appeared.

Trustee McGee moved, seconded by Trustee Zollo, and unanimously carried, that the hearing be closed.

Trustee McGee moved, seconded by Trustee Zollo, and unanimously carried, that the following resolution be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby amend the Code of the Village of Tarrytown, Chapter 305-78 Zoning entitled "Moratorium on Development in the Historic Commons HC Zone," to include in the moratorium the R40 properties in the South End located west of Route 9, east of the Metro North Railroad, north of East Sunnyside Lane and south of Lyndhurst.

WHEREAS, a public hearing was held for the proposed action on August 19, 2013; and

WHEREAS, a notice of public hearing was published in the Journal News on July 19, 2013; and

WHEREAS, the Board of Trustees of the Village of Tarrytown is the only agency which has approval authority over the Proposed Action, and is therefore the Lead Agency for the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

In accordance with Article 8 of the State Environmental Conservation Law and 6NYCRR Part 617, including without limitations the criteria set forth in 6 NYCRR Part 617.7(c) and based upon review of the Environmental Assessment Form and all other materials that were prepared for the Proposed Action, the Village Board of Trustees hereby determines that Proposed Action will not have a significant adverse impact on the environment, and hereby adopts a Negative Declaration.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown hereby adopts Local Law No. 8 of 2013.

PUBLIC HEARING - PAYMENT OF WATER RENTS (adopted)

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 19th day of August 2013, at 8 PM, in the Municipal Building, One Depot Plaza, Tarrytown, New York 10591, to hear, discuss and to act upon a proposed amendment to Section 297-11 entitled "Payment of water rents" of the Code of the Village of Tarrytown. A summary of the legislation is available at Village Hall. The complete text of this legislation follows:

A LOCAL LAW to amend Section 297-11 entitled "Payment of water rents" of the Code of the Village of Tarrytown.

SECTION 1. LEGISLATIVE INTENT AND FINDINGS OF FACT.

A. Findings of Fact.

The Board of Trustees of the Village of Tarrytown has determined that because commercial properties are billed for water on a monthly basis and residential properties are billed on a quarterly basis, the assessment of penalties under Section 297-11 of the Village Code results in commercial properties subject to more in penalties than a residential property.

B. Legislative Intent.

It is the intent of the Board of Trustees of the Village of Tarrytown to amend Section 297-11 entitled "Payment of water rents" of the Code of the Village of Tarrytown so that both residential and commercial properties are subject to the same amount of penalties for nonpayment of water rents.

Material to be deleted appears in underline, material to be added is in **bold typeface**.

SECTION 2. Amendment to Section 297-11 entitled "Payment of water rents" of the Code of the Village of Tarrytown.

Section 297-11. Payment of water rents.

D. All amounts due for water rentals will be received within 30 days, beginning with the date on which such water rentals became due and payable. If payment is made after 30 days, 10% will be added. Should payment not be made upon the issuance of the future bills for water rentals, 10% shall be added to the bill on both the outstanding balance and the penalty, and this 10% additional payment shall continue to accrue until the bill is either paid or placed on the property tax bill pursuant to §~297-12 herein below. **The penalty shall be assessed quarterly.**

(no further changes to Section)

SECTION 3. EFFECTIVE DATE

This local law shall take effect immediately, as provided by law.

All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; a request must be made to the Village Clerk at least five days in advance of the meeting.

BY ORDER OF THE BOARD OF TRUSTEES OF THE VILLAGE OF TARRYTOWN

Trustee McGee moved, seconded by Trustee Zollo and unanimously carried, that the hearing be opened.

Mayor Fixell questioned whether anyone wished to address the Board on this matter. No one appeared.

Trustee McGee moved, seconded by Trustee Zollo, and unanimously carried, that the hearing be closed.

Trustee Zollo moved, seconded by Trustee McGee, and unanimously carried, that the following resolution be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby amend the Code of the Village of Tarrytown, Section 297-11 entitled "Payment of Water Rents," to provide for the same cycle for the institution of penalties for nonpayment of water rents for both residential and commercial properties.

WHEREAS, a public hearing was held for the proposed action on August 19, 2013; and

WHEREAS, a notice of public hearing was published in the Journal News on July 19, 2013; and

WHEREAS, the Board of Trustees of the Village of Tarrytown is the only agency which has approval authority over the Proposed Action, and is therefore the Lead Agency for the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

In accordance with Article 8 of the State Environmental Conservation Law and 6NYCRR Part 617, including without limitations the criteria set forth in 6 NYCRR Part 617.7(c) and based upon review of the Environmental Assessment Form and all other materials that were prepared for the Proposed Action, the Village Board of Trustees hereby determines that Proposed Action will not have a significant adverse impact on the environment, and hereby adopts a Negative Declaration.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown hereby adopts Local Law No. 9 of 2013.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD ONLY ON AGENDA ITEMS. SPEAKERS SHALL HAVE THREE (3) MINUTES TO ADDRESS THE BOARD OF TRUSTEES

Mayor Fixell asked if anyone wanted to address the Board on agenda items. No one appeared.

RESOLUTION TO EXECUTE AGREEMENT FOR PAVING PROGRAM FOR 2013

Trustee Butler moved, seconded by Trustee Zollo, and unanimously carried, that the following resolution be approved: Approved: 4-0

WHEREAS, the Village of Tarrytown, working with the Greenburgh Village Officials Committee, which includes the Villages of Ardsley, Dobbs Ferry, Elmsford, Hastings, Irvington, and Tarrytown, as well as the Village of Sleepy Hollow, has developed plans and specifications for a joint street paving program for 2013; and

WHEREAS, the joint paving program is designed to save each of the participating Villages money based upon increased quantities for paving (asphalt and milling of streets) and reduced mobilization for the contractor; and

WHEREAS, on July 22, 2013, the Village of Ardsley, as the Village responsible for the joint paving program, opened bids for the "2013 Road Milling and Paving Contract"; and

WHEREAS, six bids were received for the work in the seven Villages; and

WHEREAS, the seven bids received are as follows:

Laws Construction Corp.	\$975,440.80
PCI	\$1,069,487.20
Bilotta Construction Corp	\$1,118,961.90
ELQ Industries, Inc.	\$1,196,464.20
Montesano Brothers, Inc.	\$1,421,329.50
Morano Brothers Corp.	\$1,519,981.00

WHEREAS, it is necessary for each Village to execute documents with the lowest responsible bidder for the repaving work to be performed in that Village to commit the Village to the milling and paving work; and

WHEREAS, the Village has \$175,333.78 available in New York State CHIPS funds (Consolidated Local Street and Highway Improvement Program) as well as a capital budget appropriation of \$100,000 to be used for paving projects.

NOW THEREFORE, BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby award the 2013 Road Milling and Paving Contract to LAWS Construction Corporation, 34 Irvington Street, Pleasantville, New York 10570, per their bid.

BE IT FURTHER RESOLVED that the Village Administrator is hereby authorized and directed to execute all necessary paperwork associated with the milling and paving project in the Village of Tarrytown.

FIRE DEPARTMENT MEMBERSHIP CHANGES

Trustee McGee moved, seconded by Trustee Butler, and unanimously carried, that the following resolution be approved: Approved: 4-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the following Fire Department membership changes recommended at the July 16, 2013 Board of Fire Wardens meeting: Membership: Gregory Sheppard was approved to active membership to Washington Engine and Paul Cappello has transferred from Riverside Hose to Conqueror Hook & Ladder. Drivers: Correction to the Board of Trustees resolution dated July 15, 2013: Darrell Lindsay Sr. and William Logan Sr. have been approved as drivers of *Riverside Hose Company* and not *Utility 61*.

SUMMER DAY CAMP EMPLOYMENT

Trustee McGee moved, seconded by Trustee Butler, and unanimously carried, that the following resolution be approved: Approved: 4-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the following additions to the 2013 summer day camp employment schedule as submitted by the Recreation Supervisor:

- John Randazzo to the position of Counselor at \$9.00/hour
- Amanda La Rocca to the position of Counselor at \$7.00/hour

BE IT FURTHER RESOLVED that these appointments shall take effect on July 22, 2013 and shall extend through August 9, 2013.

DRIVEWAY – 23 JOHN STREET

Trustee McGee moved, seconded by Trustee Butler, and unanimously carried, that the following resolution be approved: Approved: 4-0

WHEREAS, the owner of 23 John Street is requesting the authorization to create a curb cut from the Board of Trustees to create a driveway to provide for off street parking for the owner; and

WHEREAS, the Planning Board has previously approved one off-street parking space for the property at 23 John Street; and

WHEREAS, the Zoning Board of Appeals has approved a zoning variance to allow for parking in the front yard of the property at 23 John Street.

THEREFORE BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby authorize the creation of a curb cut at 23 John Street pursuant to the plans submitted for approval by the Planning Board and the zoning variance by the Zoning Board of Appeals.

PROPOSED CURB CUT – CANFIN GALLERY

Trustee McGee moved, seconded by Trustee Butler, and unanimously carried, that the following resolution be approved: Approved: 4-0

WHEREAS, Canfin Gallery at 39 Main Street received approval from the Planning Board for modifications to the portion of the

building along North Washington Street, specifically relating to the garage; and

WHEREAS, the Planning Board approval provided for the demolition of the existing two-car garage and construction of a three-car garage and commercial space above the garage; and

WHEREAS, the existing curb cut for the old garage does not align with the placement of the new garage and the property owner is now requesting a curb cut for the new three-car garage from the Board of Trustees; and

WHEREAS, there is an existing tree pit in the location of the new proposed curb cut.

NOW THEREFORE BE IT RESOLVED, that the Board of Trustees does hereby approve the curb cut at 39 Main Street subject to the following conditions: (1) that a new tree pit be created at a location acceptable to the Village and a tree be planted in the new tree pit; and (2) that the existing curb cut be removed and a new curb be constructed at the location. Both of these items shall be at the expense of the applicant.

TARRYTOWN PUMP STATION

Trustee McGee moved, seconded by Trustee Butler, and unanimously carried, that the following resolution be approved: Approved: 4-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby authorize and direct the Village Administrator to execute an Order on Consent, Case No. R3-20130507-54 with the New York Department of Environmental Conservation.

TAX CERTIORARI – 92-100 NORTH BROADWAY

Trustee McGee moved, seconded by Trustee Butler, and unanimously carried, that the following resolution be approved: Approved: 4-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the tax certiorari settlement with N.F. Lau, Inc., 92-100 North Broadway, as outlined in the Village Attorney's memorandum dated August 2, 2013; and

BE IT FURTHER RESOLVED that financing for this tax certiorari settlement may be provided pursuant to a future financing authorization.

SCHEDULE A PUBLIC HEARING – ARB APPLICATION SUBMISSION

Trustee Butler moved, seconded by Trustee McGee, and unanimously carried, that the following resolution be approved: Approved: 4-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby schedule a public hearing for Tuesday, September 3, 2013 at 8:00 p.m. at Village Hall, One Depot Plaza, Tarrytown, New York, to hear, discuss and to act upon a proposed amendment to Chapter 9. Architectural Review Board to require that applications be submitted at least eighteen (18) calendar days prior to the date of the meeting of the Board.

SCHEDULE A PUBLIC HEARING – ZONING APPLICATION SUBMISSION

Trustee Zollo moved, seconded by Trustee McGee, and unanimously carried, that the following resolution be approved: Approved: 4-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby schedule a public hearing for Tuesday, September 3, 2013 at 8:00 p.m. at Village Hall, One Depot Plaza, Tarrytown, New York, to hear, discuss and to act upon a proposed amendment to Chapter 305. Zoning Board of Appeals to require that applications be submitted at least eighteen (18) calendar days prior to the date of the meeting of the Board.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF THE BOARD OF TRUSTEES HELD ON JULY 15,

2013 – (Tabled)

APPROVAL OF AUDITED VOUCHERS

Trustee Butler moved, seconded by Trustee McGee, and unanimously carried, that the following resolution be approved: Approved: 4-0

BE IT RESOLVED the Board of Trustees hereby approves the Audited Vouchers included in Abstract No. 2 and hereby orders the Audited Vouchers to be paid in the following amounts:

General	\$	910,365.97
Water		261,798.97
Sewer Fund		0.00
Capital		7,725.05
Library		23,109.01
Trust & Agency		<u>7,259.64</u>
Total		\$1,210,258.64

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD. SPEAKERS HAVE FIVE (5) MINUTES BEFORE YIELDING TO THE NEXT SPEAKER; THEN THREE (3) MINUTES FOR ADDITIONAL COMMENTS

Celesti Colds Fechter and Ronald Fechter, 57 LeGrande Avenue, stated that their next door neighbor's property has a retaining wall that is collapsing onto their property. They notified their neighbor, had the wall inspected by Building Inspector Pennella and there has been no action since then to repair the wall. They noted that they don't know how to proceed and are now requesting direction from the Board of Trustees. Administrator Blau stated that he will follow up with the Building Department and get back to them tomorrow.

Peter Bartolacci, 67 Miller Avenue, stated that he is requesting help from the Board of Trustees regarding the requirements for site plan approval from the Planning Board and the applicability of the steep slopes provision in the Zoning Code to a retaining wall project on his property at 67 Miller Avenue. He is trying to repair an existing retaining wall on his property to alleviate the health and safety hazards currently present. Attorney Shumejda explained the details of the application and stated that it is properly before the Planning Board. Mr. Bartolacci stated that he is requesting a response from Attorney Shumejda as to why the steep slopes legislation applies to his application and why this project was required to be submitted to the Planning Board for approval. Mayor Fixell stated that Mr. Bartolacci can request a copy of the amendments to the steep slopes legislation and Board minutes associated with the amendments.

ADJOURNMENT

Trustee Butler moved, seconded by Trustee McGee, and unanimously carried, that the meeting be adjourned at 8:51 p.m.

Carol A. Booth
Village Clerk