

SPECIAL MEETING

February 12, 2004

A Special meeting of the Board of Trustees of the Village of Upper Nyack was continued at the village hall on Thursday, February 12, 2004 at 7:00 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.,

Others identified: Robert M. Helmke, William McDowell, Frank Armbruster, Irene Armbruster, Dorothy Cucksey, Edward Cucksey, William M. Smith, Lillian M. Smith, Joseph Succoso, Anita DuJohn, Murray Schwartz, Jeff Berman, Russ Wooley, Glenna Marra, Judith Johnson, Alan Englander

PUBLIC HEARING CONTINUATION – “Tree Maintenance and Management Operations” - The Mayor began by discussing the background for the decision to consider this proposed law. Some members of the public had already attended the initial public hearing on 1/29/04, the workshop on 2/5/04 and now the continuation of the public hearing. The Clerk was instructed to read the public hearing notice.

Trustee Tarapata noted the background and read the attached notice outlining the changes to the proposed law and what the modifications are. The Mayor asked for public comment.

Dorothy Cucksey, 510 Hudson View Rd., inquired of the Board what would happen if she wanted to put a garden in her yard and a tree was in the way. Trustee Morgan stated she would have to go through the permit process.

Russ Wooley, 123 Castle Heights Avenue, wondered if there was a possibility of a pool permit not being granted because of a tree. The response from the Board that it would have to go before the Planning Board.

Jeff Berman, 18 Castle Heights Ave., a new resident of the Village, questioned if a dead or dying tree would be certified by the Village Forrester.

Trustee Tarapata noted that there was a provision in the law in Section III C that would allow for that.

Mr. Frank Armbruster, 209 Lexow Avenue, commented that the law was restrictive and economically damaging.

Dorothy Cucksey agreed and commented that laws that are already in place that restrict what someone can do on their property. People that have lived in the village for 20, 30 or 50 years have always taken care of their properties and don't want to be told what to do. Putting the power into the hands of Village Forrester might not be right.

Trustee Tarapata noted that there is an existing Land Clearing law in the General Ordinance which the Board will leave as it is.

Glenna Marra, 132 Highmount Avenue, felt that she is a prudent homeowner that has taken care of her property. She shared a concern about the large majestic trees that have been removed and fears that other trees may be cut down in a similar fashion.

Trustee Tarapata noted that trees being removed significantly changes the drainage. Under the Federal Storm water Management Plan every municipality is required to comply with the Clean Water/Clean Air Act. The proposed law allows the village to conform without spending a tremendous amount of money.

Property owners with subdividable, buildable lots take down trees prior to appearing before the Planning Board.

Anita DuJohn, 206 Lexow Avenue, agreed with the spirit of the law but had worry about the letter of the law. Concerned that it may interfere with the aesthetic ability of the homeowner. Worried about the lack of freedom to do what she wants on her property.

Trustee Tarapata replied that Section D (e) allows you to but still must obtain approval.

Murray Schwartz, 205 Lexow Ave., noted that two suggestions were given at the workshop: 1) exempt non-subdividable properties.

Trustee Morgan responded that because of topography trees on one property may still affect another property.

2) No approval required for weed trees such as tulip trees.

Russ Wooley of 123 Castle Heights Ave. asked for the Board to define clear cutting.

Mayor Esmay responded that it refers to taking all the trees down on a property.

Robert Helmke, 641 North Broadway, responded to an earlier comment about the removal of willow trees on North Broadway and that those trees had grown at an angle and had been cut by Orange & Rockland over the years. Mr. Helmke also felt that the village should concentrate more on drainage instead of spending money to build a new DPW building when the storage building on Roseland should be used. The village cut trees on the proposed lot.

Mr. Helmke also noted that he spoke with someone on the Board of National Arborists and they stated that laws like this are not defensible if a property owner challenges the law.

Judith Johnson, 512 Hudson View Road wondered what a person is trying to avoid if they cut down trees prior to the Planning Board process.

Trustee Tarapata noted they may not want to have to leave certain trees or add others.

William McDowell, 121 Old Mountain Rd, commended the Board for not passing the law two weeks ago and allowing the residents to talk and hoped the Board would listen. Mr. McDowell hadn't heard of more than a few people who were in favor of this law. Mr. McDowell felt the Board was using this law in place of dealing with the infrastructure and drainage in the village.

Trustee Morgan noted that this law would be under the Zoning Ordinance, so there is an appeals process. Also the request goes to the Arborist or Forester and Building Dept. and only to the Planning Board if it concerns a significant number of trees.

Mr. McDowell also wanted it known that he was offended by the idea that the Board have control over his property.

Mr. Armbruster, 209 Lexow Ave., wondered about the Federal regulations that say trees help drainage and infrastructure. Mr. Armbruster felt that tree cover is increasing in the village. Sees no hard evidence that there is a problem and because homes are the largest asset that most people have. Asked the Board not to pass the law.

Mrs. Cucksey, 510 Hudson View Rd., noted that she had lived in the village for 55 years and agreed the tree cover had increased. Also wanted the Board to know she had not received the copy of the Goosetown Gazette in which the notice of the meeting was given.

Trustee Tarapata will check with the post office to find out why they may not have been delivered.

Mr. & Mrs. Armbruster felt that notice should have been given out sooner.

Trustee Tarapata noted that in addition to the legal notice in the paper and posting it in the window the at the village hall, they tried to make it as easy and affordable to the village by using the newsletter.

Ron Hammond of Glenbrook Road was more concerned with the subdivision near Marydell where they had cleared trees and filled in swamp land.

Mr. Helmke added that approximately 75% of those trees were less than 16 inches and would not have mattered under the proposed law.

After those in attendance had an opportunity to speak, the Mayor asked for a motion to close the public hearing.

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

Trustee Tarapata made a motion to adopt Local Law #2 of 2004, "Tree Maintenance and Management Operations", seconded by Trustee Malcolm.

With further discussion by the Board, the addition of lawn/garden area to section 5 b. Each Trustee took a moment to comment:

Trustee Malcolm noted with all legislation you have to start somewhere. Having lived in the village for 10 years and in Grandview for 40 years before that feels that the spirit of the law is in the right place to protect future property owners and maintain property values. Asking anyone in the village, some will like it and some will not. Doesn't want to "hang his hat" on a statistic. Agreed it is the right for the whole of the village.

Trustee Morgan agreed that we have to start somewhere and if there is a problem it will be evident and we can address it then.

Trustee Smith lived in the village since 1963. Felt we should give it a try and see how it works and that the Board of Trustees is here to protect the village.

Trustee Tarapata noted that she had said enough and was in favor.

Mayor Esmay also noted that he was in favor.

On the call for the vote:

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

NOES: 0

The Mayor congratulated Trustee Tarapata for doing such a wonderful job.

PUBLIC HEARING- Revoke Ordinance 7.7(formerly 7.6) "Land Clearing Operations" also known as Local Law #3, 2004.

The Clerk read the public hearing notice.

Trustee Tarapata made a motion to withdraw the revocation of Ordinance 7.7, seconded by Trustee Smith and so moved. On the call for a vote: Unanimously in favor of withdrawing the revocation.

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

NOES: 0

The Board decided that a voting machine would be used in the upcoming village election.

As there was no further business on the agenda, the meeting was adjourned at 9 PM.

Trustee Smith motioned to adjourn seconded by Trustee Morgan and so moved.

Respectfully submitted,

Carol G. Brotherhood
Village Clerk