

Board of Trustees
Village of Tarrytown
Regular Meeting No. 4
May 16, 2005 8:00 p.m.

PRESENT: Mayor Fixell, presiding; Trustees, Butler, Chillemi, Crucy Burkhardt, Pollack and Zollo; Village Attorney Shumejda; Village Administrator McCabe; Village Treasurer Hart; Village Engineer McGarvey; Village Clerk Booth

ABSENT: Trustee Basher

The meeting began with the Pledge to the Flag.

MAYOR'S ANNOUNCEMENT

Mayor Fixell announced that there will be a change in the order of the Board of Trustees meetings. Each meeting will begin with "liaison and progress reports". The Mayor and Trustees will report on recent accomplishments and upcoming events.

REPORTS

Trustee Chillemi – On May 15th at the Warner Library, a dedication of the Reading Room in memory of Florence Kane took place. The reception was well attended by family and friends. They honored Florence Kane, Director of the Warner Library for over twenty years with a plaque that is displayed and renames the Reading Room with her honor.

Trustee Zollo – reported on the following:

- Art in the Park was very successful this past Saturday, May 14th at Patriots Park. Tarrytown and Sleepy Hollow's Art Council spearheaded the event with support from the Recreation Department.
- TNT Baseball is doing well and games are on schedule. The end of the year picnic will take place at Pierson Park on Saturday, June 18th at 11 a.m.
- Adult softball is doing well and games are on schedule. Twenty-four teams are registered between the co-ed and men's program. Games are played Tuesday, Wednesday, and Thursday.
- Family Fun Day for Tarrytown will be held on May 30th at Patriots Park at 10:30 a.m. following the Memorial Day Parade. There will be a D.J., fun games, and activities put on by the Recreation Department.
- Senior Movies on Fridays from 3 – 5 p.m. at the Senior Center. Attendance is doing well, over twenty seniors each week. Light snack and refreshments are served.
- Pee Wee Baseball is an introduction to baseball for children 3 – 5 years old on Saturday between 9 – 10 a.m. \$10.00 fee. 8 session program – 6 are left.

Trustee Pollack – We met with the Beautification Committee and things are up and running. Thanks to DPW, the old whisky barrels have been removed from the street. Main Street has been power washed. New whisky barrels with new top soil will be placed on the streets this week and next week we will be planting flowers. Anyone that would like to help us plant on Monday and Tuesday are welcome.

Mayor Fixell – The Riverview Avenue pedestrian bridge's repairs are complete and the bridge is open. Memorial Day Parade starts at 9 a.m., Monday, May 30th. Working with the Public Schools of the Tarrytowns, we were able to come to an agreement that helped the schools in the fueling of their buses. In show of cooperation, we have an agreement with them for which they will fuel their buses at our facility without interrupting any of our work. This is a win-win situation for both the schools and the Village.

CONTINUATION OF THE ORGANIZATIONAL MEETINGDEPUTY VILLAGE ADMINISTRATOR

Trustee Zollo moved, seconded by Trustee Crucy Burkhardt, and unanimously carried that the following appointment be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the appointment of James J. Hart to the position of Deputy Village Administrator for a term to expire in April of 2006.

DEPUTY VILLAGE TREASURER

Trustee Crucy Burkhardt moved, seconded by Trustee Zollo, and unanimously carried that the following appointment be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the appointment of Eileen O'Brien to the position of Deputy Village Treasurer for a term to expire in April of 2007.

REGISTRAR OF VITAL STATISTICS

Trustee Chillemi moved, seconded by Trustee Crucy Burkhardt, and unanimously carried that the following appointment be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the appointment of Carol A. Booth to the position of Registrar of Vital Statistics for a term to expire in April of 2007.

DEPUTY REGISTRAR OF VITAL STATISTICS

Trustee Pollack moved, seconded by Trustee Crucy Burkhardt, and unanimously carried that the following appointment be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the appointment of James J. Hart to the position of Deputy Registrar of Vital Statistics for a term to expire in April of 2006.

VILLAGE CO-POLICE SURGEONS

Trustee Crucy Burkhardt moved, seconded by Trustee Pollack, and unanimously carried that the following appointment be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the appointment of Robert Raniolo, M.D. to the position of Co-Police Surgeon for a term to expire in April of 2006.

VILLAGE CO-POLICE SURGEONS

Trustee Chillemi moved, seconded by Trustee Crucy Burkhardt, and unanimously carried that the following appointment be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the appointment of Industrial Medicine Associates to the position of Co-Police Surgeon for a term to expire in April of 2006.

MEMBERS OF THE URBAN RENEWAL AGENCY

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

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the appointment of Trustee Crucy Burkhardt, Trustee Pollack and Trustee Zollo to the position of members of the Urban Renewal Agency for a term to expire in April of 2006.

ZONING BOARD OF APPEALS RE-APPOINTMENT – SALLY LAWRENCE

Trustee Pollack moved, seconded by Trustee Butler, and unanimously carried that the following appointment be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the re-appointment of Sally Lawrence to the Zoning Board of Appeals for a term to expire in April of 2010.

PLANNING BOARD RE-APPOINTMENT – RON TEDESCO

Trustee Chillemi moved, seconded by Trustee Crucy Burkhardt, and unanimously carried that the following appointment be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the re-appointment of Ron Tedesco to the Planning Board for a term to expire in April of 2010.

TREE COMMISSION

Trustee Butler moved, seconded by Trustee Crucy Burkhardt, and unanimously carried that the following appointment be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the appointment of Eric Clingen, Deirdre Castro, Village Engineer Michael J. McGarvey and Village Administrator Stephen A. McCabe to the Tree Commission for a 3 year term to expire in April of 2008.

RE-APPOINTMENT TO THE TARRYTOWN MUNICIPAL HOUSING AUTHORITY – WILLIAM BURNETTE

Trustee Zollo moved, seconded by Trustee Crucy Burkhardt, and unanimously carried that the following appointment be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the re-appointment of William Burnette to the Tarrytown Municipal Housing Authority for a term to expire in April of 2010.

RE-APPOINTMENTS TO THE ARCHITECTURAL REVIEW BOARD – M. BYRNES AND LOUISE LAMBERT

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

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the re-appointments of Mary Byrnes and Louise Lambert to the Architectural Review Board for a term to expire in April of 2008.

MAYOR'S DESIGNATION OF TRUSTEE LIAISON ASSIGNMENTS

Trustee Basher: Community Opportunity Center, Police Department, Tappan Zee Bridge Committee, Tarrytown Volunteer Ambulance Corp. and safety issues.

Trustee Crucy Burkhardt: Chamber of Commerce, Tourism, Business Improvement, Economic Development

Trustee Butler: Environmental and Building Department issues, Department of Public Works, Planning and Zoning, School Board

Trustee Chillemi: Fire Department, Scenic Preservation, Tarrytown Lakes, Tree Commission, Warner Library Board, Communications (website, cameras etc.)

Trustee Pollack: Beautification and Planting, Moderate Income Housing, Tenants, Tarrytown Municipal Housing Authority, Senior Citizens

Trustee Zollo: Architectural and Historical Society, Parks and Recreation, and Transportation

PUBLIC HEARING RE: STREET AND BLOCK DESIGN AMENDMENT

Mayor Fixell read the following notice of public hearing:

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 16th day of May, 2005, at 8 PM, in the Municipal Building, 21 Wildey Street, Tarrytown, New York 10591, to hear, discuss and to act upon a proposed amendment to the Code of the Village of Tarrytown by amending §263-12 entitled "Street and block design" of the Tarrytown Zoning Code. A summary of the legislation is available at Village Hall. The complete text of this legislation follows:

A LOCAL LAW to amend the Code of the Village of Tarrytown by amending §263-12 entitled "Street and block design" of the Tarrytown Zoning Code.

SECTION 1. LEGISLATIVE INTENT AND FINDINGS OF FACT.

A. Findings of Fact.

The Board of Trustees of the Village of Tarrytown has determined that §263-12 entitled "Street and block design" of the Tarrytown Zoning Code was intended to provide the parameters for street and block design for those adjoining parcels of property which were located within the Village of Tarrytown and not to mandate access within the Village for parcels lying ostensibly outside of the Village of Tarrytown.

B. Legislative Intent.

It is the intention of the Board of Trustees of the Village of Tarrytown to clarify §263-12 entitled "Street and block design" of the Tarrytown Zoning Code in order to clearly state that the parameters stated therein for street and block design are exclusively for those adjoining parcels of property located within the Village of Tarrytown and not to mandate access within the Village for parcels lying ostensibly outside of the Village of Tarrytown.

Material to be deleted appears in strikeout, material to be added in underlined.

SECTION 2. Amendment to §263-12 of the Tarrytown Zoning Code entitled "Street and block design"

§263-12. Street and block design.

A. Width, location and construction. Streets within the Village of Tarrytown shall be of sufficient width, suitably located and adequately constructed to accommodate within the Village of Tarrytown the prospective traffic and to afford access for fire-fighting, snow-removal and other road-maintenance equipment and shall be coordinated so as to compose a convenient system. The arrangement of streets ~~shall~~ may be such as to cause no undue hardship to adjoining properties within the Village of Tarrytown.

B. Arrangement. The arrangement of streets in the subdivision ~~shall~~ may provide for the continuation of principal streets or adjoining subdivisions and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

[No further changes to section]

SECTION 3. EFFECTIVE DATE

This local law shall take effect immediately, as provided by law.

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

Mayor Fixell asked Attorney Shumejda to explain this amendment. He stated that the proposed zoning change would clarify that access has to be provided to property only if it is within Tarrytown's borders. The way it is currently, it is open ended. For example, if the Planning Board has a subdivision with a set number of homes and there is potential for a second subdivision, at the time the Planning Board considers the first subdivision, they would only know the amount of traffic that will be generated by the first subdivision. Secondly, infrastructure improvements such as sewer, water and lights are part of the planning of a subdivision. If you allow access beyond Tarrytown, the Planning Board at the time it's asked to approve the first subdivision will not know if the size of the pipe is correct, the location of the sewer and water systems are correct because that information is not known. Lastly, the Planning Board needs information before it approves a road system's capacity. Therefore, the proposed amendment is to clarify that the Planning Board must provide access for only streets in Tarrytown because that's the information it has.

Jim Walters, Crest Drive, questioned if the knocking down of the lower Hackley school would have anything to do with this. Attorney Shumejda responded no, those roads are over 50 years old and this only pertains to new subdivisions.

Trustee Butler moved, seconded by Trustee Chillemi, and unanimously carried that the hearing be closed.

Trustee Crucy Burkhardt moved, seconded by Trustee Chillemi, and unanimously carried that the following resolution be adopted:

WHEREAS, the Proposed Action is an Unlisted action pursuant to the State Environmental Quality Review Law, and

WHEREAS, an Environmental Assessment Form (EAF) was filed and,

WHEREAS, the requisite notice pursuant to provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code and has determined that there are no County or inter-municipal issues, and

WHEREAS, the Board of Trustees of the Village of Tarrytown is the only agency which has approval authority over the Proposed Action, and is therefore the Lead Agency for the Proposed Action, and

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. In accordance with Article 8 of the State Environmental Conservation Law and 6NYCRR Part 617, including without limitations the criteria set forth in 6 NYCRR Part 617.7© and based upon review of the Environmental Assessment Form and all other materials that were prepared for the Proposed Action, the Village Board of Trustees hereby determines that Proposed Action will not have a significant adverse impact on the environment, and hereby adopts a Negative Declaration.

Trustee Crucy Burkhardt moved, seconded by Trustee Chillemi and unanimously carried that the Board of Trustees of the Village of Tarrytown hereby adopts Local Law No. 7 of 2005 as read in the notice of hearing.

PUBLIC HEARING RE: THE VILLAGE 2005 COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 16th day of May 2005, at 8:00 p.m. in the Municipal Building, 21 Wildey Street, Tarrytown, New York 10591, to hear comment pertaining to the Village of Tarrytown application to the Westchester County Planning Department concerning Community Block Grant Development to the Tarrytown water main project involving the replacement of water mains, valves, hydrants and resurfacing, and pump station improvements.

The following resolution confirms the Village's intention to participate with the County of Westchester in the administration of the following federally funded program.

Trustee Chillemi moved, seconded by Trustee Crucy Burkhardt, and unanimously carried that the following resolution be approved:

WHEREAS, the Secretary of Housing and Urban Development of the United States is authorized, under Title I of the Housing and Community Development Act of 1974 as amended, and Title II of the National Affordable Housing Act of 1990, as amended, to make grants to states and other units of general local government to help finance community Development Programs; and

WHEREAS, Section 99-h of the General Municipal Law of the State of New York grants to any municipal corporation the power, either individually or jointly with one or more municipal corporations, to apply for, accept and expend funds made available by the Federal Government, either directly or through the State, pursuant to the provisions of any Federal law which is not inconsistent with the statutes or constitution of this State, in order to administer, conduct or participate with the Federal Government in programs relating to the general welfare of the inhabitants of such municipal corporations; and

WHEREAS, the Community Development Act of 1974 as amended, Title II of the National Affordable Housing Act of 1990, as amended, and any "Eligible Activities" thereunder are not inconsistent with the statutes or Constitution of the State; and

WHEREAS, a number of municipalities have requested Westchester's participation, and the County of Westchester has determined that it is desirable and in the public interest that it make application for Community Development Block Grant funds and HOME funds as an Urban county; and

WHEREAS, participation by the County of Westchester as an Urban County in the Community Development Program requires that the Village of Tarrytown and the County of Westchester cooperate in undertaking, or assisting in undertaking, essential community development and housing activities, specifically those activities authorized by statutes enacted pursuant to Article 18 of the New York State Constitution.

WHEREAS, this Board deems it to be in the public interest for the Village of Tarrytown to enter into a Cooperation Agreement with the County of Westchester for the aforesaid purposes.

NOW, THEREFORE, BE IT

RESOLVED, that the Mayor be and hereby is authorized to execute a Cooperation Agreement between the Village of Tarrytown and County of Westchester for the purposes of undertaking a Community Development Program pursuant to the Housing and Community Development Act of 1974 as amended and Title II of the National Affordable Housing act of 1990, as amended.

CDBG– Water Main Projects

Trustee Crucy Burkhardt moved, seconded by Trustee Pollack, and unanimously carried that the water mains project application public hearing be opened.

Village Engineer McGarvey presented comments regarding the Village's CDBG application for water main projects. He stated that we are looking to participate with Westchester County in a 50/50 match to make public improvements on the west side of Broadway, north of the Tappan Zee Bridge up to Wildey Street. This area falls in the eligible area for the block grant funds. We have put in approximately \$2 million worth of work/monies from Westchester County to be matched evenly with the Village. These include improvements to water, sewer, roadway, sidewalk, curbing and lighting in that area over a three year period.

Dean Gallea, 28 Wildey Street asked if this includes Wildey Street. Engineer McGarvey responded yes.

Trustee Pollack moved, seconded by Trustee Zollo, and unanimously carried that the public hearing be closed.

Trustee Crucy Burkhardt moved, seconded by Trustee Chillemi, and unanimously carried that the following resolution be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby authorizes the Village Administrator to submit a CDBG application to the Westchester County Department of Planning for the Tarrytown water mains project covering the years 2006, 2007, & 2008.

CDBG – Waterfront Public Park Redevelopment

Trustee Pollack moved, seconded by Trustee Crucy Burkhardt, and unanimously carried that the waterfront public park redevelopment facilities public hearing be opened.

Village Administrator McCabe presented comments regarding the Village's CDBG application for the waterfront public park redevelopment facilities. He stated this CDBG funding includes a portion of the facilities planned for the new waterfront park as suggested by the Westchester County Planning Department which administers the funding. They have informed us that this project will qualify the criteria for funding. The approved plan at present, calls in part for the redevelopment of the westerly portion of Pierson Park to make everything west of the Senior Center to become open space right on the waterfront with exception of a playground. The application proposes the removal of the basketball and tennis courts and relocates them to the present site of the Fire

Training Center. The estimated cost to build a basketball court there is \$105,000. The tennis court is \$131,000. The project budget calls for \$65,000 to restore the area vacated by those 2 facilities and make that into a nice lawn and landscaped area and the other component of the project would be to install a children's playground somewhere up near the Senior Center. Separately, funding is being sought to restore the shoreline around the park and eventually the County, we anticipate, will put the river walk promenade all around that area. Within this application, there would be room for alteration of the plan. There can be an alternate plan as long as it's not too far from the original plan.

Greg Galloway, 51 Cottage Place asked that as the waterfront is being developed, are there any plans in the immediate future to invest in anything east of the H Bridge, south of Wildey around Asbury Terrace. Administrator McCabe stated that it has been identified as an area that needs to be looked at and addressed.

Trustee Zollo moved, seconded by Trustee Pollack, and unanimously carried that the public hearing be closed.

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

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby authorizes the Village Administrator to submit a CDBG application to the Westchester County Department of Planning for waterfront public park redevelopment facilities covering the years 2006, 2007, and 2008.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD: SPEAKERS HAVE 5 MINUTES BEFORE YIELDING TO THE NEXT PERSON: THEN 3 MINUTES FOR ADDITIONAL COMMENTS

Robert Bonvento, 42 Hamilton Place, requested clarification on the hiring of the Administrative Intern to assist the Village Administrator to work 30 hours per week at a salary of \$55,000 as an intern with no experience. He questions why the process was not open to the public.

Administrator McCabe stated that when he interviewed for the position here in Tarrytown he asked the then Board to consider to keep Charlie Cook on board as an assistant/consultant to help with the transition period and he asked the Board to remain open minded to consider having an assistant to the administrator to some capacity in the amount that was paid to Charlie Cook approximately \$75,000 which was already included in the budget. The plan was to advertise for the position and conduct interviews approximately in 2006 typically a person with a master's degree in public administration for an annual salary of about \$60,000 - \$65,000. It was suggested that Ms. Jenifer Ross was interested in this position and after a lot of thought; he felt that she was an excellent candidate. Having the experience of working with Jenifer, he knew she's very capable to take a project from beginning to end very successfully. Her education is appropriate, business degree, masters' degree in Historical Preservation and Gerontology. Excellent experience for our needs and that she was immediately available. The Village would be saving money instead of paying Charlie Cook \$75,000 and paying her as a consultant for \$10,000 for her services for the Third Friday and Ferry Go Round, she would be paid \$55,000. To have someone of her caliber on board seems like a good deal for the tax payers.

Susan Sincero, Neperan Road, questioned the Board if they had contacted a second opinion for the Tarrytown Lakes Special Setback. Mayor Fixell stated that the opinion from the wetlands consultant was that the furthest that we can expect to go in New York State is the 300 ft. setback from the wetlands. We are planning to have further discussions with Frank Fish of BFJ with regard to the Wilson Park development and its

impact. Ms. Sincero stated that as there is an ongoing concern for the future of the Tarrytown Lakes and, specifically, the development by Spectrum that is proposed there, she wishes to go on record as proposing once again that the Village Board bring in another expert to substantiate the existing findings and give another opinion regarding the impact that development will ultimately have on the future integrity of the lakes and surrounding wetlands. She highly recommends that you get in touch with Michael Klemens. Michael Klemens, PhD, is a Senior Conservationist with the Wildlife Conservation Society, and is the founder of the Metropolitan conservation Alliance. He is meticulous and dedicated, and has helped develop innovative, locally based strategies to tackle ecosystem loss and combat suburban sprawl in our region. He's on the Planning Commission in Rye, and was the consultant with Frank Fish for Irvington's Comprehensive Plan. The Lakes are a valuable asset to our Village and a cherished ecosystem. We must protect them by all means possible.

Karen Brown, 5 River Terrace, stated that the preservation of Wilson Park should be on the agenda until some kind of resolution is put forward. The DEIS has been submitted for a 17 house subdivision in an area that was designated as an area of Tarrytown that was designated a high priority target of public acquisition by the Village's Open Space Committee. The Open Space Bond Referendum of 2000 had a large turnout election of 75% of voters saying loud and clear that they want to protect our natural environment and preserve open spaces. People were thinking of large tracts of land on top of a hill in the watershed of the Tarrytown that housed century old trees, provided habitats for wildlife including hawks, coyotes and turtles. People were voting to protect areas they remember playing in as a child and areas that they go bird watching and dog walking and running today ... Wilson Park. The fact that a lot of time has lapsed between the passing of this referendum and where we are today does not make open space preservation any less of priority in the hearts of village residents evening the current economic climate. She submitted a petition signed by over 700 Tarrytowners and 300 area residents. Many of those people who signed have come here tonight to show support. Pursuant to the passing of the Bond was the creation of a Village Open Space Committee with citizen members from all parts of the village. This committee gave Wilson Park the highest priority in terms of acquisition. Everyone of you on the Board lambasted your predecessors for disregarding the views of citizen committees, so I'm confident that you will all reread Open space Recommendations and make every effort to pursue them. Now, the plan before the Planning Board is for 17 houses and it is true that some open space was accommodated through the tight clustering of houses. That's a step in the right direction as it indicates that WCI Spectrum is flexible in its planning. These changes from the original 20 house proposal are the result of residents pushing for innovative legislation and rallying against the clear cutting we saw in Sleepy Hollow. But the clustering brings up some troubling environmental questions and cannot be seen as the end all of preservation. The Wilson Park Association believes that by committing the funds as a basis for negotiation as recommended by the Open Space Committee, we can come up with a plan that will preserve the sensitive hilltop park and steep slopes as well as protect sources of ground water to the Tarrytown Lakes. And this plan does not eliminate development. The many homes that would still be built would be a source of new revenues for the Village. We fully expect that this Board will follow through on the responsibility it was charged with by the Open Space Referendum by becoming an active partner in the efforts to preserve Wilson Park. The Westchester Land Trust has said many times that it is ready and willing to help broker an agreement and help us secure outside funds. They're waiting for the official green light. Sadly, we cannot say that this offer of public funds and other incentives will definitely be accepted. But it is our responsibility to put an offer forward because we know for certain what will be the result of allowing full scale development to proceed. She submitted this Petition for your review and ask you all to attend next week's Planning Board Meeting as the DEIS is likely to be accepted at that time and the clock on decision making officially starts to tick. She hopes that this issue of committing public funds for the preservation of Wilson Park will be on the agenda at one of the next BOT meetings, but even if it is not, we will be here again hopefully with a more detailed plan for the land and asking to hear each of the Trustees position on the matter. Open space and natural resource protection is a stated

priority of the people of this Village. She hopes that she can count on you, our elected officials to put our values into action at this crucial time in our Village's history.

Michael Farley, Neperan Road, stated that he is joining the Wilson Park Development to fight this development. The Tarrytown Conservation Committee is looking at this from the point of view that there should be no development there anyway. This development will allow pesticides to trickle into the lakes. Has the Board discussed the use of a prescriptive easement?

Attorney Shumejda stated that there are some open issues with a prescriptive easement. You have to show that your use was open notorious in adverse within a statutory period. The question is was it adverse to the former Rockefeller ownership of the property. They closed off the road for a period each year to prohibit someone making a claim for prescriptive use for the use for the road. They also maintained it to show that they were unaware of the use of it. Evidence would have to show that the use by the neighbors was adverse to their use. In other words, the Rockefellers did not assent to the use by the residents. The Rockefellers did not give an implied easement to allow people to use it. They did maintain the lawns for many years. This shows intent on their part as a land owner to maintain the property to maintain it to a fairly safe condition. They would have probably known that residents do use it to walk their dogs, run, bird watch etc. The evidence would have to show that the use was adverse to the residents' interests. In other words, they didn't allow residents to do these things. That's a question of proof. We have to develop that proof first. Mr. Farley wanted to know if there was a plan to move forward on it at all. Mr. Shumejda stated that it's the Board's decision. The Board has not discussed the preliminary opinion that he gave them at a previous work session. Mr. Shumejda stated that there are some cases on this issue where a municipality claims over a period of time to adversely possess a particular property. In those cases, it requires that the municipality who's making that claim show that during the statutory period the use was adverse against consent of the land owner. Not with an implied license and that the municipality maintains the property during the statutory period. The idea of the municipality maintaining the property shows the adverse use. This is your private road but the municipality will pave it, snow plow it, collect the garbage, etc. That shows the adverse use to the property owner. If you use that same analogy to neighbors, the court may say that if the municipality has to show that it maintained and repaired the property in order to establish its adverse use to a road system. Would neighbors have the same obligation to say that they maintain the property in any way? Going back to the English Common Law, the basic premise of an adverse possession claim was when they didn't have deeds (deeds were destroyed). How do you prove ownership? You showed ownership by your use of the property, you cultivated, planted crops, mowed the grass, you maintained the property. That's what the open notorious adverse use is. You don't have a deed 1,000 years ago to this property, but he used it adverse to everyone else's claim. Look what he's done on the property. You come along and say you own the property. That would be too bad. He adversely possessed it against your interest of the statutory period. That's the proof that we need to establish in order to go forward with the easement by prescriptive use.

Michael Farley questioned the language in the special setback local law. In the Village Code, we define a watershed as "the entire drainage area contributing to the Village of Tarrytown water supply". In the new law on the special setback, it was changed to "surface drainage area that contributes water to a lake or a river". He wants to know why the change and now we have two definitions. Attorney Shumejda stated that one was designed for the special setback and the other was designed for the wetlands and water courses legislation. He will review them. The second definition came from our consultant. He will review and if there is an inconsistency, he can make a recommendation to the Board.

Dr. Roger London, 185 Wilson Park Drive, stated that he represented the Tarrytown Lakes Conservation Committee, the approximately 1,000 citizens who signed this petition over the past two days, and uncounted others who are concerned about the future of the Tarrytown Lakes. We believe that the Tarrytown Lakes are in imminent danger as

the Wilson Park area is slated for development and we are working in alliance with the Wilson Park Association. Our concerns for the Tarrytown Lakes are based on the fact that a 2001 Manhattan College engineering study indicated that the Tarrytown Lakes are threatened by storm water runoff and underground streams which contribute pollutants and chemicals to the water in the Tarrytown Lakes. As a result of the fertilizer and other chemicals, algae blooms and grows more rapidly. The lakes then become filled with silt and algae, which increases the runoff into the Saw Mill River Basin during times of heavy rainfall. This increased runoff into areas of Greenburgh, Elmsford and downstream to the Hudson will worsen the flooding in areas which have already been identified by the Army Corps of Engineers in two projects; one for Ecosystem restoration of the Saw Mill Basin and a second for Flood protection in Elmsford and Greenburgh. Given this background, we want to assure that the process followed by the Village of Tarrytown is very stringent so far as development of the Wilson Park Watershed Areas and the protection of the Tarrytown Lakes are concerned. We believe the Tarrytown Lakes and the adjoining Wilson Park Watershed Area are a unique asset of value to the Village and that they ought to be protected from irreparable and irreversible harm. Because we want to be hard on the issues and not on the town officials involved in assessing the impact of the proposed development, we will be submitting questions to you in writing as the lead agency in the consideration of this proposed development. The first three questions concern the adequacy of the baseline data for the consideration of this project.

- 1) Has a follow up to the 2001 Manhattan College Study of the Tarrytown Lakes been sought?
- 2) How is the Wilson Park area addressed in the 2004 and 2005 Village Plans for Storm water Management?
- 3) How can the DEIS process for the proposed development at Wilson Park be considered complete when a Natural Resources Inventory and Wetlands Survey of Wilson Park have not been done?

The next series of questions seeks to clarify the thinking in the legislation recently enacted by the Village.

- 4) Why were underground streams and ground water sources left out of the definition of watershed areas recently passed by the Village of Tarrytown, when the area of Wilson Park contains bedrock close to the surface and the shallow water table clearly drains downhill into the Tarrytown Lakes?
- 5) What was the process followed and the data used which puts the Tarrytown Lakes at risk of runoff from chemicals and pesticides from the Wilson Park development?
- 6) How were the ridgelines established for the Wilson Park development? On what basis were the ridgelines moved from the existing physical ridgelines downhill, which has the impact of further increasing the number dwellings that could be sited at Wilson Park to produce runoff into the Lakes?
- 7) How were the grades established so that the application by the Wilson Park Home and Land Company in 2003 found no areas of 25% grades? Since steep grades are not buildable, on what basis have the grades been verified, since this further increases the number dwellings that could be sited at Wilson Park to produce runoff into the Lakes?
- 8) Finally what process was followed, in the absence of a wetland study, a Natural Resources inventory or an updating of the 2001 Manhattan College Tarrytown Lakes study which documented the threatened status of the Lakes, to change the zoning setback on the property from one that previously extended 300 feet inland from the Putnam Road right of way towards the physical ridgeline to one that stops at the railway, thereby adding to the number of dwellings that could be sited at Wilson Park to produce runoff into the Lakes?

The preamble to the petitions we are submitting reads "The Tarrytown Lakes are in imminent danger as the Wilson Park area is slated for development. We, the undersigned, demand that our elected Village officials use all available administrative and financial resources in preserving the Tarrytown Lakes and surrounding areas. These open spaces contain significant environmental, aesthetic and recreation feature. We support the acquisition of land in the area with funds obtained from grants, public/private partnerships, developer fees, general revenues and bonds." We would like to see the

administrative resources of the planning process, as led by the Village Trustees used as a tool by our elected village officials to prevent any adverse impact on the Tarrytown Lakes, regardless of the site considered, or the plan ultimately approved. Members of our committee would be willing to help assist in whatever capacity might be useful to you.

Carol Griffiths, 251 Martling Avenue, stated that the Board should consider a law banning fertilizers and pesticides for homes in the watershed area. Michael Farley stated that there's already a law in our Village Code in Section 201-6. She also wanted to recommend to the Board to get in touch with Dr. Jim Utter at SUNY Purchase. He is a wetlands expert and has worked as a consultant at Rye and other municipalities in Westchester County.

Brian Kelly, 182 Wilson Park Drive, stated as you look at the Wilson Park development and how it is connected in several ways to the lakes. The Sleepy Hollow development was more dense, one house per acre and there's nothing of the original area left in tact, not even the grade, basically terraced. The beautiful roll and pitch of the land and the mature trees are cleared and wiped out. This land is on the ridge line and how that land connects could have been a green corridor connected to NYS greenways and the croton aqueduct. You start thinking of how these things all connect and not just the lakes for the water but the lakes as a buffer protecting the Village from the development around 9A. He doesn't know why the road around the Tarrytown Lakes has not been declared a scenic parkway to protect it from being upgraded by the DOT. He would like the Board to see this in a broader scope before you dive into something as specific as 48 areas, which you can even breakdown into 22 here and 26 there. There's huge potential and so many facets to it and he asks the board to keep that broad view.

Angela Schneider, 16 Fairview Avenue, stated that she has great concern regarding the Tarrytown Lakes and their apparent demise. It has become increasingly obvious to all who visit the lakes that they are polluted, evidenced not only by the type of flora surrounding them, the algae but also by the smell. At last week's public work session, it was stated that there had been a discussion a few weeks earlier about this issue. "The upper lake is dying." This reality prompts me to ask two questions: 1) Does the Village have a plan to reverse the dying process of the upper lakes? 2) Has the Village considered TMG effects of any new building near the lakes? Whilst collecting signatures for the petition regarding this body of water and its environs, I had the opportunity to speak with a large number of people. Both resident and non resident, they are equally alarmed at the danger to and future of this aquatic gem in our midst. The living, healthy lakes are an essential part of the ecosystem. She urges you and your administration to look to the future by taking action now.

Mayor Fixell stated that there are two issues, but they are deeply connected. One is this development proposal and all its implications. It's a complicated issue that effects the Planning Board and the private developer unfortunately owning that land having bought it not many years ago. The second one is a broader question which is connected of the health of the lakes which we definitely intend to look at and approach. We are going to put together a residence committee to explore the entire area around the lakes. It's difficult to separate those two. We are faced at this particular moment with a development proposal so it makes it difficult to make those long term analysis and studies. We have to go on two tracks. The first track we will explore all the issues having to do with the development proposal and the second track is to look at the lakes as a whole. We have had a tremendous response to the mailer that we put out. One of the committees will be directed to the Tarrytown Lakes.

Yoram Gellman, 91 Cobb Lane, stated that he is in the process of purchasing property that lies down hill from the new house that was recently built at 185 Wilson Park Drive. He personally explored the property and what he found bears directly on the proposed development at the top of Wilson Park Drive. For there are now two newly formed ditches leading directly up the hill to that new house on 185 Wilson Park Drive. These new ditches were formed by the runoff from that property. That was just one house. The proposed development involves many houses. Mr. London just spoke about the

consequences of the runoff into the Tarrytown Lakes. On the other hand, there are also the consequences of the runoff increasing down the hill towards the Hudson River. Recently, during a rainstorm, he made a video tape of the runoff along Cobb Lane and he submitted to the Building Department. His purpose was to inquire what can be done about this runoff – it was a river. He invites the Board to look at that video tape because this runoff would be increased by all the runoff from the new development. He also invites the Board to go with him to the new property he is thing about buying and looking at those two new ditches just from one house.

Jim Walters, Crest Drive, stated that he would like the Board to know we have a very property damaging problem in the Crest. Not too long ago a basement was found filled with 5,000 gallons of water. This should be the Board's number one concern. There are over 100 houses in the Crest being affected by very poor drainage. In regard to the Greenburgh's public meeting about the removal of the lower school at Hackley, he wanted to make sure the Village is aware what is going on. Mr. McGarvey responded yes and he has their plans on drainage. There was an amendment filed approximately a month ago with the Village. At that time he got permission from the Planning Board to hire an outside consultant to review all the increases in drainage analysis that has been created by the addition of 4,000 sq. ft. from the approved plan of about 15 – 16 months ago when that plan was approved for the loop road up at Hackley School and the new construction. Their application shows that they are planning to tear down the lower school and build another building in the same place with an increase by 4,000 sq. ft. more than what was approved before. Mr. Walters asked the Board to tell Greenburgh to postpone the destruction of that building until we can nail down the drainage because the Hackley Field is no holding pond. If they increase the drainage into that field, it's going to go down to the corner of Highland and Benedict into that pond; you will have problems in spades because that holding pond is leaking from the bottom. That pond can't hold anymore water and you will flood that area. Mr. McGarvey stated that they have retained an engineering consultant to review the drainage analysis that will be changed or altered from the approved plan from 15 or 16 months ago. We are waiting for final decision on his analysis. He has gone back to the original engineer to make changes in his design and that's where we stand right now.

John Lynch, 10 Crest Drive, stated that the Planning Board gave Hackley a one year approval. However, the Town of Greenburgh indicated that they didn't need any kind of approval from Tarrytown on this mainly because from a square footage standpoint, there's no environmental impact because it remains the same. Hackley claimed that they didn't put the second road in on the lower Benedict site because they didn't have any more. All of a sudden, they have new found money to build a 33,000 sq. ft. building from scratch without finishing off the second loop down there on Benedict Avenue which would eliminate the traffic through the Crest. The situation at the Crest right now with the traffic going in the Midland entrance to the Hackley School was unacceptable and dangerous. Mr. McGarvey notified Hackley that their one year is up and they must submit the storm water runoff calculations now post construction that was analyzed in their storm water management program before construction.

Mr. Jim Walters asked if he can review the Hackley drainage plans. He is very interested in seeing exactly where this new piping went, where the drainage is going, the size of the pipe, etc. This system is destroying pristine tax paying section of Tarrytown. He hopes this Board will take stronger steps to control it.

John Lynch, stated that only one agency that has the full power and entrusted with the protection of the lakes and that is this Board. To say that you are not a co-lead agency is a mistake. This Board has the only authority over the lakes from the standpoint of its protection. Whatever the Planning Board does has to come back to this Board in any case for approval. At the bear minimum the Board can become an involved party to the Spectrum development. If you become an involved party that would show a significance and importance you place on the lakes. The Board needs to be a co-lead agency. He believes the Wilson Park development's DEIS should be in the hands of the people that will be affected and that they have a right to see it. The draft environmental impact

statement and the implications from the DEIS is the best last chance and opportunity for the people who are going to be affected to get their input in and make sure the changes are made. The DEIS is the best time to do that. He believes the new Administrator Assistant should also help Mr. McGarvey who he believes is just as busy.

Dean Gallea, 28 Wildey Street, questioned if anyone has addressed the Board about a proposed resolution to the re-licensing of Indian Point? A couple of months ago there was a large meeting at the Greenburgh Town Hall on the issue of re-licensing Indian Point. Robert F. Kennedy, Jr. Paul Fiener and the Riverkeeper all spoke there. At that meeting, we asked villages and towns to write-up a resolution to the NRC during this process of re-licensing which is going to complete next year. A decision has to be made whether to renew their license of Indian Point. He wants to appeal to the Board to consider strongly that they should prepare a resolution to make a recommendation to the NRC to not renew the license at Indian Point. Indian Point is an accident waiting to happen. It's right up the river, just outside the ten mile radius of Indian Point. Mayor Fixell asked for a sample resolution be given to the Board.

RESOLUTION – AGREEMENT TO INDEMNIFY THE VILLAGE OF IRVINGTON FOR THE TARRYTOWN POLICE DEPARTEMENT'S USE OF IRVINGTON'S POLICE DEPARTMENT FIRING RANGE

Trustee Pollack moved, seconded by Trusted Crucy Burkhardt, and unanimously carried that the following resolution be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the indemnification agreement prepared by the Village Attorney which indemnifies the Village of Irvington for any damages arising out of the Tarrytown's Police Department's use of the Irvington Police Department firing range, which agreement shall annexed to these minutes as part of the official record.

RESOLUTION – AMEND THE VILLAGE CODE TO CREATE A HANDICAPPED PARKING SPACE AT 23 FRANKLIN STREET

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

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby amends Section 291-92 Schedule XXVIII (handicapped parking spaces) of the Village Code to designate a handicapped parking space on the north side of Franklin Street 22 feet west of John Street for distance of 18 feet in a westerly direction.

RESOLUTION – FIRE DEPARTMENT PERSONNEL CHANGES

Trustee Pollack moved, seconded by Trustee Zollo, and unanimously carried that the following resolution be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves personnel changes in the Fire department which changes were approved on April 19, 2005 by the Board of Fire Wardens including: new members: Bryan Meade – Washington Engine Company, Charles DePaolo – Washington Engine Company, Robert Milano – Consolidated Engine Company, Walter Ferguson – Conqueror Hook and Ladder Company, also transferred to out of town active status: Brian Byrnes and Robert Greene – Washington Engine Company

RESOLUTION – REQUEST BY THE TARRYTOWN YMCA FOR VILLAGE SUPPORT OF THEIR COMMUNITY DEVELOPMENT BLOCK GRANT

Trustee Pollack moved, seconded by Trustee Zollo, and unanimously carried that the following resolution be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby endorses the Tarrytown YMCA Housing LP application for Community Development

Block Grant funds for fiscal year 2005, for funds to overhaul their heating system and to install security cameras.

RESOLUTION – REQUEST BY THE ELIZABETH MASCIA CHILD CARE CENTER FOR VILLAGE SUPPORT OF THEIR COMMUNITY DEVELOPMENT BLOCK GRANT

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

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby endorses the Elizabeth Mascia Child Care Center's application for Community Development Block Grant Funding for the replacement of windows.

RESOLUTION – ISSUANCE OF A LICENSE AGREEMENT BETWEEN THE VILLAGE OF TARRYTOWN AND THE SPIRIT OF TARRYTOWN STEAMSHIP COMPANY

Attorney Shumejda stated that this is a proposal by the Steamship Company to run a boat that will be docked at the Tarrytown Boat Club. The license is for a limited time period to December 31, 2005. It requires a payment of \$20,000 to the Village for the right to use the parking area and also to co-use the area that's adjacent to the dock that we lease to the Tarrytown Boat Club. This is also subject to approval by the Planning Board of the Village of Tarrytown which is reviewing the parking requirements for the steamship company and it's on the agenda for this coming Monday.

Trustee Pollack moved, seconded by Trustee Butler, and unanimously carried that the following resolution be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves a license agreement between the Village of Tarrytown and the Spirit of Tarrytown Steamship Company to conduct the operation of a cruise boat from the Tarrytown Boat Club property, for a period commencing on June 1, 2005 and ending on December 31, 2005 subject to payment to the Village of \$20,000 also subject to site plan approval by the Planning Board. The license agreement as prepared by the Village Attorney to be annexed to the minutes of this meeting a part of the official record.

RESOLUTION – CODE CHANGE REGARDING PARKING ON KALDENBERG PLACE

Trustee Pollack moved, seconded by Trustee Crucy Burkhardt, and unanimously carried that the following resolution be approved:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves an amendment to the Vehicle and Traffic Code Section 291-80 Schedule XV (parking prohibited certain hours) in accordance with the provisions of Section 291-19 no person shall park a vehicle between the hours listed upon any of the following described streets or parts of streets: Kaldenberg Place west side 9:00 a.m. to 11:00 a.m., Monday, Wednesday and Friday at a point 45 feet north of Main Street for a distance of 40 feet in a northerly direction.

RESOLUTION – WAGES AND SALARY INCREASE APPROVALS

Trustee Chillemi moved, seconded by Trustee Zollo, that the following resolution be approved. Motion carried, all voting "aye" with the exception of Trustee Butler who abstained.

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves wage and salary increases for management and other non-union employees in amounts ranging between +1.75% and 3.75%, as recommended by the Village Administrator.

RESOLUTION – HIRING OF ADMINISTRATIVE INTERN – JENIFER ROSS

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

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the hiring of Jenifer Ross, Administrative Intern to assist the Village Administrator and the Mayor with administrative responsibilities at a salary of \$55,000 for a 30 hour work week for a term of one year.

RESOLUTION – HIRING OF POLICE OFFICER – DENNIS SMITH

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

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the hiring of Dennis Smith, Police Officer Grade 2, to fill a vacant position at a salary of \$67,100 effective May 31, 2005.

COMMENT: TRUSTEE CRUCY BURKHARDT

Trustee Crucy Burkhardt stated that she listened to some people talk about Jenifer Ross without knowing her background or having a copy of her resume. She hopes that in the future when we talk about someone, we know more about their background and know their credentials and have trust in us that we would not be hiring someone that we did not feel had the qualifications to do the job that we were seeking for. Jenifer Ross is very well qualified. She has great credentials, she has master’s degrees in two areas and as a resident she has spearheaded the Third Friday and is more than qualified for the position we were looking for.

APPROVAL OF MINUTES

Trustee Chillemi moved, seconded by Trustee Butler, that the minutes of May 2, 2005 be approved as presented by the Village Clerk. Motion carried, all voting “aye” with the exception of Trustees Crucy Burkhardt and Pollack who abstained.

APPROVAL AUDITED VOUCHERS #21

Trustee Chillemi moved, seconded by Trustee Butler that the following resolution be approved:

RESOLVED: The following Abstract bearing No. 21, dated May 16, 2005, containing Vouchers No. 004114 through No. 004310 is hereby ordered paid in the following amounts:

General	\$239,002.81
Water	70,684.70
Capital	598,509.04
Library	3,295.74
Trust & Agency	<u>20,049.27</u>
Total	\$931,541.56

The Board was polled all voting “aye” with the exception of Trustee Crucy Burkhardt who abstained on Vouchers No. 004203 and No. 004307 and Trustee Zollo who abstained on Voucher No. 004307. Motion carried.

ADJOURNMENT

Trustee Chillemi moved, seconded by Trustee Butler, and unanimously carried, that the meeting be adjourned – 10:10 p.m.

Carol A. Booth
Village Clerk