

Board of Trustees
Village of Tarrytown
Regular Meeting No. 11
October 17, 2005 8:00 p.m.

PRESENT: Mayor Fixell, presiding; Trustees, Butler, Crucy Burkhardt, Chillemi, 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.

REPORTS

Mayor Fixell reported on the following:

- He and Trustee Basher have joined other officials in Greenburgh on an ad hoc committee to discuss the town taxes in all the villages and to better represent our interest before the Town of Greenburgh.
- The Village of Tarrytown as well as the YMCA is putting together a Hurricane Katrina Relief fundraiser scheduled for November 6th. It should be a terrific event.
- Pace Land Use Law Center applied for a grant and received one and is willing to assist the Village to bring the Village, the Planning Board and the citizens of the community up to the latest thinking, methods and policies toward land use planning. They are one of the leading authorities on land use and planning and it will be a great opportunity to get their support. This will work well with the master plan process.

Trustee Crucy Burkhardt read a letter to the Mayor and the Board of Trustees from Ann Marie Basher, Executive Administrator of the Sleepy Hollow Chamber of Commerce who would like to thank the Village of Tarrytown's Police Department, Fire Department, Ambulance Corp., Recreation Department, Department of Public Works and the Public Schools of the Tarrytown's for all their assistance in helping the Chamber to continue to keep the fireworks in Tarrytown. She also wanted to thank all the residents and businesses in Tarrytown and Sleepy Hollow for their donations. She also reported that this Friday is Tarrytown's Third Friday. She hopes everyone can come out and join us. With all the activities coming up with Halloween, she suggests to take in our historic sites such as Lyndhurst and the Old Dutch Church.

Trustee Chillemi reported that the Warner Library Book Sale was this past weekend and it appeared to have been a success and he thanks you for coming out and supporting the library.

Trustee Butler reported that the Planning Board has a Continuation of a Public Hearing on the DEIS for Wilson Park tomorrow at Village Hall at 8 p.m. We also have a proposal from BFJ Planning for an update to the Tarrytown Comprehensive plan. The Village of Tarrytown's Comprehensive Master Plan is adopted by the Tarrytown Planning Board and endorsed by the Tarrytown Board of Trustees. This document is a policy to establish long term goals and provide a shared vision aimed at a unified and coordinated development of the Village of Tarrytown. The long range policies within the plan serve as the framework for future development, outline specific goals for the Village of Tarrytown for the next 20 – 30 years. The Comprehensive Master Plan is a product of extensive data collection and analysis as well as public opinion and research. This plan is used to guide the location, development and maintenance of the many facilities and services provided by the Village. Also, the master plan is one of the main policy tools of the Village Trustees, Planning Board, Zoning Board of Appeals, Village Administrator and Departments as well as other boards.

Trustee Zollo reported that the following are upcoming events coordinated by the Tarrytown Recreation Department: The Scarecrow making took place this past Saturday at Patriots Park. Over 100 scarecrows were made and on display along Broadway and

Main Street. On Saturday, October 22nd, the Pumpkin Hunt will take place beginning at 1:30 p.m. for children ages 1 – 9 and at 2 p.m., the Rag-A-Muffin Parade will kick off from Patriots Park and proceed to the YMCA where there will be a haunted house and will conclude with a Halloween party at the Main Street Firehouse. On Saturday, October 29th, the 4th Annual Village wide Halloween Parade will take place beginning at Patriots Park. Everyone will assemble at 4:30 p.m. and the parade will kick off at 5:30 p.m. and end with a block party on Main Street. This has become quite an event in Tarrytown. Rain date is Sunday, October 30th. On Sunday, November 13th, the annual Pilgrims Run will take place at 12 noon at Hackley School.

CONTINUATION OF A PUBLIC HEARING REGARDING A PROPOSED
MORATORIUM ON DEVELOPMENT IN THE LOH PARK BROOK DRAINAGE
BASIN

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

Chuck Pateman, President of C.M. Pateman, Associates, stated that he has requested an exemption from the proposed moratorium. We had substantial rains in the last two weeks; however, there were no complaints from the Loh Park area according to Scott Weaver, who he met with today. He stated that he thinks the reason for holding this moratorium is certainly a good one, but as he has told the Board in the past, he can actually improve the downstream area. He received approval of the Planning Board who determined that this project had a negative impact on the environment and part of their review requires them to look at the downstream drainage area and that was also reviewed by the Village Engineer. When Edgemont Condominiums was built, they had actually proposed to raise this weir elevation as we have said we would as a condition by the Planning Board. It was never done by Edgemont Condominiums. He hopes the Board will consider his request. Mayor Fixell stated that they will certainly consider it.

Diane Lugrezia DeFiore, 202 S. Grove St, stated that on June 29th her home was completely flooded by the rains. She was extremely upset about what happened. She was happy with the response of the fire department that pumped out her home. The water was above her waist in the basement. We had a bubbling brook that turned into a raging river. We had eight days of rain recently and the banks of the stream overflowed. Every time it rains, her children are worried sick that the house will flood. She thinks the moratorium is the most important thing to solve this problem. The water goes into a 6 ft. opening and comes out of a 1.5 ft. opening. Concrete was lifted up and firemen were knocked down. She doesn't think anyone should be exempt from this moratorium. She would like to thank the Sanitation Department who removed all of her garbage. She was without hot water for days and without air condition for 2.5 weeks. They suffered immensely.

Dr. Gerald Greitzer, President of the Board of Directors of Tarrytown Professional Center at 200 S. Broadway, stated that everyone knows that on June 29th, cherry pickers had taken people out of the 2nd floor and \$40,000 worth of damage in one of the office's alone. He also stated that the problem is the flow of water into and under Broadway. At the present time, the conduit at the southwest corner of 200 S. Broadway is 36 x 27, which is 6.75 sq. ft. in area and we have a 4 ft. conduit that runs under our property. This is a 12.56 sq. ft. and what happened at that moment, at the southwest corner, the entire parking lot blew out and the catch basin there was disintegrated. We're unable to repair the parking lot until we have some assurance from whatever governmental organization is willing to take responsibility for Broadway. At this moment, we have twice the volume of water going into Broadway than it can handle. Until such time that some governmental body decides to do something about this, we're stuck. This is a serious problem, which has to be addressed as soon as possible.

David Vandor, 26 Leroy Avenue, stated that we have two problems in the Loh Park area. One is storm over flow and the second problem is the sanitary sewer system at the bed of Leroy Avenue is overwhelmed by storm flow. When that happens, the pressure in

the sanitary sewer system is so great that it pumps raw sewage 2 in. deep into his living room. It's a health hazard and the damage involved is enormous. He had installed a back flow preventer at his own cost. This past weekend we got a lot of rain; if it wasn't for that back flow preventer, he would of had raw sewage in his basement. The houses east and west of him who have nominal protection, still receive some degree of sanitary flow through their homes and out to their yards. The fact that we don't call every time it rains is not an indication that things are good. We have to address the sanitary system. In his point of view, the moratorium is just an eye wash; a disingenuous response to a problem that will not be solved by a moratorium. Mayor Fixell stated that the moratorium was never intended to be the fix. The reason you put a moratorium in place is that you can figure out what needs to be done.

Village Engineer McGarvey stated that as far as the sewer system on Leroy Avenue, there is definitely a problem during rain storm events. There must be illegal hookups from people's storm drainage into the sanitary sewer. The 8 in. sewer line that we have coming down Leroy Avenue is not sufficient to handle the sewage that comes down through there with the increase flow from illegal hookups from sump pumps or whatever kinds of drainage system they have tied to the sanitary sewer system. He believes that smoke tests are illegal now. He is working with the County on a possible peppermint test. This is not the total answer but it's the best we can do without invading people's privacy by actually going into people's homes to see if they have illegal hookups. Trustee Butler asked if Mr. McGarvey had an enforcement solution to deal with this particular problem. Mr. McGarvey stated that the only enforcement would be if he was invited in to check out their hookups for illegal drainage connections to the sanitary system. Trustee Chillemi asked the residents of Loh Park if they would be willing to voluntarily allow the Building Inspector to come to their homes and inspect. You may not even know that there's an illegal hookup in your home.

Carmella Lugrezia, 202 S. Grove Street, stated that she feels the problem of June 29th is due to the many homes being built and the many trees that are being cut down and the water has nowhere to go.

Mary Ann LePore, 22 Leroy Avenue, stated that she has been experiencing sewage backup since Hurricane Floyd in September of 1999. Every spring and fall when they're heavy rains, she has sewage that backs into her home. She has written several times to the Village, nothing was ever done to help her out. She would appreciate anything the Board can do at this time.

John Lynch, 10 Crest Drive, stated that he believes the sewage system problem is from the strength of Hurricane Floyd causing leaks from broken pipes that's going into the sewer system. He is in total agreement that nothing should take place in this area until we solve the problem. The over all problem is that there is too much water because they have clear-cut 10 acres of trees at the top of Hackley. You have to get rid of the total volume of water.

Ted Echt, 207 S. Grove Street, stated that he recently moved to Tarrytown because he likes and believes in Tarrytown and he thinks Tarrytown has one of the best mixes in Westchester. He wants to trust his Board of Trustees that you are really looking at the problem and will solve it before it becomes a catastrophe. A moratorium is a good idea as long as activity is taking place to solve these problems.

Tobin Kent, 200 S. Grove Street, stated that during Hurricane Floyd, he had 23 in. of water in his basement. After having some landscaping done in his yard, he only had 8 in. on June 29th. There is a creek that runs underground and when there's an extreme rain event, it blows up in his neighbor's yard and then floods his property. The nature of the extreme could be mitigated because there are some engineering issues like culverts go from wide to narrow. The tunnel that the creek follows was probably built from stone, not concrete. He had heard that people used to go into the tunnel and inspect it every year and he also heard that it hasn't happened in a number of years. He feels that

maintenance is not being done the way it should be. He hopes that the Board follows through on the analysis of this area.

Judith Kass, 34 Leroy Avenue, stated that these last few days of rain did cause problems in her backyard. We are now looking at estimates to try to rebuild the wall so the whole street doesn't come crunching down to what's left of our backyard and they're looking pretty steep. If we make these huge repairs to have value back to our property and then to have the whole thing happen again will create undue hardship. We have to address the root cause of this problem. When she first moved here, the maintenance was a lot more ongoing and she did see people walking the brook and she hasn't seen that in years. To have to deal with raw sewage is just inexcusable.

Dr. Greitzer asked if anyone knew who is responsible for Broadway. Attorney Shumejda stated that it's not the Village's. The road was the original King's Highway. Most of those roads are under the jurisdiction of the State of New York. Since it is U.S. Route 9, the Federal Government may have some jurisdiction. My opinion, without researching it, is that it would be the State of New York. The State of New York Department of Transportation repaves, re-stripes and installs traffic control devices on Route 9.

David Vandor, 26 Leroy Avenue, stated that we should have the answers to who is responsible by now. If this is the pace of the research, we will be discussing this problem for another 6 months and several storms and the problem will not be solved. The time line that we are on is unacceptable. Mayor Fixell stated that the time line is about to begin in one week with a consultant who will examine this whole process.

Dr. Greitzer stated that the professional building has hired an attorney and engineer who has appealed to successfully higher jurisdictional bodies and have got no response. It has reached to a point that something has to be done. It is a legal issue with the parking lot, beside the fact that it will cost \$73,840 to fix the parking lot. The hook up into Broadway was approved in 1961 when the professional building was built. Mayor Fixell stated that he did not know that he was at an impasse with them and he will try to work with the state to help facilitate some resolution.

Dawn Carrelli, 37 Sheldon Avenue, asked if the consultant who is going to look at Loh Park would also be looking at other places such as Sheldon Avenue. Mayor Fixell stated that we did go out to the Sheldon Avenue area with the consultant and we will look at his proposal. However, he believes the Sheldon Avenue Creek is controlled by the Town of Greenburgh.

John Lynch, 10 Crest Drive, stated that Wednesday, October 19th, the Town of Greenburgh is having their Planning Board meeting and Hackley is looking to rebuild their middle school. He thinks there should be a statement from this town to Greenburgh that they should cease and desist any building on slopes that end up going down our way. Mayor Fixell stated that they will explore this.

Village Engineer McGarvey stated that he wrote to Hackley School questioning the load that the retention basin is going to have on the ground water table in that area. He received a letter back from a professional engineer saying that it will have no impact on that area. The Hackley Middle School is proposed to be rebuilt on the watershed location that goes down to the lakes; it does not go down to Loh Park.

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

**PUBLIC HEARING REGARDING SENIOR CITIZENS PROPERTY TAX
EXEMPTIONS (adopted)**

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 17th day of October, 2005, at 8:00 p.m. in the Municipal Building, 21 Wildey Street, Tarrytown, New York 10591, to hear, discuss and to act upon

proposed §269-7 regarding Tax Exemptions for Senior Citizens for Property Taxes. The complete text of this legislation follows:

1. Any real property located in the Village of Tarrytown shall be exempt from taxation by the Village to the extent of fifty (50) percent of the assessed valuation thereof, pursuant to Section 467 of the Real Property Tax Law, provided that:
 - a. All of the owners of said real property are sixty-five (65) years of age or over or where the owners are husband and wife, either the husband or the wife must be sixty-five (65) years of age or over.
 - b. The income of the owner or the combined incomes of all the owners of the property does not exceed the sum of Twenty-Four Thousand Dollars (\$24,000) for the twelve consecutive months immediately preceding the date of the application for exemptions. Where title to the property is vested in the husband or wife, their combined income may not exceed such sum. Such income shall include Social Security and retirement benefits, interest dividends, rental income, salary or earnings and income from self-employment, but shall not include gifts of inheritances, in connection with any application for exemption, applicant shall furnish the Board of Assessors such evidence of the income or combined income as the Board of Assessors may require.
 - c. In the event the income exceeds \$24,000, the following income schedule shall apply:

<u>Proposed Income Level</u>	<u>Percent of Exemption</u>
\$0 to \$24,000	50%
\$24,001 to \$25,000	45%
\$25,001 to \$26,000	40%
\$26,001 to \$27,000	35%
\$27,001 to \$27,900	30%
\$27,901 to \$28,800	25%
\$28,801 to \$29,700	20%
\$29,701 to \$30,600	10%
\$30,601 to \$31,500	10%
\$31,501 to \$32,400	5%

- d. The title to the property shall have been vested in the owner or all of the owners of the property for at least twelve (12) consecutive months prior to the date of making application for exemption.
 - e. The property is used exclusively for residential purposes.
 - f. The real property is the legal residence of and is occupied in whole or in part by the owners or by all of the owners of said property.
2. Application for such exemption must be made by the owner or all of the owners of the property on forms to be furnished by the Board of Assessors of the Village. Said applicant shall furnish all the information and shall be executed in the manner required or described in such forms and shall be filed with the Board of Assessors no later than December 16, 2005.
3. The resolution shall apply only to real estate taxes for the fiscal year commencing June 1, 2006.
4. This resolution shall allow provisions enacted under Chapter 395 of the laws of 1989 relative to the information provided by applicants that have had an Over 65 Exemption for a minimum of five consecutive years.

All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing impaired; request must be made to the Village Clerk at least one week in advance of meeting.

**BY ORDER OF THE BOARD OF TRUSTEES
OF THE VILLAGE OF TARRYTOWN**

DATED: October 5, 2005

Contact: Carol A. Booth, Village Clerk
Tarrytown Village Hall
21 Wildey Street
Tarrytown, New York 10591
[914] 631-1652

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

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

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

Trustee Crucy Burkhardt moved, seconded by Trustee Pollack, and unanimously carried that the following local law be adopted:

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown in accordance with Article 8 of the State Environmental Conservation Law and 6 NYCRR part 617 including without limitations to the criteria set forth I 6 NYCRR part 617.7 ©, and based upon review of the Environmental Assessment form and all of the documents referred to therein, and all other materials that were prepared for the proposed action entitled Amendment to the Senior Citizens property tax exemptions local law, the Village Board of Trustees determines that the proposed action is a type II exempt action.

NOW THEREFORE BE IT FUTHER RESOLVED that the Board of Trustees of the Village of Tarrytown hereby adopts Local Law No. 13 of 2005.

**PUBLIC HEARING REGARDING RESCINDING VILLAGE LOCAL LAW NO. 1-
2004 WITH RESPECT TO THE ASPHALT PLANT RELOCATION ZONING**

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 17th day of October, 2005, at 8 P.M. in the Municipal Building, 21 Wildey Street, Tarrytown, New York 10591, to hear, discuss and to act upon proposed amendments to Section 305-30.3 F.(1)(h) of the Tarrytown Zoning Code entitled Water-Related Industry Overlay District and the Tarrytown Zoning Schedule, Column 2 ,Permitted Principal Uses , Waterfront General Business District(WGBD), B Uses. The complete text of this legislation follows:

A LOCAL LAW to amend Section 305-30.3 F.(1)(h) of the Tarrytown Zoning Code entitled Water-Related Industry Overlay District and the Tarrytown Zoning Schedule, Column 2, Permitted Principal Uses, Waterfront General Business District, B Uses.

Material to be deleted appears in parenthesis {"()"}, material to be added is in bold.

Section 305-30.3 Water-Related Industry Overlay District

F.(1)(h) Relocation of plant envelope area. The plant used for the manufacture of bituminous concrete may be relocated within the plant envelope area only. The plant envelope area may be moved **(to the north of its location as of the date of adoption of this chapter)** but the dimensions of the plant envelope area shall not be expanded.

[no further changes to zoning schedule]

All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; a request must be made to the Village Clerk at least five days in advance of the meeting.

**BY ORDER OF THE BOARD OF TRUSTEES
OF THE VILLAGE OF TARRYTOWN**

CAROL A. BOOTH
VILLAGE CLERK

DATED: October 5, 2005

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

Diane Tuohy, 11 Storm Street, asked the Board if the Village is considering to buy the asphalt plant and is that what this public hearing is about? Mayor Fixell stated that at this time we do not have plans to purchase it and this public hearing is to rescind the law that was passed in 2004 that allowed the plant to be moved. Mrs. Tuohy stated that she was all for it, but why this sudden change. Mayor Fixell stated that it is part of the environmental review process for the waterfront. We have instructed the applicant to provide a plan that doesn't contain the asphalt plant at all.

Trustee Pollack moved, seconded by Trustee Chillemi, and unanimously carried that the public hearing be continued.

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

Karen Albadry and Joyce Stanton appeared on behalf of the Jewish-Christian-Muslim Understanding. Ms. Albadry stated that they are requesting permission to mount a banner over Broadway to publicize a musical event which they are holding at the Music Hall. The events are going to run from November 1st – November 13th. They are a non-profit, non-political group, which endeavors to encourage dialogue among the various religious groups. Mayor Fixell stated that the Board would like to discuss this and get back to you.

John Lynch, 10 Crest Drive, stated that there have been a number of discussions regarding negotiations about the asphalt plant in executive session. Unless you're talking real property, condemnation process doesn't make sense; we don't want the equipment, we don't want the land, we just want them to go. He doesn't understand why these discussions are being held in executive session. Technically, unless we are buying something down there, which he believes we shouldn't spend a dollar down there, those conversations are not privileged. Attorney Shumejda stated that if the Village were considering the purchase or condemnation of the asphalt plant, it would be in an executive session because you are talking about values, procedures and how to acquire real property. Mr. Lynch stated that he has been waiting for discussion with regard to SEQRA on the Planning Board or Board of Trustees level and on the Tarrytown web site

there's a letter giving Frank Fish, Village Planner, authorization to give Mr. Cotter a proposal for a FEIS. This Board has to pass this as a resolution to proceed to FEIS and the Planning Board has already approved the SEQRA that doesn't coincide with this proposal. If you don't go back to a supplemental DEIS, you get problems because the Planning Board has already passed the FEIS at a much different state than this is. Attorney Shumejda stated that before any revised FEIS is accepted, it will be reviewed by both the Planning Board and the Board of Trustees. There will be public discussion and those Boards will vote whether to accept it. It is anticipated that we will receive the FEIS shortly. Mr. Lynch stated that if this goes as planned, he will file an Article 78 on procedural aspects.

Michael Kreiger, 29 Sheldon Avenue, stated that the Board should be commended on Loh Park, but don't forget Sheldon Avenue. It's new to him that the Town of Greenburgh is responsible for the Sheldon Avenue Creek. He would like to ask the Village to see if the New York State Thruway Authority could be contacted to help solve the problem.

Christina D'Aiello, 45 Sheldon Avenue, stated that she wanted to point out that all the new construction and trees being cut down on top of the hill in the south end could have a negative impact on the homes on Sheldon Avenue due to the increase of ground water runoff. Mayor Fixell stated that the plans have to be approved showing that all pre-construction water flow cannot be increased due to construction.

RESOLUTION – MAYOR'S APPOINTMENT OF A LIAISON TO THE GREENBURGH PLANNING BOARD

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 confirms the Mayor's appointment of David Auckland as liaison to the Greenburgh Planning Board subject to and conditional upon the enactment of a reciprocal appointment on the part of the Greenburgh Town Council.

RESOLUTION - FIRE DEPARTMENT PERSONNEL CHANGES

Trustee Chillemi 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 approves the following Fire Department membership changes recommended by the Board of Fire Wardens' September 20, 2005 meeting: New Membership: Thomas Keenoy Jr. to Riverside Hose Company and Robert Hoyt III to Consolidated Engine Company, also the resignation from membership of Charles Breitenbach from Conquer Hook & Ladder.

RESOLUTION – APPROVAL FOR THE VILLAGE ATTORNEY TO SERVE A TAX CERTIORARI

Trustee Crucy Burkhardt 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 authorize the Village Attorney to serve a tax certiorari case.

APPROVAL OF THE MINUTES OF THE BOARD OF TRUSTEES MEETINGS HELD ON OCTOBER 5, 2005

Trustee Pollack moved, seconded by Trustee Crucy Burkhardt, and unanimously carried that the Board of Trustees minutes of the October 5, 2005 be approved as submitted by the Village Clerk.

APPROVAL OF AUDITED VOUCHERS #7

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

RESOLVED: The following Abstract bearing No.7, dated October 17, 2005 containing Vouchers No. 001581 through No. 001754 is hereby ordered paid in the following amounts as presented:

General	\$ 183,170.21
Water	8,065.14
Capital	42,790.37
Library	10,334.09
Trust & Agency	<u>16,436.90</u>
Total	\$ 260,796.71

The Board was polled all voting “aye”. Motion carried.

ADJOURNMENT TO EXECUTIVE SESSION

Mayor Fixell moved, seconded by Trustee Chillemi, and unanimously carried, that the meeting be adjourned to Executive Session to discuss personnel at 9:45 p.m.

Carol A. Booth
Village Clerk