

REGULAR MEETING

March 19, 2020

The Regular meeting of the Board of Trustees of the Village of Upper Nyack was held via teleconference by WebEx , due to the Coronavirus outbreak, on Thursday, March 19, 2020 at 7:00 PM.

Those present: Mayor Tarapata, Trustees, Diamond, Dodge, Esmay & Rothchild
Village Clerk: Carol G. Brotherhood; Village Treasurer-Richard D. Fortunato;
Village Attorney: Robert P. Lewis Esq.

Absent: Village Attorney: Robert P. Lewis Esq.

Those who spoke: Meave M. Tooher; Noelle C. Wolfson

MINUTES - Trustee Rothchild made a motion to approve the minutes of the **02/20/2020 Regular meeting**, seconded by Trustee Dodge and with no discussion, so moved.

AYES: Mayor Tarapata, Trustees Diamond, Dodge & Rothchild

NOES: None ABSTAIN: Trustees Esmay

POLICE REPORTS – No report available

TREASURER’S REPORT –

The budget workshop will be held on 04/02/2020 at 7:00 PM

TENTATIVE BUDGET -SET PUBLIC HEARING DATE

Trustee Rothchild made a motion that the Board of Trustees will hold a public hearing on the tentative budget on April 16, 2020 at 7:30 PM, and the Village Clerk will publish a notice of the public hearing, seconded by Trustee Diamond and so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

VOUCHERS – Read and approved for payment.

NYSLRS Resolution – Standard Work Day

Resolution - NYSLRS – Standard Work Day and Reporting Resolution for Elected and Appointed Officials

Trustee Esmay motioned to approve the Standard Work Day and Reporting Resolution for Elected and Appointed Officials, and that the resolution be posted for 30 days, seconded by Trustee Rothchild and with no further discussion, so moved.

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

REQUEST FOR STREET CLOSING – UNES PTA June 6, 2020

Trustee Dodge made a motion that North Broadway be closed between Castle Heights Avenue and Birchwood Avenue for the Upper Nyack Elementary PTA Goosetown Bazaar from 10:30 am until 3:00 pm on Saturday, June 6, 2020 and that they provide a Certificate of Insurance, seconded by Trustee Rothchild and so approved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

The Upper Nyack PTA will notify the residents of North Broadway, Perry Lane, Tompkins Court and lower Castle Heights Avenue of the closing by letter using the sample letter provided and sign an affidavit that such mailing took place.

The Clerk will notify the Clarkstown Police liaison officer so that auxiliary police can be provided along with barricades to block off the street.

BOARD OF ASSESSMENT REVIEW

March 19, 2020, Joe Diamond-Chair, Board of Assessment Review

The Board of Assessment Review of the Village of Upper Nyack

Those present: Mayor Tarapata; Trustees: Diamond, Dodge, Esmay & Rothchild
Chairman Diamond presided over the Board of Review

The Board discussed the information from the Assessor regarding the Grievance applications that were received and reviewed at Grievance on February 21, 2019.

Trustee Diamond noted the thoughtful deliberations of the Board with the Assessor.

Trustee Rothchild commented that there were more applications than usual and the Board reviews and makes the determination, not a rubber stamp. With no further discussion, Trustee Diamond motioned to accept the changes to the assessments, seconded by Trustee Rothchild and so moved. On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge & Rothchild

NOES: None ABSTAIN: Trustee Esmay (not in attendance at Grievance)

Rockland County Inter-municipal Shared Services & Collaboration Agreement for Procurement

Mayor Tarapata noted she would like to postpone this agenda item until the April 16, 2020 meeting. The Mayor will circulate for further review by the Board. This agreement is not mandatory and the Mayor also noted that there may not be any items the Village would need.

Landscape Clean-up of River Hook Preserve

The Village obtained quotes from Hudson Valley Forestry, Wickes Arborists and O'Sullivan Tree Care for milling of logs and clean-up of brush on the Preserve property. The job will take approximately 3 days. The Board discussed the 3 submitted proposals. Mayor Tarapata noted some logs will be stockpiled for later use, maybe as benches. The

invasive plant removal cannot be done until the logs are removed.

With no further discussion, Trustee Dodge made a motion that the Board approve the proposal and bid from O'Sullivan Tree Care for the clean-up at the River Hook Preserve for 3 days, not to exceed \$10,000, seconded by Trustee Diamond and so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

Zoning Code Revision Committee Appointments

Mayor Tarapata appointed the following people to the Zoning Code revision committee: William Pfaff, Noelle Wolfson, Michael Esmay, and Karen Tarapata.

Mayor Tarapata noted that all amendments to the code will go through the full public hearing process.

The Board ratified the appointments.

Motion: Trustee Rothchild

Second: Trustee Diamond

So moved and voted as follows:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

Public Hearing for Draft Update of Comp Plan postponed

Mayor Tarapata asked the Board to agree to postpone the public hearing for the draft update of the Comprehensive Plan to April 23, 2020.

Trustee Dodge made a motion that the Board postpone until April 23, 2020, the public hearing on the draft comprehensive plan, seconded by Trustee Rothchild and so moved

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

Treasurer Fortunato requested the Board pass a resolution for a bond payment for the DPW building.

Trustee Esmay made a motion to authorize the Treasurer to pay the DPW Serial Bond of \$60,000 to principal and \$16,093.76 in interest, seconded by Trustee Rothchild and so moved. On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Esmay & Rothchild

NOES: None

7:30 PM Public Hearing: Temporary Moratorium law on commercial or residential special use permit and special use permit renewal applications

The Village Clerk read the public hearing notice

Trustee Diamond made a motion to open the public hearing, seconded by Trustee Rothchild and so moved. On a call for vote:

AYES: Mayor Tarapata, Trustees Diamond, Esmay & Rothchild

NOES: None

Mayor Tarapata read the following statement:

Public Hearing on the Proposed Moratorium on the Issuance of New Special Use Permit and Special Use Permit Renewals for those permits that will expire during the term of the Moratorium.

As many of you know, the Village is in the process of updating its Comprehensive Plan. The Draft Updated Comprehensive Plan and information about public participation in its review are available on the Village's Website.

Along with updating the Village's Comprehensive Plan, the Board of Trustees will consider amendments to its existing land use and zoning laws to ensure that those laws meet the requirement that they are in accordance with the Updated Comprehensive Plan. Drafts of those amendments will be made publicly available and the Board of Trustees will hold a public hearing on all proposed zoning amendments before they are adopted, giving ample opportunity for public participation.

In November of 2019 we adopted a moratorium on the issuance of new special use permits in the Village because the Board of Trustees felt that if new applications were permitted to go forward while the Updated Comprehensive Plan and related zoning amendments were being prepared, the building and land development completed pursuant to such permits could undermine the very purpose of the implementation of an updated Comprehensive Plan.

The moratorium adopted in November is due to expire in the next few weeks. The Local Law that is the subject of this hearing would extend the moratorium to September 30, 2020.

It also extends the moratorium to cover the issuance of special use permit renewals for permits that will expire while the moratorium is in effect. Expanding the moratorium in this way serves the same purpose as the temporary prohibition on the issuance of new permits – to ensure that decisions on special use permit renewals are not contrary to the Updated Comprehensive Plan.

To avoid regulatory uncertainty for property owners who currently hold special use permits which will expire during the term of the moratorium, the moratorium extends the expiration of such permits until 30 days following the termination of the moratorium. This 30-day period will give renewal applicants an opportunity to review the updated zoning regulations and to prepare renewal applications in accordance with the terms of such regulations.

For both new applications and renewals, the moratorium law includes a provision permitting the Village Board of Trustees to grant variances or modifications in cases of significant hardship.

We feel that these measures strike the right balance between protecting property rights in existing permits and accomplishing the goals of the updated comprehensive plan, which is in the overall interest of the Village and its residents.

The protection temporarily extending the duration of existing permits is even more important now, when the speed and ability of applicants to prepare applications, and the Village's ability to process them are complicated by the COVID-19 emergency.

The Mayor asked for comments from the public:

Maeve Tooher (Tooher & Barone LLP) representing Goosetown Environmental Action (GEA) residents in and around the historic district next to the Marine Business District. Ms. Tooher sent a letter to the Village Board via email on March 18, 2020 and she paraphrased at the meeting, noting that her clients were concerned with the impact of the Moratorium and the upcoming review of the Comprehensive Plan and updated Zoning Code on the activities of the shipyard at 1 Van Houten St. The special permit for the shipyard expires on April 15, 2020. The concern is that the changes could create a pre-existing non-conforming uses and create a situation that the conditions can continue unabated. Ms. Tooher's suggestion was to have a provision to allow renewals to go forward for 1 year and amend the moratorium to require everyone to obtain a new special permit.

Mayor Tarapata noted that the Board does not intend to change borders or uses in the Marine Business District, thereby creating any pre-existing non-conforming uses.

Ms. Tooher believes that activities that are occurring now will become existing, non-conforming because the renewals go 30 days after the zoning code is changes.

Trustee Esmay asked for examples.

Noelle Wolfson Esq., representing the Village, noted that the non-conforming idea is speculative. That conversation is for when the zoning code is revised and the moratorium goes forward. The Board will not make decisions prior to adopting the Comprehensive Plan. The draft Comprehensive Plan does not call for changes in the Marine Business district. Not all special permits are up for renewal.

Mayor Tarapata asked Maeve Tooher or any other documentation, or case law, she could provide to the Board to help in the Board's decision?

Maeve Tooher agreed to provide by next week.

Mayor Tarapata asked if anyone else would like to speak.

The public hearing will be kept open.

Trustee Rothchild made a motion to continue the public hearing and extend the open comment period to April 2, 2020 at 7:30 pm, which will be a special meeting, seconded by Trustee Esmay and with no further discussion, it was so moved.

On a call for vote:

AYES: Mayor Tarapata, Trustees Diamond, Esmay & Rothchild

NOES: None

Trustee Esmay made a motion to adjourn at 8:06 PM, seconded by Trustee Rothchild and it was so moved. On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

Respectfully submitted,

Carol G. Brotherhood
Village Clerk