

REGULAR MEETING

May 19, 2005

The Regular meeting of the Board of Trustees of the Village of Upper Nyack was held at the village hall on Thursday, May 19, 2005 at 7:00 PM.

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

Absent: Treasurer MacCartney

Other's identified: PO Brian Healy-CPD, Sgt. Harry Bauman- CPD, Stephen Tedeski (Wilder, Balter Partners), William McDowell, Bruce Biavati, Alan Englander, Robert Helmke, Walter Karopczyc, Jeff Berman, Robert Gross, Ronnie Rugys

POLICE REPORT – Read and noted. One domestic disturbance and a few minor accidents. PO Healy informed the Board that this would be his last meeting as he was retiring after 37 years on the force. The Board applauded his work and congratulated him.

Trustee Morgan made a motion that the Board of Trustees congratulate Officer Healy on his years of service and dedication to the Village of Upper Nyack and wish him the best in his retirement as he deserves it, seconded by Trustee Malcolm and so moved.

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

NOES: None

JUSTICE REPORT – Read and noted.

MINUTES – Trustee Morgan motioned to accept as corrected the minutes of the Regular meeting 4/15/05, seconded by Trustee Tarapata and so moved.

AYES: All NOES: None

Trustee Tarapata motioned to accept the minutes of the Special meeting 5/12/05, seconded by Trustee Anderson and so moved.

AYES: All NOES: None ABSTAIN: Trustee Morgan was not in attendance at the 5/12/05 meeting.

TREASURER'S REPORT – Treasurer MacCartney was not in attendance.

VOUCHERS – Read and approved for payment.

MS4 Storm Water Annual Report for 2004 – Trustee Tarapata gave the annual report to the Board noting that this program falls under an unfunded mandate by the Federal Government in 2004. The Village of Upper Nyack

Board passed a version of the State DEC model law which requires an erosion control plan for site disturbances of more than 1/4 acre. The Village of Upper Nyack has accomplished all the minimum control measures required. The Annual Report is on file in the village hall office.

Trustee Tarapata asked for questions or comments from the public.

Alan Englander, Lexow Ave., noted that he had attended a county meeting regarding the issue of road salt and that research has shown that it is beginning to show up in the public water supplies not just wells.

Trustee Tarapata noted that the Board would ask the DPW Superintendent if he has taken any course regarding reducing the use of road salt.

Trustee Tarapata noted that we are ahead of most municipalities in terms of compliance.

The items that were noted to be continued or added for next year were:

- 1) Active training for construction site operators of erosion control measures
- 2) Enforce weekly inspections of construction sites
- 3) Create an on-line library of Storm water Pollution
- 4) Continue providing information in newsletter
- 5) Join Sewer District
- 6) Obtain infrastructure map sets for all village board and planning board members to use
- 7) Continue street sweeping and cleaning of catch basins

Discussion:

a) Proposed Sewer District – Mayor Esmay noted that the village has been invited to participate with Nyack, S. Nyack, Piermont, Grandview and Orangetown.

The District would take over the policing and ownership of all sanitary sewer pipes.

There is an informal ruling by State Comptroller's office that any municipality could not cross Town lines to join in a district.

Currently the Village of Upper Nyack contracts with the Town of Orangetown for our sewage treatment.

At the advice of the Village Attorney, Mayor Esmay met with Senator Morahan to investigate the possibility of Upper Nyack joining a Sewer District organized by Orangetown. Senator Morahan's attorney will investigate the possibility of a Special District in order for the Village of Upper Nyack to join.

Mayor Esmay believes it to be in the Village's best interest to have the Town of Orangetown maintain and police the piping. They are better equipped to do so. Waiting for information from Senator Morahan's office. Mayor Esmay noted that right now we are at the mercy of our contract with

Orangetown and the village could separate from being billed at our high assessment.

Alan Englander, 118 Lexow Ave., supports the Board in trying to accomplish this. Currently there is no representation or vote in Orangetown.

b) Summit School – Proposed New Building

The Summit School is planning to build a 30,000 sq. ft. building for classroom use. They are obtaining funding from the NYS Dormitory Authority. They plan to build as large as their funding will allow. Representatives from the school stated they would not increase the current student population.

The Village Board has been investigating the village's rights in this situation.

Issues that can be addressed by the village to the State are: 1) safety 2) whether this kind of facility is oversubscribed in this area

The Mayor has been researching Padavan's Law (NY State Senator Padavan) which refers to group homes, liquor stores etc. with regards to saturation in a given area.

After the school makes presentation to the Board the village will have 40 days to make a response. The Mayor was unclear if this was after a formal application. A letter has been sent to Senator Morahan and the school.

There was some further discussion by the Board and the public.

Robert Gross, 7 Perry Lane, questioned what they are able to do, and do the village zoning laws apply?

Mayor Esmay stated that yes they have to conform to bulk, set backs and height and extending the Special Permit. They will have to go before the Planning Board and will need an Environmental Impact Statement.

Mr. Karopczyc, 2 Perry Lane, stated that he has done some research and there are 13 such facilities in Rockland, Westchester and Putnam counties. Summit School is in the most densely populated area.

Ronnie Rugys, 218 Glenbrook Rd., works for the Board of Education in NYC as a homebound teacher and is familiar with Summit School. It is very popular for placements.

Mayor Esmay concluded that the Village has made known its concerns and is watching closely.

c) School Street Parking-

Trustee Anderson reported to the Board as to the progress of the parking issue on School Street. Superintendent Scanlan made some measurements of

the width of the street. East of Heider's Driveway is 21 ft., west of the driveway up to the curve is 23 ft.

The village will investigate ownership of the right-of-way.

Determination: The Board will not hold a public hearing until a plan is in place and research to show clear ownership has been established.

d) Sample Law-Commercial Landscapers –

Mayor Esmay noted that this law has been adopted by other municipalities. The Mayor asked the Board members to read over for further discussion at a workshop on 5/26/05.

Update – New DPW Building- Trustee Malcolm reported to the Board that the 1st meeting was held. Present were the Architects, Contractors and himself. Land clearing and excavation had begun. Pile driving was completed today. Layout of the salt shed was discussed. Silt fence will be installed by Fri. The Building will be delivered by July 19th, 2005. The plan is to be in the building by mid October. The next meeting is scheduled for June 2nd. Trustee Malcolm will meet with ISI solar.

Attorney Lewis noted that he has the signed easement from Joseph Palermo, Palmer Drive. The mortgage company must sign off on the easement. They require an application, fee of \$200, and a copy of the contract between the Village and Mr. Palermo.

WAIVER-NYS Office of Children and Family Services Eligibility

Trustee Malcolm made a motion that the Board approves the waiving of its State funding to be given to the Village of Nyack and authorize the Mayor to sign said waiver, seconded by Trustee Tarapata and so moved.

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

NOES: None

COURTYARD AT UPPER NYACK

Mayor Esmay noted that at the Planning Board meeting of 5/18/05, a concept proposal was presented to the Planning Board by Tim Miller Associates on behalf of Wilder Balter Partners for the project known as "Courtyard of Upper Nyack" to build 22 residential houses on their property on Route 9W instead of the 10 commercial offices originally proposed. The applicants hoped that the Board would consider average density to allow for ½ acre zoned lots.

Village Attorney Lewis who was present at the Planning Board meeting noted that Tim Miller, Tom Imperato and Steve Tedeski were also present representing Wilder Balter Partners and the Courtyard project. Village Attorney Lewis also noted that the FEIS had been filed on May 11, 2005 giving the Village 45 days (must be consecutive days) to respond. Planner Robert Geneslaw and Village Engineer Dennis Letson are in the process of doing a through review of the documents. Once the Planning Board accepts the document, a 10 day public comment period begins. Wilder Balter wants to proceed with the SEQRA process. The applicant has submitted a conceptual layout to the Planning Board. Attorney Lewis believes that the Planning Board made a motion to recommend their support for a zone change to residential. The current village zoning does not allow for residential.

No formal presentation has been made by Wilder Balter Partners. It was noted that the two plans may run concurrently while the SEQRA process proceeds on the already submitted project. Attorney Lewis believes that conceptually the Planning Board would recommend residential and this was acknowledged as true by William McDowell, Bruce Biavati, and Alan Englander (alternate member) Planning Board members who came to the meeting to discuss this with the Village Board.

Trustee Morgan made a motion that the Village Board is willing to consider the concept of changing the zoning of the "Courtyard of Upper Nyack" property and that determination of the details of the form of residential zoning and development would require specific findings of fact and recommendations by the Planning Board, seconded by Trustee Tarapata and after discussion and a call for a vote:

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

NOES: None

Further update from Village Attorney RE: Larry Blinn, Jewett Rd.:

Village Attorney Lewis noted that Mr. Blinn had received approval to build retaining walls with the confines of his property. Walls were built into the right-of-way on the private Jewett Rd and one wall on the neighboring property to the east. (his Parent's property). Mr. Blinn came back to the Planning Board with an as-built showing walls built outside of his property lines. Also presented about 5 different deeds showing connection of ownership. Mr. Lewis reviewed the documents and noted that the Planning Board has no authority to grant approval of these walls built anywhere but

on his property. The neighbors can sue him for using their common property in the right-of-way.

Trustee Tarapata made a motion to hold a public hearing to consider adoption of Local Law #2 of 2005, amending Article VI of the Board of Architectural Review of the 1962 Zoning Ordinance of the Village of Upper Nyack, on June 16, 2005, seconded by Trustee Malcolm and after a brief discussion it was so moved.

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

NOES: None

Trustee Tarapata reported to the Board that the detention pond issue with the School District was moving towards a resolution. Trustee Tarapata would be meeting with the School Board next month. The Village will work with the school district to obtain funding through Senator Morahan's office. The Pond will be cleaned out and get it working the way it was intended.

The traffic monitor at the base of Old Mountain Rd. & North Midland Ave. now has power and it will be turned on as soon as the Superintendent is told.

Bruce Biavati, 530 North Midland Ave., noted to the Board that Bliss Lane is being fixed and repaved. They might install a drain on the private portion of Bliss Lane to mitigate water shooting across N. Midland and icing in winter.

William McDowell, Old Mountain Rd., requested the Board to revisit the issue of enforcement by the police re: speeders and the idea of a constable. Trustee Malcolm suggested having the Clarkstown police place the counter on the road. Also to invite residents of Old Mountain Rd. (bt. N. Midland Ave. and N. Broadway) to a workshop and get a consensus as to what is needed.

Trustee Malcolm made a motion to adjourn seconded by Trustee Anderson and so moved. The meeting was adjourned at 9:56 PM.

Respectfully submitted,

Carol G. Brotherhood
Village Clerk