

Board of Trustees
Village of Tarrytown
Regular Meeting No. 16
February 7, 2005 8 p.m.

PRESENT: Mayor Janos presiding; Trustees Basher, Chillemi, Chorost, Fixell, Morabito and Sincero; Village Attorney Shumejda; Village Administrator McCabe; Village Engineer McGarvey; Planning Board Chair Friedlander; Village Clerk Booth; Secretary D'Eufemia

The meeting began with the Pledge to the Flag.

DISCUSSION RE: PROPOSED FERRY LANDINGS DEVELOPMENT
ENVIRONMENTAL QUALITY REVIEW PROCESS

Mayor Janos introduced Frank Fish from the firm of Buckhurst Fish and Jacquemart, a planning firm the Village has hired to assist in the waterfront project.

Mr. Fish stated he has submitted a memo to the Board recapping the work session of February 1st and his firm's review of the FEIS. The memo has comments on the FEIS and on the site plan. On the FEIS, they suggested the comment response section was well done but it tends to lack two items. One is easy to correct and the other will need the efforts of the Board of Trustees and the Planning Board. The easy one is they suggested the FEIS restate the proposed action in Chapter 1. There should be an illustration defining what the proposed action was when the process started. The second is more difficult and that is there appeared to be tremendous discussion on Alternative 3 and hints on Alternative 4 and it doesn't hit on what the preferred alternative is. Chapter 2 should state what is the preferred alternative. If the FEIS states that, then Item 3 in his memo, answering the comments, becomes easier and clearer. The FEIS as well done as it is could be reorganized; the preferred alternative should form the basis of Chapter 2; that allows the remaining comments to be answered. After the Planning Board accepted the FEIS, more comments were made and that created a limbo period under SEQRA. They are suggesting all the comments made to date be answered in the FEIS as well as the court case. Page 2 of his memo gets into the issue of the site plan or what is the preferred alternative. The Board had a productive work session with the Planning Board members at which time they came up with six points: (1) residential density – 228 units was mentioned as the maximum that the Boards wished to entertain; (2) commercial density – the plans show a reduction to 100,000 sq. ft. (3) western setback – 135 ft. which is partly in response to Scenic Hudson comments; (4) height – the Boards wanted 3 stories, however, some variation on height could be considered; some 15% to 20% of the roof line might have 4 stories to provide variety, façade articulation and additional views; how height is calculated should be explained; (5) Lot 6 – provide viewshed; the inner courtyard row of 12 townhouses should be divided so that a public viewshed is allowed to the west; (6) DPW expansion – Lot 2 should provide an expansion area of 50-75 ft. which should be possible if the asphalt plant is removed. There were some design issues which came up – eliminating visibility of mechanicals on the roof as much as possible, lighting, and landscaping. It is worth distinguishing what is a SERA issue and what is a site plan review issue. Those who wrote SEQRA did not mean for it to replace planning issues of the Planning Board. If the Boards decide on the major issues, they have the guts of the preferred alternative and that will allow the applicant to proceed with the FEIS and put in what is the preferred alternative. Mr. Fish noted he prepared a second memo, which is on procedure, and he attached to it the Findings, which the Boards will have to make. That ends SEQRA. The first Finding which must be made is based on content of the FEIS. The document should not be accepted until it is known what will be moved forward. The preferred alternative should be in the FEIS. On procedure the first step is that the FEIS be revised so when it is resubmitted, if it is acceptable the Boards could then have a joint meeting at which both Boards could act simultaneously as co-lead agencies. The next day copies could be printed for the involved and interested agencies and the public would have an opportunity to read the FEIS and submit comments. SEQRA provides 30 days after the FEIS is circulated for the lead agency to make Findings. After than any zoning incentive decisions could be made and then site plan decisions could be made.

Trustee Sincero stated whether the asphalt plant is there or not has a huge effect on the FEIS. She also questioned how much detail – dimensions, exact height of buildings, exact width of riverwalk – must be provided at this stage. Mr. Fish stated whether the plant is there or not is key. “I think you can move forward on two alternatives if you wish. Eventually you have to make Findings on one of the alternatives.” With regard to detail, most SEQRA documents have 1 inch equals 50 feet drawings, which is sufficient. Those drawings have been submitted. “The Planning Board may ask for a detail drawn at 1 to 20 but at the level of the Trustees, what has been submitted is sufficient under SEQRA.”

Trustee Sincero stated fluctuating heights for buildings has been shown and she felt that needed to be more specific. Mr. Fish stated the Board has said the height should be limited to 3 stories. Everyone should know exactly how the applicant has measured height in feet. Ed Burroughs from the County Planning Board wanted more detail and that has now been submitted with the 1 to 50 drawings. “If you put in the preferred alternative and the drawings they have now supplied, the County’s letter can be answered in one sentence.”

Mr. Michael Farias, Senior Site Designer for The Chazen Companies, consultants for Ferry Landings, stated they have made a number of modifications. The overall residential units last week were 298 and they have now reduced that to 247. Commercial space has been reduced from 100,000 sq. ft. to 80,000 sq. ft. Additional space, about 30 ft., has been provided for the DPW by taking away three residential units in that area.

Trustee Sincero questioned if the Board felt the 30 ft. for the DPW was not enough, would they deal with that in the Findings. Mr. Fish stated they should check with the head of DPW about what is actually needed and that will eventually be a Findings issue.

Mr. Fish noted the Board had indicated 228 residential units and 100,000 sq. ft. of commercial. What is now being proposed are 247 units and 80,000 sq. ft. In regard to traffic, the 19 residential units would equate to 38 cars and the 20,000 sq. ft. of commercial would equate to 80 cars. The net worth would be less traffic but the Board must weigh other issues also when evaluating this tradeoff.

Dr. Stanley Friedlander, Planning Board Chairman, stated the riverwalk was originally proposed at 60 ft. With intervention from Scenic Hudson, that now is 135 ft. and 110 ft. The interior space is also green.

Mr. Farias reviewed the revised plan with the Board, which calls for 20 single-family homes, 102 apartments, 125 townhouses, and the 80,000 sq. ft. of commercial space. He noted they have lowered some building heights.

Trustee Chorost questioned whether there are plans for walkways and benches. Mr. Farias stated benches and walkways are shown in the site plan drawings.

In regard to height of the buildings, Mr. Fish stated once there is agreement on the preferred alternative, then section elevations should be provided. That will show how the height is measured and where it is measured from. That should be in the FEIS.

Trustee Fixell questioned, “What is the next opportunity for the public to digest this and comment on it?” Mr. Fish stated eventually everyone is required to have a look at this and that is when the FEIS is circulated. He suggested the Board of Trustees and Planning Board should have another work session to reach agreement on the preferred alternative. Once the applicant knows the exact number of units and the exact amount of commercial, they can then run the traffic numbers. Every meeting that is held is public so the public can follow the process. When the public really has a formal say is once the FEIS is accepted. Copies can then be made available to the public and they can comment formally before the Boards issue their Findings.

Trustee Morabito expressed some concerns with the lighting and just wanted everyone to be assured properties such as Rivercliffe would not be looking down at a glare. Trustee Chorost stated the applicant should seriously consider getting a lighting designer. Mr. Farias noted Chazen has lighting designers on staff and they are working with them on the lighting for the project.

Trustee Morabito noted the plan shows the asphalt plant removed. He questioned how many residential units would be eliminated if the plant must remain. Mr. Farias stated twenty units would have to go.

Mr. Fish stated these plans and the cross-sections should be submitted before the next work session so the Boards can determine if it meets what they are trying to accomplish. Otherwise the applicant cannot finish the FEIS since you have to know the plan to finish the FEIS. "You need a work session to see if the tradeoffs are acceptable to you or not."

Trustee Sincero stated she did not feel an acceptable tradeoff for getting rid of the asphalt plant was twenty additional units. A win-win would be getting rid of the asphalt plant and having nothing there.

Trustee Chorost questioned what percentage of the land is green space. Mr. Farias stated close to 45% is green space on the entire site mixed between private and public.

Mr. Michael McGarvey, Village Engineer, stated the plans should be color coded to show the different heights.

Dr. Friedlander stated the changes are significant and are moving toward the final alternative. Each of the changes over the last year reflects the input of the community. The Boards are getting close to ending the process. In terms of the site plan, the plans will be sent to the police department, fire department, landscape architect, engineer before anything is accepted.

Administrator McCabe stated at a joint work session of the Board of Trustees and Planning Board a preferred alternative plan should be agreed on and then there should be a public meeting to air it.

Mr. Tom Hinds, McKeel Avenue, stated there has been some public input but there should be more and the notice of that meeting should be broad.

Mr. Bob Stone, Rivercliffe, stated this plan is a significant improvement. Sections and elevations are still needed and should be available for the next meeting. Everyone must take a close look at heights. In some sections they are adding 5 ft. to 7 ft. to get to the flood plane. Everyone needs to know the clear height to the top of the building from some reference point.

Ms. Linda Viertel, Gracemere, thanked Mr. Fish for his presentation and stated she felt everyone is on the right track to proceed. It would be helpful to have the current changes reflected on the model and there should be a legend to indicate heights next to the model. If the asphalt plant is removed, there is a whole new set of options. Just to put additional units in that area does not address the possibilities this piece of land could have without the plant.

Mark Fry, 16 Independence St., stated that he wanted to inform everybody that within a week to ten days, a group of planners and consultants will present another alternative. He urges the Planning Board and the Board of Trustees to look at that as well. It is certainly possible to open up a whole new world of possibilities. Assume for a moment we have 128 units and assume for a moment we have 4.5 more acres free. We can have 4.5 acres more parkland. We can have no more parkland and spread the 128 units across the whole site. The overall density, 128 units over 23 acres instead of 220 units over 17 acres. So it's a possibility of reconfiguring the public space. He feels it's premature at this point to

try to zero in on a final option. Conceptually, this group is being asked to clearly delineating what's going to be the public open space and the private open space.

Trustee Sincero asked, "Mark, did you just say that you have somebody else putting a design on this property? Is that what you just said? Who is paying for that, if I might ask? Is Roseland paying for it?"

Mark Fry responded that Scenic Hudson is paying for one set of plans and Roseland is paying for a set of plans. Trustee Sincero asked if these plans were on the Ferry Landing project. Mr. Fry responded no. In this case Scenic Hudson would certainly be a player in doing plans in house.

Mayor Janos stated that Scenic Hudson is working with the Village; they're not making separate plans. Mark Fry stated that we'll see how it evolves.

Trustee Sincero responded, "No, Mark, you said you had plans for this and I would like to know what and who it is?" Mark responded, "We don't have plans for this property. Anyone from the audience can come up with an alternative plan."

Trustee Chorost asked if Roseland is going to be involved in paying for this and isn't that a conflict of interest. Mark Fry stated that he wants to be crystal clear that he does not work for Roseland. Trustee Sincero asked, "I just asked who is paying for it? Mark Fry stated to make the point clear; he has no interest and doesn't know anyone at Roseland. He has no interest whatsoever in Roseland – never have. He has no financial interest whatsoever. However, conceptually if the Department of Planning wants to come up with a half a dozen of conceptual plans as they have for the parks space, that's fine, they have the right to do so.

Trustee Morabito stated that Mr. Fry hasn't answered Trustee Sincero's question. "Who's this group and who is going to pay for this rendering?" Mr. Fry responded, "Scenic Hudson, you will meet with Scenic Hudson." Trustee Morabito asked, "Is Scenic Hudson paying for it?" Mr. Fry answered, "Yes, absolutely." Trustee Morabito asked if that was a fact. Mark Fry responded, "Absolutely, that's a fact".

Mark Fry stated that we will meet on Thursday with a couple of representatives of Scenic Hudson and they have agreed to come up with alternative plans as to the configuration of the public space very much like Scenic Hudson did in Sleepy Hollow.

Mayor Janos asked if Mr. Fry was talking just about the parkland – not the whole project.

Mr. Fry responded that just the configuration of the parkland; what shape, what width and the view corridor. He would like to see the process continue and he feels it's far too early to get to the final option because there's a broad range of options.

Mr. John Lynch, 10 Crest Drive, commended Mr. Fish on his presentation. He stated at the last Planning Board meeting he brought up the issue of affordable housing and was advised by Dr. Friedlander that it exists at Talleyrand Crescent on Route 119. The affordable housing component of that development is \$1,200 for a one-bedroom apartment, which is not affordable. The low income component of that development is \$800 for a one bedroom and the people taking advantage of those are not from Tarrytown. "We need affordable ownership. That will help our teachers, policemen and firemen to buy in."

Mayor Janos stated the Board will schedule a joint work session with the Planning Board which they will hold at the Senior Center and the residents will be advised when it will occur.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Mr. Fred Gross, 117 Tappan Landing Road, stated the following: a recent article in The Journal News reported on the holiday parties held at Mayor Janos' restaurant and referred to an opinion from Counsel Shumejda which dealt with the intent of the ethics law and an opinion from Patricia Salkin from Albany Law School which dealt with the letter of the law; the opinions are conflicting and another person must therefore be involved; this is an important issue and must be addressed and not just dismissed.

Mr. Jonathan Gleit, Barnes Road, stated the following: the Public Schools of the Tarrytowns Board is holding a bond referendum on March 8th for very much needed improvements; he urged the Trustees to use their resources to support the bond proposal fully; there is a subdivision proposal before the Planning Board on Midland Avenue which is proposing the construction of a new 5,000 sq. ft. home which he is completely opposed to; the Board of Trustees needs to look into this subdivision proposal and the paper streets in that area should not be opened.

Mr. John Lynch, 10 Crest Drive, stated the following: developers are looking to get maximum square footage on lots in many cases by turning the angle of the house; the proposal on Midland Avenue is going to cause drainage problems.

In regard to the subdivision application on Midland Avenue, Counsel Shumejda stated it is on a preliminary basis. A title report is being done. The developer will be providing an engineering analysis before the application is processed further.

Ms. Catherine Ruhland, 17 Walden Road, stated the following: it is great that The Tarrytownner has been revitalized, it should be done quarterly, and there should be information on the waterfront; Ms. Ruhland raised the following questions: when was it last published, was it paid for with taxpayer dollars, how much did it cost, was there a vote by the Trustees to approve the expense, did the Trustees see the copy before it was published. Administrator McCabe stated the reinstitution of the newsletter was something he suggested when he was hired; it was his intention to get the first issue out in the Fall however that did not happen and it was not until Winter when it was sent out; it is his intention to have a quarterly newsletter published and it will include updates on the waterfront project; it was paid for with taxpayers money; it was last published several years ago; it cost about \$2,000. Trustees Chillemi and Basher stated they did not know about the newsletter until it arrived at their homes.

Mr. Tom Hinds, McKeel Avenue, stated the following: he thought The Tarrytownner was a campaign issue; three-fourths of the space was a statement from the Mayor and the other substantial space was why Tarrytown was right and Sleepy Hollow wrong on the lawsuit.

Mr. John Lynch, Crest Drive, stated the following: the last part of the newsletter was propaganda; if Sleepy Hollow had not sued over the asphalt plant, he would have; the newsletter should only state facts.

Ms. Linda Viertel, Gracemere, stated the following: the letter in the newsletter was signed by the Mayor and Trustees, however, the Trustees apparently did not see the copy and legally is that appropriate to sign people's names if they did not see the copy. Counsel Shumejda stated no one's signature was reproduced. Ms. Viertel stated in the future the Trustees should know about the newsletter, they should read copy on which their name appears and in light of the lawsuit what was done was not appropriate.

Based on statements from Mark Fry, Independence Street, about the Judge's Decision on the lawsuits, Counsel Shumejda stated the Judge dismissed the Sleepy Hollow lawsuit. The Judge affirmed the Village's actions regarding the hard look. The Judge also approved all the actions of the Board of Trustees and Planning Board that preceded the September date. The court sided with Roseland on a procedural issue. They said the map

change in September should not have been separated out from the overall Ferry Landings project.

Ms. Maria Callas, Grove Street, urged Village residents to be vigilant with the Sleepy Hollow process. Trustee Basher noted Frank Fish will be reviewing the Lighthouse Landing DEIS for the Village of Tarrytown.

CONTINUATION OF A PUBLIC HEARING – AMENDMENT TO THE SPECIAL SETBACK PROVISIONS OF THE TARRYTOWN LAKES BUFFER ZONE LAW

Trustee Chillemi moved, seconded by Trustee Sincero, and unanimously carried, that the hearing be opened.

Mayor Janos questioned whether anyone wished to address the Board on this matter. No one appeared.

Trustee Basher moved, seconded by Trustee Fixell, and unanimously carried, that the hearing be continued.

RESOLUTIONS – APPROVING CAPITAL ASSETS BOND SALE

BE IT RESOLVED that Trustee Morabito moved the adoption of the following bond resolution. The motion was seconded by Trustee Fixell. The Board of Trustees of the Village was polled. The motion was adopted by a vote of 7 affirmative votes (being at least two-thirds of the voting strength of the Board of Trustees of the Village) and 0 negative votes with 0 votes absent.

BOND RESOLUTION, DATED FEBRUARY 7, 2005, AUTHORIZING THE ISSUANCE OF UP TO \$92,000 AGGREGATE PRINCIPAL AMOUNT SERIAL BONDS OF THE VILLAGE OF TARRYTOWN, NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW, TO FINANCE THE COSTS OF THE ACQUISITION, CONSTRUCTION AND RECONSTRUCTION OF IMPROVEMENTS TO THE VILLAGE FIRE HOUSE IN AND FOR THE VILLAGE.

WHEREAS, the Board of Trustees of the Village of Tarrytown (the “Village”), located in the County of Westchester, in the State of New York, hereby determines that it is in the public interest of the Village to authorize the financing of the costs of the acquisition, construction and reconstruction of improvements to the Village Fire House in and for the Village, including the acquisition of any equipment, machinery, apparatus and land and rights-in-land necessary therefore and any preliminary and incidental costs related thereto, at a total cost not to exceed \$92,000, in accordance with the Local Finance Law;

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Village of Tarrytown, County of Westchester, State of New York, as follows:

Section 1. There is hereby authorized to be issued serial bonds of the Village in the aggregate principal amount of up to \$92,000, pursuant to the Local Finance Law, in order to finance costs of the acquisition, construction and reconstruction of improvements to the Village Fire House in and for the Village, including the acquisition of any equipment, machinery, apparatus, and land or rights-in-land, necessary therefor, and any preliminary and incidental costs related thereto (collectively, the “Project”).

Section 2. The Board of Trustees of the Village has ascertained and hereby states that (a) the estimated maximum cost of the Project is \$92,000; (b) no money has heretofore been authorized to be applied to the payment of the costs of the Project; (c) the Board of Trustees of the Village plans to finance the costs of the Project from the proceeds of the serial bonds or bond anticipation notes issued in anticipation of such serial bonds authorized herein; (d) the maturity of such serial bonds authorized herein

may be in excess of five (5) years; and (e) on or before the expenditure of moneys to pay for any item within the class of the Project as set forth below for which proceeds of such obligations are to be applied to reimburse the Village, the Board of Trustees of the Village took "official action" for federal income tax purposes to authorize the capital financing of such item.

Section 3. It is hereby determined that the Project is a specific object or purpose, or of a class of object or purpose, described in subdivisions 12(a)(1) of paragraph a of Section 11.00 of the Local Finance Law (such building being of "Class A" construction as that term is defined in Section 11.00 of the Local Finance Law) and that the period of probable usefulness of the Project is twenty-five (25) years. The serial bonds authorized herein shall have a maximum maturity of twenty-five (25) years computed from the earlier of (a) the date of the first issue of such serial bonds, or (b) the date of the first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

Section 4. Subject to the terms and conditions of this bond resolution and the Local Finance Law, including the provisions of Sections 21.00, 30.00, 50.00 and 56.00 to 60.00, inclusive, the power to authorize serial bonds and bond anticipation notes in anticipation of the issuance of such serial bonds authorized herein, including renewals thereof, and the power to prescribe the terms, form and contents of such serial bonds and such bond anticipation notes, and the power to issue, sell and deliver such serial bonds and such bond anticipation notes are hereby delegated to the Village Treasurer, as the chief fiscal officer of the Village. The Village Treasurer is hereby authorized to execute, on behalf of the Village, all serial bonds issued pursuant to this bond resolution and all bond anticipation notes issued in anticipation of the issuance of such serial bonds, and the Village Clerk is hereby authorized to impress the seal of the Village (or a facsimile thereof) to all such serial bonds and all such bond anticipation notes and to attest such seal. Each interest coupon, if any, representing interest payable on such serial bonds shall be authenticated by the manual or facsimile signature of the Village Treasurer.

Section 5. The faith and credit of the Village is hereby and shall be irrevocably pledged for the punctual payment of the principal of and interest on all obligations authorized and issued pursuant to this bond resolution as the same shall become due.

Section 6. When this bond resolution takes effect, the Village Clerk shall cause the same, or a summary thereof, to be published together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law in The Journal News, a newspaper having a general circulation in the Village. The validity of the serial bonds authorized by this bond resolution and of bond anticipation notes issued in anticipation of the issuance of such serial bonds may be contested only if such obligations are authorized for an object or purpose, or class of object or purpose, for which the Village is not authorized to expend money, or the provisions of law which should be complied with as of the date of the publication of this bond resolution, or a summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication, or if such obligations are authorized in violation of the provisions of the Constitution of the State of New York.

Section 7. Prior to the issuance of obligations authorized to be issued pursuant to this bond resolution, the Board of Trustees of the Village shall comply with all applicable provisions prescribed in Article 8 of the Environmental Conservation Law, all regulations promulgated thereunder by the New York State Department of Environmental Conservation, and all applicable Federal laws and regulations in connection with environmental quality review relating to the Project (collectively, the "environmental compliance proceedings"). In the event that any of the environmental compliance proceedings are not completed, or require amendment or modification subsequent to the date of adoption of this bond resolution, the Board of Trustees of the Village will re-adopt, amend or modify this bond resolution prior to the issuance of the

obligations authorized to be issued herein upon the advice of bond counsel. It is hereby determined by the Board of Trustees of the Village that the Project will not have a significant effect on the environment.

Section 8. The Village hereby declares its intention to issue the obligations authorized herein to finance the costs of the Project. The Village covenants for the benefit of the holders of the obligations authorized herein that it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations or any other funds of the Village, and will not make any use of the Project which would cause the interest on such obligations to become subject to Federal income taxation under the Internal Revenue Code of 1986, as amended (the "Code"), (except for the federal alternative minimum tax imposed on corporations by section 55 of the Code), or subject the Village to any penalties under section 148 of the Code, and that it will not take any action or omit to take any action with respect to such obligations, the proceeds thereof or the Project, if such action or omission would cause the interest on such obligations to become subject to Federal income taxation under the Code (except for the federal alternative minimum tax imposed on corporations by section 55 of the Code), or subject the Village to any penalties under section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the serial bonds authorized herein or any other provisions hereof until the date which is sixty (60) days after the final maturity date or earlier prior redemption date thereof. The proceeds of any obligations authorized herein may be applied to reimburse expenditures or commitments of the Village made with respect to the Project on or after a date which is not more than sixty (60) days prior to the date of adoption of this bond resolution by the Village.

Section 9. For the benefit of the holders and beneficial owners from time to time of the obligations authorized herein, the Village agrees, in accordance with and as an obligated person with respect to the obligations under, Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the "Rule"), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner, as may be required for purposes of the Rule. In order to describe and specify certain terms of the Village's continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the Village Treasurer is authorized and directed to sign and deliver, in the name and on behalf of the Village, the commitment authorized by subsection 6(c) of the Rule (the "Commitment") to be placed on file with the Village Clerk, which shall constitute the continuing disclosure agreement made by the Village for the benefit of holders and beneficial owners of the obligations authorized herein in accordance with the Rule, with any changes or amendments that are not inconsistent with this bond resolution and not substantially adverse to the Village and that are approved by the Village Treasurer on behalf of the Village, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed, collectively by this paragraph and the Commitment, shall be the Village's continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet costs the Village would be required to incur to perform thereunder. The Village Treasurer is further authorized and directed to establish procedures in order to ensure compliance by the Village with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the Village Treasurer shall consult with, as appropriate, the Village Attorney and bond counsel or other qualified independent special counsel to the Village and shall be entitled to rely upon any legal advice provided by the Village Attorney or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 10. This bond resolution is subject to a permissive referendum and will take effect upon its adoption by the Board of Trustees of the Village and the expiration of the period prescribed in the Village Law during which petitions for a permissive referendum may be submitted and filed with the Village Clerk.

RESOLUTION – APPROVING A 2005 TOWING CONTRACT WITH STILOSKI’S AUTOMOTIVE CORPORATION

Trustee Basher moved, seconded by Trustee Morabito, and unanimously carried that the following be adopted:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves a contract for towing and storage services Stiloski’s Automotive Corporation for 2005 as recommended by the Chief of Police and to be annexed to the minutes of this meeting as part thereof.

RESOLUTION – APPROVING THE SLEEPY HOLLOW CHAMBER OF COMMERCE’S TO HOLD A STREET FAIR ON MAIN STREET

Trustee Fixell moved, seconded by Trustee Chillemi, that the following be approved. Motion carried, all voting “aye” with the exception of Trustee Basher who abstained.

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the Sleepy Hollow Chamber of Commerce’s request to hold a Street Fair on Main Street on Sunday, June 5, 2005.

RESOLUTION – APPROVING CHANGE OF DATE OF THE BOARD OF TRUSTEE WORK SESSION TO ACCOMMODATE GRIEVANCE DAY

Trustee Morabito moved, seconded by Trustee Fixell, and unanimously carried that the following be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the change of date of the Board of Trustee Work session scheduled for Monday, February 14, 2005 to Tuesday, February 15, 2005 in order to accommodate Grievance Day.

RESOLUTION – AUTHORIZING THE EXPENDITURE OF UP TO \$3,300 FOR A JOINT STUDY BY THE GREENBURGH VILLAGES REGARDING SERVICES RECEIVED FROM THE TOWN OF GREENBURGH

Trustee Basher moved, seconded by Trustee Chillemi, and unanimously carried that the following be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby authorizes the expenditure of up to \$3,300 for a joint study by the Greenburgh Villages regarding services received from the Town of Greenburgh.

Administrator McCabe stated that the \$3,300 would fund a study to be commissioned by each of the Greenburgh Villages; Tarrytown, Irvington, Elmsford, Hastings and Ardsley by the Michaelian Institute at Pace University Law School. In particular, their institute that focuses on public administration. The charge to them would be to do a thorough analysis and report back to the communities just what the taxpayers receive in return for being a part of the Town of Greenburgh and the consideration of the taxes our residents pay to the Town of Greenburgh. The study was prompted by the recent case in Greenburgh where it was decided in Greenburgh to charge all the Villages for the incident when a tree fell and a fatal accident occurred. And prompted more recently by some intentions stated in Greenburgh to charge all the Villages for the acquisition of Taxter Ridge.

RESOLUTION – APPROVING CERTIORARI TAX SETTLEMENTS AS
RECOMMENDED BY THE VILLAGE ATTORNEY

Trustee Morabito moved, seconded by Trustee Fixell, and unanimously carried that the following be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the settlement of HSA-UWC and KDP of Tarrytown/Dimitrio Kitsos as recommended by the Village Attorney.

RESOLUTION – APPROVING DEED RESTRICTIONS WITH RESPECT TO THE
LOT TO BE SOLD FOR DEVELOPMENT FROM NEPERAN ROAD PARK

Trustee Basher moved, seconded by Trustee Fixell, and unanimously carried that the following be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the 15,959 square foot parcel of land as shown on a survey dated November 9, 2004, by Riley Land Surveyors LLP shall be sold for not less than \$400,000.00 with the following covenants and restrictions:

The said party of the second part for itself, its successors and assigns, covenants and agrees with the party of the first part that the said premises shall be used for residential purposes solely and no buildings, other than a single family dwelling shall be erected thereon, and that all zoning code provisions relative to single family dwelling units shall be applicable, that the trees shown on the tree survey attached hereto shall not be removed or compromised during the construction of said dwelling as certified by an Arborist and the Village Building Inspector and the steep slope area of the lot shown on the survey herein shall be excluded from the density requested and the construction of the single family home shall comply with the National Historic Preservation Act of 1966 and the relevant implementing regulations.

RESOLUTION – APPROVAL OF THE REQUEST OF \$1,500 FOR THE SLEEPY
HOLLOW HOCKEY BOOSTERS, INC. P.O. BOX 41, TARRYTOWN, NEW YORK

Trustee Morabito moved, seconded by Trustee Basher, that the following be approved. Motion carried, all voting “aye” with the exception of Trustee Chillemi who abstained.

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the request of \$1,500 for the Sleepy Hollow Hockey Boosters, Inc., P.O. Box 41, Tarrytown, New York.

RESOLUTION – NOTICE OF A PUBLIC HEARING: PROPOSED CLUSTER
ZONING LAW

Trustee Fixell moved, seconded by Trustee Chillemi, and unanimously carried that the following be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby authorize the Village Clerk to notice a public hearing to hear comments pertaining to the proposed Cluster Zoning Law. Local hearing is scheduled for 8:00 p.m., February 22, 2005.

APPROVAL OF MINUTES

Trustee Morabito moved, seconded by Trustee Fixell, and unanimously carried that the minutes of January 10, 2005 and January 18, 2005 be approved as submitted.

APPROVAL OF VOUCHERS

Trustee Basher moved, seconded by Trustee Chillemi, and unanimously carried that the following be approved:

RESOLVED: The following Abstract bearing No. 14 dated February 7, 2005 containing Vouchers No. 002533 through No. 002741 is hereby ordered paid in the following amounts:

General	\$210,933.26
Water	84,870.07
Capital	42,768.56
Library	7,948.20
Trust & Agency	<u>179,321.66</u>
Total	\$ 525,841.75

REPORTS

Trustee Fixell read the following:

“In an article in the January 2005 issue of the River Journal, Trustees Sherwood Chorost and Domenic Morabito make a number of statements that are not only bewildering because they are so at odds with the facts but also disappointing since they seem to deny the many positive efforts we have undertaken together. Clearly referring to me, Tom Basher and Dennis Chillemi, Trustee Chorost is quoted as saying that “The three other Trustees that oppose us have put nothing forward for the Village, except a lot of negativity,” they are the nay say(er)s...” Maybe it just slipped his mind during the interview, but I clearly remember the numerous hours Tom Basher and I spent with Trustee Chorost, as well as with many other residents and officials, planning and organizing our efforts to oppose the expansion of the Tappan Zee Bridge. I have very distinct memories of very productive meetings we attended with him at Warner Library, at Assemblyman Brodsky’s office and with Rockland and Westchester County legislators, and several that took place in his apartment overlooking the bridge itself. Similarly, I have always thought that Trustee Chorost supported my successful effort to ban construction on steep slopes and didn’t view it as just “a lot of negativity.” And I am almost certain that he, along with every other member of the Board, voted for the moratorium on construction and the expansion of the buffer zone around the Lakes that I originally proposed. Trustee Morabito’s assertions are equally perplexing. The paper writes that “he was quick to point out that short of opposing everything from a new parking lot on Broadway to open space on Neperan Road, Trustees Fixell, Basher and, most recently Chillemi don’t have anything positive to say or add to the Village.” Well, I know that a check of the minutes from 2001 will clearly show that Tom Basher and I voted in favor of purchasing the parking lot. Trustee Chillemi wasn’t even on the Board at the time. And it really shouldn’t have to be pointed out since it only took place during the last year, but all three of us have consistently favored creating a park on Neperan Road. Trustee Morabito also is proud of his concern for the expansion of the senior center and the new firehouse, and I think I speak for my colleagues in saying that we all appreciate his work on these projects. But it is disheartening that he seems to have forgotten that it was my call to the developer that led to the offer to construct the senior center extension at no cost to the Village. Similarly, I was the one who came up with the idea for the zoning change that made possible the donation of land on which the new firehouse will be built. The list of positive actions we have taken could go on and on – one need only check the record to see that we have led on a variety of issues and joined with our colleagues on many others. However, it is impossible to agree on everything, and we have parted with them on a number of key issues such as their insistence that the Village spend over one-half of the open space fund on one small piece of property and their rejection of citizen committee’s recommendations. And I do not think many village residents think I was just being negative when I did not go along with the vote to allow the asphalt plant to be moved 400 feet closer to the village. The one glimmer of hope in this unpleasant episode is that perhaps Trustees Chorost and Morabito were somehow

misquoted or taken completely out of context. If that is the case, then I eagerly await their retractions and clarifications.”

Trustee Sincero stated that the Village of Tarrytown calendars are here and will reach every resident in a day or two.

Trustee Morabito stated the following in response to Trustee Fixell’s comments:

- When the Board was talking about buying the gas station and making it into a parking lot – yes, the two trustees in question, did vote yes. But it was a long hard road to get there.
- As far as the Senior Center, he met with the developer and his engineer with designs for the original extension to the Senior Center and then when the Planning Board changed the extension from going out the side to going out the rear, he again met with them including our Village Engineer to decide how far they were going out, how wide it was going to be and what was going to be in that room. If someone else started this – they sure didn’t finish it. He held the meetings and met with all the people involved. He does not apologize. It is factual what he said.

Trustee Fixell responded that he appreciated the work of Trustee Morabito regarding the Senior Center, but what he was responding to was the comments in the newspaper that “we have done nothing”. But what Trustee Morabito doesn’t recall is Joe Cotter said that Trustee Fixell gave him a call and that Trustee Fixell suggested that we do this and you took it over and he gives Trustee Morabito full credit for that.

Trustee Basher stated that he objected that the Mayor had our appraiser raise his appraisal of the gas station property as high as possible to get as close to the asking price of the seller.

ADJOURNMENT TO EXECUTIVE SESSION

Trustee Sincero moved, seconded by Trustee Basher, and unanimously carried, that the meeting be adjourned to Executive Session – 10:55 p.m.

Board of Trustees
Village of Tarrytown
Reconvened Regular Meeting No. 16
February 7, 2005

The Board of Trustees reconvened the Regular Meeting No. 16 and moved on the following resolution:

RESOLUTION – NOTICE OF APPEAL TO THE APPELATE DIVISION WITH RESPECT TO THE ARTICLE 78 PROCEEDING FILED BY ROSELAND/SLEEPY HOLLOW LLC

Trustee Sincero moved, seconded by Trustee Morabito, and unanimously carried that the following be adopted:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby authorize the Village Attorney to file a Notice of Appeal.

ADJOURNMENT

Trustee Sincero moved, seconded by Trustee Basher, and unanimously carried, that the meeting be adjourned.

Carol A. Booth
Village Clerk

Kathleen D’Eufemia
Secretary

Board of Trustees
Village of Tarrytown
Executive Session
February 7, 2005 11 p.m.

PRESENT: Mayor Janos presiding; Trustees Basher, Chillemi, Chorost, Fixell, Morabito and Sincero; Village Attorney Shumejda; Village Administrator McCabe; Village Engineer McGarvey; Planning Board Chair Friedlander

Discussion

The Board of Trustees of the Village of Tarrytown discussed the Notices of Appeal to the appellate Division regarding the Order and Judgment entered on January 31, 2005, with respect to the Article 78 proceedings filed by the Village of Sleepy Hollow et al. and Roseland/Sleepy Hollow LLC.

