

REGULAR MEETING

June 18, 2020

The Regular meeting of the Board of Trustees of the Village of Upper Nyack was held Thursday, June 18, 2020 at 7:00 PM. In accordance with the Executive Order 202.1, this meeting was held by video/teleconference. The meeting was recorded and transcribed.

Board members and officials participating: Mayor Tarapata
Trustees Diamond, Dodge, Esmay & Rothchild
Village Clerk Carol G. Brotherhood, Village Treasurer Richard D. Fortunato
Other's identified: PO Kennedy- Clarkstown PD

POLICE REPORT – PO Kennedy presented the report.

There were 157 calls for service;; 1 motor vehicle accident (9W & Christian Herald) with 3 tickets issued; 26 medical calls; continuing area checks and cultural and religious organizations; 17 alarms (burglar and fire); 1 trespass complaint; 1 larceny (10 bicycles from TOGA bike shop); 6 ordinance violations (noise-juveniles at the elementary school) 6 domestic calls.

Other items discussed: Increase in MV larcenies in Nanuet; Hot rod speeding at Palisades Mall, Nanuet Mall and 59 & Palisades; double homicide with suspect caught

Discussion regarding overdoses:

Rockland County 104 ODs year to date (19 resulting in death)

Town of Clarkstown: 38 ODs (7 resulting in death)

No parking on Locust Dr. & Lexow Ave. is working well.

Mayor Tarapata asked for the no parking signs to be switched to the south side of the street. PO Kennedy noted there were no V&T for no parking this month.

TREASURER'S REPORT – Submitted for review from Treasurer Fortunato. Treasurer Fortunato noted that the Sewer bill to the Town of Orangetown for the annual charge and the repair of the pump station is \$459,772.80.

Discussion: The Village received a letter of engagement for the audit of Upper Nyack financial statements from Berard & Associates, 44 Park Ave., Suffern, NY 10901 for the Fiscal year ending 5/31/2020. The village budgeted \$20,000 and the fee that will be charged is \$15,000.

The Village used this firm in 2016 but it has now merged and formed this new firm.

Trustee Diamond made a motion that the Board accept the engagement letter of Berard & Associates to conduct an audit of the Village's financial statements for \$15,000 and to allow the Mayor to sign, seconded by Trustee Rothchild and so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

Trustee Diamond made a motion that the Board allow the Treasurer to pay the sewer improvement bond interest payment of \$21,709.38, due July 15, 2020, seconded by Trustee Esmay and it was so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

VOUCHERS – Read and approved for payment.

7:30 PM Public Hearing – Waiver of Moratorium

Donna Zlocki and Gabriella Zlocki, 115 Larchdale Avenue, Upper Nyack, NY 10960, appeared before the Board for relief from the “temporary moratorium on commercial or residential special use permit and special use permit renewal applications,” pending review and amendment of the Comprehensive Plan and related Zoning Laws pertaining to said subject matters.

Donna Zlocki and Gabriella Zlocki are seeking relief from the moratorium so that they may make an application for Special Permit to the Zoning Board of Appeals to house chickens on their property.

The Clerk read the public hearing notice and noted that the certified mail receipts had been received.

Mayor Tarapata asked for a motion to open the public hearing.

Motion: Trustee Dodge

Second: Trustee Rothchild and so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

Mayor Tarapata asked if the applicant would like to speak or make a presentation to the Board.

Chris Faroe (partner of Gabriella Zlocki spoke on her behalf.

When requested by the Mayor, there was no comment from the public.

Motion to close the public hearing:

Motion: Trustee Rothchild

Second: Trustee Dodge and so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

The Board discussed the application.

Trustee Rothchild noted that he formerly kept chickens and he applauded their efforts in raising them and hoped it would be as rewarding an experience that he had. In regards to the Comprehensive Plan housing chickens would have no effect and would not create a non-conformity in the future.

Trustee Esmay added that the Zoning Board of Appeals would be reviewing the application and may set conditions for the housing of the chickens. He also asked the applicant how many chickens they would have? The reply was 4-5 and no roosters.

The Board agreed to grant relief from the temporary moratorium on commercial or residential special use permit and special use permit renewal applications to allow the applicant to appear before the Zoning Board.

Motion: Trustee Rothchild

Second: Trustee Dodge and so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

Clerk to send document showing approval to the ZBA.

PROCLAMATION FOR MARTIN C. WORTENDYKE

At the Regular Meeting of the Board of Trustees of the Village of Upper Nyack held via teleconference on Thursday, June 18, 2020, at 7:00 PM, the following were present: Mayor Karen A. Tarapata, Trustee & Deputy Mayor Michael Esmay, Trustee Joseph P. Diamond, Trustee Laurie Dodge and Trustee Kennon Rothchild III it was proclaimed that;

WHEREAS, the vitality of a community depends largely on the spirit, pride, and involvement of its citizens; and

WHEREAS, community spirit and pride are often reflected in service rendered to the community; and

WHEREAS, Martin C. Wortendyke (Marty) has embodied the ideals of community service for many years, and

WHEREAS, Marty is a natural leader and has involved himself in community activities designed to advance human dignity; and

WHEREAS, Marty has been honored by several local organizations including Nyack, Helen Hayes and Good Samaritan Hospitals, Camp Venture, Jawanio, Boy Scouts of America and Center for Safety and Change, and

WHEREAS, in 2006 Marty was appointed as Trustee to the Rockland Community College Board

-serving two, seven year terms. During that time he served as Board Vice Chair from 2010-2014 and then as Board Chair in 2014, 2016 and 2018. His current two year term ends in September, and

WHEREAS, Marty was appointed to the Upper Nyack Architectural Review Board in 1984 and was appointed as Vice Chair in 1999 and Chair in 2016 and served eight, five year terms until his resignation in May of 2020; and

WHEREAS, Marty, along with his brothers, has owned and run Cal Mart Enterprises Inc. in Rockland County since 1972, and

WHEREAS, Marty is a resident of Rockland County and has lived in Upper Nyack for 53 years; and

WHEREAS, Marty lives in Upper Nyack with wife Elizabeth and daughter Krista, and

WHEREAS, it is the sense of this legislative body to publicly recognize those individuals who have distinguished themselves as outstanding citizens in their community; and

NOW, THEREFORE, BE IT RESOLVED, that this legislative body pause in its deliberations to honor Martin C. Wortendyke on the occasion of his outstanding community service and,

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to Martin C. Wortendyke

By the order of the Board of Trustees, June 18, 2020

Karen A. Tarapata, Mayor, Michael Esmay, Deputy Mayor / Trustee , Joseph P. Diamond, Trustee
Laurie Dodge, Trustee, Kennon Rothchild III, Trustee

Mayor Tarapata read the proclamation and added that Marty had been an amazing asset to the Village.

Mayor Tarapata has been asked by the new ARB Chair, Michael Williams, to appoint ARB Member Gretchen Reinheimer as Vice Chair.

Motion to ratify the appointment:

Motion: Trustee Esmay

Second: Trustee Rothchild

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

Discussion – Proposed law for permanent no parking on one side of Lexow Ave and Locust Ave

The Board had agreed at the regular meeting in May to request that CPD place No Parking signs on one side of the street both on Lexow Ave. and Locust Drive and wanted to know from the residents if it was helpful?

Those who spoke: Jeffrey Epstein, Jillana Sinnott

Mr. Epstein noticed that the problem had dissipated and was trending

towards a non-issue. It occurs mostly on weekends. It seems to be working and it would be good to give it more time before deciding on making it permanent. Since the parking affects the residents at the end of the block, closest to N Broadway, he would think any decisions about painting the berm should be left to the wishes of those residents.

Jilliana Sinnott noted that last year, prior to COVID-19, there was a lot of parking on Locust Dr. and as summer comes it may be more of an issue. Currently the signs from CPD seem to be working.

Mayor Tarapata and the Board decided to take no permanent action at this time.

Discussion – Seasonal ban on 2 stroke/gas powered leaf blowers

Mayor Tarapata reported that she had been in contact with Mayor's and Supervisor's from other jurisdictions that have leaf blower bans or restrictions. The Mayor proposed a public meeting for the community to participate in a panel discussion with the following Officials: **Chris Burdick, Supervisor, Town of Bedford, NY, Niki Armacost, Mayor, Hastings on Hudson, NY, and Nancy Adams, Councilwoman, Town of Maplewood, NJ**, to be held on Thursday, July 9, 2020 at 7 PM.

The public would be allowed to ask questions and discuss how the bans have worked in those communities.

Trustee Rothchild agreed that this will be open and transparent and there is such a divide on this issue that it would be beneficial to learn what works.

Those from the public who spoke:

Steve Abel, Robert Picardi, Peggy Kurtz, Fred Sinnott, Dave McWilliams, Jeffrey Epstein

After some further discussions it was noted that questions could be submitted ahead of the panel discussion. Postcards will be mailed to residents to inform them of the meeting and the information posted to the village web site.

Declare surplus HP Photosmart 2575

The color printer does not work and is no longer of any use to the Village.

Motion to declare the HP Photosmart 2575 surplus: Trustee Dodge

Second: Trustee Diamond and so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

MICROSURFACING OF NORTH BROADWAY

The Village obtained two bids from the State Bid OGS contracts, Indus and Gorman Bros. Inc. The Village agreed to contract with the Gorman Bros. Inc. for the microsurfacing project from Nyack Beach State Park to the Nyack line. The contracted amount will be \$144,328.00. Additional money was added to the original bid to cover the cost of removing or grinding down the yellow stripe that exists in the roadway. Microsurfacing cannot be applied on top of the striping.

Discussion by the Board: It was noted that doing this work on N Broadway, a road that lends itself to this kind of surface, will extend the life of the road and may not need to be milled and paved for about eight years. The DPW can repair the berms.

Trustee Dodge made a motion to authorize the Mayor to sign the contract with the Gorman Bros. Inc. in the amount of \$144,328.00 for the microsurfacing of N. Broadway as outlined in the bid dated June 18, 2020 and seconded by Trustee Esmay and so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

SOIL BORINGS AT THE PRESERVE PROPERTY

Mayor Tarapata noted that the soil borings will be done to age the building to determine that the damage done to the barn was a result of the soil disturbance and not normal aging. There was a question of it was necessary to have more than one bid and noted that not if it was an emergency. It was decided that the bid would be submitted to the DOL to obtain the prevailing wage and rebid.

Letters of Agreement/Engagement– David D. Narin and Noelle C. Wolfson

Mayor Tarapata and Trustee Esmay noted the Village is looking for a pool of attorneys, based on information obtained from NYCOM, with different expertise to be engaged with for various items.

Trustee Rothchild made a motion to authorize the Mayor to sign a letter of engagement with David D. Narin, to be used if necessary and paid by voucher, seconded by Trustee Esmay and so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

The Board then reviewed two letters regarding retaining Noelle C. Wolfson

of Hocherman Tortorella & Wekstein, LLP, One North Broadway, Suite 701, White Plains, NY 10601, as special counsel in the defense of an appeal for K. Graefe and Sons Corp. V Wanamaker et al. and in the defense of appeal by Morton Korn on behalf of Goosetown Environmental Action v. Village of Upper Nyack Zoning Board of Appeals.

Trustee Rothchild made a motion to authorize the Mayor to sign a letter of engagement with Noelle C. Wolfson, for the appeal in the matter of K. Graefe and Sons v Wanamaker et al, seconded by Trustee Dodge and so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

Trustee Dodge made a motion to authorize the Mayor to sign a letter of engagement with Noelle C. Wolfson, for the appeal by Morton Korn on behalf of Goosetown Environmental Action v. Village of Upper Nyack Zoning Board of Appeals, seconded by Trustee Diamond and so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge & Esmay

NOES: Trustee Rothchild

ROCKLAND COUNTY SERVICE CORPS. PROJECT

The Village of Upper Nyack will be using the volunteer services for cleaning the fenced area between the garden and N. Midland Avenue at the preserve. The Village will rent a Porto-san for the day. The supervisors will start at 8 am and the students at 9 am. There will be two groups of ten. Have their own Worker's Comp and liability, bring their own PPE and will sign a Village volunteer form. There will be approximately 5 cars parked on Locust Dr. during this time. A second day will be scheduled if the work is not completed. The cost to the Village will be removing the brush and debris and replanting the native species.

MINUTES – Trustee Dodge made a motion to accept the minutes of the Regular Meeting of May 21, 2020, with corrections, seconded by Trustee Rothchild and it was so moved.

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

Trustee Dodge made a motion to accept the minutes of the Special Meeting of May 28, 2020, seconded by Trustee Rothchild and it was so moved.

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

EXECUTIVE SESSION

Enter 8:43 pm Trustee Rothchild made a motion that the Board enter into executive session, seconded by Trustee Esmay and it was so moved.

On a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

Discussion took place regarding the lease for the tenants, 328 NB Inc.

Exit 9:03 pm Trustee Dodge made a motion that the Board exit executive session, seconded by Trustee Diamond and on a call for a vote:

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

The Board agreed that the Mayor will speak to a qualified real estate professional and report back to the Board regarding further negotiations with the tenants.

The Board had a brief discussion on protocols for allowing use of OSMH. Discussed: Should there be a charge for cleaning, requirement to wear masks, limit to 10 people or 25% of 49 allowed, duration of time allowed in the space.

The Board agreed to wait until Phase 4 when arts, entertainment and gatherings are allowed and to follow those protocols.

Trustee Esmay motioned to adjourn, seconded by Trustee Dodge and so moved. The meeting was adjourned at 9:20 PM.

AYES: Mayor Tarapata, Trustees Diamond, Dodge, Esmay & Rothchild

NOES: None

Respectfully submitted,

Carol G. Brotherhood, Village Clerk

PROCLAMATION

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Karen A. Tarapata
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Michael Esmay
Michael Esmay, Deputy Mayor / Trustee