

Board of Trustees  
Village of Tarrytown  
Regular Meeting No. 22  
November 20, 2006 8:00 p.m.

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

ABSENT: Trustee Pollack

The meeting began with the Pledge to the Flag.

REPORTS

Mayor Fixell reported on the following:

- This Friday, we will start a valet parking pilot downtown. This is a 30-day trial for Friday and Saturday nights where cars can be dropped off at the Washington Street parking lot and they will be held at the W.I. parking lot for a \$5.00 fee. There will be signs indicating this for the public.
- The Village offices will be closed on Thursday and Friday in observance of Thanksgiving.
- The Riverside Hose Fire Company will be selling Christmas trees and we will update you with more information at our next meeting.

Trustee McGee reported on the following:

- The Education Committee is beginning to hold its meetings for this year. This year, the Committee is going to work on examining ways and make recommendations for better methods of cooperation between the Village and the school district. The Committee would like to expand its membership. Anyone who is interested in joining this Committee can contact the Village Clerk, Carol Booth, at 631-1652 or e-mail at [Cbooth@tarrytowngov.com](mailto:Cbooth@tarrytowngov.com) or e-mail [MmcGee@tarrytowngov.com](mailto:MmcGee@tarrytowngov.com).
- On Saturday, December 2<sup>nd</sup> from 6 – 7:30 p.m. following the Lighting of the Village Tree, the Library is having a Library Gathering in the Reading Room. There will be hot mulled cider and cookies and a cappella group called the Golden Apple Chorus and art activities for the children.

Trustee Hoyt reported on the following Parks and Recreation events:

- The Pilgrims Run was held on Sunday, November 12<sup>th</sup> with 134 participants, which is a record number of runners.
- The annual Village Tree Lighting will take place on Saturday, December 2<sup>nd</sup> at 5 p.m. at Patriots Park where Santa will be making an appearance.

Trustee Basher reported on the following:

- The Temple Beth Abraham will be sponsoring the after Thanksgiving dinner on November 30<sup>th</sup> at the COC. The COC is also collecting toys and gifts. Last year they gave out over 100 gifts to the Boys and Girls Club, Shiloh Baptist Church, First Memorial, Rock of Salvation Church and New Hope Baptist Church. Those churches and the Boys and Girls Club share the gifts with the Children's Village in Dobbs Ferry. If you need further information, you can contact John Keels at 631-7340.
- The Tarrytown Police Department is sponsoring the 2006 Holiday Toy Drive. They are collecting unwrapped toys for the children of the Hawthorne Foundation. Please donate your toys to the Tarrytown Police Department prior to December 21<sup>st</sup>.
- After approximately 2 ½ years of discussions and negotiations, we have approved the Verizon contract. By January, the public will be contacted by Verizon to see if you are interested in their service. Part of the settlement will include six sites throughout the Village for live programming through our Public Education and Government (PEG) Access. This was a long process and with the help from people from the state, other communities within Greenburgh,

Mayor Fixell and Trustee McGee, we got a fair deal, one that the public will enjoy their services. There is now competition, which hopefully will result in lower prices for everyone. Trustee McGee stated that Trustee Basher played a pivotal role in the Verizon negotiations.

PUBLIC HEARING REGARDING PROPOSED AMENDMENTS TO THE VILLAGE TREE ORDINANCE (Adopted)

Mayor Fixell thanked the Tree Commission particularly Eric Clingen for all their hard work on modifying the tree ordinance.

Attorney Shumejda stated that some of the changes require that all zoning, site plan and sub-division applications must also be referred to the Tree Commission and it also has a new penalty section, not only a monetary amount, but also a tree replacement plan. There's a whole mechanism to describe what kind of trees will be required to be replaced and the quantity and the quality of those trees. There's also a provision for an appeal of the Tree Commission determination to the Planning Board. If a property owner is not satisfied with the Tree Commission decision, they can appeal to the Planning Board, which will be the final determiner.

Trustee McGee moved, seconded by Trustee Basher, 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 20<sup>th</sup> day of November 2006, in the Municipal Building, 21 Wildey Street, Tarrytown, New York 10591, at 8P.M. to hear, discuss, discuss and to act upon amendments to Chapter 281, TREES, of the Code of the Village of Tarrytown.

Material to be deleted appears in underlined, material to be added is in **bold typeface**.

§ 281-1. Legislative intent.

There is a direct relationship between the number of trees planted in a community and the health and safety and welfare of that community. Trees provide shade, add color, control water and air pollution, stabilize the soil and prevent erosion. The destruction of shade trees causes increased municipal costs for proper drainage control and impairs the benefits of occupancy of existing residential properties. In order to provide protection against the indiscriminate destruction of trees, this chapter establishes minimum standards for tree protection.

§ 281-2. Power of General Foreman.

The General Foreman of the Department of Public Works shall have supervision over all trees planted or growing within the lines of all public streets and places of the Village and the planting, removal, care, maintenance and protection thereof pursuant to the provisions of this chapter. The General Foreman shall have the right to trim, spray, preserve and plant such trees as may be necessary to preserve symmetry or to remove or cause to be removed any tree or part thereof which is in an unsafe condition or which, by reason of its nature, is injurious to sewers or other public improvements or is infected with any injurious fungus, insect or other pest. The General Foreman shall meet with the Tree Commission on an annual basis to provide the Commission with a tree planting and tree maintenance plan for the land within the lines of all public streets and places. **Where there is any doubt as to whether a tree is in an unsafe condition or is causing an unsafe condition or is infected with any injurious fungus, insect or pest, the General Foreman shall consult with the Tree Warden prior to removal of any tree. In this situation the final decision is by the Tree Warden.**

§ 281-3. Tree Warden.

The Board of Trustees shall select an individual with knowledge of the planting and maintenance of trees to serve as the Tree Warden for the Village of Tarrytown. The Tree Warden shall **represent the Tree Commission and** shall have the powers, rights

and responsibilities as provided for in this chapter and shall serve at the pleasure of the Board of Trustees.

§ 281-4. Cutting, killing or destroying trees.

A. No person, firm or corporation or individual connected with such firm or corporation shall either purposely or carelessly or negligently cut down, **top, prune,** kill or otherwise destroy or commit any act which may lead to eventual destruction of any tree exceeding four inches in diameter at a height of four feet six inches measured from the ground on any private property unless said person, firm or corporation or individual connected with such firm or corporation shall have obtained a permit pursuant to § 281-12 of this chapter. The removal of three trees or fewer on a lot of one acre or less substantially developed with improvements and a structure or structures situated thereon shall be exempt from this section, subject to the restrictions of Subsection C hereinbelow. Permits issued for any other purpose by the Village, including but not limited to building permits, shall not be considered as valid permits for the removal of trees unless permission for the removal of the trees has been granted by the Planning Board or the Zoning Board of Appeals, subject to the provisions of Subsection B or C hereinbelow.

B. Notwithstanding any other provision of this chapter, any property owner applying for a zoning variance, approval of which would require the removal of any trees on said property, shall make application to the **Tree Commission for referral to the** Zoning Board of Appeals of the Village of Tarrytown, **who along with the Planning Board shall have advisory** which shall have sole jurisdiction regarding the proposed removal of such trees **due to an approved site plan. unless said jurisdiction is vested in the Planning Board of the Village of Tarrytown. The Zoning Board of Appeals **of the Village of Tarrytown and/or the Planning Board of the Village of Tarrytown** may grant or deny such application on such terms and conditions as it may prescribe.**

C. Notwithstanding any other provision of this chapter, any property owner applying for site plan approval which would require the removal of any trees on said property shall make application to the **Tree Commission for referral to the** Planning Board of the Village of Tarrytown, which shall have sole jurisdiction regarding the proposed removal of such trees. The Planning Board may grant or deny such application on such terms and conditions as it may prescribe.

D. Notwithstanding any other provision of this chapter, any property owner applying for subdivision approval whose plans would require the removal of any trees on said property shall make application to the **Tree Commission for referral to the** Planning Board of the Village of Tarrytown, which shall have sole jurisdiction regarding the proposed removal of such trees. The Planning Board may grant or deny such application on such terms and conditions as it may prescribe, it being understood that there must, in any event, be full compliance with the Subdivision Regulations of the Village of Tarrytown. *Editors note: See Ch. 263, Subdivision of Land.* In the event that a property owner, subsequent to the filing of a final plat, shall require the removal of any trees which deviates from the plans approved by the Planning Board, application must be made to the Tree Commission Planning Board, and all the requirements of this chapter shall be applicable.

E. Notwithstanding any other provision of this chapter, any property owner applying for a building permit and not subject to the provisions of Subsection B, C or D hereinabove, approval of which would require the removal of any tree(s) on said property, shall make application to the **Tree Commission, Building Inspector**, who shall have sole jurisdiction regarding the proposed removal of such trees. The **Tree Commission Building Inspector** may grant or deny such application on such terms and conditions as it he/she may prescribe, including but not limited to the planting of new trees or other forms of landscaping. [Amended 6-18-1990 by L.L. No. 14-1990]

§ 281-5. Tree Commission.

A. The Board of Trustees shall create a Tree Commission which shall consist of **seven** five members, including the Building Inspector, the **Department of Public Works General Foreman, Tree Warden, Village Administrator**, a member from the Environmental Advisory Council and **three** two members selected from the residents of

the Village of Tarrytown. **A quorum shall consist of at least three members present. There shall be a liaison between the Tree Commission and the Planning Board.**

The Board of Trustees shall also select a Chairperson for the Commission **who shall serve as liaison to the Village Administrator. The chairperson shall be responsible for communicating to all departments.**

B. The **voluntary** three resident members of the Tree Commission, **excluding the Tree Warden**, shall serve for three-year terms, such terms to be on a staggered basis. The members of the Commission shall receive no compensation for their services as members but may, in the discretion of the Board of Trustees, be permitted the necessary and actual expenses which shall be incurred in the performance of duties under this chapter.

C. All determinations and decisions made by the Tree Commission shall be by a majority vote. The Commission is hereby authorized and empowered to obtain the assistance, when necessary, of persons especially qualified by reason of training or experience in tree planting, preservation and landscaping. Should the Commission seek assistance, based upon an appeal permitted under § 281-12 of this chapter, all costs thereof shall be borne by the party seeking said appeal. Assistance requested by the Commission not related to the appeal process shall be borne by the Village.

D. The Tree Commission shall meet, at a minimum, on a monthly basis. **Said meetings shall be regularly scheduled and advertised on the Village Calendar.** At the meeting, the Commission shall review the tree permits that **are pending**, have been issued and denied by the Tree Warden, the Zoning Board of Appeals and the Planning Board. The Tree Commission shall review **Site Plan/Zoning Variance** applications currently pending before either the Zoning Board of Appeals and/or the Planning Board and issue recommendations to either Board with respect to any aspect of said application which may impact trees, shrubs and/or related plantings. The Commission shall also hear any appeals based upon the denial of a permit by the Tree Warden. The Commission may have regular meetings **or** on a more frequent basis. A special meeting may be convened should either the Chairperson or two other members of the Commission deem such a meeting to be necessary. [Amended 4-21-2003 by L.L. No. 5-2003]

E. The Tree Commission reserves the right to refuse permits for tree destruction if it feels that the best interests of the public are not served by the proposed development. It may further revoke any permit if the work is not proceeding according to permit and in an orderly and diligent manner.

F. The Tree Commission shall have control over payments to and disbursements from the Village Tree Fund, created in § 281-14 hereinbelow.

#### § 281-6. Interference with trees or shrubs.

No person shall, without first securing a written permit from the Tree Warden, cause any wire or insulator or any device for the holding of any electric wire to be attached to any tree in any street, park or other public place or cause any wire or other conductor charged with electricity to come in contact with any such tree or place or maintain any pole or post in such a manner as to interfere with any tree or shrub in any street, park or other public area.

#### § 281-7. Fastening animals or attaching signs to trees.

No person shall fasten or tie any animal to or attach any sign, bill, card, notice or any advertisement to any tree or shrub in any street, park or other public place or allow any animal under his/her control to injure any such tree or shrub.

#### § 281-8. Obstructing nutrients from roots.

No person shall place or maintain on the ground in any street, park or other public place any stone, excess soil or other substance in such manner as may obstruct the free access of air or water to the roots of any tree without first obtaining a written permit from the Tree Warden.

#### § 281-9. Depositing deleterious substances near trees.

No person shall cause brine, oil, gas, gasoline, liquid dye or other substance deleterious to tree life to pass onto or into the soil about the roots of any tree in any street, park or other public place.

§ 281-10. Removal of large trees on private property. [Amended 1-7-2002 by L.L. No. 1-2002]

No person, firm or corporation or individual connected with such firm or corporation shall remove, cut down or destroy any tree with a trunk exceeding six inches in diameter at a height of 54 inches measured from the ground on any privately owned unimproved lot unless such person, firm or corporation first obtains a permit to do so from the Tree Warden.

**§ 281-10~~11~~. Trimming of trees and shrubs.**

A. Trees standing on any lot or land adjacent to any public street or place and having branches projecting into the public street or place shall be kept trimmed by the owner or owners or occupant of the property on which such trees are growing so that the lowest branches shall not be less than 15 feet from the roadbed and not less than eight feet from the sidewalk level. The Tree Warden may, however, allow newly planted trees to remain untrimmed, provided that they do not interfere with persons using the sidewalk or obstruct the light of any streetlight or traffic signal.

B. Hedges, bushes, shrubs, flowers or other growing plants shall be kept trimmed so as not to obscure the vision of motorists approaching the intersection. The owner or owners of property shall keep all hedges, bushes, shrubs, flowers or other growing plants trimmed so as not to impede pedestrian traffic on the sidewalks of the Village.

C. Any tree or shrub which is growing on private property which is endangering or in any way may endanger the security or usefulness of a public street, public sewer or other public place or which is diseased shall be considered a public nuisance.

**B. Topping of trees is to be avoided. Topping of any tree exceeding (4") four inches in diameter at a height of (4.6") four feet six inches measured from the ground, on any property, shall require a tree permit. The permit may be issued by the Tree Commission if there is sufficient evidence that failure to top the tree would pose significant danger in terms of safety or property damage.**

**C. Thinning of a tree canopy to create views known as 'peek-a-boos' is permitted provided the percentage of thinning does not exceed twenty-five percent of the overall canopy. No thinning shall occur in the upper or lower twenty-five percent of the tree canopy. A 'peek-a-boos' defines the creation of a series of "windows" within a tree canopy to provide a vista without impacting the overall health and aesthetic value of the tree. The thinning (pruning) occurs only in the middle fifty percent of the tree. Only minor branches are pruned. This method of 'vista pruning' lasts three to four times longer than topping (approximately ten years versus three years for topping).**

D. In case the owner or owners or the occupant or occupants shall neglect or refuse to trim such tree or trees, hedges, bushes, shrubs, flowers or other growing plants after being notified, in writing, by the Village, the Village shall have the right, after one week from the date of such written notice, to cause the trimming to be done and to the expense thereof against the land on which said trees, hedges, bushes, shrubs, flowers or other growing plants are located. This section shall not preclude the Village from enforcing the penalty clause in § 281-16 of this chapter.

**D. Hedges, bushes, shrubs, flowers or other growing plants shall be kept trimmed so as not to obscure the vision of motorists approaching the intersection. The owner or owners of property shall keep all hedges, bushes, shrubs, flowers or other growing plants trimmed so as not to impede pedestrian traffic on the sidewalks of the Village.**

**E. Any tree or shrub which is growing on private property which is endangering or in any way may endanger the security or usefulness of a public street, public sewer or other public place or which is diseased shall be considered a public nuisance.**

**F. In case the owner or owners or the occupant or occupants shall neglect or refuse to trim such tree or trees, hedges, bushes, shrubs, flowers or other growing plants after being notified, in writing, by the Village, the Village shall have the**

right, after one week from the date of such written notice, to cause the trimming to be done and to the expense thereof against the land on which said trees, hedges, bushes, shrubs, flowers or other growing plants are located. This section shall not preclude the Village from enforcing the penalty clause in § 281-16 of this chapter.

§ 281-1112. Permit procedures; appeals.

A. Application for a tree permit must be made, in writing, to the Tree Warden upon forms prescribed by that official and available in the office of the Village Clerk. Denial of permits by the Tree Warden may be appealed to the Tree Commission.

**A. Permits for the removal of trees may be granted under the following circumstances:**

(1) If the presence of the tree would cause hardship or endanger the public or the person or the property of the owner or of an adjoining owner.

(2) If the tree substantially interferes with a permitted use of the property and the removal of the tree(s) shall be performed in a selective manner.

(2) **Properties anticipated for or under zoning/planning review shall be schematically approved by required zoning/planning agencies prior to submission to the Tree Warden. Where intensive cutting of trees and shrubbery is planned, the village landscape consultant may require an overall landscape design which includes an arrangement of specimen ornamental, flowering and/or evergreen trees, and trees which will grow tall in time. The expense of such an arrangement would be at least equivalent to the estimated value of the existing trees to be removed as determined by the village's "replacement cost method."**

(3) If the tree is diseased or threatens the health of other trees.

(3) **Trees on property to be occupied by buildings or structures within a distance of ten (10) feet around the perimeter of such building or structure, depending upon tree species and conditions to be determined by the Tree Warden and/or Landscape Architectural Consultant. However, in proper instances the Tree Warden may recommend to the Planning Board proposed buildings or structures to be relocated or removed from a building plan in order to save an important tree or trees.**

(4) **If the trees substantially interfere with a permitted use of the property, the removal of the trees shall be performed in a selective manner, as determined by the Tree Warden.**

B. Permits for the removal of trees may be granted under the following circumstances:

**B. The determination of the Tree Warden shall be final but subject to appeal and shall depend upon the species of the tree, the degree of injury and the likelihood of the survival of the tree, economical considerations of land use and consideration of the general welfare and the overall environment of the area, except that it shall be subject to such review as authorized hereinbelow.**

C. Applicants may appeal the decision of the Tree Warden, in writing, to the Tree Commission, such written appeal to be given to the Village Clerk. Said appeal shall state specifically the location of the tree in relation to roads, structures and adjoining properties and shall further state the reason why the permit application should have been granted by the Tree Warden. The appeal should refer to the reasons for granting permits noted in § 281-4B hereinabove.

**C. In the event that the General Foreman determines that a tree or trees are hazardous to life of property; the General Foreman shall have the right to grant immediate approval for the removal of said tree or trees, waiving all notices as required under this chapter. In the event that such approval is granted, the General Foreman/Tree Commission subsequent to the cutting of said tree or trees, shall have the authority to require complete compliance with all other provisions of this law as applicable thereto.**

D. Applicants may appeal the decision of the Tree Commission to the Board of Trustees. Said appeal shall comply in all respects to the requirement for appeals set forth in Subsection C above. [Added 11-5-1990 by L.L. No. 20-1990EN]

**D. Requirements:**

**(1) All applications for site plan review shall be made in writing upon forms prescribed by the General Foreman/Tree Warden/Landscape Architectural Consultant.**

**(2) For all applications, the site plan review process requires the following, the Tree Warden and/or Landscape Architectural Consultant may require the applicant to submit plans showing existing and proposed contours at two-foot intervals on a map or plan at a scale no smaller than one inch equals twenty (20) feet. Where trees are to be removed or destroyed, existing trees, specifying types, sizes, and condition shall be shown and the reasons for removing or destroying said trees shall be set forth. The site plans must identify, classify and evaluate all existing trees within the site disturbance area and up to fifty (50) feet beyond the site disturbance area. The plans must provide for new trees to be planted and specify their location and type to replace the existing trees in kind. When the existing trees are so large and matured that they cannot be replaced, the Tree Warden and/or Landscape Architectural Consultant may recommend to the Planning Board the required planting of multiple trees or monetary contribution to the Village Tree Fund instead.**

**(3) The General Foreman/Tree Warden and/or Landscape Architectural Consultant may require the site plan applicant to provide a tree value appraisal for any tree to be preserved within the site disturbance area and up to (50) fifty feet beyond the site disturbance area, greater than 4 inch diameter base height according to the latest edition of the Guide for Plant Appraisal by the Council of Tree and Landscape Appraisers and published by the International Society of Arboriculture; Champaign, Illinois.**

**(4) The General Foreman/Tree Warden and/or Landscape Architectural Consultant may require the site plan applicant to provide a comparative tree replacement chart specifying the total quantity of diameter base height trees to be removed versus the total caliper size of trees to be planted.**

**(5) The General Foreman/Tree Warden and/or Landscape Architectural Consultant may require additional site plan information such as the design of walls, disposition and design of storm drainage and any information pertinent to the individual circumstances.**

**(6) Where extensive tree cutting is planned, the Tree Warden may recommend to the Planning Board to require the site plan applicant to pay for a licensed professional inspector to supervise the orderly development of the land and ensure the protection of the trees. Said inspector may be recommended by the Tree Warden.**

**(7) The General Foreman/Tree Warden/Landscape Architectural Consultant may recommend the Planning Board to require that the site plan applicant furnish the Village with a performance bond as approved by the Village Attorney in an amount sufficient to cover 90% of the tree preservation, planting and restoration work to be completed in accordance with the plans accompanying all applications. The remaining 10% of the cost of tree preservation, restoration and replanting shall be in cash and deposited by the applicant in a special tree preservation escrow account maintained by the village. The total amount of the bond and cash deposit shall reflect all tree preservation, restoration and protection costs and shall be in accordance with each set of individual circumstances. Upon completion of all planting and restoration work to the satisfaction of the Tree Warden, the performance bond shall be canceled and replaced with a maintenance bond to be approved by the Village Attorney and to run for a term to be fixed by the Tree Warden, but in no case for a period longer than two years. The ten-percent cash in escrow shall remain on deposit with the village until the maintenance bond is canceled.**

**(8) The Tree Warden, within 20 business days from the date the site plan application is submitted in final form, shall notify the applicant of his intent to approve application or shall disapprove the application for permit. No trees shall be cut for a period of 20 business days from the date of the issuance of said notice.**

**(9) Decisions, appeals.**

(a) All decisions or determinations made by the Tree Warden approving applications pursuant to this chapter shall be sent to adjoining property owners and to the Environmental Advisory Committee.

(b) Any person aggrieved, affected, or interested in the determination or decision of the General Foreman/Tree Warden shall have the right, within 10 days from receipt of the decision of the General Foreman/Tree Warden, to appeal to the Village Board of Trustees for existing properties and to the Planning Board for proposed development, who shall review the decision. Any decision or determination of the General Foreman/Tree Warden, which is appealed to the Village Board of Trustees or Planning Board, shall be stayed pending review by the Village Board of Trustees or Planning Board. Any determination made by the General Foreman/Tree Warden can be reversed, affirmed or modified by the Planning Board and/or Village Board of Trustees; furthermore, the Planning Board and/or Village Board of Trustees may review and/or amend any decision of the General Foreman/Tree Warden or Tree Commission.

(10) The General Foreman/Tree Warden and/or Landscape Architectural Consultant has the right to refuse permits for tree destruction if he feels that the best interests of the public are not served by the proposed destruction. The General Foreman/Tree Warden and/or Landscape Architectural Consultant may further revoke any permit if the work is not proceeding according to permit and in an orderly and diligent manner.

(11) The cost of the tree permit application shall be set by the Village Board.

E. The Tree Warden or the Tree Commission may require additional information such as the design of walls, disposition and design of storm drainage and other information pertinent to individual circumstances.

F. Revocation of permit. Should the Tree Warden determine that removal, cutting or destruction of trees for which a permit has been granted is not proceeding according to the permit, the Tree Warden may revoke the permit.

§ 281-12 13. Restoration **and of area**; replacement of damaged trees.

A. All persons who remove or cause to be removed trees, with or without a permit, as required, shall restore the area by backfilling all holes and by creating an acceptable grade and covering. Any tree damaged/**removed** during construction or development of the property shall be either replaced in kind, or, where existing trees are so large and mature that they cannot be replaced, the Tree Commission may require the planting of multiple trees or may assess the value of the destroyed trees, **per § 281-11 subsection D3** said value to be paid to the Village Tree Fund. Minor tree damage shall be repaired in accordance with accepted tree surgery practice.

B. Tree stumps shall be removed, **or ground down**, not cut flush. A property owner may appeal the tree stump removal requirement of this section to the Tree Commission. After the planting of trees, removal of all debris in the undisturbed area shall be made immediately. The property where such planting is done must be left in a neat and orderly condition, in accordance with good and acceptable planting and tree surgery practice.

C. All trees which fail to survive for a period of two years following planting shall be replaced by the permit holder at no expense to the Village or the owner of the land, if other than the permit holder. Said replacement shall be within 60 days following written demand for such replacement from the Tree Commission or within an extended period of time as may be specified.

§ 281-13 14. Village Tree Fund.

Upon proof by the person seeking a tree permit that compliance with the requirements of this chapter in terms of planting of trees in replacement of those destroyed and for purposes of screening is not feasible on the property, in whole or in part, the Tree Commission may approve the payment by the person of a sum or sums equivalent to the value of the trees destroyed, according to generally accepted standards in the landscaping/landscape architecture profession (i.e., International Society of Arboriculture Guidelines), to be paid to the Village Tree Fund, which shall be held for the sole purpose of planting and maintaining of trees on public land in the Village in



accordance with this chapter. Disbursement of moneys in the Village Tree Fund shall be based upon the direction of the Tree Commission.

§ 281-14 15. Protected trees. Specimen Species.

**All trees are protected in the Village according to the foregoing legislation.**

**Specimen tree species of any size** designated as specimen protected may not be removed unless the Tree Commission determines, because of their condition, that they are a danger to persons or property or that they are diseased and cannot be saved. The following trees are **further protected and shall be double value for appraisal**

**purposes:**

- A. American beech tree.
- B. European beech tree.
- C. Eastern white pine.
- D. American elm.
- E. Ginkgo (**male**)
- F. Canadian hemlock.
- G. American Sycamore.
- H. Littleleaf Linden.
- I. Larch.
- J. Red Oak**
- K. White Oak**
- L. Shagbark Hickory**

§ 281-~~15~~16. Penalties for offenses.

A. Penalties shall be as provided in Chapter 1, General Provisions, Article II. Each tree removed, cut down or destroyed in violation of this chapter shall amount to a separate offense. **This chapter shall be enforced by the Tree Warden and/or his designees, except where such enforcement is vested with the Highway Superintendent by the laws of the State of New York.**

B. In addition to any other penalty, any person, firm or corporation or individual connected with such firm or corporation violating any provision of this chapter shall be subject to a civil penalty enforceable and collectible by the Village in the amount of \$100 for each and every tree removed, cut down or destroyed in violation of this chapter. **Any person violating any of the provisions of this chapter shall be guilty of a violation and shall be fined the greater of \$500 or the replacement cost of any tree(s) improperly removed pursuant to this chapter and/or imprisoned not to exceed 15 days. Each day the violation continues shall constitute a separate offense. The replacement cost shall be calculated based upon the cost to replace the removed or damaged tree(s) with tree(s) having the same characteristics and species. The "replacement cost method" will include the cost of tree installation and utilize the usual and customary guidelines of the Council of Tree and Landscape Appraisers (as noted in the *Guide to Plant Appraisal, 9<sup>th</sup> Edition* or similar manual) and/or the American Nursery and Landscape Association, the American Society of Consulting Arborists, the American Society of Landscape Architects, the Associated Landscape Contractors of America, the International Society of Arboriculture, and the National Arborist Association.**

C. In addition to any other penalty, the violator will be required to replace, in kind, each and every tree removed, cut down or destroyed in violation of this chapter. If a tree was so large and mature that it cannot be replaced, the Tree Commission may require the planting of multiple trees. No certificate of occupancy shall be issued for any new construction on the property on which occurred any violation of this chapter unless and until the provisions of this subsection have been complied with. **In addition thereto, any person violating any provision of this chapter shall be subject to a civil penalty enforceable and collectible by the village in the amount of \$200 each day the violation continues for every tree.**

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

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

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

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 November 10, 2006, and

WHEREAS, public hearing was held for the proposed action on November 20, 2006 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:

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(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.15 of 2006.

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

Peter Desimini, 6 Kerwin Place, stated that there are serious issues regarding the illegal wall/fence built on 12 Kerwin Place in May of 2005.

Village Engineer McGarvey stated that he notified the property owner of the violation. They are currently applying to the Zoning Board for a variance. Mr. Desimini will be notified through the Zoning notification process when the public hearing will be held.

PROCLAMATION DECLARING NOVEMBER 2006 AS NATIONAL HOME CARE AND HOSPICE MONTH

Whereas, More than four million Americans receive home delivered healthcare daily and The Visiting Nurse Association of Hudson Valley and Hospice Care in Westchester & Putnam provide home health care services to more than 700 patients daily and over 5,000 annually in Westchester County; and

Whereas, The Visiting Nurse Association of Hudson Valley and Hospice Care in Westchester & Putnam fulfill basic human needs in comfortable and familiar surroundings while providing compassionate medical care from highly trained professionals; and

Whereas, There is a need to increase public discussion about home care services that are available to individuals of all ages, races, and backgrounds in the community including professional nursing, home health aides, medication management, social work, multi discipline therapies, advances in pain control and end of life care options; and

Whereas, The Visiting Nurse Association of Hudson Valley and Hospice Care in Westchester & Putnam join over one million care givers in declaring November 2006 as National Home Care and Hospice Month and are calling on all Americans to observe this occasion with appropriate ceremonies and activities;

Now therefore be it resolved that I, Drew Fixell, Mayor of Tarrytown, New York, thank and commend The Visiting Nurse Association of Hudson Valley and Hospice Care in Westchester & Putnam and hereby declare the month of November 2006, NATIONAL HOME CARE AND HOSPICE MONTH in the Village of Tarrytown.

RESOLUTION APPROVING HOLIDAY METER PARKING REGULATIONS

Trustee Basher moved, seconded by Trustee Butler, 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 holiday meter parking program by designating certain parking meters to be covered to allow free parking (with a two-hour limit) from Monday, December 4, 2006 through Tuesday, January 2, 2007 at the following locations: all downtown business district street meters, municipal lots on South Washington Street, McKeel Avenue, Windle Park (Village portion), Neperan Road (Village portion), and South Broadway.

RESOLUTION AUTHORIZING PAYMENT TO FUND LEGAL FEES WITH RESPECT TO THE BERNSTEIN V. TOWN OF GREENBURGH LAWSUITS

Trustee Basher 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 approves an expenditure of up to \$6100.00 for legal fees for the Bernstein v. Town of Greenburgh lawsuits regarding Greenburgh taxes charged to Tarrytown residents.

RESOLUTION AUTHORIZING A TAX CERTIORARI SETTLEMENT, AS PROPOSED BY THE VILLAGE ATTORNEY

Trustee Zollo moved, seconded by Trustee Butler, 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 Authorizes the settlement of the Amerada Hess Corp. tax certiorari case as recommended by the Village Attorney in his memorandum dated July 17, 2006.

RESOLUTION AUTHORIZING A TAX CERTIORARI SETTLEMENT, AS PROPOSED BY THE VILLAGE ATTORNEY

Trustee McGee moved, seconded by Trustee Basher, 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 authorizes the settlement of the D & N Realty, LLC tax certiorari case as recommended by the Village Attorney in his memorandum dated October 27, 2006.

RESOLUTION APPROVING RETAINING AN APPRAISER FOR TAX CERTIORARI SETTLEMENT CONSIDERATION, AS PROPOSED BY THE VILLAGE ATTORNEY

Trustee Basher 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 a contract dated November 16, 2006 with Balog Consulting Corporation in the amount of \$34,500.00 for a preliminary and litigation appraisals on the Kraft Foods property, 555 South Broadway, Tarrytown.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF THE BOARD OF TRUSTEES HELD ON NOVEMBER 6, 2006

Trustee Basher moved, seconded by Trustee Zollo, that the following be approved. Motion carried, all voting “aye” with exception of Trustee Butler who abstained. Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the minutes of the regular board meeting held on November 6, 2006 as submitted by the Village Clerk.

APPROVAL OF THE MINUTES OF THE EXECUTIVE MEETING OF THE BOARD OF TRUSTEES HELD ON NOVEMBER 6, 2006

Trustee McGee moved, seconded by Trustee Hoyt, that the following be approved. Motion carried, all voting “aye” with exception of Trustee Butler who abstained. Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the minutes of the executive meeting held on November 6, 2006 as submitted by the Village Clerk.

APPROVAL OF AUDITED VOUCHERS #9

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

RESOLVED: The following Abstract bearing No. 9, dated November 20, 2006 containing Vouchers No. 002036 through No. 002204 is hereby ordered paid in the following amounts as presented:

General	\$ 142,855.21
Water	87,545.00
Capital	53,325.00
Library	7,591.44
Trust & Agency	<u>100,218.04</u>
Total	\$ 391,534.69

The Board was polled all voting “aye” with the exception of Trustee McGee who abstained from Voucher Numbers 002132, 002133, and 002180 and Trustee Hoyt who abstained from Voucher Number 002194. Motion carried 6-0.

ADJOURNMENT

Trustee Hoyt moved, seconded by Trustee McGee, and unanimously carried, that the meeting be adjourned at 8:25 p.m.

Carol A. Booth  
Village Clerk