

REGULAR MEETING
April 15, 2021

The Regular meeting of the Board of Trustees of the Village of Upper Nyack was held via videoconferencing on Thursday, April 15, 2021 at 7:00 PM. In accordance with the Executive Order signed by Governor Andrew Cuomo, this meeting was held by video/teleconference. The meeting was recorded and transcribed.

Those participating: Mayor Karen Tarapata, Trustees Michael Esmay, Laurie Dodge, Jeffrey Epstein, Ken Rothchild
Village Clerk Carol G. Brotherhood, Village Treasurer Rich Fortunato,
Others identified: PO J. Kennedy, PO N. Davies – CPD; Jillana Sinnott, Heather Candella, Attorney Noelle C. Wolfson

POLICE REPORTS – PO Davies presented the CPD report to the Board. The following was noted and discussed: One car accident on Glenbrook and North Highland MV hit a deer. School, area, cultural, and religious checks are ongoing. No stolen vehicles reported. No stolen vehicles reported. Two fraudulent unemployment scams reported in the Village. The Village of Nyack has also reported scams involving social media, as well as “grandparent scams,” where the victim is called by someone claiming to be a family member that needs bail money, approximately \$150,000 lost. The county has also seen scams involving Orange and Rockland Utility customers, the scammers call the victims demanding a paid bill in the form of gift cards. Other communities have seen people posing as utility workers and robbing residents. Eight traffic tickets were written this month in the Village, PO Davies noted this could be more due to a backlog in logging them at the county. Two parking tickets were issued in the Village. A business on North Highland Avenue experienced a larceny, license plates were stolen off of vehicles. Cooking oil thefts are continuing.

Town of Clarkstown, 36 OD, 5 deaths (31 surviving).
Rockland County, 112 OD, 9 deaths (93 surviving). Noting there is an increase of fentanyl in heroin. PO Davies spoke to Mayor Tarapata earlier in the week to discuss monitoring truck traffic in the village. Sgt. Burke has spoken to traffic officers to show more attention to the area, and noted that if it’s a local delivery it is legal. Trustee Dodge clarified that they are traveling through the Village of Upper Nyack through Nyack to South Nyack where they reenter 9W. Mayor Tarapata noted the No Parking signs on Lexow will

remain for another month. Trustee Epstein noted that Park Mobile, the parking app used in the Village of Nyack had a security breach, and urged residents that use the app to park in the Village should change their passwords.

There were no questions from the Board.

TREASURER'S REPORT –

Trustee Epstein made a motion to authorize the Treasurer to pay the DPW Building Bond \$65,000.00 to principal and \$15,156.25 in interest on May 1, 2021, seconded by Trustee Dodge and so moved.

On call for a vote:

AYES: Mayor Karen Tarapata, Trustees Esmay, Dodge, Rothchild, Epstein

NOES: None

Constitutional tax was filed and approved by the State, and the Village of Upper Nyack's tax cap calculation was filed and approved by the State.

7:15 PM Public Hearing – Tentative Budget

Mayor Tarapata read the Public Hearing Notice for the Tentative Budget.

The Treasurer provided an overview of the 2021-2022 budget. Real estate taxes increased 1.6% over the prior year. Film revenue for the Village is expected to increase. Village will receive \$100,000 in CHIPS grants. Mortgage taxes set to increase this year, real estate sales are up within the village. Sales tax revenue is expected to decrease. Expenses for the Village include improvements at the preserve, investing in new technology at Village Hall, as well as lighting, Wi-Fi, and other repairs at the Old Stone Meeting House. Two paving projects are also expected this year, as well as the sidewalk project along North Broadway. Majority of Village revenue towards the sewer bill and carting contract.

Trustee Dodge motioned to open the Public Hearing, Trustee Rothchild seconded and so moved.

One resident asked if the 1.6% tax increase meant to the average tax payer. Treasurer stated it is difficult to create an average, but the increase to residents would be minimal.

There were no further comments from the public.

Trustee Rothchild made a motion to close the public hearing, Trustee Dodge seconded, and so moved.

On call for a vote:

AYES: Mayor Tarapata, Trustee Dodge, Trustee Esmay, Trustee Epstein & Trustee Rothchild

NOES: None

Trustee Epstein motioned to approve the 2021-2022 Budget, Trustee Esmay seconded and so it was adopted.

On call for a vote:

AYES: Mayor Tarapata, Trustee Dodge, Trustee Esmay, Trustee Epstein & Trustee Rothchild

NOES: None

7:30 PM Public Hearing – Noise Law

Heather Candella read the Public Hearing Notice for the Noise Law.

Mayor Tarapata read the legislative intent of the law:

The making and creating of unreasonably disturbing or excessive noise within the Village of Upper Nyack is a condition which has persisted, and the level and frequency of occurrences of such noises continues to increase. These noise levels are a detriment to the public health, comfort, convenience, safety and welfare of the citizens of the Village. It is the intent of this Local Law to balance the rights of residents and property owners to use their property in a reasonable manner with the rights of others in the Village to be free of excessive, continuous, unnecessary or disturbing noise.

Mayor Tarapata noted the Board has met with noise monitoring firms and other towns such as Dobbs Ferry that have implemented similar statute to create this law. Mayor Tarapata also noted in speaking with these firms and towns it was discovered that using decibels is not enforceable.

Mayor Tarapata noted read the referrals from Rockland County, Town of Clarkstown, and Village of Nyack.

Trustee Dodge motioned to open the public hearing, Trustee Epstein seconded, and so moved.

On call for a vote:

AYES: Mayor Tarapata, Trustee Dodge, Trustee Esmay, Trustee Epstein & Trustee Rothchild

NOES: None

Submitted written comments from the public are attached to the minutes.

Connie Coker of 106 Locust, spoke in support of the law and noted the toxins in the air as a result of gas powered leaf blowers in addition to the noise.

Diane Greenwald, Village Resident and Chair of Green Committee. Diane moved to the Village in 2018 with her husband and noticed the “near constant drone” of leaf blowers. Diane noted several Westchester communities that have similar regulations, and has sharply reduced the use of gas powered leaf blowers.

Tony Berman, Village Resident asked how many pro vs. con written comments were received. Trustee Dodge answered there were many more in favor of the law than not.

Carolyn Cohen of 1 Perry Lane, lives next to the ship yard. Carolyn stated the shipyard should have to regulate their noise level in addition to what is already stated in the law, as the noise coming from the shipyard is continuous.

Meave Tooher, ESQ., representing Goosetown Environmental Action, spoke on how this law should have a more quantitative approach that this law wouldn't result in a reduction of noise. She also stated that the fines are inadequate in regards to businesses like the shipyard that repeatedly break the law.

Sue Smith, Village Resident, requested the Board address how they would enforce the three hours on, 30 minutes off part of the law. Mayor Tarapata stated that the Code Enforcement Officer would be responsible for enforcement.

Morton Korn, Village Resident, shared that he lives next to the shipyard and the noise is unbearable, and is unable to enjoy his property and stated the noise has been detrimental to his mental health, and also expressed concern regarding the enforcement of the law.

Carol Lusignan of School Street, 18 year Village resident noted a lot of noise specific to landscaping. Also expressed interest in a quantitative approach to the law.

Mayor Tarapata stated that the Public Hearing will be open until next month's meeting. Written comments from the public will be available on the Village's website.

There were no further comments from the public.

Trustee Rothchild moved to adjourn the Public Hearing for this meeting and continue at May's meeting. Trustee Esmay seconded, and so it was moved.

On call for a vote:

AYES: Mayor Tarapata, Trustee Dodge, Trustee Esmay, Trustee Epstein & Trustee Rothchild

NOES: None

8:00 PM Continuation of Public Hearing– Tree Preservation Law

Heather Candella read the Public Hearing Notice for the Tree Preservation Law.

Mayor Tarapata read the legislative intent of the law:

1. The Board of Trustees of the Village of Upper Nyack has determined that both the existing character of the community and the control of erosion are highly dependent on maintaining the wooded landscape and hereby enacts this Local Law for the following purposes:

1.1. To control and regulate indiscriminate and excessive removal, cutting and destruction of Significant Trees in order to regulate and prevent conditions which result in increased surface runoff, soil erosion, and pollution of surface waters including, but not limited to, the Hudson River, and to require the planting of replacement trees where removal of Significant Trees is reasonably necessary, in order to prevent the above-referenced environmental harms.

1.2. To preserve an important attribute of the Village by encouraging owners of existing developed lands and developers to reduce the removal of canopy trees and mature trees when making improvements to real property.

1.3. To maintain the stability and value of real property in the Village by preserving existing Significant Trees and woodland aesthetics, and to protect and enhance the aesthetics and views of the Village from the Hudson River.

Mayor Tarapata mentioned the law was revised after the public comments in January. Trustee Dodge noted the law seemed long and complicated.

Trustee Dodge motioned to open the public hearing, Trustee Rothchild seconded, and so moved.

On call for a vote:

AYES: Mayor Tarapata, Trustee Dodge, Trustee Esmay, Trustee Epstein & Trustee Rothchild

NOES: None

Jillana Sinnott, Board Secretary and Village Resident, noted she was not happy with the change of measurement in the law. Suggested it needs to be clear for those who are submitting to the Village Zoning Board with available criteria needed for those submitting to the Board.

Mayor Tarapata noted the law was developed with the Planning Board Chair, Village Forrester, and Land Use Attorney.

Peggy Kurtz, Village Resident stated the removal of trees, most especially older trees, affects the quality of life. She stated she is in favor of reducing the DBH, but doesn't understand the increase in trees that can be removed in the law, and suggested a list of specific trees to encourage certain species in instances where trees are replaced.

Trustee Epstein asked if there was a way for a dangerous tree to get fast tracked for removal. Mayor Tarapata noted that the Village already has such protocols in place. Noelle C. Wolfson, Village Land Use Attorney, noted Article 3 of the law for reference.

Peggy Kurtz asked why there is an increase in the number of trees that can be removed in a two year period. Noelle explained that the increase comes in the number of dead or dying trees, however when upwards of six or more trees are to be removed, you would need to consider a replanting plan that would go to the Village Planning Board for Review.

Mayor Tarapata read the written public comments (attached).

Mayor Tarapata read the referrals from the Town of Clarkstown and Rockland County Department of Planning in regards to the law.

Trustee Rothchild noted the removal of willow trees years ago on North Broadway as an example of why the law was created.

Mayor Tarapata stated the exemptions will be posted to the Planning Board website.

Noelle Wolfson noted there was a typo in section 2.2.1.2 13 inches of larger, was meant to read 13 inches or smaller.

Trustee Rothchild motioned to adopt the law with the typographical correction to Section 2.2. Trustee Esmay seconded, and so adopted.

On call for a vote:

AYES: Mayor Tarapata, Trustee Esmay, Trustee Epstein & Trustee Rothchild

NOES: None

ABSTAIN: Trustee Dodge

Annexation of Properties on N Highland Ave (Route 9W) giving effect to Annexation

A public hearing was not needed for this vote, as per Village Land Use Attorney, Noelle C. Wolfson.

Mayor Tarapata thanked the Town of Clarkstown with their help with this process.

Trustee Esmay motioned to adopt the law. Trustee Epstein seconded, and so it was moved.

On call for a vote:

AYES: Mayor Tarapata, Trustee Dodge, Trustee Esmay, Trustee Epstein & Trustee Rothchild

NOES: None

Bid # PV-01-2021 Paving Program- Pavement re-surfacing Bid Opening Review

Heather Candella, Clerk Typist read the Public Notice.

There was one bid received for Bid # PV-01-2021. Mayor Tarapata noted she was disappointed the bid was over \$100,000, and the Village has a grant for \$75,000. After reviewing the costs with the Village Engineer and Village Treasurer that the Village can afford this project. Village Engineer Dennis Letson is reviewing unit costs of the bid and may be able to develop a plan where Tilcon would pave Kuyper and have Goreman perform a resurfacing on Palmer Drive. Mayor Tarapata spoke with Clarkstown Town Supervisor George Hoehmann and was informed that the Village would receive approximately \$90,000 through the town from the State and Federal government that could cover the difference in cost. The Mayor recommended the bid be accepted.

Trustee Dodge motioned to accept Tilcon's bid for Bid # PV-01-2021 for \$134,387.90. Trustee Esmay seconded, and so approved.

On call for a vote:

AYES: Mayor Tarapata, Trustee Dodge, Trustee Esmay, Trustee Epstein & Trustee Rothchild

NOES: None

Adopt MS4 2020 Stormwater Report

Mayor Tarapata noted that the MS4 2020 Stormwater Report adoption was delayed due to the COVID-19 pandemic. The MS4 2021 Stormwater Report will be available in three months.

Trustee Rothchild moved to adopt the MS4 2020 Stormwater Report, Trustee Dodge seconded.

On call for a vote:

AYES: Mayor Tarapata, Trustee Dodge, Trustee Esmay & Trustee Rothchild

NOES: None

ABSTAIN: Trustee Epstein

MINUTES – Corrections needed to **March 18, 2021 Regular Meeting**, will vote on approval at the May 20, 2021 meeting.

MINUTES – Trustee Esmay made a motion to accept the minutes for the **Annual Meeting, April 5, 2021**, seconded by Trustee Dodge and so approved.

On call for a vote:

AYES: Mayor Tarapata, Trustee Dodge, Trustee Esmay, Trustee Epstein & Trustee Rothchild

NOES: None

MINUTES – **Special Meeting, April 8, 2021** as amended, Trustee Rothchild and Trustee Epstein seconded, and so approved and so approved.

On call for a vote:

AYES: Mayor Tarapata, Trustee Dodge, Trustee Esmay, Trustee Epstein & Trustee Rothchild

NOES: None

Registrar of Vital Statistics Appointments

Mayor Tarapata noted that the Registrar of Vital Statistic Appointments for the Village are expiring at the end of the month and suggested Heather Candella, Clerk Typist be appointed as the Village Registrar of Vital Statistics, with Donna Alpert, Deputy Village Clerk, continuing to serve as Deputy Registrar, both appointments effective May 1, 2021.

Trustee Epstein moved to make the appointments. Trustee Epstein seconded and so it was moved.

On call for a vote:

AYES: Mayor Tarapata, Trustee Dodge, Trustee Esmay, Trustee Epstein & Trustee Rothchild

NOES: None

Generator Repair Proposals

Heating and cooling unit in document storage unit needs to be replaced or repaired. Charges to repair would be \$2,000, a brand new unit would cost \$2,500, and a maintenance agreement with Design Air \$400 per unit totaling \$2,575.00.

Trustee Esmay motioned to accept Design Air proposal. Trustee Rothchild seconded and so it was accepted.

On call for a vote:

AYES: Mayor Tarapata, Trustee Dodge, Trustee Esmay, Trustee Epstein & Trustee Rothchild

NOES: None

Riverhook Structure Loan

The Board discussed the Proposal for Sculpture at Haring House Circle at the River Hook preserve (attached). The structure would be on loan for one year. The Art on Loan agreement is attached to the minutes.

The Board discussed insuring the sculpture for its duration at the preserve, insuring the sculpture will cost the Village \$21.00 monthly.

Trustee Dodge motioned to accept the proposal. Trustee Esmay seconded, and so it was accepted.

On call for a vote:

AYES: Mayor Tarapata, Trustee Dodge, Trustee Esmay, Trustee Epstein & Trustee Rothchild

NOES: None

Other Matters of Business

Mayor Tarapata noted the purchase of oak trees with the funds received from Community Solar to be planted at the preserve as part of the upcoming Arbor Day event.

Mayor Tarapata mentioned a dance company that would like to hold a small recital on June 5, 2021 at the Old Stone Meeting House. Attendees would abide by social distancing, and have less than the 50% capacity as mandated by current NYS COVID-19 guidelines. Participants will also participate in contact tracing, doors and windows will also be kept open. Organizers will be required to sign a waiver.

Mayor Tarapata brought to the attention of the Board of a wedding at 530 North Broadway, residents of the address requested street parking for 20 vehicles for between the hours of 4:30pm-10pm on June 26, 2021. The resident requesting the parking must notify the neighbors prior to the event, and cars parked on the street must display parking permit. The Board unanimously agreed with the above stated conditions.

No further comments or questions.

Trustee Dodge motioned to adjourn, seconded by Trustee Epstein and so moved.

On call for a vote:

AYES: Mayor Tarapata, Trustee Dodge, Trustee Esmay, Trustee Epstein & Trustee Rothchild

NOES: None

The meeting was adjourned at 9:44 PM.

Respectfully submitted,

Carol G. Brotherhood
Village Clerk