

REGULAR MEETING

October 15, 2020

The Regular meeting of the Board of Trustees of the Village of Upper Nyack was held Thursday, October 15, 2020 at 7:00 PM. In accordance with the Executive Order 202.48, this meeting was held by video/teleconference. The meeting was recorded and transcribed.

Village officials present: Mayor Tarapata, Trustees Dodge, Epstein, Esmay & Rothchild

Village Clerk Carol G. Brotherhood; Treasurer Richard D. Fortunato

POLICE REPORTS –PO Kennedy participated and noted since 9/18/2020 there were:
Calls for service: total 155; 21 medical, 21 burglar & fire alarms; 1 domestic; 1 fraud (between family members); 24 area checks; 33 cultural and religious; there is an uptick in stolen vehicles and larcenies out of vehicles, especially in Orangetown & Stony Point
Overdoses: Rockland County – 196 YTD with 23 deaths; Town of Clarkstown 60 YTD with 51 surviving and 9 deaths

Trustee Epstein inquired whether there were more OD's reported during Covid? PO Kennedy noted the numbers were definitely trending up and findings indicated the drugs have been laced with fentanyl.

No parking signs- Lexow Ave. Removed due to neighbor dispute but continue to leave no parking signs on Locust Dr. and alternate signs from North to South.

Area Officer to check on overnight parking on Castle Heights Ave. CPD can be called for too much noise of loud or large party.

Halloween Night 10/31/2020 / North Broadway & Castle Heights

There will not be any street closure for Halloween related activities this year due to Covid-19.

7:12 PM Trustee Esmay joined the meeting.

TREASURER'S REPORT- Presented by Treasurer Fortunato.

Year to date financials have been sent to all Board members.

\$155,000 has been received for the North Broadway Sidewalk Improvement Grant

\$135,000 has been requested from CHIPS.

There are 13 outstanding residential taxes due.

The audit is in progress but taking a little longer due to Covid-19.

VOUCHERS - Read and approved for payment.

EMPLOYEE HANDBOOK – Mayor Tarapata noted that the handbook requires some updates and would like the Board to review at the next workshop.

There was a brief discussion about Village emails that were recently hacked. The Mayor

noted that the Board will use Village emails for all Village business and so items can be archived.

Mayor Tarapata gave the Board some updates on the following:

FESCO FENCE – Railings for Village Hall porch- Waiting for drawings from Fesco Fence to indicate how the railings will be attached at the steps.

MIL MART ELECTRIC – Barn at River Hook Preserve & Village Hall Office

Electric has been installed at the Barn and waiting on the inspection. Will obtain quote for replacement of lighting to LED in the Village hall office.

ANNEXATION – The Mayor has spoken to all property owners and has received a positive response. The Village is waiting on a quote for a new survey to be done of all the metes and bounds for the annexation. Have provided a table of the tax implications to the owners. The Village Assessor assisted the Mayor in calculating those taxes.

7:30 PM – Public Hearing Architectural Review Law

The Village Clerk read the public hearing notice.

The Mayor read the following prepared statement outlining the proposed law:

ARB LAW Statement

Before the Board is a proposed Local Law:

- Repealing the Architectural Review section of the existing Zoning Ordinance (ARTICLE VI) and
- Adopting a new Local Law that
 - Continues the Architectural Review Board; and
 - Modifies and clarifies the jurisdiction, procedures and standards that apply when it processes applications.

This Local Law has been drafted with a significant amount of input from the Chairman of the Planning Board, Bill Pfaff, and the Chairman of the ARB, Michael Williams, and ARB member Gretchen Reinheimer.

This local law will delete a section of the Village Zoning Law (the section pertaining to the Architectural Review Board) and will continue that board and establish its jurisdiction and procedures as a separate local law. The reason for this is so that this section can be amended and the zoning law can be amended in the future independent of one another.

Although the existing Zoning Law formally names the ARB the Board of Architectural Review, it is generally referred to as the ARB/Architectural Review Board (see agendas on the Village's website). So this law formally changes the board's name to reflect this.

Currently the ARB reviews applications for structure/façade modifications, including those related to potentially historic/architecturally significant properties and the Planning Board review applications to demolish potentially historic/architecturally significant properties. We think that the better practice is to put the review of both types of applications with one board and, after consulting with the chairs of both the Planning Board and ARB, decided to place that authority with the ARB.

Members will be appointed by the mayor with the approval of the board of trustees. Members will continue to serve for a term of 5 years. Members can be removed for cause after a hearing. At least one board member will be a registered architect, or, if a registered architect is not a member of the board the board can retain a registered architect to advise it as currently provided (See current law Section 21, proposed law, Art 2).

Regarding Wireless Facilities, special standards apply to wireless telecommunication facilities because of the Federal Law overlay. Those standards are included in the Village's Zoning Law and have not been changed by this law as they are incorporated by reference in this law.

HIGHLIGHTS OF THE PROPOSED LAW

1. BOARD COMPOSITION:

- a. The composition and structure of the ARB is the same as existing.

2. JURISDICTION: The jurisdiction of the ARB in terms of the types of applications it can review has been expanded:

- a. Currently, the ARB reviews "Every application for a building permit for new construction, reconstruction or alteration of a building (including application of new siding or other treatment, but not including paint) . . ."
- b. As modified, the ARB will continue to have jurisdiction to review the described applications, but it will also have authority to review :
 - i. certain re-painting projects,
 - ii. the installation of fencing,
 - iii. certain sign applications, and
 - iv. applications for demolition of buildings and structures constructed on or before January 1, 1970.
- c. For clarification purposes, the types of applications which the ARB will not have jurisdiction over are set forth in the new law (Section 3 Art 5).

3. STANDARD OF REVIEW:

- a. For building permit and exterior alteration applications, the standards and criteria that the ARB will apply are substantially the same as at present.
- b. For sign permit applications that are not exempt from review, the standards are tailored to the noncommunicative aspects of the signs (i.e. its size, location and compatibility with other design elements on the site, etc....)
- c. For permits to demolish or alter buildings and structures constructed prior to January 1, 1970, criteria related to evaluating whether the building has historical or architectural merit will apply.

4. REVIEW PROCESS

- a. For applications that do not require site plan, special use permit or subdivision approval from the Planning Board, the review process will be substantially the same as what currently occurs and the ABR will grant an approval or denial of the application.
- b. For applications that require site plan, special use permit or subdivision approval from the Planning Board, the process will change.
 - i. Currently, the Planning Board completes its review. If the Planning Board approves the application, it is referred to the ARB for review and approval.
 - ii. As proposed, the Planning Board will begin to review an application. When it feels that the plan is in sufficient form, it will refer the application to the ARB. The ARB will review the application and, rather than granting a separate approval, will issue a comment memorandum to the Planning Board. The Application will then go back to the Planning Board. If the Planning Board grants approval, it will either incorporate the ARB's comments as conditions of its approval, or, if it disagrees with the ARB, it will have to "override" the ARB's comments by a majority plus one vote (3.3.2.1.4). The intention here is to make the Planning Board and ARB review of an application a more integrated process.

5. APPEAL PROCESS

- a. For most applications within the ARB's approval jurisdiction, as in the current law, an appeal to the ZBA is available if ARB approval is denied.
- b. For applications regarding properties constructed prior to January 1, 1970 an appeal process to the Board of Trustees is available.

Short EAF – Unlisted action

The Board reviewed and answered Part I and Part II

Trustee Rothchild made a motion that the Board adopt a negative declaration under SEQRA, seconded by Trustee Epstein and so moved.

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

NOES: None

Trustee Dodge made a motion to open the public hearing, seconded by Trustee Rothchild and so moved.

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

NOES: None

Mayor Tarapata asked if there was anyone from the public who wished to speak about this local law or had any questions.

No one from the public spoke.

Trustee Rothchild noted that this law would allow for stronger input by the Board and would benefit the homeowner in that they would know earlier in the process if the choices they are making for their property are good.

Those who spoke: Jillana Sinnott (Board Secretary)

The question arose about the timing or order of how an applicant would attend the meeting? Could the ARB meeting be attended first?

Noelle Wolfson, Attorney for the Boards, noted it would be a matter by matter determination and the Boards may have to hold concurrent meetings.

Trustee Esmay noted that comments from the Planning Board will be a part of the approval.

Trustee Rothchild asked if the applicant could go to the ARB first.

Noelle Wolfson stated the law does not allow for that.

Jillana Sinnott, Board Secretary, wondered if the Board meetings could be switched around to different days of the week.

Noelle Wolfson noted that the schedule can be changed as it is not set in the law and ARB is not subject to GML review.

The Village Clerk read the Town of Clarkstown referral response into the record.

Rockland County Planning has 30 days and the comment period has passed.

(The RC Planning letter was received on October 19, 2020 and placed in the file)

Trustee Esmay made a motion to close the public hearing, seconded by Trustee Dodge and so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Dodge, Epstein, Esmay & Rothchild
NOES: None

Trustee Esmay made a motion that the Board adopt the Architectural Review Law, also known as Local Law #6 of 2020, seconded by Trustee Epstein and so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Dodge, Epstein, Esmay & Rothchild
NOES: None

Hire of new MEO I- After a review of the application as approved by Rockland County Personnel, and interview of the applicant, the Board of Trustees made the decision to hire Michael Nolan to fill the MEO I position vacated by James DeFeo.

AYES: Mayor Tarapata, Trustees Dodge, Epstein, Esmay & Rothchild
NOES: None

REQUEST TO WAIVE FEE – Rockland Youth Dance Ensemble

The Board of Trustees received a request by the Rockland Youth Dance Ensemble (RYDE) to waive or reduce the fee for filming to this 501 c3 organization. All requested documents including Insurance and Hold Harmless have been submitted.

The dance company has been performing the Nutcracker every year for the past 40 years. Due to Covid, they are going to film the performance to provide it virtually. After a brief discussion the board agreed to waive the fee.

Trustee Epstein motion that the Board agrees to waive the fee for filming for the RYDE, seconded by Trustee Rothchild and it was so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Dodge, Epstein, Esmay & Rothchild
NOES: None

The Village Clerk will have the permit ready Friday morning along with a neighbor notification list.

MOTION TO ACCEPT GIFT FROM FRIENDS OF RIVERHOOK

After a brief discussion, the following motion was made:

Trustee Esmay made a motion that the Board accept the gift from Friends of River Hook, seconded by Trustee Dodge and so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Dodge, Epstein, Esmay & Rothchild
NOES: None

SET PUBLIC HEARINGS: Discussion

Mayor Tarapata noted that the open burning law was out of date and not in compliance with all DEC regulations and exemptions allowed under State Law. Would like to review and consider amending it. (Chapter 3, 3.3)

Trustee Dodge made a motion to set a public hearing at the next regular meeting to amend Chapter 3 Fire Regulations, Ordinance 3.3 Fires, burning refuse etc., seconded by Trustee Rothchild and so moved.

On a call for a vote:

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

NOES: None

Trustee Rothchild made a motion to set a public hearing at the next regular meeting to amend Chapter 4 Health & Sanitation, Ordinance 4.1 Receptacles for Rubbish, seconded by Trustee Epstein and so moved.

On a call for a vote:

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

NOES: None

Mayor Tarapata noted the following:

Scheduled Clean-up day at River Hook Preserve – Saturday, October 24, 2020 with Rain date of Sunday, October 25, 2020

Arm Chair Tour – Monday October 19, 2020 at 7 PM

MINUTES -Trustee Dodge made a motion to accept the minutes of the **Annual Organizational meeting of 09/24/2020**, seconded by Trustee Esmay and so moved.

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

NOES: None

The Board decided to postpone the minutes for the Regular meetings held on August 20, 2020 September 17, 2020 and the Special meeting of October 8, 2020 until the next regular meeting to be held on November 19, 2020.

EXECUTIVE SESSION

Enter 8:30 pm Trustee Esmay made a motion that the Board enter into executive session, seconded by Trustee Rothchild and it was so moved.

On a call for a vote:

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

NOES: None

Discussion took place regarding pending legal matters: Small Claims-Barkai vs Village of Upper Nyack; Hellman vs Village of Upper Nyack – Summary Judgement in favor of the Village. Petitioner has filed Notice of Appeal and has 6 months to perfect their appeal if they want to go forward.

Exit 8:43 pm Trustee Dodge made a motion that the Board exit executive session, seconded by Trustee Rothchild and on a call for a vote:

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

NOES: None

NORTH BROADWAY PARKING – DISCUSSION

Trustee Rothchild had walked North Broadway, north of the Elementary School and photographed each driveway and thought parking on most properties was ample. Trustee Esmay noted Broadway is narrow and agreed most properties have ample parking.

Trustee Esmay made a motion to set a public hearing at the next regular meeting to amend Chapter 2 Regulations of Vehicles, Ordinance 2.2 e. Parking of Vehicles, seconded by Trustee Rothchild and so moved.

On a call for a vote:

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

NOES: None

Trustee Rothchild made a motion to adjourn, seconded by Trustee Epstein and so moved. The meeting was adjourned at 8:42 PM.

AYES:

NOES: None

Respectfully submitted,

Carol G. Brotherhood
Village Clerk