

Board of Trustees
Village of Tarrytown
Regular Meeting No. 15
December 19, 2005 8:00 p.m.

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

ABSENT: Trustee Crucy Burkhardt

The meeting began with the Pledge to the Flag.

BRIEF RECESS TO A JOINT WORK SESSION WITH THE PLANNING BOARD

Mayor Fixell moved, seconded by Trustee Basher, and unanimously carried that the meeting briefly adjourn to a Joint Work Session with the Planning Board regarding the Ferry Landings Final Environmental Impact Statement at 8:05 p.m.

RECONVENE TO REGULAR MEETING AT 8:35 P.M.

REPORTS

Mayor Fixell reported the following:

The Board of Trustees is holding a special meeting with the Planning Board on Wednesday, December 21st at 7:45 to discuss the completeness of the FEIS of the Ferry Landings Project and the Memorandum of Agreement with the Village and National Resources Inc. on the Ferry Landings Redevelopment Project.

RESOLUTION – CONSIDERATION OF AN APPOINTMENT TO THE TARRYTOWN PLANNING BOARD – DAVID AUKLAND

Trustee Chillemi moved, seconded by Trustee Basher, 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 appointment of the Mayor of David Aukland to the Tarrytown Planning Board to fill the unexpired term of Zubeen Schroff which will expire April of 2008.

Trustee Chillemi stated that he would like to wish his son, Sean, a happy birthday.

Trustee Pollack stated that she would like to wish everyone a happy and healthy holiday season and also to remind residents that the Department of Public Works will be closed this Friday, December 23rd, and therefore, there will be no garbage pickup.

Trustee Basher reported that the Police Department is in the process of installing their recently approved state of the art digital communications system. New radio units have been installed in departmental vehicles, the antennas and repeaters are in place and work at headquarters is expected to be completed in the next several weeks. They anticipate being fully operational by early January.

CONTINUATION OF A PUBLIC HEARING REGARDING AN AMENDMENT TO THE VILLAGE FILMING ORDINANCE ENABLING THE VILLAGE ADMINISTRATOR TO INCREASE THE LEVEL OF ANY FEES DUE THE VILLAGE WHEN CIRCUMSTANCES WARRANT (adopted)

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 19th day of December, 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 the Code Of The Village of Tarrytown, Chapter 157, Filming, Section 157-7 Fees. The complete text of this legislation follows:

A LOCAL LAW to amend Chapter 157, Filming, Section 157-7 Fees.

Material to be deleted appears in parenthesis {"()"}, material to be added is in bold. Section 157-7. Fees.

Fees shall be adopted by resolution of the Board of Trustees for:

- A. Filming by or for a nonprofit organization or the filming of a documentary, for each day, on either private or public property.
- B. Filming by a production company for a commercial or for a profit-making entity, for each day, on either private or public property.

Fees once adopted by the Board of Trustees will be available for inspection in the Office of the Village Clerk. The Village Administrator shall be permitted to raise the level of any fee due under this Chapter when the circumstances warrant; however, said change is subject to adoption by the Board of Trustees during the next meeting of said Board following the Village Administrator's action pursuant to this section.

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

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

Dean Gallea, 28 Wildey Street, Volunteer at the Music Hall, stated that giving the Village the ability to increase the filming fees at will is not the right thing to do, but to re-write the filming ordinance is what should be done. The ordinance should state what real expected fees are for filming in Tarrytown and what circumstances would be that might warrant an increase or decrease of fees. The filming ordinance needs to be re-examined and re-written spelling out exactly what the Village expects to get in a case of filming in town given normal circumstances. Fees can be adjustable under circumstances that are mentioned in the ordinance. Just to say you're going to throw it open will not encourage filming in Tarrytown. In fact the ordinance should state that it is the intent of the ordinance not to discourage filming in Tarrytown. He is in favor of a re-write and not the proposed resolution tonight. Mayor Fixell stated that it is the Board's intent to re-examine the film ordinance. We realized that we needed flexibility because of the imposition that a major film that comes to town can create. We agree that we need to take a comprehensive look at the film ordinance. However, we wanted to allow the Village Administrator flexibility due to the enormous amount of time and energy expended to deal with a film of that magnitude beyond meter and police revenue. The intent right now is to provide that flexibility in anticipation to fully reviewing the film ordinance.

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

Trustee Basher moved, seconded by Trustee Chillemi, and unanimously carried that the following local law 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, a notice of public hearing was published in the Journal News on December 6, 2005, and

WHEREAS, a public hearing was held for the proposed action December 5th and December 19th, 2005, 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,

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

In accordance with Article 8 of the State Environmental Conservation Law and 6 NYCRR Part 617, including without limitations the criteria set forth in 6 NYCRR Part 617.7(c) 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.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown hereby adopts Local Law No. 18 of 2005.

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

Stu Schectman, Main Street River Cliff Condos, stated that the preferred alternative for Ferry Landings that was discussed at tonight's work session, was not supported by the public at the June, 2005 public hearings. He feels that this is this Board's preferred alternative. Particularly about the heights, the view corridors, the blockiness of the buildings, the placement of the retail, and the 238 units. All of these items were objected to. What we will have is a very dense condo development with nice amenities around it. This wasn't the public's preferred alternative.

Helen Ringeisen, Prospect Avenue, stated that she read in the newspaper that two acres of the Village's waterfront property is being sold to the developer. She wanted to know if this was correct. Mayor Fixell stated that it is not two acres of waterfront property. It is five small parcels; some around the H-Bridge and along the Barrier Oil property. We had the property appraised and the amount of money we will get for those parcels will be in excess of those appraisals. We will gain an 1100-foot long waterfront park that will be between 100 and 150 ft. wide in depth from the waterfront. This will bring more waterfront property to the public that is now completely private and inaccessible. Attorney Shumejda stated the properties descriptions: a ten foot strip along West Main Street; four parcels that surround the Barrier site; and two other parcels on the south and the east side of the Barrier site which the Village has a long term lease that expires in 2036 and another parcel which is on the west side of the H-Bridge. Ms. Ringeisen also stated that she understood that we are going to sell the current Village Hall to the developer. She wanted to know if this was correct. Mayor Fixell stated that it would be sold for conversion into moderate income affordable housing in which Village resident employees and volunteers would have first preference for those apartments. It's a goal that we set to get some moderate income housing; the developer will pay us for the building and build the apartments. It's targeted for 12 units. It remains to be seen if we replace this building entirely and if we can't fit 12 units here, the developer will build them somewhere else as long as we provide the space. Mayor Fixell also stated that he wanted the public to know that the asphalt plant will be removed at no expense to the Village.

Dean Gallea, 28 Wildey Street, stated that he lives across the street from Village Hall and it was a surprise to him to hear that there will be 12 units of affordable housing built here. He would like assurance that this will be done right and by the books and that nothing is going to fall between the cracks. Mayor Fixell stated that it will be done right. This will not take place for a while. The questions on what it will look like, how dense it will be, and what the parking will be are all issues that will be considered and we want it done right. We are in the process of starting up a moderate income housing citizen's committee that will study this.

Bjorn Olson, Prospect Avenue, questioned if there are any sidewalk policies or any goals for the Village to build more sidewalks. There are stretches of streets that do not have sidewalks. Mayor Fixell stated that he hasn't explored building new sidewalks.

Francesca Spinner, Wilson Park Drive, stated that she lived across the street from Village Hall for ten years and she thinks it is a charming building and hopes there is a way to somehow preserve some of the charm. Ms. Spinner also stated that she was very encouraged to find out that the aquatic center is still part of the waterfront development. The Village of Scarsdale is also planning to build a similar aquatic center and because many of their residents were concerned of the expense to maintain such as center, they tried to get an idea of how much the annual maintenance would be. Then they tried to get an idea of how many residents would commit to memberships so there would be assurance that it would not be a burden to the taxpayers. She wanted to know if this project was far along to get within a range of what the annual cost to maintain the aquatic center would cost. Mayor Fixell stated that it was not far enough along to know that. He stated that there would be recreation fees and other uses like the school district has shown an interest where they would pay to defer the cost. We are contemplating a proposal that of the \$2.75 million in total funds that would come from the developer, we're talking about setting aside approximately \$1 million in an endowment fund to offset the operating costs. It would be more in the beginning to get it up and running and then would diminish over a period of time.

John Lynch, 10 Crest Drive, stated that in the last FEIS for Ferry Landings, the Riverkeeper stated that the DEIS lacks analysis of the impacts of the Hudson River. The response back on that between the DEC, Con Ed and Cotter, was that the remediation work is being completed in compliance with the New York State DEC PCP protocol. The cleanup of this site is not a Type 1 Action and therefore is not subject to the SEQRA process. The Type 1 lists of actions are up to the Board. Agencies may adopt their own lists of additional Type 1 Actions. Mayor Fixell stated that they hired their own independent consultant to study what the DEC did. Also, there is certification in the proposed FEIS that the standards that were put in place in 2005 will be adhered to.

Mark Fry, 38 Independence Street, stated that he has followed the process of the Ferry Landings project and now that we are again at a point to determine if the FEIS is complete, he wanted to know if the Board would release one or two copies of the FEIS to the Village Hall and to the Warner Library so the public could get a good look at it before the Board makes a decision. In the last FEIS, we found that many of the public's concerns were not met. He would like to assist the Board with this process. He would also like the Board to hold an informational meeting before the Board votes on the completeness to get the public up to speed on what has been done and to re-involve the public in the process to the benefit of the Village.

John Lynch, 10 Crest Drive, stated that if the public wants to find out about MGP plants and their possible health impacts, go to Yahoo and search docket89679 and you'll come up with a case called Zackary Donaldson vs. Illinois Public Services Company. This is not a direct comparison but an education that this process was not done right. Mr. Lynch stated that this project has been rushed and the proper toxic tests have not been completed. Mayor Fixell stated that this is precisely why we have made it part of the conditions that our own independent toxic waste environmental engineering firm will review exactly what went on by the DEC and those findings will be part of the FEIS and

it will also include ongoing monitoring by our people that will be another condition that will be set.

CONSIDERATION OF A RESOLUTION TO DECLARE COMPLETE THE FINAL ENVIRONMENTAL IMPACT STATEMENT WITH RESPECT TO THE PROPOSED FERRY LANDINGS DEVELOPMENT

The Board of Trustees chose to table and refer to the joint Planning Board and Board of Trustees meeting of December 21, 2005 for consideration of the approval to declare complete the FEIS with respect to the proposed Ferry Landings Development in order to obtain additional information before considering the matter.

CONSIDERATION OF A RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT BETWEEN THE VILLAGE AND NATIONAL RESOURCES INC. WITH RESPECT TO THE PROPOSED FERRY LANDINGS REDEVELOPMENT PROJECT

MAJOR PROVISIONS OF PROPOSED AGREEMENT

1. Contractor will remove Asphalt Plant at no expense to Village
2. Contractor will contribute up to \$1 million towards the construction of the new Village Hall/Police Station on Depot Plaza site approved in original referendum
3. Village completely controls design and construction of new Village Hall/Police Station
4. Contractor will construct 22,500 square foot Aquatic Center (our control & design)
5. Within 60 days of Site Plan approval, contractor will construct an addition to the Tarrytown Senior Center
6. Contractor to provide Village with new DPW building and additional 13,000 square foot yard
7. Contractor will purchase old Village Hall for \$750,000 and construct 12 moderate income housing units on the site
8. Contractor to pay the Village an additional \$1 million dollars for transfer of 4 parcels of land and in consideration for incentives under the Village Zoning Ordinance
9. Townhouses are to be sold as single-family homes in order to maximize taxes to village and school district
10. Contractor will provide the Village with waterfront parkland with building set backs between 100 and 150 feet from the shoreline

The Board of Trustees chose to table and refer to the joint Planning Board and Board of Trustees meeting of December 21, 2005 for consideration of the approval of a memorandum of agreement between the Village and National Resources Inc. with respect to the proposed Ferry Landings Redevelopment Project in order to obtain additional information before considering the matter.

RESOLUTION DESIGNATING OFFICES TO BE FILLED AND TERMS AT THE MARCH 21, 2005 VILLAGE ELECTION

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

In accordance with New York State election law, the following resolution must be adopted at the December 19, 2005 Board of Trustees Meeting:

WHEREAS, the next general Village election for officers will be held on Tuesday, March 21, 2006, and

WHEREAS, the Board of Trustees shall designate by resolution as well as have published the offices which are to be filled at the Village election and the terms thereof.

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Tarrytown hereby designates the following offices as vacant at the end of the current official year to be filled at the Village election on Tuesday, March 21, 2006, for the following terms:

Three Trustees Two year term each

BE IT FURTHER RESOLVED that the Village Clerk is hereby directed to publish this information in the official newspaper of the Village.

CONSIDERATION OF A RESOLUTION TO GRANT CHURCH OF CHRIST,
SCIENTIST A WAIVER FROM THE LOH PARK BASIN MORATORIUM

Mayor Fixell stated that Mr. Pateman has submitted a waiver application regarding a site plan application that was approved by the Planning Board on Prospect Avenue. Upon reviewing the Loh Park drainage basin, our Village Attorney, Village Engineer, and our consulting engineering firm have developed a plan in which some major improvements will be made as conditions of getting this waiver granted.

Attorney Shumejda stated that the consulting engineering firm prepared a letter dated November 28, 2005, where they proposed four items that should be addressed as conditions to consider a possible waiver of the moratorium. Those conditions relate to onsite retention of the water coming from these proposed lots. In addition, they recommended other improvements to be made that will benefit not only those lots, but everyone downstream. One of the most significant improvements recommended would be to require the applicant to install at their own cost, a drain valve in the pond itself. This drain valve will be available to the Department of Public Works should we become aware that a significant rainfall, storm or hurricane is coming. They can lower the level of the pond in anticipation. Part of this plan provides the Village to have easements for all the improvements that are referred to in the engineering report plus the easements for maintaining and using this drainage system.

Engineer McGarvey stated that before they looked at the waiver application, they immediately asked what he can do for the residents in the Loh Park area to immediately address the situation if a heavy storm was to occur. One of the things that we came up with was the drain down valve, which is not installed currently; but according to the provisions, he would have to install these prior to any construction of the two lots. The other condition is that they would construct a weir. That would convert this pond to a retention basin by lowering the level of water a few feet and as storm water would raise the water level, the water would come out of control structures designed to allow a certain amount of water out and anything above that would be held back until it hits another level and finally a weir as the top control structure would be constructed according to our design engineering specifications by the developer at his cost.

Mayor Fixell stated that Dvirka and Bartolluci is undergoing a full blown analysis of the Loh Park Drainage basin and they are going to do the design and engineering of that weir once they complete the study. They will also recommend any number of improvements to anywhere else in the system. An escrow of \$40,000 will be put aside to offset whatever that cost is.

Engineer McGarvey stated that the long range design is upon completion of the study of the entire basin is to make recommendations to what we have to do to our own system, to some private systems, and we may have to make some of our culverts wider, larger, or deeper. That will all come out in the final study.

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

WHEREAS, the Church of Christ, Scientist has requested a waiver from the Moratorium on development in the Loh Park Drainage Area, and

WHEREAS, the implementation of the provisions noted in the letter dated November 28, 2005 from Dvirka and Bartilucci, Consulting Engineers to Michael J. McGarvey re: Prospect Avenue Homes (Lots 2 & 3) – Storm Water Management Review, items "1" through "4" are necessary, and

WHEREAS, easements are necessary to implement the provisions noted in the letter dated November 28, 2005 from Dvirka and Bartilucci, Consulting Engineers to Michael J. McGarvey re: Prospect Avenue Homes (Lots 2 & 3) – Storm Water Management Review, and

WHEREAS, the Church of Christ, Scientist will install a drain valve in the pond and said installation shall comply with the plans and specifications prepared by Dvirka and Bartilucci, Consulting Engineers, said valve shall be installed prior to commencement of construction on lots 2 and 3, and

WHEREAS, the Church of Christ, Scientist shall deposit Forty Thousand Dollars (\$40,000.00) in escrow to be used by the Village to perform any work not completed by the Church of Christ, Scientist – said funds to be returned in the event the Church of Christ Scientist completes the work stated herein.

NOW, THEREFORE BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby grants the requested waiver from the Moratorium on development in the Loh Park Drainage Area of the Church of Christ, Scientist conditioned on the implementation of the provisions noted in the letter dated November 28, 2005 from Dvirka and Bartilucci, Consulting Engineers to Michael J. McGarvey re: Prospect Avenue Homes (Lots 2 & 3) – Storm Water Management Review, the construction of the drain valve, the deposit into escrow of \$40,000.00, and the granting of easements to the Village of Tarrytown by the Church Christ, Scientist for the construction and maintenance of items "3" and "4" and the drain valve, said easements are subject to the approval of the Village Attorney.

CONSIDERATION OF A RESOLUTION TO APPROVE A CHANGE ORDER
REGARDING THE 2005 ROADS MILLING AND RESURFACING PROGRAM

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 approves a change order regarding the 2005 Road Milling and Resurfacing Program in the amount of \$93,524.25 in order to add Hamilton Place as an additional road to be milled and paved and to provide for additional pavement on unstable sub-surfaces in the Tappan Landing Area.

CONSIDERATION OF A RESOLUTION TO APPROVE A CONTRACT FOR
ARCHITECTURAL SERVICES FOR DESIGN OF THE NEW TARRYTOWN
VILLAGE HALL

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

BE IT RESOLVED that the Board of Trustees of Village of Tarrytown hereby approves a contract between the Village and Pustola Associates of 185 Meadow Street, Naugatuck, CT in the amount of 6.5% of the total construction costs for architectural services for design of the new Tarrytown Village Hall.

CONSIDERATION OF A RESOLUTION TO AWARD A CONTRACT FOR
CONSTRUCTION MANAGEMENT SERVICES WITH RESPECT TO THE
CONSTRUCTION OF THE NEW TARRYTOWN VILLAGE HALL

The Board of Trustees chose to table and refer to the next Board of Trustees meeting of January 3, 2006 for consideration of the approval to award a contract for construction management services with respect to the construction of the new Tarrytown Village Hall in order to obtain additional information before considering the matter.

APPROVAL OF THE MINUTES OF THE BOARD OF TRUSTEES MEETING HELD
ON DECEMBER 5, 2005

Trustee Basher moved, seconded by Mayor Fixell, 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 Minutes of the Board of Trustees meeting of December 5, 2005.

APPROVAL OF AUDITED VOUCHERS #11

Trustee Basher moved, seconded by Trustee Pollack that the following resolution be approved:

RESOLVED: The following Abstract bearing No.11, dated December 19, 2005 containing Vouchers No. 002290 through No. 002513 is hereby ordered paid in the following amounts as presented:

General	\$ 173,716.15
Water	28,291.40
Capital	260,545.45
Library	7,286.51
Trust & Agency	<u>128,334.62</u>
Total	\$ 598,174.13

The Board was polled all voting "aye". Trustee Pollack abstained from Voucher Nos. 002404, 002405, and 002361. Motion carried.

ADJOURNMENT TO EXECUTIVE SESSION

Trustee Basher moved, seconded by Trustee Chillemi, and unanimously carried, that the meeting be adjourned to Executive Session regarding the Memorandum of Agreement between the Village and National Resources Inc. with respect to the proposed Ferry Landings Redevelopment project at 9:55 p.m.

Carol A. Booth
Village Clerk