

REGULAR MEETING

May 17, 2007

The Regular meeting of the Board of Trustees of the Village of Upper Nyack was held at the village hall on Thursday, May 17, 2007 at 7:00 PM.

Those present: Mayor Esmay, Trustees Anderson, Malcolm & Morgan
Village Clerk Carol G. Brotherhood, Village Attorney Lewis,

Absent: Trustee Tarapata, Treasurer Barry MacCartney

Other's identified: PO Barone CPD, Bruce Biavati, Tom Imperato, Robert Wilder, John DiGiacomo

POLICE REPORT – Read and noted. Discussion-traffic counters that will be put in roadway as noted last month; overnight parking regulations

JUSTICE REPORT – Read and noted.

MINUTES – Trustee Morgan motioned to accept as corrected the minutes of the Regular meeting of April 19, 2007, seconded by Trustee Anderson and so moved.

AYES: Mayor Esmay, Trustees Anderson, Malcolm & Morgan NOES: None

ABSENT: Trustee Tarapata

TREASURER'S REPORT – Treasurer away. Report available next week

VOUCHERS – Read and approved for payment.

Request to place stone wall in village right-of-way:

John DiGiacomo, Olivia Rose Landscaping Contractors Inc., appeared before the Board representing David & Tara Stark of 200 Oak Hill Drive to again discuss their request to place a stone wall in the village right-of-way.

Mr DiGiacomo stated that the homeowner survey is correct, that the DPW

Superintendent indicated to him that a 6 ft clearance would be needed from the roadway for snow plowing and the fire dept. noted that a 3 foot clearance is required around a fire hydrant. Mr. DiGiacomo also noted that the homeowner understands that the wall would become the property of the village if placed in the right-of-way.

Mayor Esmay noted the village would want to be sure there was no liability to the village if someone hit the wall. The Board also discussed future plans for drainage work, sidewalks or road widening in that area.

Mr. DiGiacomo stated the wall would be 24" high and 24" wide.

Trustee Anderson made a motion that the Board of Trustees grant permission for the homeowners of 200 Oak Hill Drive to erect a wall in the right of way with the wall not to exceed 30" in height, placed 6 feet west of the existing paved roadway, with 3 feet clearance around the hydrant, homeowner to employ all measures to preserve the

existing trees and that this resolution serves as a revocable license in which the village may ask for removal of the wall if it deems necessary, and that the owner and subsequent owners understand they are to maintain the wall, seconded by Trustee Malcolm and so moved.

Discussion: Trustee Morgan felt there was no compelling reason for the village to allow the wall to be built. There should be conditions. If the wall is ever removed, at whose expense?

On a call for a vote:

AYES: Mayor Esmay **NOES:** Trustees Anderson, Malcolm & Morgan

ABSENT: Trustee Tarapata

Permission was not granted.

PUBLIC HEARING- Local Law #1 of 2007 “Upper Nyack stream conservation and universal flow control act.”

The Clerk read the public hearing notice and the Mayor opened the public hearing. The Mayor noted that the village has had water issues that have long needed attention and this is a start in addressing them. Trustee Morgan was asked to comment and explain further the this law.

Trustee Morgan stated the idea behind Local Law #1 of 2007 was to make it clear that interference with the stream is not a use by right. Impervious surface speeds water flow to the streams. The village cannot abide further encroachments to these waterways. A map indicating the location of the streams would become part of the official village map. Trustee Morgan also noted that this law would allow two (2) major accomplishments:

- 1) There is an appeals process to the Planning Board. The Board can set conditions to allow or forbid the waiver after studying the request.
- 2) Currently the village has no right to go onto private property to clear or clean a stream-bed. This law sets up a formal process for the village to request permission and the homeowner would be obliged by law to allow the village entrance.

This law will protect stream-beds as drainage assets and gives permission to access and make needed repairs.

Trustee Anderson feels the law is very comprehensive and protects that natural outlets for stormwater and rainwater.

Trustee Morgan noted that Rockland County and the Town of Clarkstown have adopted a similar set of rules.

Village Attorney Lewis was requested by the Planning Board to convey a question and opinion regarding the application by Courtyard of Upper Nyack. The applicant has gone through three years of review as well as SEQRA review, and would the existing application be exempt from this law? The Courtyard application was granted preliminary approval on 5/16/07.

The law would have to be approved by the Village Board and then the State. Any applications pending prior to the passage would be exempt.

Mayor Esmay opened the hearing to the public. There were no comments.
Trustee Anderson motioned to close the public hearing, seconded by Trustee Malcolm and so moved.

AYES: Mayor Esmay, Trustees Anderson, Malcolm and Morgan

NOES: None

ABSENT: Trustee Tarapata

Trustee Morgan made a motion that the Board of Trustees adopt the Official Streams Map as prepared May 2007 by Dennis M. Letson, PE, seconded by Trustee Anderson and so moved.

AYES: Mayor Esmay, Trustee Anderson, Malcolm and Morgan

NOES: None

ABSENT: Trustee Tarapata

The map was then signed by Mayor R. Michael Esmay and dated 5/17/07.

Trustee Morgan made a motion that the Board of Trustees adopt Local Law #1 of 2007 also known as the "Upper Nyack Stream Conservation and Universal Flow Control Act." and simultaneously rescinding Ordinance 8.5 of the 1965 Code of General Ordinances of the Village of Upper Nyack and replacing it with Local Law #1 of 2007, seconded by Trustee Anderson and so moved. On a call for a vote:

AYES: Mayor Esmay, Trustees Anderson, Malcolm and Morgan

NOES: None

ABSENT: Trustee Tarapata

After a brief discussion, the Trustee Anderson made a motion to hold a public hearing on June 21, 2007 in order for the Board to consider a 6 month extension of the Moratorium on Wireless Communication Facilities, Places of Worship in residential or commercial zones, and Private Schools and Clubs in residential or commercial zones, seconded by Trustee Malcolm and so moved.

AYES: Mayor Esmay, Trustee Anderson, Malcolm

Noes: None

ABSENT: Trustee Morgan and Tarapata

Trustee Malcolm made a motion to adjourn seconded by Trustee Anderson and so moved. The meeting was adjourned at 9:40 PM.

Respectfully submitted,

Carol G. Brotherhood
Village Clerk