

REGULAR MEETING
MAY 20, 2021
7:30 PM

The Regular meeting of the Board of Trustees of the Village of Upper Nyack was held via videoconferencing on Thursday, May 20, 2021 at 7:00 PM. In accordance with the Executive Order of Governor Andrew Cuomo, this meeting was held by video/teleconference. The meeting was recorded and transcribed.

Those participating: Mayor Karen Tarapata, Trustees Michael Esmay, Jeffrey Epstein, Ken Rothchild, Treasurer Richard Fortunato, Clerk Typist Heather Candella, Attorney Noelle C. Wolfson, Clarkstown Police: Sgt. Burke and PO Davies. **Absent:** Trustee Laurie Dodge

Police Reports – One accident with minor injuries on North Midland at the intersection of Wannamaker Avenue. Two minor accidents with no injuries also reported this month. School, area, cultural, and religious checks are ongoing. One larceny in vehicle at North Broadway and Larchdale, purse and miscellaneous property stolen, car door was unlocked, PO Davies reminded residents to lock their cars and make sure the keys are not left in vehicles. Cooking oil thefts from restaurants in the Village of Nyack are still occurring. Unemployment scams continue to be reported as well as in-person scams. Four ordinance violation calls: Noise complaint at North Midland and Birchwood, officer was deployed; suspicious incident reported on Castle Heights Avenue, vehicle was stopped, driver was on a phone call; reports of shots fired on Castle Heights, officer determined there were no shots were fired, noise was related to a contractor doing work on a property; report of a person taking photos of the Sons of Israel property, it was determined it was a part of the Pokemon Go mobile game. Eight traffic tickets were issued. Town of Clarkstown, 36 OD, 4 deaths (31 surviving). Trustee Rothchild asked PO Davies regarding a police call about children playing in the street and what the protocol is for such calls, PO Davies asked for a date this occurred and will look into the incident. Mayor Tarapata asked PO Davies if it were possible for the Village to use a sign board near road stating that parking is now available at the Nyack Beach, PO Davies agreed and will scout possible locations for the sign board.

MINUTES – Trustee Esmay made a motion to accept the minutes for the **Regular Meeting, March 18, 2021**, seconded by Trustee Rothchild and so approved.

On call for a vote:

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

NOES: None

ABSENT: Trustee Dodge

Trustee Esmay made a motion to accept the minutes for the **Regular Meeting, April 15, 2021**, seconded by Trustee Rothchild and so approved.

On call for a vote:

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

NOES: None

ABSENT: Trustee Dodge

TREASURER’S REPORT – Trustee Esmay made a motion to authorize the Treasurer to pay the Preserve Bond \$2.2 M, \$90,000 to principal and \$37,721.88 in interest, seconded by Trustee Epstein and so moved.

On call for a vote:

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

NOES: None

ABSENT: Trustee Dodge

STORAGE ROOM HEATING UNIT DISCUSSION – Design Air bid accepted at April meeting needed to be retracted, as Design Air was bought out by another company and will not perform the bid for prevailing wage. The Village received a bid from Berry Burners that is \$150 less than Design Air at prevailing wage.

Trustee Rothchild made a motion to adopt. Trustee Esmay seconded and so approved.

On call for a vote:

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

NOES: None

ABSENT: Trustee Dodge

ADOPTION OF MS4 2021 STORMWATER REPORT – Trustee Esmay

made a motion to adopt. Trustee Epstein seconded and so approved.
AYES: Mayor Tarapata, Trustee Esmay, Trustee Epstein & Trustee Rothchild
NOES: None
ABSENT: Trustee Dodge

DISCUSSION OF CYBER LIABILITY POLICY – Mayor Tarapata explained the need for the policy to protect the Village and its residents and will send an invitation from NYMIR for Village Employees, Trustees, and Contractors to complete. Mayor is currently working on a contract with the Village’s IT Contractor to be compliant with the Village’s insurance company’s recommendations.

7:30 PM Continuation of Public Hearing – NOISE LAW

Heather Candella, Clerk Typist read the public hearing notice.

Maeve Tooher – Representing Goosetown submitted written comments and thanked the Board for their efforts. Stated the leaf blowers are a separate problem than the shipyard noise. Urged the Board to go with quantitative measures and suggested researching background noise level for impacts, noted the time change to the law is “opening the door for abuse,” law doesn’t note the measurement of decibels, addressed penalty provisions and that the proposed penalties are not severe enough.

Village Land Use Attorney, Noelle C. Wolfson explained enforcement would be similar to zoning and building code enforcement already in place by the Village.

Eric Larsen, Doctor and Village Resident – Moved to Upper Nyack from South Nyack last year, to get away from the highway and bridge noise. Was surprised at the constant noise from gasoline powered devices. Stated there is rarely any silence, the loud machines used over time can cause tinnitus, and in his line of work has seen an increase in atypical pneumonias caused by fungi and molds that could be attributed to leaf blowers and suggested designated days within the Village to restrict the use of the gasoline powered machines.

Kate Fitzpatrick, Attorney - works on ordinance similar to the one proposed. Does not understand how the leaf blowers affecting our hearing isn’t

weighed more than those who want their landscaping a certain way. Why human health isn't a priority? Why isn't the disturbance to those working from home held as important?

Mayor Tarapata mentioned that at the previous week's Workshop Meeting the Board reviewed the comments of both parties, the hours and times of year for leaf blowers, and discussed use of heavy machinery and timing.

Sue Smith, Village Resident - thanked the Board for the work on this matter. Requested clarification on the word "continuous" in the law.

Trustee Rothchild mentioned more definitions may be needed in the law to better define the specifications. Mayor Tarapata agreed setting definitions was a great idea, Trustee Epstein agreed it is worth looking into.

Judith Ryan, Village Resident – Worried the additions of these measures would delay the vote. Mayor Tarapata responded that the Public Hearing will be continued at next month's meeting to allow for the additions of definitions to the law.

Diana Greenwald, Village Resident – mentioned all of the work the council has done over the past few years regarding this law, and the disappointment of another delay of the law. Mayor Tarapata thanked the Green Committee for their work and said she appreciates their patience and noted the definitions would improve the law. Ms. Greenwald asked if the changes needed to pass the law can be done sooner than June's BoT Regular Meeting.

Judith Ryan, Village Resident – asked if it were feasible to have Public Hearings be extended indefinitely. Village Land Use Attorney Noelle C. Wolfson confirmed that the Village is getting very close to finalizing.

Jilliana Sinnott, Village Resident – appreciates the addition of extended use hours for those with traditional work hours. Inquired if there was a way to allow for one weekend day a month where gas powered equipment was permitted. Disagrees with residents asking to buy electric, stated lithium batteries are just as wasteful and expensive.

Jeremy Patuto – Village Resident – Does not agree with the law. Spoke with his landscaper and doesn't want to change the conditions of his contract for

this year, landscapers are against it and hopes for a grace period for landscapers to adjust to the law. Understands the health risks. Doesn't believe the dog barking portion of the law is enforceable.

Robert Helmke – Landscaper and Village Resident, lived in the Village for 20 years and understands both sides. Stated the perspective from the landscapers is that electric leaf blowers do not last as long, only about 30 minutes per use, and batteries can cost upwards of \$400 each, and require two hours for a full charge.

Frank Sinnott – Village Resident, stated the law is limiting rights to what people can do on their own property and expressed disappointment for the residents who would not be able to maintain their property because of complaints from neighbors.

Peggy Kurtz – Village Resident, stated 17 communities in Westchester that have enacted similar laws and the landscapers have survived and hoped by taking this approach people will convert to electric by the fall.

Kim Coons – Village Resident, reminded those participating in the public hearing that the noise ordinance is not exclusive to leaf blowers and that it is part of a much broader scope to improve quality of life.

Trustee Rothchild urged residents to submit their comments to the Board sooner so that they can be considered when making adjustments to the law.

Mayor Tarapata and Trustees agreed to have a Workshop Meeting on May 27, 2021 to set definitions and consider public comments in amending the law.

Trustee Rothchild motioned to continue the public hearing to the next Regular Meeting on June 17, 2021, seconded by Trustee Esmay, and so moved.

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

NOES: None

ABSENT: Trustee Dodge

SEQRA – NOISE LAW

The Mayor answered the 11 questions on the short form EAF Part II with “No or small impact may occur” and the following comments:

1. No - The Adoption of this law will not conflict with the Village’s existing or proposed comprehensive plan. Maintenance of the quiet, peaceful character of the Village is a primary planning goal in the existing comprehensive plan (p.3). The proposed comprehensive plan addresses noise more specifically and cites increasing noise levels as an area of concern in the Village (12.6).
2. No - The Noise Law does not directly regulate the use of land or the intensity of that use.
3. No - The adoption of this Noise Law will not impair the character of the community; if anything, it will enhance community character by eliminating unreasonable levels of noise.
4. No - There are no critical environmental areas in the Village.
5. The proposed local law will not have a negative impact on traffic or transportation facilities, energy use, water or wastewater resources, historic or architecturally significant resources, natural resources, nor will it negatively impact stormwater management or other environmental resources or human health within the Village as it seeks only to regulate unreasonable levels of noise and not land use or development.

There were no comments from the public.

Trustee Epstein motioned to adopt, Trustee Esmay seconded and so it was adopted.

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

NOES: None

ABSENT: Trustee Dodge

INTRODUCTION OF A LOCAL LAW REPEALING AND REPLACING
VILLAGE OF UPPER NYACK LOCAL LAW #6 OF 2020
(ARCHITECTURAL REVIEW LAW)

Mayor Tarapata stated the law passed last year has resulted in unintended consequences and the Village is moving to replace the law. The Architectural Review Board will review.

Trustee Esmay motioned to set the public hearing on this matter at the next Board of Trustees Regular Meeting on June 17, 2021. Trustee Epstein seconded.

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

NOES: None

ABSENT: Trustee Dodge

RIVER HOOK CLEANUP PROPOSAL – Mayor Tarapata met with several tree removal companies for bids on the River Hook Cleanup Proposal:

- D&D – quoted \$13,000, before tax
- Timberline – quoted \$16,200, not at prevailing wage
- O’ Sullivan - quoted \$6,000, at prevailing wage
- Ira Wickes – declined to bid

Trustee Epstein motioned to approve the bid from O’Sullivan. Trustee Rothchild seconded.

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

NOES: None

ABSENT: Trustee Dodge

Mayor Tarapata discussed two proposals for the red stone wall replacement, on whether to demolish the wall or replace as is. The Board agreed to collect more proposals for the cost of the work.

AMEND COVID-19 POLICIES FOR VILLAGE HALL AND DPW

The Mayor and the Board discussed amending the COVID-19 policies for Village Hall and DPW to be in line with CDC guidelines, stating that fully vaccinated employees are no longer required to wear a mask indoors, contact tracing will still be in place for those visiting Village Hall. Employees who still wish to wear personal protective equipment are allowed to do so.

Trustee Epstein motioned to approve the amendments. Trustee Esmay seconded.

AYES: Mayor Tarapata, Trustee Esmay, Trustee Epstein & Trustee Rothchild
NOES: None
ABSENT: Trustee Dodge

NEW TRAIL RIBBON CUTTING – HOOK MOUNTAIN

The Friends of Rockland Lake & Hook Mountain inquired about sending an invitation to the ribbon cutting for a new trail at Hook Mountain State Park. The Mayor and Board expressed interest in participating on June 18th.

OLD STONE MEETING HOUSE IMPROVEMENTS

Trustee Esmay met with Cynthia Turner to create a plan to update the lighting at the Old Stone Meeting House and received a bid. Mayor Tarapata noted that finding a painting bid has been difficult to find at prevailing wage. Trustee Epstein asked Trustee Esmay if the lamps included in the bid were a big enough size for what is needed. Trustee Esmay confirmed they are, and the size is the same as those already in the meeting house. Mayor Tarapata noted the Planning Boards will need a large enough screen for their meetings to display plans.

JUNE 1, 2021 APPOINTMENT OF VILLAGE CLERK, HEATHER CANDELLA

Trustee Epstein moved to approve the appointment of the June 1, 2021 appointment of Heather Candella as the Village of Upper Nyack Village Clerk, Trustee Esmay seconded it and so it was moved.

AYES: Mayor Tarapata, Trustee Esmay, Trustee Epstein & Trustee Rothchild
NOES: None
ABSENT: Trustee Dodge

Trustee Rothchild made a motion to adjourn, seconded by Trustee Esmay seconded and it was so moved.

AYES: Mayor Tarapata, Trustee Esmay, Trustee Epstein & Trustee Rothchild
NOES: None
ABSENT: Trustee Dodge

The meeting was adjourned at 9:46 PM.

Respectfully submitted,

Heather Candella
Clerk Typist