

REGULAR MEETING

December 17, 2009

The Regular meeting of the Board of Trustees of the Village of Upper Nyack was held at the village hall on Thursday, December 17, 2009 at 7:00 PM.

Those present: Mayor Esmay, Trustees Diamond, Hindin, Morgan and Sarna (arrived while the meeting was in progress at approximately 7:40 pm)

Village Clerk Carol G. Brotherhood, Village Attorney Robert P. Lewis,

Village Treasurer Barry MacCartney

Others identified: PO Landry-CPD, Peter Malcolm, Ellen Burstyn, Jock DeCamp, Daniel Wolff, Linda Greene, Karen Kennell, Rita Borst, Linda Greene, Lucille Greene, Pat Condello, Christian Basler, Lisa Sokolov, Jane Cooper, Winston Perry, Jan Degenshein, John Lipscomb, Art Gunther, Fritz Krieger, Alan L. Englander, Gini Stoldorf, Diane Goodman, Fran Marton

POLICE REPORTS – PO Landry submitted the report for review. No major incidents to report. Mayor Esmay noted that the speeding tickets written were all on 9W and would request Officer Landry relay to his superiors the concerns regarding the lack of ticketing speeders on village streets.

JUSTICE REPORT – Not available.

MINUTES –Trustee Morgan made a motion to adopt as corrected, the minutes of the **11/19/09 Regular meeting**, seconded by Trustee Hindin and so approved.

AYES: Mayor Esmay, Trustees Diamond, Hindin & Morgan

NOES: None

ABSENT: Trustee Sarna

VILLAGE ELECTION:

No Registration Day - Trustee Morgan made a motion that there will be no separate registration day in 2010, Election Law §15-118(3), seconded by Trustee Hindin and so moved.

Polling Place & Hours - Trustee Morgan made a motion that the Village of Upper Nyack, Village Election, will be held in the Village Hall on Tuesday, March 16, 2010 from 12 Noon until 9 PM as per Election Law §15-104(3), seconded by Trustee Diamond and so moved.

Inspectors of Election – Trustee Morgan made a motion to appoint the following Inspectors of Election for the March 16, 2010 Village Election per Election Law §15-116(1) and to pay them \$12.00 per hour : Beatrice Wanamaker, Dorina Maragliano, Elisabeth Minford, and Isobel Weiner, seconded by Trustee Hindin and so approved. On a call for a vote on all three motions:

AYES: Mayor Esmay, Trustees Diamond, Morgan & Hindin

NOES: None

ABSENT: Trustee Sarna

TREASURER'S REPORT – Submitted for review.

VOUCHERS – Read and noted for payment

Financing Sewer Repair

Trustee Diamond and Treasurer MacCartney met with Ron Delo of Orangetown Sewer regarding the cleaning and TV inspection of all the sewer lines. The original cost was set at \$371,000 but the actual cost was \$197,000. Cost was less because some of the pipe sections were 10 ft. not 3 ft.. Several pipes need replacement, in the northwest corner of the village. \$527,000 is the estimated cost. Areas that need immediate attention were identified and \$264,000 estimated for the most urgent areas.

Ron Delo will prepare the bids. The Village will obtain bids and the work will begin in the spring.

Trustee Diamond made a motion that the Village of Upper Nyack go to bid with the assistance of Ron Delo, Orangetown Sewer, to repair the sewer lines needing most urgent attention on Upper Birchwood, 2 sections of North Midland Avenue and Glenbrook Rd. as per camera evaluations conducted by Orangetown Sewer, seconded by Trustee Morgan and so moved.

AYES: Mayor Esmay, Trustees Diamond, Hindin, Morgan & Sarna

NOES: None

PROPOSED ZONE TEXT AMENDMENT

Mayor Esmay noted to those in attendance that the public hearing on this matter had been closed and that the Village Board continued to accept written comments (letters, emails) until 12/17/09. The Village Clerk read the names of additional letters that had been received and from whom. The Mayor also noted that all letters will be part of the official record and available to the public.

Trustee Morgan noted that after the public comment portion was closed on 12/10/09 and the Board made a Positive Declaration under the SEQRA review. It was also noted that more complete and comprehensive findings would be necessary such as a Full Environmental Impact Statement (EIS) if the Board decided to consider the zone text amendment.

Trustee Morgan explained to the public present that he has worked closely with the Village Engineer Dennis Letson on portions of the EAF and the Village Board has explored this enough to decide not to proceed with the proposed zone text amendment at this time.

Dennis Letson, Village Engineer noted the various phases of the environmental review

process.

Environmental Assessment:

Phase I – A review of documents and history to determine what materials may have been used on a parcel

Phase II - Determines what materials are present on a parcel

Phase III – Determines limits and concentrations of those materials with remediations.

All parcels in the LO, MB & VC districts fall under all 3 phases.

Trustee Hindin noted that with Phase II & Phase III there is a substantial cost to the process.

Dennis Letson explained that a scoping session is used once you make a positive declaration to define specific impacts and what studies are needed to quantify these impacts on a parcel.

Trustee Sarna inquired if it ever differs from what is identified in the EAF and Mr. Letson noted not usually. It would identify the studies needed.

Kristen Wilson Esq. Told the Board to think of the scoping document like a very detailed table of contents.

Trustee Sarna also inquired if the Board had adopted the EAF does it follow that they have adopted the findings?

Mr. Letson stated no, that the potential for environmental impacts would need to be quantified. The potential is not conclusive proof of findings. Findings happen at the end of the process.

Trustee Diamond concurred with Trustee Morgan that the Board not move forward at this time.

Trustee Hindin again noted that cost was a major consideration.

Trustee Sarna noted there had been substantial discussion and review for quite some time, working with the village engineer and that the Board should not proceed at this time.

Mayor Esmay noted that after gaining much valuable knowledge in this process, it was clear that residential use in all three commercial zones would be problematic.

Resolution:

Trustee Morgan made a motion on the attached resolution which was seconded by Trustee Sarna and so moved.

Roll Call on Vote:

AYES: Mayor Esmay, Trustees Diamond, Hindin, Morgan & Sarna

NOES: None

The public exited and the Board of Trustees moved to executive session.

8:15 PM Trustee Morgan made a motion that the Board move to executive session to discuss the Clarkstown Landfill potential lawsuit and Eastland Construction litigation, seconded by Trustee Diamond and so moved.

9:30 PM Trustee Morgan motioned to end the executive session, seconded by Trustee Hindin and so moved.

AYES: Mayor Esmay, Trustees Diamond, Hindin, Morgan & Sarna NOES: None

Alternate Appointments to PB & ZBA

Mayor Esmay appointed Karen Olsen, Roseland Rd., as Alternate Member to the Village of Upper Nyack Planning Board. Mayor Esmay appointed Michelle McCarthy, Foss Drive, as Alternate Member to the Village of Upper Nyack Zoning Board of Appeals. These appointments were ratified by members of the Board of Trustees unanimously.

Trustee Morgan made a motion to adjourn, seconded by Trustee Diamond and so moved.

The meeting was adjourned at 9:35 PM.

Respectfully submitted,

Carol G. Brotherhood
Village Clerk

Board of Trustees Regular Meeting. Village Hallmeeting room 12/17/09

Trustee Morgan made a motion on the following resolution

Seconded by Trustee Sarna

**RESOLUTION FINDING THAT THE PROPOSED ZONE TEXT AMENDMENT
SHOULD NOT BE CONSIDERED FURTHER AT THIS TIME DUE TO
ENVIRONMENTAL AND OTHER RELATED CONCERNS**

Whereas, the Village Board of Trustees (the “Village Board”) previously enacted a Zone Text Amendment to add residential use by special permit in the OB District; and

Whereas, the Village Board decided to review the desirability of permitting residential use by special permit in all of those commercial districts where it was not already permitted – specifically the MB, VC, and LO Districts (the “ Proposed Zone Text Amendment”), and

Whereas, the Village Board prepared the Zone Text Amendment to that purpose and made it available for public review, and

Whereas, the Village Board declared itself lead agency for the conduct of an environmental review in accordance with the New York State Environmental Quality Review Act (SEQRA), 6 NYCRR Part 617 et seq., and circulated this declaration to the relevant agencies and jurisdictions, and

Whereas, no other entity challenged the Village Board’s declaration of lead agency or indicated interest in assuming that role, and

Whereas, the Village Board of Trustees directed the Village Engineer to conduct a review of potential environmental impacts of the proposed zone text amendment and to complete a long Environmental Assessment Form (“EAF”) for review, and

Whereas, the Village Board of Trustees reviewed the completed EAF at a public hearing held on December 10, 2009, and

Whereas, the Village Board received numerous written and oral comments from interested parties during the public hearing; and

Whereas, the Village Board, after reviewing the findings of the EAF and considering both the written and oral comments, issued a Positive Declaration finding that there were numerous potentially significant environmental impacts in categories including, but not limited to, flood hazard, groundwater quality, drainage, aesthetic resources, historic resources, recreational opportunities, traffic patterns, public health and safety, and character of the existing community; and

Now, therefore be it resolved, that consideration of the Proposed Zone Text Amendment shall be concluded with a decision not to proceed at this time and to affirm the applicability of the currently enacted Zoning Ordinance.

Roll Call Vote: AYES: Mayor Esmay, Trustees Diamond, Hindin, Morgan & Sarna
 NOES: None