

## REGULAR MEETING

February 26, 2004

The Regular meeting of the Board of Trustees of the Village of Upper Nyack was held at the village hall on Thursday, February 26, 2004 at 8:00 PM.

Those present: Mayor Michael Esmay

Trustees: Peter Malcolm

Vincent S. Morgan

David J. Smith

Karen Tarapata

Village Clerk: Carol G. Brotherhood

Village Attorney: Robert P. Lewis, Esq.,

Village Treasurer: Barry MacCartney (absent)

Others identified: PO Healy-CPD, Robert Helmke, Peter Stone, Jeff Berman

POLICE REPORTS – Read and discussed. Several accidents involving deer were noted in January.

JUSTICE REPORT - Read and noted.

MINUTES – Trustee Morgan made a motion to accept the minutes of the Regular Meeting of 1/15/04 and the Special Meeting of 1/29/04 as corrected, seconded by Trustee Malcolm and after discussion, all were in favor to approve.

TREASURER'S REPORT – Read and accepted as presented. It was noted that a preliminary budget is in place and will be discussed at the workshop of the 11<sup>th</sup> at 7:00 PM. The Mayor asked the Board to review the budget worksheet and in particular the individual area of interest they oversee.

VOUCHERS - Read and approved for payment.

DISCUSSION- The Board discussed various items.

- (a) Parking on School Street – The Mayor received a call from Kay Goria, a resident of School Street who resides in the row houses, requesting the village to restrict parking to those property owners only. There was also a complaint from Joseph & Katherine Heider of 316 North Broadway, regarding cars parking in the right-of-way and interfering with snow plowing and street sweeping. Their driveway

exits onto School St. The Board discussed the idea of whether the village should put something more restrictive in place or permit parking? The density on that street is an anomaly. Similar to Ellen and Front Streets. The decision was to check with NYCOM and find out if the village would have to create a Parking Authority.

- (b) Oak Street Drainage- A resident of Centre slipped and fell on ice in the street. Ice forms when residents use sump pumps and pump water out onto Oak St. and the catch basin is at the end of Oak St. The water freezes before it reaches the catch basin. The plan is to do some drainage work on Oak Street. Money has been put into the budget.

PUBLIC HEARING – Local Law #3 of 2004, Temporary Certificate of Occupancy Fee-Section 16:66 F 5. of the Zoning Ordinance

The Clerk read the public hearing notice. The Mayor noted that this proposed change came from a discussion regarding Temporary C of O's and whether to issue them at all. They are difficult to enforce. It takes extra effort from the Building Inspector and a lot of effort to get the work completed once the house is occupied. The Board had discussed having them but increasing the fee.

The Mayor opened the hearing to the public.

Robert Helmke, 641 North Broadway, questioned whether it would affect his final C.O. for his pool. He was told it would not.

Village Attorney Lewis stated that they are rarely issued. They may be issued due to weather or when something can't be completed and the owner needs to occupy the building.

With no further comments from the public, Trustee Morgan made a motion to close the public hearing, seconded by Trustee Smith and so moved.

Trustee Tarapata made a motion to accept Local Law #3 of 2004 increasing the fee from \$50 to \$1000, seconded by Trustee Smith.

The Board discussed the proposed fee change further and it was noted that the fee may be too high and could be a burden.

Trustee Tarapata withdrew her original motion and Trustee Smith withdrew his second.

After further discussion,

Trustee Morgan made a motion that the Board of Trustees adopts Local Law #3 of 2004, Temporary 90 Day C.O. 16:66 F. 5 with an

amendment to include the words \$950 of fee is refundable upon issuance of a permanent certificate of occupancy within the 90 days, seconded by Trustee Smith and so moved. On a call for a vote:

AYES: Mayor Esmay, Trustees Malcolm, Morgan, Smith & Tarapata  
NOES: 0

PUBLIC HEARING – Local Law #4 of 2004, Section 17:4, eliminating this section and replacing it with a new section that will conform with the Zoning Code to the Village Law of the State of New York.

The Clerk read the public hearing notice.

Village Attorney Lewis gave some background on the proposed change to our current zoning. Mr. Lewis noted that the purpose was to bring our Zoning Ordinance in line with the NY State Village Law. State criteria have changed and the old criteria have been eroded by case law. The Zoning Board of Appeals already used State Village Law. This will not affect anything currently being reviewed.

The hearing was opened to the public by Mayor Esmay.

As no one from the public wished to comment,

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

Trustee Malcolm made a motion that the Board of Trustees adopt Local Law #4 of 2004 by eliminating section 17:4 and replacing it with a new section, seconded by Trustee Smith and upon the vote it was unanimously approved.

AYES: Mayor Esmay, Trustees Malcolm, Morgan, Smith & Tarapata  
NOES: 0

PUBLIC HEARING – Local Law #5 of 2004, adding Section 485-b of the New York State Real Estate Property Tax Law to zero in each year of exemption.

The Clerk read the public hearing notice.

Village Attorney Lewis explained that this section of the law allows for Business Investment exemption, 1<sup>st</sup> year 50% down to 5% in 10 years. This proposed law allows the village to opt out of this exemption.

The hearing was opened by Mayor Esmay.

As there were no comments from the public, Trustee Morgan motioned to the public hearing seconded by Trustee Smith and so moved.

With no further discussion, Trustee Morgan motioned to adopt Local Law #5 of 2004 to add a new section to the 1965 Code of General Ordinances to

reduce the per centum of exemption for each year to zero, seconded by Trustee Smith and so moved.

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

NOES: 0

ABANDONMENT OF EASEMENT – An existing easement at Hilltop Drive and Hilltop Lane that was granted to the village many years ago as a 25ft easement for highway purposes. The discussion and decision was held over from January to further check to see if there were any encumbrances on this property for further use.

\*Trustee Smith recused himself from any discussion or vote since he was one of the property owners requesting the abandonment. He went and sat in the audience.

Village Attorney Lewis noted that the Board was looking at the following issues:

- 1) A variance was granted to the property owner for a 50 ft right of way for access to their property (now Barkai)
- 2) There is no through access to Route 9W
- 3) Variance- Barkai lot cannot be subdivided
- 4) No village pipes in the area or any plans to place any drainage as confirmed by the Superintendent of Public Works, Mr. Scanlan.

The Board of Trustees will request the property owners to contribute to a fund to pay for the process to abandon the easement. It will be approximately \$750 per property owner. Quit claim deeds would have to be signed and filed.

Trustee Tarapata made a motion that the Village of Upper Nyack abandon the easement of the northerly portion of lots 60.09-1-35, 60.09-1-36, 60.09-1-37 & 60.09-1-49 and that each owner contribute \$750 to a fund to support this abandonment and that the Board authorize the Mayor to sign any and all documents including quit claim deeds, seconded by Trustee Morgan and with no further discussion it was so moved and on a call for a vote:

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

NOES: 0

Clarification of “as of right uses” versus Special Permit in Commercial Districts

Special Permit uses are only listed in the Office Business District. Current Special Permits can continue but if abandoned for 6 months lose the right to continue the use.

The Board continued with earlier discussion items.

d) Architectural Review Board

Mayor Esmay noted that the desire was to get the ARB involved earlier in the process before the Planning Board has given final approval. It could possibly involve a joint meeting. Chairman Pfaff will come to the March 11<sup>th</sup> workshop.

c) DPW building - Mayor Esmay told the Board that the drawings were coming along and was hopeful that at the end of March the plans would be sent out for bid.

Trustee Malcolm discussed the sewers on Route 9W. The Village DPW has been having trouble with them. Lines were cleared and 2 weeks later the flow was bad again. The Superintendent had the lines inspected with a video camera. From the manhole at the closed off section of Old Mountain Rd. North the line is nearly closed. A letter will have to be sent to the property owners along that line. Grease traps should be checked.

A letter will also be sent to Praxair and request them to have a back flow preventer installed. Property owner states it was done but Superintendent didn't see any evidence this is true. Should be sent certified mail, return receipt

The Board discussed the drainage issues from the Badi subdivision. Trustee Tarapata will get a comprehensive list from the Village Engineer and give to the Village Attorney to determine in which way the Badi subdivision is not complying with erosion and drainage plan. Once this is done the Village Attorney will write them a letter.

Robert Helmke asked to address the Board regarding the recent tree law that was passed and some conflicts that had arisen in the past week.

Mr. Helmke questioned who determines an emergency situation?

Mayor Esmay stated it would be the Building Inspector ultimately because it is within the zoning code.

Mr. Helmke then questioned whether a permit is required for an emergency situation?

The Board determined yes that the Building Inspector or Forester must act within 30 days.

Mr. Helmke stated that he has determined that 25 trees on his property are hazardous and they could come down at any time and cause damage to his house, pool or vehicles.

Trustee Tarapata noted that there is no mention of hazardous trees in the ordinance so she could not comment.

The Board then discussed the actual permit and that the Building Inspector needs a way to measure and mark the trees and probably should photograph them. The contractor should be licensed and have worker's comp. liability insurance noted on the permit.

Robert Helmke wanted to know what the status of the North Broadway extension of sidewalks to the Hook was.

Trustee Tarapata told him that the next step is a survey to determine whether it is possible and the village had been given a grant to conduct the survey.

The Mayor noted that on March 1, 2004 a new traffic officer was coming on and if the Village can computerize and implement the State V&T written as village code the village would receive the money.

Trustee Malcolm told the Board that residents on his street informed him that there used to be a street light on Birchwood near his property and they want it back. The Board decided that more research should be done before they request the light. Trustee Malcolm will check on it.

The Mayor and Deputy Mayor went and looked at the old Piccolo property to determine if it might be worthwhile to rule out the possibility of using it for a DPW building. The current site was purchased at a tax sale for only \$15,000. The Piccolo property is for sale for 3/4 of a million. The building would have to be razed and rebuilt as nothing can be used.

Mayor Esmay noted that the Board would be embarking on the task of residential zoning changes. He would propose a moratorium on at least all subdivisions until overlay zones (slopes and drainage) are in place and the need for other changes looked at.

Trustee Morgan made a motion to set a public hearing date of March 18, 2004 to consider a proposal to impose a moratorium on Residential

Subdivisions and Site Plans during the process of revising the Zoning Ordinance, seconded by Trustee Tarapata and so moved.

Mayor Esmay noted that he had spoken to Robert Geneslaw and a SEQRA is not required for a moratorium and that you can set the terms at the final approval.

As there was no further business, Trustee Smith motioned to adjourn, seconded by Trustee Malcolm and so moved.  
The meeting was adjourned at 9:53 PM.

Respectfully submitted,

Carol G. Brotherhood  
Village Clerk