

## REGULAR MEETING

February 19, 2009

The Regular meeting of the Board of Trustees of the Village of Upper Nyack was held at the village hall on Thursday, February 19, 2009 at 7:00 PM.

**Those present:** Trustees Diamond, Morgan & Sarna

Village Clerk Carol G. Brotherhood, Treasurer Barry McCartney, Village Attorney Robert P. Lewis

**Absent:** Mayor Esmay , Deputy Mayor & Trustee Anderson

**Others identified:** PO Landry CPD, Albert Bernstein, Richard Ellsworth Esq., Lawrence Slattery, Daryl Slattery, Frank Racine, Phil Grosse

In the absence of Mayor Esmay and Deputy Mayor Anderson, Trustee Morgan conducted the Regular Meeting of the Village Board and acted in the role of Deputy Mayor until the Mayor's return on February 28, 2009.

POLICE REPORTS – Read and noted. PO Landry returned from sick leave. Report of several larcenies from vehicles that were left open and items were taken.

JUSTICE REPORT – Not available

TREASURER'S REPORT – Submitted for review. Proposed 2009-2010 Budget submitted for Board to begin to review. Items from previous Board discussions to be included.

VOUCHERS – Read and approved for payment.

Trustee Sarna signed all vouchers in the absence of Mayor Esmay and Trustee Anderson.

MINUTES – Trustee Diamond motioned to approve the minutes of the 1/15/09

**Regular meeting**, seconded by Trustee Sarna and so approved.

On a call for a vote:

AYES: Trustees Diamond, Morgan and Sarna

NOES: None

ABSENT: Mayor Esmay, Trustee Anderson

Request for a Zone Text Amendment in the LO (Laboratory Office) Zone

Richard Ellsworth Esq. Appeared before the Board representing the owner of 520 North Highland Ave. (520 North Highland Ave. Corp.). The owner is presently under contract to be sold to Slattery's Moving & Storage Co.

Mr. Ellsworth presented findings of fact re: the property:

- Tax ID 59.12-02-03
- Street address is 520 North Highland Avenue

- Formerly Praxair and Wesco
- Currently an LO Zone; prior B-1 Zone
- Desire to sell to Slattery's Moving & Storage to be used for storage (not an allowed use in that zone)
- Desire to place storage of trailers behind building
- Trucks to be stored inside the building
- Buffer between residential and commercial zone may not be relevant Property behind abuts the Town of Clarkstown and is a steep hillside
- Other uses in that area are not all LO uses (TOGA-Use Variance; Restaurant, Gas Station, homes ; Village note: some uses established when the Zone was B-1)
- Mr. Ellsworth understands that the Mayor and one Trustee are not present and the Board would want their input and discussion
- Applicant does not anticipate exterior changes to the building
- Applicant does not anticipate any additional parking

Village Attorney Lewis noted that the applicant's attorney reiterated what was presented to the Planning Board on 2/18/2009. Attorney Lewis also noted that it is his recommendation that the Board of Trustees consider a Zone Text Amendment by adding uses to the LO Zone.

Mr. Slattery spoke to the Board and said that the trucks usually would depart the property at 8 AM and not return until 5 or 6 PM. The trailers are mostly out on the road and one may be parked in back of the building.

The Cell tower on the property at 520 North Highland Ave., poses no interference to the operation (not in way of vehicles) and is income producing.

Trustee Sarna requested that no fuel be stored there and no work on vehicles at the site. The area behind will be lit and probably fenced in.

Trustee Diamond thought it sounded like a pretty benign use of the property.

Trustee Morgan noted that he thought it was a good idea for the applicant to pursue a Use Variance and Zone Text Amendment because the Zone Text Amendment could take longer to achieve.

Mr. Ellsworth inquired if the Planning Board would make the change?

Village Attorney Lewis noted that by law the Trustees are the only Board that could make the change but could base it on recommendations from the Planning Board. Mr. Lewis also noted that next month a public hearing will be held regarding this property when the applicants appear before the Zoning Board of Appeals and Planning Board.

Trustee Sarna added that any text amendment wording should be carefully crafted to include no increase in outside storage.

The Applicants will return to the Village Board at their next regular meeting to continue discussion with the Board regarding a text amendment.

### APPOINTMENTS OF REGISTRAR AND DEPUTY REGISTRAR-

Trustee Sarna made a motion to re-appoint Carol G. Brotherhood as Registrar and re-appoint Barry MacCartney as Deputy Registrar and for the Mayor to sign the document to be mailed to the NYS Dept. of Health, seconded by Trustee Diamond and so moved.

On a call for a vote:

AYES: Trustee Morgan (Deputy Mayor), Trustees Diamond & Sarna

NOES: None

ABSENT: Mayor Esmay, Deputy Mayor & Trustee Anderson

### GRIEVANCE-

Trustee Diamond made a motion that the Board of Trustees postpone the convening of the Grievance committee and grievance day until March 12, 2009 from 4:00 PM until 8 PM at the Village Hall, seconded by Trustee Sarna and with no discussion it was so moved.

AYES: Trustee Morgan (Deputy Mayor, Trustees Diamond & Sarna

NOES: None

ABSENT: Mayor Esmay, Deputy Mayor & Trustee Anderson

### AMENDMENTS FOR CONSIDERATION

#### 1) Amend Ordinance 9.1 Over 65 Tax Exemption – 1965 General Code

It was recommended by the Assessor that the Board consider increasing the sliding scale to be in line with the increase by the Town of Clarkstown. The Board decided to hold over for discussion when Mayor Esmay returns and to ask the Treasurer if there are any major tax implications for the village.

#### 2) Amend Ordinance 6:5 Tree maintenance and Management Operations – Zoning Ordinance

The Board discussed a recommendation by the county Planning Board to Clarkstown regarding Planning Board review and making the ordinance more restrictive when considering conservation when reviewing an application. The Board decided to hold this over for discussion and may or may not revisit in the future.

### RESOLUTION-

Trustee Diamond made a motion that the Board of Trustees of the Village of Upper Nyack acknowledging that the required audit of the Upper Nyack Village Justice Court finances have been completed by Marvin Nyman & Co., CPA and reviewed and accepted by this Board and that said accounting will be completed on an annual basis, seconded by Trustee Sarna and so moved.

AYES: Trustee Morgan (Deputy Mayor), Trustees Diamond & Sarna

NOES: None

ABSENT: Mayor Esmay, Deputy Mayor & Trustee Anderson

**8:40 PM** Trustee Sarna made a motion that the Board enter into Executive Session to discuss the contract of sale for the Village owned property on Route 9W and the Lease agreement with the Fire District for Empire Hook & Ladder Co. #1, seconded by Trustee Diamond and so moved.

**9:00 PM** The Board exited the Executive Session.

Trustee Sarna made a motion to adjourn seconded by Trustee Diamond and it was so moved.

The meeting was adjourned at 9:00 PM.

Respectfully submitted,

Carol G. Brotherhood  
Village Clerk