

Board of Trustees
Village of Tarrytown
Regular Meeting No. 17
October 16, 2006 8:00 p.m.

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

ABSENT: Trustee Basher

The meeting began with the Pledge to the Flag.

REPORTS

Mayor Fixell stated that an official letter from the Mayor and the Board of Trustees of the Village of Tarrytown in regard to the Tappan Zee project will shortly be submitted to the state and put on our web site. The Board has found that there are some serious short-comings in the analysis that they have done so far. They have short-changed the options to rehab the bridge and they have short-changed a potential option for one of the tunnel alternatives that would go along with rehabbing the bridge. The Board feels that there are some issues that need to be looked at more closely.

Trustee Hoyt reported on the following Halloween events with our Parks and Recreation:

- Annual Pumpkin Hunt and the Ragamuffin Parade to be held at the Patriots Park on Saturday, October 21st at 1:30 p.m.
- The 5th Annual Halloween Parade will be held on Saturday, October 28th and will begin at 4:30 p.m. at the Patriots Park.
- On Saturday, October 14th, the Scarecrow Making Event was held and it was very successful; 150 scarecrows were created and they will be displayed around the Village.

Trustee Butler introduced Kathy Knight, the Chairperson for the Tarrytown Lakes Committee to present the Committee's mission statement, goals and action plans.

Kathy Knight, Chairperson of the Tarrytown Lakes Committee introduced the other members of the committee – Mark Fry, Jerry Fine, Paul Rode, and Harley Dembert. Its mission is that the watershed area and the lakes themselves are a very valuable asset. The committee wants to create a vision and clarity as to what needs to be done to preserve and protect the lakes and keep this valuable asset in good condition. Our final document will be submitted to the Board; this is just an overview. The water quality is deteriorating and needs to be brought promptly to health. Water has to be clear of pollutants before it enters the lakes from the watershed; this refers to storm water management. Consideration should be given long term to restoring the lakes to drinking water quality. The following are recommendations we can do now: 1) Restrict the use of phosphorous fertilizers in the watershed. They seem to be the primary contributor to the collapse of the water quality. 2) Preserve the forested view and the watershed area surrounding the lakes from negative impact; which the committee means further development. The exploration of a legal agreement with the other municipalities so everybody has a shared view of the value of the lakes. The committee is discovering that there are funding sources, such as grants, donations, conservation easements, etc. that are available if we can locate them and respond to them in a timely manner. 3) The lakes are an educational and recreational resource. Some ideas: to create a trail on the north side, restrooms for hikers, benches and seating areas, upgrades and enhancements to the skating shack and the eastview pump house, which could be used as a center for educational and ecological activities; and possibly a small roped-off swimming area. The Committee recommends in order to realize these action steps that the lakes need ongoing attention like a manager of the lakes who could give it time and resources. Consequently, the committee also recommends hiring a grant writer for funding and with these funds, to hire a manager on a permanent, part-time basis. The complete version of the Lakes report will be shortly published and

submitted to the Board. Mark Fry stated that the Village owns the lakes, but we do not own the entire watershed; it's not all in our municipality. Therefore, we need to get together with an inter-municipal watershed management agreement with Mt. Pleasant and Greenburgh. Trustee Butler thanked Kathy Knight and the committee for all their time, effort and excellent work.

Trustee Pollack stated that the Senior Citizens will be having their annual Halloween party on Friday, October 27th at 12 noon at the Senior Center.

Neperan Road Project Update

Michael McGarvey, Village Engineer, stated that the re-paving and re-conditioning of the Neperan Road project has been in operation for a few months now. We are now in the Fall and we want to get as much re-paving in that we can to make the road smoother than it's current condition. We are planning to get the majority of the asphalt down in the next 2 to 3 weeks and the remainder of the project will resume in the Spring. Therefore, people may experience some delays on Neperan Road and around the lakes due to lane closures.

CONTINUATION OF A PUBLIC HEARING REGARDING A PROPOSED FRANCHISE AGREEMENT BETWEEN THE VILLAGE OF TARRYTOWN AND THE VERIZON, NEW YORK INC.

Trustee McGee moved, seconded by Trustee Hoyt, and unanimously carried that the public hearing be opened.

(The entire public hearing transcript is attached to the minutes in its entirety.)

Trustee Hoyt moved, seconded by Trustee Zollo, and unanimously carried that the hearing be continued to the Special Board Meeting on October 25, 2006 at 6:00 p.m.

PUBLIC HEARING REGARDING THE PROPOSED CONTINUATION OF THE LOH PARK DRAINAGE BASIN BUILDING MORATORIUM (Adopted)

Mayor Fixell asked Attorney Shumejda to explain.

Attorney Shumejda stated that this will be the second extension of the Loh Park drainage area moratorium. It was originally imposed in November of 2005. The purpose of the moratorium is to prevent construction that may exacerbate the existing drainage conditions and also to provide the Village an opportunity to retain consultants, which the Village has, and to review reports from our Village Consulting Engineers as to how to improve the system and best management practices concerning drainage in the future. Dvirka and Bartilucci, the Village's Consulting Engineer has already submitted their preliminary report to the Board of Trustees for their review and they are in the process of preparing a final report. This moratorium extension will provide additional time for the study to be completed and the creation of new laws, if necessary, to deal with the situation.

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

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 16th day of October 2006, in the Municipal Building, 21 Wildey Street, Tarrytown, New York 10591, at 8P.M. to hear, discuss, discuss and to act upon a proposed six month extension of the Moratorium on Development in the Loh Park Drainage Area, said extension will provide additional time for the Village to continue analyzing and researching the effects that continued development in this area of the Village may have with respect to potential flooding due to runoff during heavy rainstorms as witnessed earlier this year and adopt and/or enact laws which will reasonably and rationally regulate the construction of all new structures to alleviate

potential flooding in the future. A summary of the legislation is available at Village Hall. The complete text of this legislation follows:

A LOCAL LAW to extend for six months the Moratorium on Development in the Loh Park Drainage Area, which extension shall provide an additional period in which the Village will be able to continue analyzing and researching the effects that continued development in this area of the Village may have with respect to potential flooding due to runoff.

SECTION 1. LEGISLATIVE INTENT AND FINDINGS OF FACT.

A. Findings of Fact.

The Board of Trustees of the Village of Tarrytown has determined that an additional six month period of time is necessary for the Village to adequately analyze and research the effects that continued development in the Loh Park Drainage Area – as specified below – may have given the serious flooding which occurred in 2005 due to heavy rainstorms and the resulting runoff. Furthermore, a period of time is necessary for the Village to adequately analyze the conclusions and recommendations presented in the Report of Dvirka and Bartilucci – consulting engineers retained by the Village to inspect the Loh Park Drainage Area and provide the Board of Trustees with their recommendations. An exacerbation of the flooding problem is in part due to development in this area and therefore this issue impacts upon the health, safety, welfare, and quality of life in Tarrytown.

B. Legislative Intent.

There has been frequent public comment and criticism regarding the effect that new construction - including single family homes – contribute to runoff problems which occur as a result of heavy rainstorms. This problem is especially acute on the Loh Park Drainage Area of the Village – as specified below. This Moratorium extension is necessary to adequately address these concerns by extending the prohibition for a limited time of the filing, acceptance or processing of any application for the construction of any structure as specified below. The Board of Trustees has concluded that to permit additional new construction without a comprehensive review of this issue will only further exacerbate this problem. This moratorium extension will provide the Board of Trustees additional time to adequately and thoroughly research the issues involved in this matter and review the recommendations and conclusions of the Village's engineering consultants which will be instrumental in adopting and/or enacting laws which will help alleviate the flooding issues which have occurred in the Loh Park Drainage Area of the Village.

It is the intention of the Board of Trustees of the Village of Tarrytown to analyze within the designated moratorium extension period the environmental impact that additional construction of any type will have on the Loh Park Drainage Area and if necessary adopt any resolution and or enact any local law to ensure that said development is consistent with the health, safety and general welfare of the current and future residents of Tarrytown. These actions are to be taken pursuant to the Board's power to protect and enhance the Village's physical environment and to protect the well being of persons or property within the Village. Since a period of time will be necessary to enable the Board of Trustees to accomplish these actions the Board does hereby adopt a temporary moratorium on the following:

[1] Construction of any new structure – including residential homes and commercial enterprises – within the Loh Park Drainage Area.

SECTION 2. SCOPE OF CONTROLS

During the effective period of this law as provided in Section 8 below, the Building Inspector of the Village of Tarrytown shall not issue any building permit upon an application which would result in the following:

[1] Construction of any new structure – including residential homes and commercial enterprises

in the area of application as set forth in Section 4 below. Furthermore, during the effective period of this law as provided in Section 8 below, neither the Planning Board, the Architectural Review Board or the Zoning Board of Appeals will approve any application which would result in the circumstances enumerated above in the area of application as set forth in Section 4 below.

SECTION 3. PENALTIES

Any person, firm, entity or corporation that shall violate any of the provisions of this local law shall be subject to penalties as otherwise provided by law or ordinance of the Village of Tarrytown for violation of the provisions of a local law, and shall be subject to injunctive relief for actions which may have taken place in violation of this local law.

SECTION 4. APPLICATION

This law shall apply to all real property - except residential structures whose proposed site plan does not entail additions to existing homes where the proposed addition increases the foot print of the existing home by 25% or more or results in a square footage or volume increase of 50% or more as noted in Section 305-52A of the Village Code - within the Loh Park Drainage Area defined as follows: Beginning at a point on the northeast intersection of South Broadway and Prospect Avenue thence running along Broadway in a northerly direction approximately 2,160 l.f. to a point on the southeast intersection of South Broadway and East Franklin Street thence running in a northeasterly direction 3,440 l.f. to a point in the southwest intersection of Kerwin Place and Barnes Road thence running in a southeasterly direction approximately 830 l.f. to a point on the Village of Tarrytown/Town of Greenburgh border line thence running in a southeasterly direction along said border line to a point on the south side of Benedict Avenue approximately 1,760 l.f. measured to the east from the southeast intersection of Benedict Avenue and Martling Avenue thence running to the southwest approximately 1,450 l.f. to a point on the east side of Martling Avenue measured approximately 710 l.f. to the southeast intersection of Benedict Avenue and Martling Avenue thence running in a westerly direction approximately 3,460 l.f. to the point and place of beginning. Said description is in conjunction with a topography map entitled Area Tributary to Loh Park Drainage Basin dated September 16, 2005.

SECTION 5. VALIDITY

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not effect the validity of any other part of this local law which can be given effect without such invalid part or parts.

SECTION 6. SUPERSEDING OTHER LAWS

A. All ordinances or local laws or parts thereof in conflict with the provisions of this local law are hereby suspended or superseded to the extent necessary to give this local law full force and effect during the effective period.

B. During the duration of this law, it shall supersede inconsistent provisions of the New York State Village Law, including but not limited to sections 7-706, 7-712-a, 7-712-b, 7-718, 7-725-a, 7-725-b, 7-728, and 7-730.

SECTION 7. HARDSHIP

A. The Board of Trustees shall have the power to vary or modify the application of any provision of this local law upon its determination, in its absolute legislative discretion, that such variance from strict compliance with this local law will not be detrimental to the Village's physical and/or visual environment or the well-being of persons or property within the Village and upon finding that the application of the provisions of this local law to a specific property will cause unnecessary hardship and that such hardship is unique to that specific property.

B. Upon receiving written application for such variance, the Board of Trustees shall hold a public hearing within forty five (45) days of the receipt of such application. Within thirty (30) days of the close of the public hearing the Board shall render a written decision either granting or denying the application. If the Board of Trustees determines that the strict application of this local law creates unnecessary hardship to the particular property, then the Board of Trustees shall vary the application of this local law to the minimum extent necessary. The granting of an appeal for relief by the Village Board of Trustees shall authorize and permit the Planning Board, Zoning Board, Architectural Review Board and/or Building Inspector to accept, review, consider and/or otherwise act.

C. Pursuant to Article 78 of the Civil Practice Laws and Rules, any party aggrieved by the determination of the Board of Trustees on an application for a variance may appeal said decision to the Supreme Court, State of New York, within thirty (30) days of the filing of said decision in the office of the Village Clerk.

SECTION 8. EFFECTIVE DATE

This local law shall take effect immediately, as provided by law, and shall remain in force until May 7, 2007, unless extended by local law.

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

DATED: September 20, 2006

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

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

Trustee Pollack moved, seconded by Trustee Zollo, and unanimously carried that the following local law be adopted: Approved: 6-0

WHEREAS, the Proposed Action is a Type II Exempt Action pursuant to the State Environmental Quality Review Law, and

WHEREAS, an Environmental Assessment Form [EAF] was filed on the Proposed Action, and

WHEREAS, 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 were mailed to Westchester County, and

WHEREAS, notice pursuant to Village Law Section 7-706 was mailed to the Executive Director Tarrytown Municipal Housing Authority, the Executive Director of the North

Tarrytown Housing Authority, the Village Clerk of the Village of Irvington, the Village Clerk of the Village of Sleepy Hollow, Town Clerk of the Town of Mt. Pleasant, Town Clerk of the Town of Greenburgh, Mayor of the Village of Sleepy Hollow, Supervisor of the Town of Mt. Pleasant, Supervisor of the Town of Greenburgh, and

WHEREAS, a notice of public hearing was published in the Journal News on September 25, 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

WHEREAS, a public hearing was held for the proposed action on October 16, 2006 and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof, and

WHEREAS, the Westchester County Planning Board reviewed the Proposed Action under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code and determined that there are no County or inter-municipal issues, and

WHEREAS, in rendering this decision, the Board of Trustees has considered all reasonable related long term, short term, and cumulative environmental effects associated with the proposed action.

NOW, THEREFORE, BE IT RESOLVED, 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, all of the documents referred to herein and all other materials that were prepared for the Proposed Action, the Village Board of Trustees hereby determines that the Proposed Action is a Type II Exempt Action.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown hereby adopts Local Law No.14 of 2006 entitled
MORATORIUM EXTENSION ON DEVELOPMENT IN THE LOH PARK
DRAINAGE AREA.

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

Dawn Carelli, 37 Sheldon Avenue, asked the Board if we can petition the State of New York to post a large white line on the corner of Walter Street and Route 9, so that traffic would stop to allow cars to get onto Route 9. Mayor Fixell stated that he thought it was a good idea.

Kelly Chafizadeh, 106 Stephen Drive, stated that according to the Journal News article, the bids for the new firehouses for Consolidated and Washington Engine came in \$1.3 million above the estimated \$3.8 million. She believes to not re-visit the possibility of building the 2-bay firehouse on Route 119 would be irresponsible. Mayor Fixell stated that the Board was not happy with the estimates that came in; however, the staff is re-examining the bids to find out why the costs were higher, to find ways to reduce the costs, and to possibly go out to a re-bid for some of the construction. Ms. Chafizadeh stated that the only option is to reconsider the 2-bay firehouse on Route 119. She believes that this should go to a public vote.

Dawn Carelli, 37 Sheldon Avenue, stated that the Board never totally looked at the 2-bay firehouse. The original plans were extravagant and things could have been cut down. The construction cost is \$5.1M. This is a very big issue and should go to a referendum for the Village residents to vote on.

John Lynch, 10 Crest Drive, stated that by allowing the school children to attend school with on-going asbestos removal is putting the children in harms way.

Lloyd Hartog, 101 Stephen Drive, stated that there are several municipalities in Westchester County that are putting up multi-bay firehouses. Why can't the two fire companies live under one roof with shared facilities now? Taxes are becoming more and more oppressive and this is going to increase the tax burden of all the village residents.

THE MAYOR'S APPOINTMENT OF A MEMBER TO THE ZONING BOARD OF APPEALS

Trustee Butler moved, seconded by Trustee McGee, and unanimously carried that the following be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby confirms the Mayor's appointment of Karen Brown to the Tarrytown Zoning Board of Appeals to fill the unexpired term of Caryl Plunkett, which will expire April of 2008.

APPOINTMENT OF A MEMBER TO THE TARRYTOWN TRANSPORTATION COUNCIL

Trustee Hoyt moved, seconded by Trustee Pollack, and unanimously carried that the following be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby confirms the Mayor's appointment of James Kittler to the Tarrytown Transportation Council.

CONSIDERATION OF THE ADOPTION OF A CAPITAL PLAN FOR THE FISCAL YEAR 2006-2007

Trustee Zollo moved, seconded by Trustee Pollack, and unanimously carried that the following be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby passes a Capital Budget for the Fiscal Year 2006-2007 in the net amount of \$5,467,900 as recommended by the Village Treasurer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF THE BOARD OF TRUSTEES HELD ON OCTOBER 4, 2006

Trustee Hoyt moved, seconded by Trustee Pollack, and unanimously carried that the following be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the minutes of the regular board meeting held on October 4, 2006 as submitted by the Village Clerk.

APPROVAL OF THE MINUTES OF THE EXECUTIVE MEETING OF THE BOARD OF TRUSTEES HELD ON OCTOBER 4, 2006

Trustee McGee moved, seconded by Trustee Pollack, and unanimously carried that the following be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the minutes of the Executive meeting held on October 4, 2006 as submitted by the Village Attorney.

APPROVAL OF THE MINUTES OF THE SPECIAL MEETING OF THE BOARD
OF TRUSTEES HELD ON OCTOBER 11, 2006

Trustee Pollack moved, seconded by Trustee Zollo, and unanimously carried that the following be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the minutes of the Special meeting held on October 11, 2006 as submitted by the Village Administrator.

APPROVAL OF AUDITED VOUCHERS #7

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

RESOLVED: The following Abstract bearing No. 7, dated October 16, 2006 containing Vouchers No. 001551 through No. 001713 is hereby ordered paid in the following amounts as presented:

General	\$ 369,073.64
Water	92,241.25
Capital	776,152.14
Library	5,107.50
Trust & Agency	<u>19,424.58</u>
Total	\$1,261,999.11

The Board was polled all voting “aye” with the exception of Trustee McGee who abstained from Voucher Numbers 01575, 01576, 01577, 01698, and 01591 and Trustee Hoyt who abstained from Voucher Number 01591. Motion carried 6-0.

ADJOURNMENT

Trustee Butler moved, seconded by Trustee Hoyt, and unanimously carried, that the meeting be adjourned at 9:30 p.m.

Carol A. Booth
Village Clerk