

Board of Trustees
Village of Tarrytown
Regular Meeting No. 17
October 20, 2014
8:00 p.m.

PRESENT: Mayor Fixell presiding; Trustees Basher; Butler; Hoyt; McGee; McGovern and Zollo; Administrator Blau; Village Treasurer Hart; Village Attorney Shumejda and Village Clerk Booth

The meeting began with the Pledge to the Flag.

REPORTS

Mayor Fixell noted that it is leaf season and the best thing is to mulch your leaves. It saves work; its good for the soil, grass and the environment and it saves money. If you don't mulch your leaves, you can bag them. Beginning November 10th the Village will also be vacuuming leaves. They are not to be put on the street; they should be put on the property side of the curb. The schedule for bulk leaf pickup is on our website as well as a short video about mulching your leaves.

Trustee Basher noted that the State of New York has mandated that all police officers state-wide carry Naloxone (Narcan) Nasal Spray to treat opiate overdoses. With the assistance of the Greenburgh Police Department Paramedic Unit, all Tarrytown Police Department patrol division officers and detectives have completed the state recommended training course and are therefore qualified to administer Narcan. Effective October 15, 2014, the patrol sergeants, the four frontline patrol vehicles and the traffic enforcement unit vehicle have been equipped with Narcan administration kits. Trustee Basher noted that he had just heard about a person in Long Island who was treated with Narcan and it saved their life.

Trustee Hoyt noted that our Annual Halloween Parade is this Saturday, October 25th at 5:30 p.m. Participants will assemble in Patriots Park at 4:30 p.m. Following the parade, there will be a "block party" on Main Street. Bob Kimmel will be our host this year. He thanked both Bob Kimmel and Jimmy Kovacs who has hosted our Halloween parade for many years.

PROCLAMATION – GUNPOWDERKIDS

Mayor Fixell presented the following proclamation to the GunpowderKids. The children present were Logan Rafter, Jack Rafter, Maya Kharem and Liam Kharem.

Whereas, the children recognized by Gunpowderskids have given back to the Village of Tarrytown by volunteering to help others; and

Whereas, these children have beautified our village and encouraged others to do so by cleaning around the Tarrytown Lakes and other areas throughout the village and weeding tree wells on Broadway; and

Whereas, these children have cleared a rock valley for exploration and worked to open the White Trail at the Peabody Outdoor Classroom; and

Whereas, these children held a Bake Sale to benefit the relocation of the Animal Shelter; and donated their Halloween Parade Best Group Prize to an ill child; and

Whereas, these children assisted with shelving at the Food Pantry and served as Special Olympic Greeters; and

Whereas, these children have planted sunflowers at the Historical Society and flowers at the Veterans Memorial in Patriots Park.

Now, Therefore Be It Resolved that I, Drew Fixell, Mayor of the Village of Tarrytown,

New York, thank and commend the children recognized by Gunpowderskids and hereby declare Tuesday, October 21, 2014 Gunpowderskids Day in the Village of Tarrytown, New York.

PUBLIC HEARING – CHAPTER 281: TREES

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

Mayor Fixell stated that the proposed “Trees” Law has been re-written with the help of the members of the Tree Commission.

Anne O’Brien, Chairperson of the Tree Commission, thanked the Mayor and Board of Trustees for their support and interest in the preservation of trees in the Village of Tarrytown. She also thanked members of the Tree Commission for their hard work, David Aukland, Deirdre Carsto, Eric Clingen, Susan Goodwin and Lisa Montana, a resident who is a certified tree arborist. Ms. O’Brien mentioned that there were two typos in the edition the Board had of the proposed “Trees” law. They are both in Section 281-4. C. Tree Permits (correction in bold text). The last sentence should read “All **copies** of all Tree Permit applications shall be provided to the Tree **Commission** at least on a quarterly basis.”

Susan Goodwin, member of the Tree Commission stated the following:

- The proposed new Tree law is stylistically more user friendly.
- There’s a new section called “protection of trees,” where it delineates which actions are prohibited, which actions require a permit and which actions may be carried out without a permit.
- An example of a substantive change to the tree law, the current tree law states “Topping is to be avoided and may be allowed under some circumstances if a permit is granted.” Our proposed tree law “Prohibits topping of non-damaged or non-diseased limbs and does not allow the granting of permits for this purpose.”
- With respect to reviewing tree permit applications, this lies with the General Foreman, who may refer a tree permit application to the Tree Warden. In cases where there is not agreement between the General Foreman and the Tree Warden, the application shall be directed to the Tree Commission for determination. As far as an appeal process, any decision by the General Foreman or Tree Warden can be reversed by the Tree Commission. If there is a disagreement by the resident who disputes the ruling by the Tree Commission, it will be ultimately referred to the Board of Trustees for final resolution.
- We have added a glossary of definitions to the proposed tree law.
- We eliminated the discussion of specimen trees in the valuation of trees because we feel that each and every tree merits equal consideration.
- An example of a change of language from the old tree law to the proposed tree law to simplify the language as follows:
Old language, “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(s) 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 8 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 a new street light or traffic signal.
New language, “It is the responsibility of the property owners to provide for the

trimming of trees on that property whose branches project into the public street or place. The lowest branches shall not be less than 15 feet from the roadbed and not less than 8 feet from the sidewalk level. The Tree Warden may allow newly planted trees to remain untrimmed....” Ms. Goodwin noted that the Tree Commission felt that the second version is more concise and easier to follow.

Eric Clingen, former Chairperson of the Tree Commission, stated that the Tree Commission is very proud of this third version of the proposed Tree Law. The original Tree Law goes back to the 1980’s. A second version was adopted many years ago. The proposed new Tree law represents a couple of years’ worth of work by the Tree Commission. Our goal was to make things clear and unambiguous and yet inclusive enough. We hope that the Board of Trustees is comfortable with the proposed Tree Law and it represents something that the Board can stand behind in case an appeal to the Board of Trustees occurs.

Sam Vieira, an architect, questioned two items in the proposed law:

- Section 281-3. Protection of Trees, A. Actions Not Requiring a Tree Permit 2. “The thinning, pruning and removal of trees of less than four inches (4”) in diameter within twelve feet (12’) of the primary structure on a property.” Mr. Vieira asked if that means any other trees beyond 12’ that are 4” or less need a tree permit.

Administrator Blau answered, “Yes.”

Eric Clingen noted the description of “Protected Trees are all trees of diameter 4 inches or greater”

Mr. Vieira stated that according to the proposed law, all trees 4” or less beyond 12” of a structure on a property would need a permit. Administrator Blau noted that the proposed law needs clarification on that point.

- Section 281-3. Protection of Trees, B. Actions Requiring a Tree Permit 3. “Removal of any tree greater than two inches (2”) in diameter in an area defined as a forest.” Anne O’Brien noted the rationale behind that was the concern that the removal of very small trees in a forest would not be able to replenish itself and that’s why we came down from 4” to 2” with respect to the forest.

Mr. Vieira stated that he would like to see the 7 pages of the proposed tree law get paired down to a few paragraphs that has distinct language as to what needs a permit, where and how. All of this language can be confusing to those who have to apply the law. The simpler the law, the easier to apply and less ambiguity as far as putting it into practice.

Mayor Fixell stated that the Tree Commission made a sincere attempt to make the tree law easier to apply, but as you noted, ambiguities do exist and we will continue the public hearing and have the Tree Commission address these issues.

Peter Bartolacci, 67 Miller Avenue, asked the following questions:

- What are the changes in the proposed tree law pertaining to peek-a-boo trimming.
- Does peek-a-boo trimming require a tree permit?
- Does the old tree law require a tree permit for peek-a-boo trimming?

Anne O’Brien noted that peek-a-boo trimming is selective pruning of a tree canopy to open up views through the tree. It is not topping the tree or threatening its life.

Administrator Blau noted that according to the proposed tree law, a tree permit is required for peek-a-boo trimming.

Eric Clingen noted that in the old tree legislation, there were no specific rules on peek-a-boo trimming. There were rules on trimming trees and peek-a-boo is a useful term in response to applications to top a tree. Peek-a-boo is a name for trimming a tree as an alternative to topping. Especially in Tarrytown where people are looking toward the water,

people feel strongly about topping trees so they can see the river. Topping trees will kill the trees over time. If you thin a tree properly, you can get your views without killing the tree. He stated that trimming trees over a certain diameter always required a tree permit in the old legislation as well as the proposed legislation.

Mr. Bartolacci stated the following:

- A summary explaining the current tree law and the proposed tree law would be very helpful to residents to better understand the changes.
- Defined criteria should be established for approving or denying a permit. Without criteria, it could lead to subjectivity for approving or denying a permit.

Anne O'Brien stated that the Tree Commission made a list of possible criteria, such as, the drainage around the tree, the shade provided by the tree, the subjectivity of the tree to disease, the rarity of the species, the native or non-native character of the tree and others. It was almost impossible to list all the variations of possible criteria. We have a list of criteria that we can put into the law if the Board feels it would be helpful.

Mayor Fixell noted that we will discuss whether or not it makes sense to add a section to the law a set of criteria that would be employed by the General Foreman and the Tree Warden.

Eric Clingen noted that the proposed law states in Section 281-10., ".....General Foreman and the Tree Warden in accordance with "The International Society of Arboriculture Guide for Plant Appraisal" This guide can be used as a reference that includes all criteria in much more detail.

Mr. Bartolacci stated the following:

- How do you determine or enforce minor pruning (not to exceed 25% of the canopy) versus pruning?

Anne O'Brien noted that we must trust the residents of the Village that in fact they do care about their trees.

Mr. Bartolacci stated the following:

- If his tree branch was over hanging his neighbor's property and he wanted to cut that branch off, based on the new tree law, he would need a tree permit. It is also his understanding that his neighbor could also cut that branch off without a permit. He feels that there needs to be a better balance. His neighbor has more rights than the property owner of the tree.

Mayor Fixell noted that he believes a neighbor has a right to cut a branch that protrudes on their property, but he is not sure that they don't need a permit to do so. We will have to look into this further.

Trustee Butler asked Sam Vieira, Architect, if it would be helpful for him to give his professional views on the proposed tree law to the Tree Commission.

Sam Vieira stated that his comments tonight highlighted some ambiguities. He believes the people who enforce the laws should review the proposed law, such as the Building Inspector.

Sam Vieira, Architect, noted that we have experienced severe storms and will continue experiencing severe storms and there will be a lot of damage to trees and trees coming down. He believes that any tree within 10', 15' or 20' of a home, should not require a tree permit for either pruning or removal. He would like serious consideration to this because a tree can seem very healthy, but there can be a lot of things going on below ground that no arborist, General Foreman or Tree Warden can see. He has experienced damage to foundations from root systems and damage to sewers and sewer pipes from root systems. We are now required to do underground storm water management for projects so as not to increase runoff from the property. That involves gathering the water off of roofs, into leaders and underground piping into drywells. Root systems destroy those. He believes

that a property owner who is concerned about a tree falling on their property and the tree is within a certain distance that can cause great damage to their property; some consideration should be given to that property owner. He had a personal experience with a large tree near his property. When he was putting an addition to his property, he wanted to remove the tree, but he was not allowed to. He hired an arborist who told him that the tree was healthy and would live for a 100 years. Within five years, the tree's large branches came down causing damage to his property. There are a lot of unintended consequences to a lot of good intention laws. He thinks that the fear is if we don't have these restrictions, that people will just clear cut their property of trees. He doesn't believe that is so.

Trustee McGovern moved, seconded by Trustee Basher, and unanimously carried, that the following resolution be approved: Approved: 7-0

BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby continue the public hearing to the next regular Board meeting on November 3, 2014.

CONTINUATION OF A PUBLIC HEARING – HISTORIC COMMONS DISTRICT HC ZONE - Closed

Trustee McGovern moved, seconded by Trustee Basher and unanimously carried, that the continuation of the new public hearing on the Historic Commons District HC Zone be opened.

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

Trustee Zollo moved, seconded by Trustee McGovern, and unanimously carried, that the following resolution be approved: Approved: 7-0

BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby close the public hearing.

CONTINUATION OF A PUBLIC HEARING – ZONING MAP – Closed

Trustee McGovern moved, seconded by Trustee Zollo and unanimously carried, that the continuation of the public hearing on the Zoning Map be opened.

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

Trustee Zollo moved, seconded by Trustee Basher, and unanimously carried, that the following resolution be approved: Approved: 7-0

BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby close the public hearing.

CONTINUATION OF A PUBLIC HEARING – COMPREHENSIVE PLAN - Closed

Trustee Basher moved, seconded by Trustee McGovern and unanimously carried, that the continuation of the public hearing on the Comprehensive Plan be opened.

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

Trustee Zollo moved, seconded by Trustee Hoyt, and unanimously carried, that the following resolution be approved: Approved: 7-0

BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby close the public hearing.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD ONLY ON AGENDA ITEMS. SPEAKERS SHALL HAVE THREE (3) MINUTES TO ADDRESS THE BOARD OF TRUSTEES

Mayor Fixell asked if anyone wanted to address the Board on agenda items. No one appeared.

VEHICLE AND TRAFFIC CODE AMENDMENT - BUS STOP

Trustee Basher moved, seconded by Trustee McGovern, and unanimously carried, that the following resolution be approved as amended: Approved: 7-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the following amendment to Chapter 291 of the Code of the Village of Tarrytown entitled "Vehicles and Traffic" to include the bus stop moved from the bus stop moved from the north side of the Metro North Railroad Station to the south side of the station.

Material to be deleted is set forth in parentheses (). New material is set forth in capital letters.

§ 291-88. Schedule XXIII: Bus Stops.

In accordance with the provisions of § 291-29, the following described locations are hereby designated as bus stops.

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Railroad Station	West	(North) SOUTH of station

VEHICLE AND TRAFFIC CODE AMENDMENT – MILLBROOK AVENUE

Trustee Hoyt asked Administrator Blau to have better "no parking" signage on the south side of Millbrook and for curbs on both sides of Millbrook be painted so people don't park there at night. Emergency vehicles can't get onto Millbrook when cars are parked on both sides on Millbrook near Meadow. Administrator Blau noted that curbs are not painted for prohibitions of parking. He will look into what the Village can do pursuant to state law. Possibly striping.

Trustee Basher moved, seconded by Trustee Zollo, and unanimously carried, that the following resolution be approved: Approved: 7-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the following amendment to Chapter 291 of the Code of the Village of Tarrytown entitled "Vehicles and Traffic" to establish a parking prohibition on Millbrook Avenue by Meadow Street.

No material is to be deleted. New material is set forth in capital letters.

291.77. Schedule XII: Parking Prohibited at All Times

In accordance with the provisions of 291-16, no person shall park a vehicle at any time upon any of the following described streets or parts of streets:

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
MILLBROOK AVENUE	NORTH	FROM MEADOW STREET WEST FOR A DISTANCE OF 20 FEET

SURPLUS VEHICLES/EQUIPMENT

Trustee Basher moved, seconded by Trustee Zollo, and unanimously carried, that the following resolution be approved: Approved: 7-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby declare the following vehicles and equipment surplus:

- 2006 Chevrolet Impala (Police Department)
- 2005 Elgin Sweeper (Public Works)
- 2000 Chevrolet Pickup (Public Works)
- 2000 Chevrolet Pickup (Recreation)
- 1965 John Wood Air (Public Works)
Compressor
- Misc. old water meters (Public Works)
- Old Scott Air Pack (Public Works)
Harnesses

AWARD A BID – ALTERATIONS TO THE RIVERSIDE FIREHOUSE

Trustee McGee moved, seconded by Trustee Zollo, and unanimously carried, that the following resolution be approved: Approved: 7-0

WHEREAS, on August 18, 2014, the Board of Trustees rejected the bids for the Alterations to the Riverside Firehouse project; and

WHEREAS, on October 2, 2014, the Village received four bids in response to the rebid for the Alterations to the Riverside Firehouse project; and

WHEREAS, the four bids received and the bid amounts are listed below:

<u>Contractor</u>	<u>Bid Amt.</u>	<u>Add/Alternate</u>
- Dthoter Construction	\$64,980.00	\$5,000.00
- PVS Construction	\$99,676.00	\$4,824.00
- Structural Contracting Svc	\$141,325.00	\$26,250.00
- Siba Contracting Corp.	\$175,600.00	\$31,950.00

WHEREAS, the bids were reviewed by the Village Engineer and Experion Design Group, the structural consulting engineering firm on this project and it is their recommendation that the Alterations to Riverside Firehouse project be awarded to the lowest bidder, Dthoter Construction per their bid of \$64,980.00; and

WHEREAS, it is also the recommendation of the Village Engineer and the consulting engineer that Alternate 1 also be awarded by the Board of Trustees per the bid of Dthoter Construction of \$5,000.00.

NOW THEREFORE, BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby award the Alterations to Riverside Firehouse project to the lowest bidder, Dthoter Construction of Astoria, New York per their bid with Alternate 1 in the total amount of \$69,980.00.

BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby authorize and direct the Village Administrator to execute an agreement with Dthoter Construction of Astoria, New York.

AGREEMENT WITH THE DEPARTMENT OF STATE REGARDING FEASIBILITY STUDY PEDESTRIAN TUNNEL

Trustee Basher moved, seconded by Trustee Zollo, and unanimously carried, that the following resolution be approved: Approved: 7-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby authorize and direct the Village Administrator to execute an agreement with the New York State Department of State for funding for the Feasibility Study of the Pedestrian Tunnel located under the Metro North railroad tracks.

AGREEMENT WITH THE TOWN OF GREENBURGH REGARDING GLENVILLE FIRE PROTECTION DISTRICT

Trustee McGee moved, seconded by Trustee Zollo, and unanimously carried, that the following resolution be approved: Approved: 7-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby authorize and direct the Village Administrator to execute an agreement between the Town of Greenburgh and the Village of Tarrytown to provide Fire Protection Services to the Glenville Fire Protection District.

AGREEMENT WITH TAPPAN ZEE CONSTRUCTORS, LLC

Trustee Zollo moved, seconded by Trustee Butler, and unanimously carried, that the following resolution be approved: Approved: 7-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby authorize and direct the Village Administrator to execute an agreement between the Tappan Zee Constructors, LLC (TZC) and the Village of Tarrytown for the use of property located at 41 Hudson View Way.

RESOLUTION TO CHANGE THE DATE OF THE BOARD OF TRUSTEES WORK SESSION

Trustee Basher moved, seconded by Trustee Hoyt, and unanimously carried, that the following resolution be approved: Approved: 7-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby reschedule the Board of Trustees Work Session from Wednesday, November 26, 2014 to Tuesday, November 25, 2014 at 6 p.m.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF THE BOARD OF TRUSTEES HELD ON OCTOBER 6, 2014

Trustee McGovern moved, seconded by Trustee Zollo, and unanimously carried, that the following resolution be approved: Approved: 7-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the minutes of the regular meeting of the Board of Trustees held on October 6, 2014 as submitted by the Village Clerk.

APPROVAL OF AUDITED VOUCHERS

Trustee Basher moved, seconded by Trustee Zollo, and unanimously carried, that the following resolution be approved: Approved: 7-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve Abstract No. 7 of Audited Vouchers to be paid in the following amounts:

General	\$ 501,415.11
Water	94,935.25
Sewer Fund	0.00
Capital	27,101.15
Library	5,202.23
Trust & Agency	<u>4,352.86</u>
Total	\$ 633,006.60

The Board was polled all voting “aye” with the exception of Trustee McGee who recused herself from Voucher Number 2012247579 and Trustee Hoyt who recused himself from Voucher Number 2012247580. Motion carried. 7-0

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD. SPEAKERS HAVE FIVE (5) MINUTES BEFORE YIELDING TO THE NEXT SPEAKER; THEN THREE (3) MINUTES FOR ADDITIONAL COMMENTS

Evan Kreeger, 10 Grove Street, Core member and Co-founder of Transition Tarrytown, which is part of Transition Networks, which is international and Transition US, which is national. It’s about going from peak oil to local resiliency. He is preparing a “traffic calming” report, by using a radar gun. He will be collecting data from January 1, 2015 to December 31, 2015 and submit that data to the local, the county, the state and the federal level to raise public awareness about “speed pollution.” There are six kinds of pollution, land, air, water, light, noise and speed. In “traffic calming,” we focus on speed pollution. He is conducting the traffic calming study in accordance of the law with permission from all government officials. For example, the Tarrytown Police Chief advised him that the police department be informed before each time they go out, so that they are informed in case there is a call about it. He will also wear a safety vest, which was recommended. His plan is to conduct the study throughout Tarrytown roads, especially the “cut through” streets. He also presented to the Board another book, called the “Transition Companion” and thanked the Board for their support, encouragement and their willingness to listen to a concern of public safety. There will a “Transition Tarrytown” website by Thanksgiving. They are visiting nearby Villages and may revitalize Transition Westchester, which has been dormant for some time.

HALLOWEEN PARADE

Trustee Basher noted that the members of the Board of Trustees will see everyone on Saturday at the Halloween Parade.

ADJOURNMENT

Trustee Basher moved, seconded by Trustee Hoyt, and unanimously carried, that the meeting be adjourned at 9:15 p.m.

Carol A. Booth
Village Clerk