

REGULAR MEETING
September 23, 2004

The Regular meeting of the Board of Trustees of the Village of Upper Nyack was held at the village hall on Thursday, September 23, 2004 at 7:00 PM.

Those present: Mayor Esmay, Trustees Malcolm, Morgan, Smith & Tarapata, Village Clerk Carol G. Brotherhood (absent), Village Attorney Robert P. Lewis, Village Treasurer Barry MacCartney (absent), Dennis Letson, PE

Others identified: PO Healy (CPD), Dennis Lynch, Esq., Heidi Hill McDowell, Bruce Gunther, Edna Bosworth, Robert Helmke, Edward Albert, John Badi, Victoria Badi, Susan DiPaci, Linda Bean, Carl Wortendyke

POLICE REPORTS – Read and noted. Officer Healy noted there were no significant incidents to report. Few summonses were given out.

JUSTICE REPORT - Read and noted.

TREASURER’S REPORT – Treasurer not in attendance. Report submitted.

VOUCHERS – Read and approved for payment.

Edward Albert, 501 North Midland Ave., appeared before the Board to discuss chronic water problems on his property which had been solved several years back. When new high school was built, flooding resumed and now Mr. Albert stated he has experienced 12 years of flooding. He fears that the continual flooding will weaken the foundation of his home. Mr. Albert noted several things that he thought would help: maintain the stream; remove debris; new storm sewers installed; have High School improve drainage; extend the headwall. Mr. Albert later noted that he had granted the village an easement for drainage access in 1975. On the issue of a complaint from Mr. Albert that the DPW did not pick up the storm debris that Mr. Albert had placed curbside but not bundled. The Mayor promised the DPW employees would pick it up as is.

Bruce Gunther, 407 Roseland Rd., appeared before the Board regarding the stream that runs through his property. The walls of the stream have collapsed. Mr. Gunther believes there has been a tremendous volume of water since the high school was built. Mr. Gunther stated that it will cost \$5000 to \$10,000 to rebuild the wall which is very costly. Feels the town

(village) has some responsibility to rebuild the wall. A town (village) waterway should be the responsibility of the town.

Mayor Esmay noted that a list of people affected by the flooding and is being kept so people can be kept informed.

Dennis Lynch, Esq. came before the Board representing the Badi family. He noted that the family wants to work with the village to solve the problems. He also noted that there have been very unusual conditions lately (excessive rain). According to Mr. Lynch, water problems have been noted and date back to 6/4/47, 7/11/47, 8/5/68, 9/8/97 to date. Mr. Lynch stated that the Badi family is ready to work with committees, with LMS (Lawler, Matusky & Skelly-drainage engineers) and with the committee of neighbors. Mr. Lynch also noted that it is unfair to say the Badi's project is causing all the water problems. Their property is 10% of an 89 acre drainage area.

Carl Wortendyke, Cal Mart Enterprises Inc., contractor working on the Badi subdivision site work stated that all erosion control devices set by the approved plan were installed. Heavy rains have knocked them down and they have been rebuilt repeatedly. Cal Mart had tried to build a basin but the USACE wouldn't let them disturb a stream. Mr. Wortendyke asserted that the village hasn't built an extension of the storm sewer in Larchdale to connect to and drain the retention pond. Mr. Wortendyke stated they are willing to work with LMS or anyone else.

Mr. Lynch stated on behalf of his clients that there is a need to modify and redesign some of the erosion control measures to comply with the General Permit.

Heidi Hill McDowell, 121 Old Mountain Rd., lives on .65 acres with 5 inlets of water that enter onto her property. They have been losing all the soil on the property which they have replaced repeatedly. May have to remove trees which are threatened. The driveway also washes out. Ms. McDowell noted there were gabion walls built on her property on North Midland.

Mayor Esmay noted that the wall is in the village right-of-way.

Heidi McDowell also commented that the wall along the stream is falling down.

Edna Bosworth, 601 North Broadway, has had continual and chronic water problems. There is 3 feet of water in her house. Rain is a terrifying experience for her. Her 400 ft. driveway has been rebuilt 5 times since June.

Plans to have stream widened and have major trees removed to do so. Mrs. Bosworth wants action earlier than after 36 weeks of study.

Mayor Esmay noted to the Board that the Planning Board met on 9/22/04 and found the Draft EIS for Courtyard of Upper Nyack to be complete. The completed DEIS must be distributed to all interested parties. Once distributed, there are 15-60 days to set a public hearing. Once the hearing is closed there are 30 days for additional written comments. The applicant has 30 days (usually extended) to prepare the Final EIS to answer those comments. The Planning Board makes "findings".

Dennis Letson, Village Engineer, recommended that the Board should appoint Lawler, Matusky and Skelly (LMS) to review elements of Courtyard of Upper Nyack DEIS.

Mr. Letson described the runoff under full soil saturation conditions. It is nearly 95% runoff.

Resolution- Trustee Tarapata made a motion that the Village of Upper Nyack retain LMS as consultants for review of elements of Courtyard of Upper Nyack as determined by the Planning Board and Village Engineer with the applicant to bear the costs, seconded by Trustee Morgan and with no further discussion it was unanimously approved.

AYES: Unanimous

Further discussion by the Mayor to the Board regarding Petersen's Boatyard. The Village has an existing outfall pipe on the Petersen property that is failing. The Boatyard did repairs at the site where the pipe failed during last major storm. The village needs to do more complete repairs on an emergency basis.

Dennis Letson commented that the outfall is undersized for the flow that reaches it. It appears that the pipe has broken under the Boatyard property. It was possibly repaired about 8 years ago. May need to change route of pipe and associated drainage easement. Julius Petersen Inc., in a memo, agrees to grant an easement. Letson recommends a 20' easement. Mr. Letson estimates \$25-\$30,000 for the repair.

Resolution – Trustee Morgan made a motion that the Village of Upper Nyack Board of Trustees declares the broken outfall at Petersen's Boatyard to constitute an emergency situation requiring immediate action. The Village Engineer is directed to prepare drawings for a minimum of three qualified

contractors to provide proposals, seconded by Trustee Tarapata and with no further discussion it was unanimously approved.

LMS Proposal – A lump sum payment of \$62,800 is proposed plus 10% of expenses.

Trustee Malcolm wanted to know if these were “hard” numbers or soft. Can the job come in lower? Trustee Morgan answered “No” it is a lump sum agreement. It will take 32 to 36 weeks of work. Trustee Malcolm asked if the payments could be spread across two fiscal years.

The Board agreed that Peter, Karen and Dennis Letson would meet with LMS to try and reduce the total cost.

In a motion made by Trustee Morgan, in reference to the letter of September 15 from LMS for the Village of Upper Nyack Drainage Study Contract and Fee Schedule, the Board authorizes spending not to exceed \$70,000 and to empower Trustees Malcolm and Tarapata and Village Engineer Dennis Letson to meet with LMS to negotiate, seconded by Trustee Tarapata and with no further discussion, unanimously approved.

Concerning the High School drainage, a meeting with the school Board appears to be the first step. The Mayor to contact the Superintendent first and bring representatives of LMS, Dennis Letson and data from residents. Teacher Tom Perry has observed situation of retention ponds over time at the school; his information may be useful.

It was noted that the bids on the DPW Garage Proposal were too high. Trustee Tarapata made the following motion:

Bids received were significantly in excess of the Village budget for the project,

Therefore the bids are rejected as outside the scope of the project as set forth by the Village Board and established as design parameters for consultants to prepare bid packages, seconded by Trustee Malcolm and so moved and voted unanimously by all Board members present.

On a second motion put forth by Trustee Malcolm:

The Board agrees to contact the Mechanical Contractors (plumbing, electrical) to notify us that they will hold their bids open beyond the original 30 days agreed and to give the Board an estimate of how long their bid prices will hold, seconded by Trustee Tarapata and with no further discussion it was unanimously approved.

Van Houten Landing – Mayor Esmay wanted it noted that on October 9, 2004 the residents of Van Houten St. Landing Neighborhood group want to celebrate and the Mayor would like to make a Proclamation congratulating the residents of the Van Houten Landing Neighborhood on its designation as a National Historic Site. The Mayor will present it to them when they receive their State recognition on 10/09/04 at Petersen's Boatyard.

Trustee Tarapata made a motion to hold a public hearing on October 21, 2004 at 7:30 PM amending the "SPEDES" law regarding the method of defining slope area, seconded by Trustee Morgan and with no further discussion it was so moved. The clerk is instructed to publish the legal notice.

Trustee Tarapata made a motion to hold a public hearing on October 21, 2004 at 7:30 PM to amend "Minimum Road Standards" by adding a section on street lights on public streets, seconded by Trustee Morgan and so moved. The clerk is instructed to publish the legal notice.

MINUTES –Trustee Morgan motioned to approve with corrections the minutes of 8/19/04 Regular meeting, seconded by Trustee Malcolm and so moved.

Trustee Malcolm made a motion to adjourn seconded by Trustee Tarapata and so moved.

The meeting was adjourned at 9:30 PM.

Respectfully submitted as taken by Trustee Morgan and typed by Village Clerk Carol G. Brotherhood,

Carol G. Brotherhood
Village Clerk