

REGULAR MEETING

May 19, 2016

The Regular meeting of the Board of Trustees of the Village of Upper Nyack was held at the village hall on Thursday, May 19, 2016 at 7:00 PM.

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

Other's identified: PO Shannon-CPD, Ben Weiland-TPL, Walter Lee, Sister Veronica

POLICE REPORT – PO Shannon attended and presented the report.

The CPD is continuing to monitor the vacant house on Badi Drive and the house at 519 North Midland (vandalism)

Complaints: UNES 20 youth were identified and disciplined.

Glenbrook Road- Speeders: 2 people were stopped and 15 warnings were issued.

Summit School 5K Walk/Run – Lt. Morgan, PO Shannon and PO Valerio will staff.

UNES: With a CPD Officers presence the traffic infractions have stopped or they have seen very few.

There was a domestic dispute with a family that has a long standing issue and the State is working with the family to resolve.

30 medical calls for service; 30 alarms

Walter Lee, 105 Larchdale Ave, spoke to Officer Shannon and the Board about teen activity on Larchdale, late at night when the weather turns warm. They sometimes park cars and go to Hook Mtn Park. The CPD will have an officer check on it.

The Board also asked PO Shannon to check on noise from people parking on Castle Heights Ave early in the morning.

REQUEST TO APPEAR:

Ronnie Rugys, 218 Glenbrook Road appeared before the Board to discuss the trees and landscaping that is growing on and into the right of way at the corner of her property. In the fall she spoke with William Fay (DPW) about trimming back the vegetation and that she would continue in the spring because that was a better time to trim the tree. There is a lilac tree that she intends to remove. Ms. Rugys noted that approximately 10 years ago she spoke to the Board about installing a stop sign on the corner of Roseland and Glenbrook Rd. The landscaping was originally

planted to stop the view of the restaurant on the corner but it grew larger than anticipated but a benefit was that it slowed the traffic down, PO Shannon noted that the Traffic Advisory Board did a survey and the majority of residents on Roseland Rd do not want a stop sign. PO Shannon suggested that if the trees are removed or if it becomes a problem the Board can revisit the issue and consider the stop sign. The Board agreed it was reasonable to place a sign that says "Children at Play"

TREASURER'S REPORT – Submitted for review.

Treasurer Fortunato noted that the bank changes were being implemented and the accounts at Sterling were now open. Three accounts at Chase will overlap until all are cleared and then will be closed.

Tax bills are being mailed next week.

The Board needs to consider paying off the bond or refinancing.

VOUCHERS – Read and approved for payment.

7:15 PM PUBLIC HEARING RESCINDING Local Law #3 OF 2016 known as Local Law #4 of 2016 Tax Levy Limit

The Village Clerk read the public hearing notice.

Mayor opened the public hearing. The Board will rescind this law to allow the residents to receive a rebate from the state by keeping within the tax levy limit of under 2%.

Trustee Esmay motioned to close the public hearing, seconded by Trustee Nye and on a call for a vote to close:

AYES: Mayor Hindin, Trustees Diamond, Esmay, Nye & Tarapata

NOES: None

As there was no further discussion, Trustee Tarapata motioned to rescind local law #3 of 2016, tax levy limit, seconded by Trustee Diamond and it was so moved and on a call for a vote:

AYES: Mayor Hindin, Trustees Diamond, Esmay, Nye & Tarapata

NOES: None

Trust for Public Land – Institute of Christian Doctrine

Ben Weiland and Sister Veronica came before the Board to further discuss the acquisition of the land at Marydell by the Trust.

Ben Weiland noted that the parking prohibition for park access purposes will be in perpetuity. He also noted the easement across through the chapel area. A conservation easement and right of first refusal was being set up to try and get the

property to be forever green if the Institute of Christian Doctrine is no longer owner someday.

The Trust is looking for an enabling resolution by early summer (June) to show the State the Village's commitment.

Ben Weiland also asked permission to get the Village Attorney and Trust Attorney together to draft something.

Walter Lee, 105 Larchdale, noted to Mr. Weiland that he was concerned with the 10 motor vehicle spaces on the plan. Mr. Lee is concerned with the State making changes to the land. What kind of guarantee is there that it will be an ironclad contract?

Mr. Weiland noted that open space has restrictions for the State.

Mr. Lee and the Board noted their appreciation to the Sisters for being such good neighbors to the Village residents.

Mr. Weiland suggested that a Town Hall meeting could be set up with the Commissioner of the PIP James Hall for the public to ask questions.

It was also noted that conservation easements and restrictions will run with the land.

MINUTES – Trustee Nye motioned that the Board accept the minutes of the Regular meeting of April 21, 2016, seconded by Trustee Tarapata and it was so moved.

AYES: Mayor Hindin, Trustees Diamond, Esmay, Nye & Tarapata

NOES: None

APPOINTMENTS: ARB & ZBA

Mayor Hindin spoke to Chairman Wortendyke, who recommended Michael Williams as member to the Architectural Review Board. Mr. Williams submitted his resume and attended the ARB as an observer.

Trustee Esmay made a motion to ratify the appointment by Mayor Hindin of Michael Williams to the Architectural Review Board, term until March of 2019 to fill out the term left vacant when Martin Wortendyke became Chairman and filled out the term of the former Chairman.

The appointment to the ZBA is on hold until the Mayor speaks with the Chairman.

SUMMIT SCHOOL

Request for approval – 5K Walk/Run

The Principal of the Summit School at Nyack requested permission to hold a Walk/Run on Wednesday, May 25, 2016 on North Broadway from approximately

10 am until 12 Noon. The Clarkstown Community Police Officers will be in attendance to monitor for safety.

Trustee Nye made a motion that the Board of Trustees grant approval for the Summit School 5K Walk/Run, Wednesday, May 25, 2016, 10 am until 12 noon, and that they provided a Certificate of Insurance, seconded by Trustee Tarapata and it was so moved.

On a call for a vote:

AYES: Mayor Hindin, Trustees Diamond, Esmay, Nye & Tarapata

NOES: None

HVAC Proposal –

Trustee Esmay motioned to accept the bid from Design Air Inc., 120 Route 59-PO Box 845, Hillburn, NY 10931 for \$3,571.00 to install a heating & air conditioning unit, seconded by Trustee Tarapata and so moved.

AYES: Mayor Hindin, Trustees Diamond, Esmay, Nye & Tarapata

NOES: None

EXECUTIVE SESSION

8:13 pm Trustee Nye made a motion that the Board enter into executive session, seconded by Trustee Diamond and so moved.

AYES: Mayor Hindin, Trustees Diamond, Esmay, Nye & Tarapata

NOES: None

Discussion took place regarding personnel issues and potential litigation. Also discussed was a recently settled Certiorari, the Rubbish and Removal contract, extension of a use variance-legal opinion.

9:15 pm Trustee Esmay made a motion that the Board exit executive session, seconded by Trustee Nye and on a call for a vote:

AYES: Mayor Hindin, Trustees Diamond, Esmay, Nye & Tarapata

NOES: None

Resolution to accept settlement of Certiorari (attached)

Trustee Nye made a motion, seconded by Trustee Esmay and so moved.

On a call for a vote:

AYES: Mayor Hindin, Trustees Diamond, Esmay, Nye & Tarapata

NOES: None

Motion to adjourn by Trustee Tarapata and seconded by Trustee Nye and so moved. The meeting was adjourned at 9:16 PM

AYES: Mayor Hindin, Trustees Diamond, Esmay, Nye & Tarapata

NOES: None

Respectfully submitted,

Carol G. Brotherhood
Village Clerk

**RESOLUTION
VILLAGE OF UPPER NYACK
BOARD OF TRUSTEES
MAY 19, 2016**

WHEREAS, the pending tax certiorari lawsuit in the Rockland County Supreme Court, before the Honorable Justice Margaret Garvey, is entitled "SJN LLC vs. Village of Upper Nyack" et al under Index #031891/2014.; and

WHEREAS, the parties have appeared numerous times in the Supreme Court before Justice Margaret Garvey, and the Judge issued a discovery, stipulation and order dated February 23, 2016, setting forth a schedule for a compliance conference, exchange of appraisal reports, pre-trial conference, submission of pre-trial memoranda and setting a trial date; and

WHEREAS, all of the parties, including representatives from the Town of Clarkstown, Nyack School District, Robert P. Lewis, Jr., Village Attorney for the Village of Upper Nyack, Cathy Conklin, the Upper Nyack Tax Assessor and the Plaintiff's attorney, met at the Town Attorney's Office for the Town of Clarkstown on May 13, 2016 to negotiate a settlement; and

WHEREAS, the parties agreed to a reduction in the assessed valuation on the Upper Nyack tax rolls for the years 2014/2015, 2015/2016 and 2016/2017 which proposed settlement reduction of the assessed valuation was approved by the Rockland County Supreme Court Justice Margaret Garvey in Court on May 18, 2016; and

WHEREAS, it was recommended by both the Village Attorney Robert P. Lewis, Jr., and the Village Assessor Cathy Conklin, that the proposed settlement is reasonable and in the best interest of the Village as the total refund was only \$757.94 for three years and the Village avoided the additional cost of paying for an appraisal and having a trial.

NOW, THEREFORE, BE IT RESOLVED, that the Village settle the pending tax certiorari lawsuit in the above entitled matter on the following terms and conditions:

<u>Year:</u>	<u>Original Assessed Valuation:</u>	<u>Settled Assessed Valuation</u>	<u>Reduction</u>	<u>Tax Rate/ Thousand</u>	<u>Refund</u>
2014/2015	\$375,000.00	\$329,000.00	\$46,000.00	\$11.80	\$542.80
2015/2016	\$334,900.00	\$317,200.00	\$17,900.00	\$12.019	\$215.14
2016/2017	\$288,800.00	\$288,800.00	\$0.00		<u>\$ 0.00</u>
Total Refund Liability =					<u>\$757.94</u>

A motion was made by Trustee Joseph Diamond and seconded by Trustee Michael Esmay to settle the above mentioned lawsuit based upon the reduced assessed valuation for the three year period as set forth above and to refund the sum of \$757.94 to the Plaintiff in the lawsuit in full settlement of the pending tax certiorari lawsuit against the Village of Upper Nyack for the three year period in question.

Ayes: Mayor Jeffrey Hindin, Deputy Mayor Michael Esmay, Trustee Joseph Diamond, Trustee Donna Nye and Trustee Karen Tarapata.

Nayes: None