

Village Board of Trustees  
Regular Meeting  
September 15, 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 Village Hall, at 1111 Pleasantville Road, Briarcliff Manor, New York of the 15<sup>th</sup> of September commencing at 7:30 p.m.

**Present**

William J. Vescio, Mayor  
David Venditti, Deputy Mayor  
Elsie Smith, Trustee  
Donald Wilde, Trustee  
Gayle Waxenberg, Trustee

**Also Present**

Michael Blau, Village Manager  
Ingrid Richards, Assistant Village Manager  
Clinton Smith, Village Counsel

**Absent**

Stephanie Ippoliti, Village Clerk

**Public Hearing – Amendment to Special Use Permit for Hyatt Classic Residence (Kings College Site)**

Upon motion by Trustee Smith, seconded by Trustee Wilde, the Board voted unanimously to reopen the public hearing.

Mr. Ron Graaf for the applicant explained the proposed monopole to the Board.

Mr. Steve Grogg explained the proposed location of the monopole and cellular building.

Mr. Nick Evanchik of 119 Alder Drive asked if there was any legal or business reason that the Cellular providers should be involved in the design.

Mr. William Null of Cuddy Feder, LLP for the applicant stated it was part of the requirement of the special use permit that there be no degradation in service.

Mrs. Margot Berger of 2 Elizabeth Court asked at what point during construction would the antennas be installed. She further asked if reception could be improved. She stated there were areas of the Village that had poor service.

Mr. Clay Tiffany stated one of the reasons for the removal of that water tank was aesthetics. He stated the water tank should be left for safety reasons and that gravity was always better.

The Board had general discussion about changes to the resolution.

Upon motion by Trustee Waxenberg, seconded by Deputy Mayor Venditti, the Board voted unanimously to close the public hearing.

Upon motion by Trustee Waxenberg, seconded by Trustee Wilde, the Board voted unanimously to ratify the findings of the last meeting.

Upon motion by Trustee Smith, seconded by Trustee Wilde, the Board voted unanimously to approve the following resolution:

WHEREAS, by resolution filed in the Office of the Village Clerk of the Village of Briarcliff Manor on June 23, 2003 (the "Special Permit Resolution"),<sup>1</sup> the Village of Briarcliff Manor Board of Trustees granted a Special Permit and a Tree Removal Permit to Barrington Venture LLC and The Garlands of Briarcliff Manor, LLC (collectively, "Original Applicant") for construction and operation of a Continuing Care Retirement Community comprised of a mix of independent living, assisted living and skilled nursing units to accommodate a maximum of 550 residents to be located on the former campus of The Kings College in the Village and to be known as The Garlands of Briarcliff Manor (the "Project"); and

WHEREAS, the Project has been subject to a coordinated review under the New York State Environmental Quality Review Act ("SEQRA") by the Village of Briarcliff Manor Planning Board as the Lead Agency, which included the preparation of a Draft Environmental Impact Statement ("DEIS") and a Final Environmental Impact Statement ("FEIS"); and

WHEREAS, the Planning Board addressed the Project's conformance to the general Special Permit standards of the Village's Zoning Law in the FEIS and found that the Project conforms to and meets and furthers the intent of the requirements of those standards and further that the Project more particularly conforms to the Special Permit standards of the zoning established for Continuing Care Retirement Community use under Village Code Section 220-6 (J) (14); and

WHEREAS, the Board of Trustees participated in the SEQRA review of the Project as an Involved Agency throughout the course of the review; and

WHEREAS, the Project is fully described in the DEIS, the FEIS, the Findings Statement, and the materials and submissions in support thereof; and

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<sup>1</sup> Capitalized terms that are defined in the Special Permit Resolution and used but not defined in this Resolution have the same definition in this Resolution as they are given in the Special Permit Resolution.

WHEREAS, the Planning Board as Lead Agency adopted a Findings Statement dated April 28, 2003, which concluded that significant adverse impacts identified had been satisfactorily minimized or mitigated to the maximum extent practicable subject to certain project modifications; and

WHEREAS, as an Involved Agency and in accordance with the requirements of Part 617 of the SEQRA regulations, the Board of Trustees adopted its own Findings Statement dated May 29, 2003; and

WHEREAS, a component of the Project referenced in Paragraph 3(r) of the Special Permit Resolution requires the Original Applicant at its sole cost and expense to replace the Village's existing  $\pm 150,000$  gallon water tank and related facilities (the "Old Water Tank") presently located on a parcel of land approximately 52 feet by 52 feet, located within the subject Premises south of where the Main Lodge building had been located, which parcel is owned in fee by the Village (the "Village Parcel") with a new 200,000 gallon tank (the "New Water Tank") to be located within a new building which would be approximately 160 feet tall in an area of the Premises on the east side of the ridgeline (the "New Water Tank Building"), with the Village Parcel to be conveyed to the Original Applicant in exchange for an easement to maintain, repair, and/or replace the New Water Tank, as well as for access thereto by the Village for such purposes; and

WHEREAS, an additional component of the Project referenced in Paragraph 3(s) of the Resolution requires the Applicant at its sole cost and expense to relocate the Briarcliff Manor Police and Fire Department radio communication antennas presently located on the Old Water Tank (the "Village Antennas") as well as telecommunications antennas that may be located on the Old Water Tank and appurtenant telecommunications equipment boxes that may be located on the Village Parcel and owned by licensees of the Village (collectively the "Wireless Facilities") to the New Water Tank Building in accordance with terms and conditions set forth in the Resolution; and

WHEREAS, CC-Briarcliff LLP and/or CC-Briarcliff Inc., as the case may be, and Classic Residence by Hyatt are now the contract vendee and proposed developer respectively of the Premises and the Project (collectively, the "New Applicant"); and

WHEREAS, the New Applicant is applying to the Board of Trustees to amend the approval as set forth in the Special Permit Resolution to substitute for the New Water Tank and the New Water Tank Building with (i) a pumping station and hydropneumatic tank system ("Alternate Water System Improvement") designed to serve the residential/domestic water requirements of the Project and the Village's so-called High Zone Water Service Area which is comprised of approximately fifty-two (52) existing private homes and the Trump National Golf Course and Residential Development as currently approved to consist of eight-seven (87) residential townhouses and one (1) clubhouse and (ii) a "stealth"

monopole structure designed as an evergreen tree and a low rise adjacent building to support and house the equipment for the Village Antennas and Wireless Facilities (“Alternate Cell Tower”); and

WHEREAS, the final design and construction of the Alternate Water System Improvement will be specified by the Village Engineer and Village consultants and will be subject to Westchester County Department of Health approval, but the current concept design includes at least two service pumps, two high volume pumps, a hydropneumatic tank system, a natural gas powered emergency generator as an emergency power source, and two jockey pumps; and

WHEREAS, the New Applicant has agreed to assume responsibility for any incremental increase in the Village’s cost of use, operation, maintenance, repair, and long-term replacement of the Alternate Water System Improvement and Alternate Cell Tower over the costs that would have been incurred by the Village with the use, operation, maintenance, repair, and long-term replacement of the New Water Tank and associated pump system as approved in the Special Permit Resolution; and

WHEREAS, the New Applicant has agreed that if it constructs the Project, then at the same time that it makes the Alternate Water System Improvement, it will install a suction fire hydrant at Lodge Pond and a dry line to a hydrant at a location to be mutually determined to provide fire protection; and

WHEREAS, CC-Briarcliff LLP and/or CC-Briarcliff Inc., as the case may be, has agreed as the proposed owner of the Premises that if it constructs the Project, then it will assume responsibility for the Original Applicant’s obligations and commitments under the Original Applicant’s tax agreement dated December 13, 2002, and filed in the Village Clerk’s office on June 12, 2003; and

WHEREAS, by resolution adopted March 17, 2005, the Board of Trustees referred the New Applicant’s application for amendment of the Special Permit Resolution to the Planning Board for a report in accordance with Village Code Section 220-6(c); and

WHEREAS, on April 28, 2005, the Board of Trustees opened a duly noticed public hearing to hear and consider the New Applicant’s application for amendment of the Special Permit Resolution; and

WHEREAS, by letter dated July 14, 2005, the Planning Board issued its report to the Board of Trustees stating that:

“Subject to further Planning Board review during the site plan application process, the Planning Board recommends in concept the [Alternate] [W]ater [S]ystem [Improvement] proposed by the [New] Applicant in (i) the [New]

Applicant's submissions of June 3, 2005 as modified, (ii) the June 24, 2005 report of the Planning Board's consultant Hazen & Sawyer, and (iii) the [New] Applicant's letter of June 30, 2005 accepting the said Hazen & Sawyer letter, as a replacement for the water system reviewed by the Planning Board during the environmental review documented in the SEQR findings for the Barrington Venture project adopted April 28, 2003.

"Subject also to further review during the site plan application process, the Planning Board recommends in concept the [Alternate] "Cell Tree" [Tower] proposed by the [New] Applicant in its submission of July 1, 2005 as a desirable replacement for the water tank which was to support the cellular antennae as reviewed by the Planning Board during the environmental review documented in the SEQR finding cited above, it being understood that the "Cell Tree" and above referenced water system are indivisible components of the referral."

WHEREAS, by resolution dated August 4, 2005, the Board of Trustees submitted to the Planning Board for review as Lead Agency under SEQRA, and for amendment to the Planning Board's Lead Agency Findings issued in connection with the Project if and to the extent appropriate, the application of the New Applicant for amendment of the Special Permit and Tree Removal Permit to allow the Alternate Water System Improvement and the Alternate Cell Tower to be used in the Project; and

WHEREAS, by resolution dated August 26, 2005, the Planning Board adopted Amended Lead Agency Findings under SEQRA to address the Alternate Water System Improvement and the Alternate Cell Tower; and

WHEREAS, by publication on August 24, 2005, and mailing by the New Applicant on August 25, 2005, the Board of Trustees noticed continuation of the public hearing opened April 28, 2005, continued the public hearing on September 8, 2005, and September 15, 2005, and closed the public hearing on September 15, 2005; and

WHEREAS, by resolution adopted September 8, 2005, and confirmed and reaffirmed September 15, 2005, the Board of Trustees adopted the Planning Board's findings set forth in the Planning Board's resolution dated August 26, 2005, and determined that incorporation of the Alternate Water System Improvement and the Alternate Cell Tower in the Project would not have a significant adverse impact on the environment; and

WHEREAS, the final location and design of the Alternate Water System Improvement and the Alternate Cell Tower (other than the technical engineering aspects of the design) will be subject to Planning Board site plan review and approval; and

WHEREAS, having received the New Applicant's application and documentation submitted to both the Board of Trustees and the Planning Board as well as reports from Village staff and consultants, and having heard presentations by the New Applicant and its representatives and consultants and Village staff and consultants, and having considered all of the same and comments heard at the public hearing, the Board of Trustees has found the Alternate Water System Improvement and the Alternate Cell Tower to be an acceptable alternative to the New Water Tank and the New Water Tank Building;

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. The recitals and statements set forth above are adopted and incorporated in these "Resolved" provisions as if fully set forth and resolved herein.
2. The Alternate Water System Improvement and the Alternate Cell Tower meet all of the findings required under Briarcliff Manor Village Code Section 220-6(J)(14)(b), as set forth in the Special Permit Resolution. The Alternate Cell Tower will replace the existing Old Water Tank, as a Village facility serving municipal and Village-lessees' interests as a location on which to mount the Village Antennas and Wireless Facilities. Maintaining the approximate height of the Old Water Tank with any replacement structure is essential to avoid degradation in the signal strength of these various antennas.
3. The special permit approval as set forth in the Special Permit Resolution and amended by this Resolution, and the conditions thereof, in accordance with Village Code Section 220-6, Special Permit Use, runs with the land and binds the Original Applicant, the New Applicant upon its acquisition of the Premises, and any successor in ownership of the Premises (collectively, "Applicant").
4. Subject to the conditions set forth in this Resolution and otherwise in the approval of the Project and its various components ("Conditions of Approval"), the Board of Trustees amends the Special Permit Resolution as follows:
  - a. In the 18<sup>th</sup> WHEREAS clause of the Special Permit Resolution, Subsection 6 is amended to read as follows:

"To facilitate the replacement of the Old Water Tank, the Village Parcel will be conveyed to the Applicant in exchange for an easement to construct, maintain, repair, and/or replace it with the Water System Improvement Facilities as defined below, as well as for access thereto by the Village to maintain, repair, or replace Water System Improvement Facilities. In addition, the Village will be granted an easement to install, maintain, repair and replace the

Village Antennas upon and within the Stealth Monopole Facilities as defined below, as well as the right to license or assign rights over this easement to provide the owners and operators of Wireless Facilities that may be situated upon and within the Stealth Monopole Facilities with access to install, maintain, repair, and replace their equipment; and”

- b. In the 35th WHEREAS clause of the Resolution, Subsection f is amended to read as follows:

“The Project will replace the Old Water Tank and relocate the Village Antennas and the Wireless Facilities upon and within the Stealth Monopole Facilities in such number and manner that (i) will not degrade the quality of the signals and services of either the Village Antennas or the Wireless Facilities, and (ii) will accommodate the Village Antennas and Wireless Facilities in such numbers (A) as are currently mounted on the Old Water Tank, and (B) that could have been in the future mounted on the Old Water Tank and located on the ground of the Village Parcel, including such Wireless Facilities of new or additional telecommunications companies. The Applicant shall be responsible, at its sole cost and expense for the relocation of such Village Antennas and those Wireless Facilities currently located on the Old Water Tank or that, as of June 23, 2003, had secured approval from the Village to be located on the Village Parcel. In order to determine the number of Wireless Facilities that could have been mounted on the Old Water Tank and located on the ground of the Village Parcel in the future, the Applicant shall provide, at its sole cost and expense, a study performed by a qualified RF Engineer, reasonably satisfactory to the Village, confirming same.”

- c. Subparagraph 2(g)(vi) of the Resolution is amended to read as follows:

“The Project will replace the Old Water Tank and incorporate upon and within the Stealth Monopole Facilities the Village Antennas and the Wireless Facilities as more particularly described below.”

- d. Subparagraphs 3(r)(i), (ii), & (iii) of the Resolution is amended to read as follows:

**“Water System Improvement Facilities and Stealth Monopole Facilities:** The Applicant at its sole cost and expense shall construct a pumping station and hydropneumatic tank system (“Water System Improvement Facilities”) designed to serve the residential/domestic water requirements of the Project and the

Village's so-called High Zone Water Service Area which is comprised of approximately fifty-two (52) existing private homes and the Trump National Golf Course and Residential Development as presently approved to consist of eighty-seven (87) residential townhouses and one (1) clubhouse quantitatively and qualitatively as effectively and as well as the New Water Tank and associated pump system approved under the Special Permit Resolution adopted on June 23, 2003, would have served them. The final design and construction of the Water System Improvement Facilities will be specified by the Village Engineer and Village consultants and will be subject to Westchester County Department of Health approval, but the current concept design consists of at least two service pumps, two high volume pumps, a hydropneumatic tank system, a natural gas powered emergency generator as an emergency power source, and two jockey pumps, enclosed in a single-story architecturally designed pump house building, and a suction hydrant at Lodge Pond and a dry line to a hydrant at a location to be mutually determined for fire protection. The Applicant shall post a bond in form satisfactory to Village Counsel and in an amount to be reasonably determined by the Village Engineer, which shall remain in place for a period of ten (10) years and provide for the operation, maintenance, and repair of the Water System Improvement Facilities. The Applicant at its sole cost and expense also shall construct a 'stealth' monopole structure designed as an evergreen tree to support the Village Antennas and the Wireless Facilities in such numbers and manner that (i) will not degrade the quality of the signals and services of either the Village Antennas or the Wireless Facilities, and (ii) will accommodate the Village Antennas and Wireless Facilities in such numbers (A) as are currently mounted on the Old Water Tank and that, as of June 23, 2003, had secured approval from the Village to be located on the Village Parcel ("Existing Antennas"), and (B) that could have been in the future mounted on the Old Water Tank and located on the ground of the Village Parcel, including such Wireless Facilities of new or additional telecommunications companies ("Future Antennas"), and an architecturally designed low adjacent building to house the equipment cabinets serving the various providers (collectively the "Stealth Monopole Facilities.") The Applicant shall post a bond in form satisfactory to Village Counsel and in an amount to be reasonably determined by the Village Engineer, which shall remain in place for a period of ten (10) years and provide for the operation, maintenance, and repair of the Stealth Monopole Facilities.



- e. Subparagraph 3(r)(v) of the Resolution is hereby amended to read as follows:

**“Maintenance Easement to be Granted to Village:** The Applicant shall grant to the Village a permanent easement to construct, repair, maintain, and/or replace the Water System Improvement Facilities, as well as an easement over the Premises for access to maintain, repair and/or replace the Water System Improvement Facilities (the “Water System Improvements Easement”). The Water System Improvements Easement shall be executed by the Applicant (as owner of the Premises) and shall incorporate the substantive provisions more particularly detailed in the various subparagraphs constituting this condition of approval in recordable form and substance reasonably satisfactory to the Village Counsel and the Applicant. The Water System Improvements Easement shall be filed against the Premises in the Office of the Westchester County Clerk, Division of Land Records, as a condition precedent to the issuance of the First Building Permit.”

- f. Subparagraph 3(r)(vi) of the Resolution is hereby amended to read as follows:

**“Easement to Locate Village Antennas and Wireless Facilities on and Within the Stealth Monopole Facilities:** The Applicant shall grant to the Village a permanent easement to construct, repair, maintain, and/or replace the Stealth Monopole Facilities, as well as an easement over the Premises for access to maintain, repair and/or replace the Stealth Monopole Facilities (the “Stealth Monopole Easement”). In addition, the Stealth Monopole Easement shall grant the Village the right to license or assign rights over such easement, so that the Village’s Fire and Police Departments and operators of the Wireless Facilities may have access to the Stealth Monopole Facilities to install, maintain, replace, and repair their respective equipment, subject to the terms of the Stealth Monopole Easement. If structurally feasible, at no cost to the Applicant, New Applicant and/or owner of the Premises, the Village shall be entitled to install additional Village Antennas and contract for additional Wireless Facilities to be located upon and within the Stealth Monopole Facilities, as the case may be, and any revenue derived therefrom shall belong to the Village (including any revenue that may have been derived from operations upon or within the Stealth Monopole Facilities, but required relocation of Village Antennas, Wireless Facilities, Existing Antennas, and Future Antennas as a result of circumstances described in the subparagraph entitled, “Relocation of Village’s Antennas and

Wireless Communications Facilities”). The Stealth Monopole Easement shall be executed by the Applicant (as owner of the Premises) and shall incorporate the substantive provisions more particularly detailed in the various subparagraphs constituting this condition of approval in recordable form and substance reasonably satisfactory to the Village Counsel and the Applicant. The Stealth Monopole Easement shall be filed against the Premises in the Office of the Westchester County Clerk, Division of Land Records, as a condition precedent to the issuance of the First Building Permit.”

- g. Subparagraph 3(s) of the Resolution is hereby amended to read as follows:

**“Relocation of Village Antennas and Wireless Communications Facilities:** The Applicant at its sole cost and expense shall relocate and install the Existing Antennas upon and within the Stealth Monopole Facilities, as the case may be, in accordance with Subparagraph 3(r) (i)-(iii) above. In the event it is determined that relocating any of the Existing Antennas to the Stealth Monopole Facilities in any way has degraded the quality of the signals and/or services of those previously located on the Old Water Tank and such degradation cannot be reasonably remedied in another manner, then at the Village’s option, the affected telecommunications facilities shall be relocated to the Tower Building at the Applicant’s sole cost and expense. Similarly, if locating Future Antennas on the Stealth Monopole will result in degraded quality of the signals and/or services of such Future Antennas, but not Potential Future Antennas, then at the Village’s option, the Future Antennas may be installed on the Tower Building as well. Any installation on the Tower Building shall use “stealth” technology to minimize the aesthetic impact thereof, and all revenues therefrom shall remain due and payable to the Village. If any such Village Antennas or Wireless Facilities are located on the Tower Building, the Applicant/Owner of the Premises shall provide such additional easements or documented grants of rights as may be necessary to access the Village Antennas and/or Wireless Facilities and equipment as they may be located on the Tower Building, which easements and/or grants of rights shall be in form and substance satisfactory to the Village Counsel. Other than as set forth herein, the Village shall have no right to locate any antennas or other telecommunications, including but not limited to any Potential Future Antennas, except upon and within the Stealth Monopole Facilities, as the case may be.”

5. Amendment of the Special Permit Resolution as set forth in this Resolution is conditioned upon:
  - a. The Applicant holding the Village harmless by agreement and arrangement acceptable in form and substance to the Board of Trustees from any incremental increase in costs of use, operation, maintenance, repair, and long-term replacement of the Water System Improvement Facilities and the Stealth Monopole Facilities over the costs that would have been incurred by the Village with use, operation, maintenance, repair, and long-term replacement of (i) the New Water Tank and associated pump system and (ii) the Village Antennas and Wireless Facilities, in both instance as approved in the Special Permit Resolution adopted on June 23, 2003.
  - b. Reaffirmation and acceptance, as the case may be, by CC-Briarcliff LLP and/or CC-Briarcliff Inc., as the case may be, as owner upon its acquisition of title to the Premises, and by any other person, organization, or entity with an interest in the Premises sufficient to challenge the real property tax assessment of the Premises, by agreement and arrangement acceptable in form and substance to the Board of Trustees, of the tax agreement dated December 13, 2002, and filed in the Village Clerk's office on June 12, 2003.
  - c. Village Planning Board site plan approval of the Project incorporating both the Water System Improvement Facilities and the Stealth Monopole Facilities.
  - d. Village and Westchester County Department of Health design approval of the Water System Improvement Facilities for use in the Project.
  - e. Compliance with all other approvals necessary for construction or use of either or both of the Water System Improvement Facilities and the Stealth Monopole Facilities.
6. Nothing contained in this Resolution shall preempt or supersede site plan review of the Project by the Planning Board, final design review of the Water System Improvement Facilities by the Village and the Westchester County Department of Health, and final design review by any other agency or entity with jurisdiction over use of any element of the Water System Improvement Facilities and the Stealth Monopole Facilities in the Project, and any actual use of the Water System Improvement Facilities and the Stealth Monopole Facilities in the Project is subject to site plan approval of the Project by the Planning Board, final design approval of the Water System Improvement Facilities by the Village and the Westchester County

Department of Health, and final design approval by any other agency or entity with jurisdiction over use of any element of the Water System Improvement Facilities and the Stealth Monopole Facilities in the Project.

7. If any of the Water System Improvement Facilities or Stealth Monopole Facilities permitted by this Resolution are not approved on site plan review of the Project by the Planning Board, on final design review of the Water System Improvement Facilities by the Westchester County Department of Health, or on final design review by any other agency or entity with jurisdiction over use of any element of the Water System Improvement Facilities and Stealth Monopole Facilities, then this Resolution shall be rescinded in full and shall have no application, force, or effect, none of the Water System Improvement Facilities or Stealth Monopole Facilities shall be permitted for use in the Project, and the Special Permit and Tree Removal Permit filed in the Village Clerk's office on June 23, 2003, shall be reinstated in full and without modification or effect by this Resolution. Notwithstanding the foregoing, however, a denial or withholding of any approval shall not cause such rescission and reinstatement if and for so long as Applicant continues in good faith to seek approval by the agency or entity which denied or withheld it or any other governmental authority with jurisdiction over the same.
8. Except as otherwise provided herein, all other terms and conditions of the Special Permit Resolution shall remain in full force and effect.
9. This Amendment does not toll or extend in any way any time period set forth in the Resolution.

### **Village Managers Report**

Village Manager Blau reported the Fire Service Awards Program had been voted on by referendum in 1993.

Mayor Vescio stated a questionnaire would be sent out from the Recreation Department. He encouraged residents to participate.

### **Public Comments**

Mr. Clay Tiffany of Hall Road stated there were inequities in the Justice System. He stated the charges against Rabbi Steven Kane were dropped. He stated he wanted the entire secret file the Village had on him. He encouraged any other residents that were victims of police brutality to come forward. He stated the Police Chief had refused to see him and false accusations had been made against him.

Mayor Vescio stated he was not aware of any secret file and the Police Chief would meet with him if he had any new information.

Mr. Jay Teitelbaum of 107 Holly Place requested the Board reconsider their procedure regarding the time allotted for the public to speak on agenda items. He further stated one minute was inadequate to address items.

Mayor Vescio stated the law didn't require any comments from the public. He stated they were trying to be accommodating to the public. He further stated the Board would discuss the issue again.

Mr. Nick Evanchik of 119 Alder Drive stated he was wrong about the vote on the referendum. He further stated he was worried about the Scarborough Station being exposed to a rock or mudslide during a 100-year storm or Hurricane. He suggested possibly erecting a wall as a preventative measure. He asked why the Tuttle Building had two reserved spaces at the station parking lot.

Village Manager Blau stated they paid for the two spaces but he would look into the matter.

**Authorize Village Manager to Execute Agreements**  
**Westchester County – Organic Yard Waste Transfer Program**

Mayor Vescio recommended the Board table the Organic Yard Waste Transfer Program. He stated all procedures should be worked out before voting on it.

Mr. Jay Teitelbaum of 107 Holly place stated this was a \$10,000 issue and the cleanup costs of contamination were ridiculous. He further stated the fewer people dumping the better.

Mr. Clay Tiffany of Hall Road stated the Village was opening itself up to a tremendous liability.

Village Manager Blau stated he would find out what other municipalities did.

**Town of Ossining for Fire Protection**

The Board had concerns with approving a five-year agreement.

Village Manager Blau recommended the Board approve a one-year agreement.

Upon motion by Trustee Wilde, seconded by Trustee Waxenberg, the Board voted unanimously to approve the following resolution as amended:

BE IT RESOLVED that the Village Manager is hereby authorized and directed to execute a Fire Protection Agreement with the Town of Ossining for

fire protection services to that portion of the Town in Election District 20 for the period from January 1, 2005 through December 31, 2005.

### **Resolution Establishing Referendum to Increase Terms of Office for Board of Trustees**

Village Manager Blau explained the details of increasing the terms of office for the Board of Trustees.

Trustee Waxenberg asked what the trend was in Westchester County.

Village Manager Blau stated he would find out.

Mayor Vescio asked Village Counselor Smith to explain the two methods in which the matter could be decided upon.

Village Counselor Smith stated it could be decided through local law or through referendum.

Mayor Vescio stated the Board decided to put it to the public to decide.

Mr. Jay Teitelbaum 107 Holly Place stated he was appalled at the lack of information provided by the Village Manager. He stated that most Villages had two-year terms. He further stated there should be more public hearings.

Mr. Nick Evanchik of 119 Alder Drive stated the Board was hypocritical and there should be a public discussion before a resolution is passed.

Mr. Clay Tiffany stated it was too egregious and a ploy for the Board to have an edge. He further stated it was a lust for even more unchallenged power and two-year terms kept Trustees on their toes.

Trustee Waxenberg stated it was put forward with good intentions. She further stated the general election would have the biggest voter turnout. She stated she felt a public hearing should be scheduled before voting on the resolution.

Mr. Morton Berger of 2 Elizabeth Court stated a three-year term should be considered.

Mrs. Margot Berger of 2 Elizabeth Court asked what the rush was to put it in the November election. She stated the Village should become well educated on the issue before voting.

Mayor Vescio stated the Board would table voting on the resolution.

**Schedule Public Hearing – Amendment to Chapter 186, Streets and Sidewalks**

Upon motion by Trustee Smith, seconded by Trustee Wilde, the Board voted unanimously to approve the following resolution:

BE IT RESOLVED that a Public Hearing is hereby scheduled for October 6, 2005 to hear and discuss an amendment to Chapter 186, Streets and Sidewalks, Section 32, Sidewalk Cafes and Sidewalk Vending Regulations.

**Resolution Establishing Referendum to Amend Fire Department Service Award Program**

Village Manager Blau explained the Fire Service Award Program.

Mr. Nick Evanchik of 119 Alder Drive stated he was in favor of the increase.

Upon motion by Trustee Smith, seconded by Trustee Wilde, the Board voted unanimously to approve the following resolution:

WHEREAS, voters of the Village of Briarcliff Manor approved a proposition to establish a Service Award Program for the Briarcliff Manor Fire Department effective January 1, 1993, in accordance with Article 11-A of the New York State General Municipal Law; and

WHEREAS, General Municipal Law Article 11-A authorizes the Village of Briarcliff Manor Board of Trustees to seek voter approval of amendments to the Service Award Program; and

WHEREAS, the Board of Trustees desires to amend the Service Award Program benefits to active volunteer firefighters of the Briarcliff Manor Fire Department to help the Village recruit and retain active volunteer firefighters.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES IN THE VILLAGE OF BRIARCLIFF MANOR, COUNTY OF WESTCHESTER, AND STATE OF NEW YORK, BY FAVORABLE VOTE OF NOT LESS THAN SIXTY PERCENT OF THE MEMBERS OF SAID BOARD, AS FOLLOWS:

Section 1. The Village of Briarcliff Manor shall conduct a mandatory referendum in accordance with Article 11-A of the General Municipal Law, to determine whether the Board of Trustees shall amend the Village of Briarcliff Manor Fire Department Defined Contribution Service Award Program as set forth below, effective as of January 1, 2006, to:

(a) Increase the amount credited to the Service Award Program account balance of an eligible volunteer firefighter from \$480 to \$700 for each

calendar year in which such volunteer earns a year of service credit under the point system after December 31, 2005.

(b) Permit an active volunteer firefighters to earn Service Award Program service credit under the point system after he or she reaches the Entitlement Age (age 65), and thereby earn a Service Award of seven hundred dollars for each year of post age sixty-five (65) service credit earned under the point system.

Section 2. In accordance with Article 11-A of the New York State General Municipal Law, the Village confirms that:

(a) The total current cost of funding the Village of Briarcliff Manor Service Award Program may be as much as \$47,200 for current firefighters, including the cost of administration of approximately \$4,000. If voters approve this amendment, the total annual cost of funding the amended program for current firefighters may be as much as \$76,350 (approximately \$740 per active participating firefighter), including the cost of administration of approximately \$4,250.

(b) The Village of Briarcliff Manor Service Award Program is a defined contribution program as described in General Municipal Law Section 218.

Section 3. All other provisions of the Village of Briarcliff Manor Service Award Program which required voter approval shall not change and the program shall continue to be administered by the Village of Briarcliff Manor Board of Trustees in accordance with General Municipal Law Article 11-A of the as such law is amended from time to time.

Section 4. A Referendum shall be by special election of the Village conducted with the New York State general election to be held on November 8, 2005, with 5 polling place(s) at the following locations commencing at 6:00 AM, and the polls shall remain open until 9:00 PM:

Briarcliff Manor Municipal Building  
All Saints Episcopal Church  
Todd School, Ingham Road  
Congregational Church  
Saint Theresa's Church  
Scarborough Presbyterian Church

Section 5. The vote upon the Referendum to be submitted to the qualified voters shall be on voting machines, and the Village Clerk shall work in conjunction with the Ossining Town Clerk and the Mount Pleasant Town Clerk to have the necessary machines prepared for use.



Section 6. The Village Clerk is authorized and directed to give notice of said Referendum by causing a notice in substantially the form set forth in Section 7 hereof to be:

(a) Published within 10 days after the adoption of the resolution of approval by the Board of Trustees in The Gazette or Journal News which are both newspapers having a general circulation within the Village and designated as the official newspaper of the Village for such publication.

(b) Posted in six (6) conspicuous public places in the Village within 10 days after the adoption of the resolution of approval by the Board of Trustees and that a copy of such notice be posted at the polling place.

Section 7. The language on the ballot shall be as follows:

Shall the Village of Briarcliff Manor Defined Contribution Service Award Program be amended effective January 1, 2006, to: (a) increase the amount credited to the Service Award Program account balance of a participating volunteer from \$480 to \$700 for each calendar year in which such volunteer earns a year of service credit under the point system after December 31, 2005, and (b) allow a participating volunteer to continue to earn service credit under the point system after reaching the entitlement age (age 65), and thereby earn an annual service award of seven-hundred dollars (\$700) for each year of post age sixty-five (65) service credit earned under the point system? The total annual cost of funding the current Village of Briarcliff Manor Service Award Program for current firefighters may be as much as \$47,200, including the cost of administration of approximately \$4,000. The total annual cost of funding the amended program for current firefighters may be as much as \$76,350, including the cost of administration of approximately \$4,250. The per capita annual cost of the amended program may be about \$740 per active participating firefighter.

### **Award of Bid; Welcome Signs**

Assistant Village Manager Richards presented to the Board.

Mayor Vescio thanked the staff members for their hard work.

Upon motion by Trustee Waxenberg, seconded by Deputy Mayor Venditti, the Board voted unanimously to approve the following resolution:

BE IT RESOLVED, that the bid for the furnishing and installation of Welcome Signs is hereby awarded to Mineola Signs of Mineola, New York per their bid of \$12,275.

BE IT FURTHER RESOLVED that the Village Manager is hereby authorized and directed to execute an agreement with Mineola Signs for the furnishing and installation of Welcome Signs.

**Adjournment**

Upon motion by Trustee Wilde, seconded by Trustee Waxenberg, the Board voted unanimously to adjourn into executive session and adjourn immediately thereafter.

Respectfully submitted by,

Christine Dennett