

## REGULAR MEETING

July 20, 2006

The Regular meeting of the Board of Trustees of the Village of Upper Nyack was held at the village hall on Thursday, July 20, 2006 at 7:00 PM.

**Those present:** Mayor Esmay, Trustees Anderson, Malcolm, Morgan and Tarapata; Village Clerk Carol G. Brotherhood, Village Attorney Lewis, Treasurer MacCartney

**Other's identified:** PO Barone CPD, Bruce Biavati, Norwell Therien, Douglas Warden, Jamie Most

MINUTES – Trustee Morgan made a motion to accept the minutes as corrected of the Regular meeting of 6/15/06, seconded by Trustee Tarapata and so moved

AYES: Mayor Esmay, Trustees Anderson, Malcolm, Morgan & Tarapata

NOES: None

POLICE REPORT – Read and noted. The Board reviewed the Incident reports with Officer Barone. A Traffic Study of Old Mountain Rd. (Bt. N. Midland and Route 9W) was submitted. The Board requested the study be repeated in September in the same location.

JUSTICE REPORT – Read and noted.

TREASURER'S REPORT – Read and noted. All requested information has been submitted for the '04-'05 financial statement. The State Comptroller has approved a filing extension to October 1, 2006.

VOUCHERS – Read and approved for payment.

7:30 PM- Public Hearing – Temporary Moratorium on Construction of Wireless Communication Towers, Churches and Private Schools in either commercial or residential zones, also cited as Local Laws #3, #4 & #5 of 2006.

The Mayor asked the Clerk to read the public hearing notice. Mayor Esmay opened the public hearing and explained what precipitated the moratorium. The Mayor explained that there are no provisions in the zoning ordinance of Upper Nyack that regulate wireless communication. The moratorium makes sense to have in place while the Board reviews the Comprehensive Plan and how this technology fits in.

The Board's comments were in agreement with the Mayor as to the need for a moratorium while reviewing the regulations.

The Mayor opened the hearing to the public.

Those who spoke:

Doug Warden of Snyder & Snyder, 94 White Plains Road, Tarrytown, NY 10591, represents Omnipoint who have an application before the Planning Board and who anticipate making an appeals to the Zoning Board of Appeals and Architectural Review Board. After having reviewed the proposed moratorium, Mr. Warden and his client are happy to see there is an exemption allowed. His client has been working with the Planning Board and may consider alternate locations and want to continue to work with the Planning Board.

Discussion by Board: The Board questioned if the applicant has standing for an exemption to the moratorium and if the pending application can go to the Zoning Board? Village Attorney Lewis stated that, in his opinion, the applicant does have the right to move forward with the application to any other Board to which they are reviewed.

After discussion upon a recommendation by Trustee Anderson, the Board decided the words "wireless telephone towers" would be changed to "wireless communications facilities" anywhere those words appear in the law.

Mayor Esmay asked if anyone from the public would like to comment.

Jamie Most, Locust Drive, questioned where was the location of the proposed tower? Thought it was on the property behind his.  
Proposed location is at 520 North Highland Ave.

Bruce Biavati, Bliss Lane asked if, under Federal Communications Act, the proposed tower would have to be built out so there are towers everywhere?

Trustee Morgan motioned to close the public hearing on the Proposed Temporary Moratorium on Wireless Communications Facilities, seconded by Trustee Tarapata and with no further discussion and on a call for a vote:  
AYES: Mayor Esmay, Trustees Anderson, Malcolm, Morgan & Tarapata  
NOES: None, the motion was passed.

Trustee Morgan motioned that the Village Board of Trustees adopt Local Law #3 of 2006 to be known and cited as "Temporary Moratorium on Wireless Communications Facilities Located in either a commercial or residential district as amended in Section III by changing the final phrase to read ...except for any **action by any board required for** pending applications,

Seconded by Trustee Tarapata and so moved. On a call for a vote:

AYES: Mayor Esmay, Trustees Anderson, Malcolm, Morgan and Tarapata

NOES: None

#### LOCAL LAW #4 of 2006

Mayor Esmay explained that there are currently no provisions in the zoning ordinance for regulation of a church being constructed. The issue really surfaced when the Village started the process of the taking the Old Stone Church.

Trustee Tarapata noted that there are several religious organizations in Upper Nyack and the Board should use the current ones as models for future and further development.

Trustee Anderson stated that the Board was not proposing to regulate any worship practices.

Trustee Morgan noted the Board's job is to protect the public and they shouldn't permit a use without any guidelines.

Mayor Esmay opened the hearing to the public.

Those who spoke:

Bruce Biavati: It is good to regulate and have a chance to review.

Norwell Therien: It is good to have more tools for the Planning Board to consider when reviewing applications. The moratorium gives the Board time to consider all issues and what can be regulated like health and safety.

Trustee Anderson made a motion to close this portion of the public hearing for a Temporary Moratorium on Churches in either a commercial or residential district and it was so moved.

AYES: Mayor Esmay, Trustees Anderson, Malcolm, Morgan and Tarapata

NOES: None

Trustee Morgan made a motion that,

WHEREAS the Zoning Ordinance allows churches in certain residential and commercial districts, and

WHEREAS the Zoning Ordinance sets no standards or specific requirements for churches, and

WHEREAS public health and safety require that such uses meet specific standards in terms of size, layout, access and egress, traffic patterns and other factors, and

WHEREAS the development of these standards in a form suitable for inclusion in the Zoning Ordinance will require a period of fact finding and study, most likely involving the use of professional planning consultants, and

WHEREAS it would be impractical and capricious to consider approval of new proposals for churches while the Zoning Ordinance is in the process of being amended,

BE IT RESOLVED that a moratorium on the consideration of any proposals for the approval for churches be put into effect for a period of six months, seconded by Trustee Anderson and so moved.

AYES: Mayor Esmay, Trustees Anderson, Malcolm, Morgan and Tarpata

NOES: None

#### LOCAL LAW #5 OF 2006

Mayor Esmay noted again that there are no regulations in place regarding private schools.

Norwell Therien mentioned the moratorium would give the Board time to review Special Permit regulations.

As there were no other comments or discussion by the public, Trustee Morgan made a motion to close the public hearing, seconded by Trustee Tarapata and so moved.

AYES: Mayor Esmay, Trustees Anderson, Malcolm, Morgan and Tarapata

NOES: None

Trustee Morgan made a motion that,  
WHEREAS the Zoning Ordinance allows private schools in certain residential and commercial districts, and

WHEREAS the Zoning Ordinance sets no standards or specific requirements for private schools, and

WHEREAS public health and safety require that such uses meet specific standards in terms of size, layout, access and egress, traffic patterns and other factors, and

WHEREAS the development of these standards in a form suitable for inclusion in the Zoning Ordinance will require period of fact finding and

study, most likely involving the use of professional planning consultants, and,

WHEREAS it would be impractical and capricious to consider approval of new proposals for private schools while the Zoning Ordinance is in the process of being amended,

BE IT RESOLVED that a moratorium on the consideration of any proposals for the approval for private schools be put in to effect for a period of six months,

and the Board accepts it as amended with the added wording in Section III, seconded by Trustee Tarapata and with no further discussion it was so moved that the Board adopt local law #5 of 2006.

AYES: Mayor Esmay, Trustees Anderson, Malcolm, Morgan and Tarapata

NOES: None

SIGN REQUEST – Jamie Most, 117 Locust Drive, requested signs to be erected at each end of his street alerting drivers to the presence of children at play. Mr. Most explained that there are many children on the street and the street gets used by parents heading to the school for drop off and pick up and commuters heading to work.

After discussion with the Board, Mr. Most will get a petition of his neighbors to demonstrate agreement with the installation of signs or words painted on the pavement specifying one or more locations, and bring the petition to the village and the Superintendent will be asked to install or paint the signs once something is approved.

FOR-REQUEST TO HANG BANNER- The Board received a letter from the Fellowship of Reconciliation, North Broadway, to hang a banner across the roadway advertising a Peace festival to be held in September. After a brief discussion the Board asked the Clerk to write back and request the following:

- Exact location of the banner and method for hanging it
- Provide a Certificate of Liability Insurance naming the Village of Upper Nyack as additionally insured
- Description of the banner- size, wording, design

#### CITIZEN'S NOTIFICATION POLICY

Trustee Anderson noted that the state required all municipalities to adopt a policy of notification should personal information on its residents be compromised in any way. Trustee Anderson followed the outline of the State's Cyber-security policy to create one for the Village of Upper Nyack.

Trustee Tarapata made a motion to adopt the Citizen's Notification Policy of April 6, 2006 for the Village of Upper Nyack, seconded by Trustee Anderson and so moved.

AYES: Mayor Esmay, Trustees Anderson, Malcolm, Morgan and Tarapata

NOES: None

Trustee Anderson reported on the progress of the changes that were voted on for School Street that the project is almost complete. There is a small amount of patching and paving to be done. There may be the loss of one parking space.

Trustee Tarapata made a motion to set a public hearing for August 17, 2006 to amend Section 16:66, Standard Schedule of Fees, also to be cited as Local Law #6 of 2006, and to amend Section 6.5, Tree Maintenance & Management Operations, also cited as Local Law #7 of 2006, seconded by Trustee Anderson and so moved.

AYES: Mayor Esmay, Trustees Anderson, Malcolm, Morgan and Tarapata

NOES: None

Trustee Tarapata made a motion that the Board accepts the bid of Tilcon New York Inc. for **\$50,691.00** for the project titled **2006 Paving Program, Bid #PV-01-2006**, seconded by Trustee Malcolm and so moved.

AYES: Mayor Esmay, Trustees Anderson, Malcolm, Morgan and Tarapata

NOES: None

Update – New DPW Building- Trustee Malcolm noted that the Building is complete and the Superintendent and DPW employees are moved in. Some electrical is not complete and sprinkler heads in the ceiling are not yet set.

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

Respectfully submitted,

Carol G. Brotherhood  
Village Clerk