

Village Board of Trustees
Regular Meeting
March 3, 2005
7:30 p.m.

The Regular Meeting of the Board of Trustees of the Village of Briarcliff Manor, New York was held in the Village of Briarcliff Manor Municipal Building, at 1111 Pleasantville Road, Briarcliff Manor, New York on the 3rd day of March commencing at 7:30 p.m.

Present

David Venditti, Deputy Mayor
Elsie Smith, Trustee
William Vescio, Trustee
Donald Wilde, Trustee

Absent:

Peter Chatzky, Mayor

Also Present

Michael Blau, Village Manager
Ingrid Richards, Assistant Village Manager
Stephanie Ippoliti, Village Clerk
Lynn Weinig, Village Counsel

PUBLIC HEARING: AMENDMENT TO CHAPTER 186, STREETS AND SIDEWALKS AND CHAPTER 220 ZONING – SIDEWALK CAFES AND SIDEWALK VENDING

Upon motion by Trustee Smith, and seconded by Trustee Wilde, the Board voted 4-0 to open the public hearing on the amendment to Chapter 186, Streets and Sidewalks and Chapter 220 Zoning – Sidewalk Cafes and Sidewalk Vending.

Village Manager Blau stated the Board of Trustees had heard from a number of merchants regarding issues relating to having merchandise, signs, and such outside of their particular place of business. After a discussion, the Board of Trustees directed Village Staff and Counsel to work on drafting a law that would allow for potential vending outside of the stores as well as the provision for sidewalk cafes subject to certain restrictions or controls so that way a right of way could be maintained for pedestrians.

Trustee Vescio asked how the sidewalk was measured, if it was measured from the front of the curb or where the curb meets the sidewalk. Village Manager Blau said he asked Village Counsel Weinig to draft the law from where the curb meets the sidewalk. Trustee Vescio had also asked where you measure from the tree pit. The language on the second page says the tree pit is where the dirt meets the sidewalk. Deputy Mayor Venditti asked if there were standard size tree pits in the Village. Village Manager Blau responded all the tree pits in the Village are exactly the same.

Village Manager Blau then read into the record a letter from merchant Michael Orofino of Orofino's Restaurant objecting to the amendment for vendors and sidewalk cafes.

Trustee Wilde asked how many merchants this would affect. Village Manager Blau noted that this is for all those merchants in the B1 district. Deputy Mayor Venditti asked if this also includes those in the B2 district, and Village Manager Blau said it is not for the merchants in the B2 district.

Richard Liebowitz, owner of Chilmark Variety, noted his concern regarding whether or not he would be able to have his sidewalk sale in July for two weeks, which is generally a weak time of year for sales.

Village Manager Blau asked Village Counsel Weinig to address signage on sidewalks. Village Counsel Weinig said signage and menu boards are not addressed in this law.

Steven Bromberg, business owner at 1197 Pleasantville Road, said he finds it difficult walking from his office to the Post Office because of displays outside some stores and flower pots. He said if the passage of a law increases difficulty walking through the Village then he thinks this is a mistake. He then asked who is going to enforce this.

Deputy Mayor Venditti said part of this law allows for an orderly fashion for unobstructed flow on the sidewalks. There is also a Beautification Committee which is looking at redesigning the streetscapes. Deputy Mayor Venditti asked if the police would have any authority for enforcement. Village Manager Blau said the police department would be made aware of who has been issued a permit and how much space they are permitted to have. If they see a violation, they would report that to the Building Department.

Deputy Mayor Venditti noted this is a new law for the Village, and it will be monitored very closely. Amendments will be made as necessary.

Ellen Melnick, 333 North State Road, asked what the distance was from the store to where the vendors would be located. Deputy Mayor Venditti responded it would be a four foot right of way. Ms. Melnick expressed some concern about this. Trustee Smith said the minimum width the sidewalk can be is six feet to have displays of any kind, and she believed the law states you have to allow three feet for pedestrian traffic.

Trustee Vescio suggested that possibly there are too many flower pots and garbage pails, and maybe some should be taken out. Trustee Smith said the Beautification Committee is looking at this, and they are looking for a better flow of traffic through the Village.

Jay Tietelbaum, Planning Board member, said he feels three feet for public traffic is minimal, and it is not enough room for pedestrians to walk. He suggested perhaps the infrastructure in the Village is too small for outdoor cafes.

Trustee Vescio said he agreed the three feet distance is narrow, but that outdoor cafes will not be applicable in all areas, and suggested cafes have a distance of 4 or 4-1/2 feet.

Deputy Mayor Venditti asked the Board how they felt about changing the three feet distance. The Board agreed they felt it was too narrow. Trustee Vescio suggested having a distance of four feet, and the Board agreed. Deputy Mayor Venditti then asked Village Counsel Weinig to make that change.

Village Manager Blau said then a change should also be made reflecting how much of the sidewalk a business could use based on the width of the sidewalk they have. Deputy Mayor Venditti suggested that if an owner has an excess width of eight feet of sidewalk, then they should be allowed no more than ½ of the distance.

Jay Tietelbaum then asked if the Board wanted to address whether or not this would affect the parking requirements since the Zoning and Planning Laws allow for parking requirements based on square footage and maybe this should not be included in the calculation of square footage for parking requirements. Deputy Mayor Venditti said the Board did not anticipate it would be. Mr. Tietelbaum then suggested maybe that should be reflected in the law. Deputy Mayor Venditti asked Village Counsel Weinig to add a simple line stating the sidewalk used for vending or sidewalk cafes shall not be used in the calculation of parking requirements.

Ellen Melnick asked if this will be reviewed after a year and suggested adding a review date. Deputy Mayor Venditti said the Board will monitor this to see if it is working, but they normally do not assign a specific date for review.

Nick Evanchik, 119 Alder Drive, asked how many merchants are involved. Village Manager Blau responded approximately forty-five. He suggested sending a draft to all the merchants. Trustee Smith noted that the merchants have received a draft and are aware of it.

Upon motion by Trustee Vescio and seconded by Trustee Wilde, the Board voted 4-0 to close the public hearing on the amendment to Chapter 186, Streets and Sidewalks and Chapter 220 Zoning – Sidewalk Cafes and Sidewalk Vending.

Upon motion by Trustee Vescio and seconded by Trustee Wilde, the Board voted 4-0 to approve the following resolution:

BE IT RESOLVED that the Code of the Village of Briarcliff Manor, Chapter 186, Streets and Sidewalks and Chapter 220 Zoning is hereby amended to provide for Sidewalk Cafes and Sidewalk Vending.

Assistant Village Manager Richards asked if in No. 12 where it states the certificate of sharing will be filed with the Village Clerk if it would be more appropriate to file it with the Building Department. Village Manager Blau said since the Village Clerk holds all certificates he would want to keep it with the Village Clerk. He will make sure there is

communication between the Building Department and the Village Clerk. The certificates should be delivered to the Building Inspector who will then give them to the Village Clerk.

Richard Liebowitz, owner of Chilmark Variety, asked if businesses will be notified when they can obtain permits to run their outside sales. Village Manager Blau responded the way the law is written business owners will have the permits for one year, and they will be notified upon expiration.

Village Manager Blau said he will solicit from other communities their fee structures and put together a fee structure and the necessary forms before the law takes effect.

Deputy Mayor Venditti asked for a motion to further amend the law.

Upon motion by Trustee Vescio and seconded by Trustee Smith, the Board voted 4-0 to approve the law as amended.

PUBLIC HEARING, EXCAVATIONS

Upon motion by Trustee Wilde and seconded by Trustee Smith, the Board voted 4-0 to open the public hearing on Amendment to Chapter 115, Excavations.

Village Manager Blau explained that during heavy rains this past fall it was discovered that the Village's excavation law did not address a number of issues that the Village encountered, and the intent of this law is to address both excavations, filling, and grading. He further stated this is to amend the current law to address those issues so that the Building Inspector can enforce the issues, such as dirt running off driveways, and then going forward we are under obligation from the DEC and DEP to address stormwater management. The intent would be to roll this into an overall stormwater management law.

Trustee Vescio noted that he sent his comments regarding this on e-mail to Village Manager Blau. Village Manager Blau said in response to Trustee Vescio's e-mail regarding the question of driveway and curb cuts normally the building department does not normally issue curb cuts. Trustee Vescio said he thought curb cuts should be added to the law. Trustee Vescio further stated that it should just state in order to get an excavation permit you should also have a building permit or curb cut permit.

Village Counsel Weinig stated this public hearing would have to be renoticed with that change. Deputy Mayor Venditti asked if this could be renoticed before the next meeting. Village Counsel Weinig stated there was enough time to renotify this before the next meeting.

Upon motion by Trustee Smith and seconded by Trustee Vescio, the Board voted 4-0 to close the public hearing on Amendment to Chapter 115, Excavations.

PUBLIC HEARING, CODE ENFORCEMENT

Upon motion by Trustee Smith and seconded by Trustee Vescio the Board voted 4-0 to open the public hearing on the Creation of a New Chapter 104, Code Enforcement.

Village Manager Blau stated when a review was done on a number of laws, it was determined that there was no specific language in the law ranking staff members with code enforcement authority. This broadens that and gives the Board of Trustees the latitude to appoint other people to serve in that capacity.

Deputy Mayor Venditti asked if there were any comments.

Upon motion by Trustee Wilde and seconded by Trustee Vescio, the Board voted 4-0 to close the public hearing on the Creation of a New Chapter 104, Code Enforcement.

Upon motion by Trustee Smith and seconded by Trustee Vescio, the Board voted 4-0 to approve the following resolution:

BE IT RESOLVED that the Code of the Village of Briarcliff Manor is hereby amended to provide a new Chapter 104 entitled "Code Enforcement".

PUBLIC COMMENTS

Robert Little, Save Scarborough, said he attended a work session on February 3 regarding the proposal of Mr. Jacquemart and asked for an update and also asked if a citizens committee would be established. Village Manager Blau said Mr. Jacquemart made some modifications to the proposal, and the Board felt comfortable with it except for some minor modifications. The modifications were sent to Mr. Jacquemart. Village Manager Blau said one of the concerns is how many people to have on the committee. He said he will follow up with Mr. Jacquemart.

Richard Liebowitz asked if all merchants in the B1 district will be notified of any changes in the law. Village Manager Blau said if there are any amendments, they will be notified.

Clay Tiffany, Hall Road, asked what the status was of the disciplinary hearings against Police Officer DePaulo. Deputy Mayor Venditti said the Board cannot discuss disciplinary actions involving police officers. Mr. Tiffany also expressed his opinion that police officers should be tested for steroids. He said he believes a recent hire has used steroids and he could provide that proof. Village Manager Blau stated if Mr. Tiffany had the proof then he should bring it forward. Mr. Tiffany said he wanted to tell the Police Chief himself. Deputy Mayor Venditti said Mr. Tiffany was told he could have a meeting with the police chief and tape it. Also, it should not matter whether an attorney is present or not at the meeting. Deputy Mayor Venditti told Mr. Tiffany to contact Village Manager Blau to set the meeting up with Police Chief Campion.

BOND REFUNDING FOR THE ADVANCE REFUNDING OF THE VILLAGE'S SERIES 1996 AND SERIES 2002 PUBLIC IMPROVEMENT SERIAL BONDS

Village Manager Blau reviewed with the Board of Trustees where the correction was made on page 3.

Upon motion by Trustee Smith and seconded by Trustee Vescio, the Board voted 4-0 to approve the following resolution:

WHEREAS, the Village of Briarcliff Manor, located in the County of Westchester, State of New York (the "Village") previously issued \$4,101,000 principal amount of Public Improvement (Serial) Bonds, 1996 (the "Series 1996 Bonds") pursuant to a certificate of determination of the Village Treasurer (sometimes referred to herein as the "Chief Fiscal Officer"), which Series 1996 Bonds are dated October 15, 1996 and matured or mature in annual installments on October 15 in each of the years 1997 to 2015; and

WHEREAS, \$2,465,000 aggregate principal amount of the Series 1996 Bonds currently remain outstanding and unredeemed as of the date hereof; and

WHEREAS, the Village previously issued \$4,798,000 principal amount of Public Improvement (Serial) Bonds, 2002 (the "Series 2002 Bonds") pursuant to a certificate of determination of the Village Treasurer, which Series 2002 Bonds are dated March 1, 2002 and matured or mature in annual installments on March 1 in each of the years 2003 to 2020; and

WHEREAS, \$4,235,000 aggregate principal amount of the Series 2002 Bonds remain outstanding and unredeemed as of the date hereof; and

NOW, THEREFORE BE IT RESOLVED by the Board of Trustees of the Village of Briarcliff Manor, County of Westchester, State of New York, that there is hereby authorized to be issued refunding serial bonds of the Village in the aggregate principal amount of up to \$6,700,000, which funds shall be used to pay the principal amount of the Refunded Bonds and the aggregate amount of the unmatured interest payable on the Refunded Bonds, pursuant to the Local Finance Law.

BE IT FURTHER RESOLVED that the "Refunding Bond Resolution" in form prepared by Squires, Sanders and Dempsey LLP, as Village Bond Counsel and annexed hereto is adopted as if recited herein in full.

SCHEDULE PUBLIC HEARING, CONGREGATION SONS OF ISRAEL

Village Manager Blau stated that Congregation Sons of Israel is looking to change the egress and ingress to the temple, and they have spoken to the County about the changes. With these changes, they would like to allow for a left-hand turn into the temple. This requires an amendment to the special use permit since it is related to traffic in the area and changes in the roadways.

Deputy Mayor Venditti asked if Congregation Sons of Israel made an application to the Planning Board, and Village Manager Blau responded they did.

Clay Tiffany, Hall Road, said he has filed for a FOIL request regarding this application, and it has not been returned in a timely manner. He said he opposes the left-hand turn.

Deputy Mayor Venditti said the Board is only scheduling the public hearing, and if Mr. Tiffany has comments regarding this amendment, he should attend the public hearing and address them at that time.

Village Manager Blau responded that the Village Clerk answers FOIL requests in a very timely manner. He further stated that FOIL requests are for those documents that the Village has in its possession at the time. If the Village did not have the documents Mr. Tiffany requested at the time of the request, it is up to Mr. Tiffany to follow up.

Upon motion by Trustee Wilde and seconded by Trustee Smith, the Board voted 4-0 to approve the following resolution:

BE IT RESOLVED that the Board of Trustees does hereby schedule a Public Hearing for March 17, 2005 to hear and consider an application for an amendment to the Special Use Permit issued to the Congregation Sons of Israel.

AUTHORIZE THE VILLAGE MANAGER TO EXECUTE AN AGREEMENT WITH WESTCHESTER COUNTY FOR ACCESS TO THE LAND RECORDS DATABASE

Village Manager Blau stated this agreement would allow the Village to access the Westchester County Land Records Database through the website of Westchester County. He further stated this access could prove extremely useful to the Village staff especially regarding transfer of properties.

Trustee Vescio asked how the Village obtains information regarding transfer of properties now. Village Manager Blau stated a request is put in writing and often it takes nine months for a response from the County. Trustee Vescio then had a question regarding the second paragraph of the agreement regarding costs which states "municipalities assume all risk of operation and shall provide at its sole cost and expense all equipment and hardware as determined by the County." He asked what the cost is. Village Manager Blau responded there was no additional cost, and the Village has all the software it needs to access the database. Trustee Vescio then asked if something could be received in writing from the County that there will be no additional cost. Village Manager Blau said he would get that from the County.

Upon motion by Trustee Smith and seconded by Trustee Vescio the Board voted 4-0 to approve the following resolution:

BE IT RESOLVED that the Village Manager is hereby authorized and directed to execute an Inter-Municipal Agreement with Westchester County to enable the Village to utilize the Westchester County Land and Legal Records Public Viewing Application.

APPROVAL OF MINUTES – JANUARY 6, 2005

Upon motion by Trustee Wilde and seconded by Trustee Vescio, the Board voted 4-0 to approve the minutes of January 6, 2005.

COMMUNICATIONS

Trustee Smith announced that the seventh annual “Stash the Trash” Day is April 9 which will begin at 10:00 at the Youth Center.

ADJOURNMENT

Upon motion by Trustee Wilde and seconded by Trustee Vescio, the Board voted 4-0 to unanimously close the Regular Meeting of the Board of Trustees at 9:05 p.m.