

Board of Trustees  
Village of Tarrytown  
Regular Meeting No. 13  
August 17, 2015  
8:00 p.m.

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

The meeting began with the Pledge to the Flag.

## REPORTS

May Fixell noted the following:

- He attended the Jazz concert at Pierson Park Friday night and had a wonderful time. Many people attended, the music was great, and it was a lovely setting on the waterfront. There are two more Friday night concerts and he urges people to go.
- The Westchester County Mobile Shredder is coming to Tarrytown on Saturday, August 29, 2015 from 10 a.m. to 1 p.m. at the Green Street Parking Lot.

Trustee Hoyt noted that the Tarrytown and Sleepy Hollow (TaSH) Farmers Market is this month's DVlicious winner. The market, which runs Saturdays from 8:30 a.m. to 2 p.m. at the Patriots Park, won with 43 percent of the vote over Pleasantville (31 percent), Katonah John Jay Homestead (11 percent), Bronxville (9 percent) and Ossining (7 percent). Trustee congratulated TaSH for a job well done.

## ADMINISTRATORS REPORT

Re-Bid of Sinkhole Repair, RiverWalk Park – bids are due on the re-bid of the sinkhole repair project on Friday, August 21. Only one bid was received when the project was originally bid and it exceeded the engineers estimate for the project. The project has received a permit from the New York State Department of Environmental Conservation and we are awaiting a permit from the US Army Corps of Engineers.

Altamont Avenue Sidewalk Replacement Project – The project is scheduled to begin the first or second week in September and should take 2 to 3 weeks to complete.

Train Station Area Improvements – Creation of new parking spaces. The Village has created 16 new parking spaces to service the railroad station. The new spaces will be available for use this coming Friday. Another improvement project by the train station is schedule to commence this weekend. The Village will be constructing a new sidewalk from the bottom of the southeast ramp of the H Bridge to the northern elevator and staircase leading to the train platform. It is anticipated that this construction will be completed in two weeks, with the majority of the work occurring on Friday and Saturday.

H-Bridge – The Village has received notice from the New York State Department of Transportation that some structural repair work is required on the H-Bridge and they have directed that the Village institute an 18 ton weight limit on the use of the bridge. The Village has notified all impacted entities and the Fire Department has established a protocol to address firefighting on the west side of the railroad tracks. The Fire Chiefs did a wonderful job implementing a new protocol to address the fact that there will be an 18 ton weight limit on the H-bridge.

Upper Tarrytown Lake – the Board previously approved a new program to capture and treat the nutrient load entering the upper Tarrytown Lake that is causing the algae blooms. The new program includes the installation of barriers that will capture the nutrients and allow the nutrients to be treated with a product called NutriZorb. Previously, the entire lake was being treated and the treatment was not able to control the algae blooms. According to Lake Savers, the company the Village has been working with on the

treatment of the lakes, this capturing and treating of the nutrient using barriers and thereafter releasing into the lake has proved very effective. The work is scheduled to begin this week.

Trustee Butler asked for an update on the new soccer field at the Tarrytown Lakes. Administrator Blau stated that the soccer field is scheduled to be available this fall. The Parks and Recreation Advisory Council is working on new protocols to deal with scheduling of the field and the use of the field. At this time, the Village has not taken ownership of the soccer field.

PUBLIC HEARING – AMENDMENT TO CHAPTER 221, PARKS AND RECREATION AREAS

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 17th day of August, 2015, at 8 PM, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider and to act upon a proposed amendment to Chapter 221 entitled “Parks and Recreation Areas”. The complete text of this legislation follows:

A LOCAL LAW to amend Chapter 221 of the Code of the Village of Tarrytown entitled “Parks and Recreation Areas” to establish a new Section of the Chapter to control swimming, wading and boating in waterways in and adjacent to parks and open space in the Village of Tarrytown.

SECTION 1. LEGISLATIVE INTENT AND FINDINGS OF FACT.

A. Findings of Fact.

The Board of Trustees finds it necessary to provide direction, via legislation, as to what is restricted or permitted in the various bodies of water that are located in or adjacent to Village parks and open spaces. Chapter 201 of the Code of the Village of Tarrytown entitled “Lakes and Waterways” prohibits persons from entering or swimming in waterways and lakes, however, the definitions associated therewith are limiting and do not include many of the major water bodies in the Village. In addition, the general public would not normally look for any restriction associated with the use of water bodies in a Chapter entitled “Lakes and Waterways”. It is the intent of the Board of Trustees to explicitly state what is restricted and what is permitted and to include such language in the Chapter of the Village Code which addresses issues of parks and recreation in the Village.

B. Legislative Intent.

The intent of this amendment to is to clearly establish what is restricted and what is permitted in the various bodies of water in and adjacent to parks and open space lands owned by the Village of Tarrytown.

Material to be deleted appears in [parenthesis], material to be added is in **bold typeface**.

SECTION 2. ADD NEW SUBSECTION ENTITLED “SWIMMING, WADING AND BOATING”

**221-3. Swimming, Wading and Boating**

- A. No person shall swim or wade in any body of water or waterway in or adjacent to a designated park or open space.**
- B. No person shall bring or operate any boat, canoe, kayak or other watercraft or any floatation device upon any body of water or waterway in or adjacent to a designated park or open space unless the Village directly authorizes such use**

**C. and establishes a location for the launching and use of such boat, canoe, kayak or other watercraft or any floatation device.**

SECTION 3. AMEND NUMBERING IN CHAPTER TO REFLECT NEW SECTION OF CHAPTER

Section 3. Businesses in parks and recreations areas shall become Section 4.

Section 4. Alcoholic beverages in parks and public areas shall become Section 5.

Section 5. Repair work on motor vehicles restricted shall become Section 6.

Section 6. Washing motor vehicles unlawful shall become Section 7.

Section 7. Parking restrictions shall become Section 8.

Section 8. Smoking of tobacco products shall become Section 9.

Section 9. Penalties for offenses shall become Section 10.

Section 10. Properties dedicated and designated as public parks, playgrounds and recreational areas shall become Section 11.

Section 4: Effective Date

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

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

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

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

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

Trustee McGovern moved, seconded by Trustee McGee, 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 amend the Code of the Village of Tarrytown, Chapter 221 entitled "Parks and Recreation Areas" to establish a new Section of the Chapter to control swimming, wading and boating in waterways in and adjacent to parks and open space in the Village of Tarrytown.

WHEREAS, a public hearing was held for the proposed action on August 17, 2015; and

WHEREAS, a notice of public hearing was published in the Journal News on July 24, 2015; and

WHEREAS, the Board of Trustees of the Village of Tarrytown is the only agency which has approval authority over the Proposed Action, and is therefore the Lead Agency for the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

In accordance with Article 8 of the State Environmental Conservation Law and 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 the Proposed Action is an Unlisted action that 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 does hereby adopt Local Law No. 5 of 2015.

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.

FIRE DEPARTMENT MEMBERSHIP CHANGE

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 Fire Department membership changes recommended at the July 21, 2015 Board of Fire Wardens meeting: Membership: Jody Williams has been removed from membership at Riverside Hose Company, David Cova has become a member of Marine 5 and Nikolai Kabalev has been approved as an operator of the Fireboat.

APPOINTMENT OF ALTERNATE MEMBER OF THE ARCHITECTURAL REVIEW BOARD

Trustee Butler moved, seconded by Trustee McGovern, 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 appoint Sharon Bryan-Morgan as alternate member of the Architectural Review Board for a term to expire in April of 2018.

VALAD ELECTRIC APPLICATION FOR A VARIANCE FROM THE INTERIM DEVELOPMENT MORATORIUM FOR TARRYTOWN STATION STUDY AREA WITHIN THE VILLAGE OF TARRYTOWN

Trustee Hoyt moved, seconded by Trustee Basher, that the following resolution be approved. Motion carried, all voting "aye" with the exception of Trustee Butler who abstained. Approved: 6-0-1

WHEREAS, Valad Electric Heating Corp. ("Applicant"), has applied for a variance pursuant to the provisions of section 9 of Local Law No. 4 of 2015, entitled Interim Development Moratorium for Tarrytown Station Study Area within the Village of Tarrytown ("the Moratorium"), based upon a claimed hardship, and

WHEREAS, the Applicant has submitted a detailed letter and affidavit of the Applicant's owner/chief executive officer, both dated July 29, 2015, supporting the application, and

WHEREAS, a duly noticed public hearing was held before the Board of Trustees on August 12, 2015, and

WHEREAS, the Applicant, its attorney and real estate broker appeared and presented the grounds for granting a hardship variance, and

WHEREAS, no one appeared in opposition to the application.

1. The Applicant owns the property located at 160 Wildey Street (the "Property"),
2. The Applicant is having financial difficulties resulting from increasing costs of doing business in Westchester County,
3. The Applicant has had the Property listed for sale since March, 2014,
4. Due to the location of the Property and the limited access to major highways and being situated next to the Metro North Railroad tracks and the the northeast ramp of the H-Bridge, there is a limited market for the Property,
5. The Applicant has accepted an offer for the purchase of the Property from Lexington 202 Development Corp. ("Lexington"),
6. Lexington intends to convert the Property to a self-storage facility, and in order to do so requires approvals from the Zoning Board of Appeals ("ZBA") and Planning Board,
7. Lexington currently has a variance application pending before the ZBA,
8. The Applicant's business requires a location that meets specific requirements, including, but not limited to a location that will permit it to keep its current skilled employees,
9. The Applicant has been looking for a suitable new site for approximately a year,
10. The Applicant has made an accepted offer for a new location for its business,
11. The Applicant does not have the financial ability to purchase the new location without selling the Property and must use the provisions of Internal Revenue Code section 1031 for an "exchange" in order to make a viable sale and purchase,
12. The timing associated with the Moratorium will likely prevent Lexington from obtaining the necessary approvals from the ZBA and Planning Board and accordingly, will inhibit the Applicant from being able to consummate the purchase and sale it contemplates,
13. The Applicant has a hardship as contemplated by the provisions of section 9 of the Moratorium,
14. Due to the location of the Property, the granting of a hardship variance will not substantially undermine the land use review study nor will it adversely impact the health, safety or general welfare of the Village and its residents.

NOW THEREFORE, BE IT RESOLVED the within application is a Type II action pursuant to the State Environmental Quality Review Act that requires no further environmental review, and

BE IT FURTHER RESOLVED the application for a hardship variance from the Moratorium is hereby granted.

AUTHORIZATION TO TRANSFER DEED FOR REVEREND SYKES PARK FROM VILLAGE OF TARRYTOWN TO VILLAGE OF SLEEPY HOLLOW

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 authorize and direct the Village Administrator to execute all necessary documents to convey property owned by the Village of Tarrytown located in Reverend Sykes Park to the Village of Sleepy Hollow.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) DOCUMENT

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 accept the LWRP document as the Draft Local Waterfront Revitalization Program Document for the Village of Tarrytown and does hereby direct the Village Administrator to forward the document to the New York State Department of State for review and comment.

WATER – RIVER’S EDGE SLEEPY HOLLOW

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

WHEREAS, on June 23, 2015, the Board of Trustees of the Village of Sleepy Hollow adopted a resolution authorizing the Village of Tarrytown to provide water to the property known as River’s Edge Sleepy Hollow, LLC located at 11 River Street, Sleepy Hollow, New York; and

WHEREAS, the Village of Tarrytown will provide water to River’s Edge until Sleepy Hollow installs the necessary water facilities to provide water to River’s Edge; and

WHEREAS, all costs for the Village of Tarrytown to provide water to River’s Edge shall be borne by River’s Edge Sleepy Hollow, LLC.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of the Village of Tarrytown does hereby agree to include River’s Edge Sleepy Hollow, LLC as an out-of-Village water customer and will provide water to River’s Edge Sleepy Hollow, LLC once the necessary connection to the building is hereby constructed.

HUDSON RIVER VALLEY GREENWAY COMPACT GRANT – TRANSIT ORIENTED DEVELOPMENT

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 a Memorandum of Understanding with the New York State Hudson River Valley Greenway for a grant for the Tarrytown Station and Waterfront Transit Oriented Development study project.

RESOLUTION AWARDED THE 2015 CONTRACT FOR MILLING, RESURFACING AND CURBING VARIOUS STREETS

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

WHEREAS, the Village of Tarrytown, in a cooperative relationship with the Villages of Ardsley, Dobbs Ferry, Elmsford, Hastings and Irvington, has solicited bids for the milling and resurfacing of various street, adjusting manholes, and concrete curbing in the Village of Tarrytown and the cooperating partner municipalities; and

WHEREAS, a public notice for this project bid was duly advertised in an official newspaper on July 6, 2015; and

WHEREAS, on July 29, 2015 at 11:00 a.m., at Irvington Village Hall all bids received were opened and the bids received are summarized below for the work in all of the partner Villages; and

<u>CONTRACTOR</u>	<u>BID AMOUNT</u>
ELQ Industries, Inc.	\$ 2,385,731.00
Montesano Brothers, Inc.	\$ 2,389,390.25
PCI Industries Corporation	\$ 2,501,430.00

WHEREAS, the Board of Trustees has appropriated \$400,000 in the Capital Budget for this work and also intends to utilize \$159,029.37 in New York State Consolidated Highway Improvement Program funding for this work; and

WHEREAS, in accordance with the contract, each partner municipality will separately authorize the Contract and be responsible for payment of services performed within their respective municipality directly to the contractor.

NOW, THEREFORE, BE IT RESOLVED, that the Village Board of Trustees of the Village of Tarrytown hereby awards the contract, for the work to be performed for the 2015 Milling, Resurfacing and Replacement of Curbing on various streets in the Village of Tarrytown to ELQ Industries, Inc., in accordance with their unit prices contained in their bid of July 29, 2015 for the work to be performed within the Village of Tarrytown and the other five Villages.

AWARD OF CONTRACT – SIDEWALKS ON GREEN STREET AT GREEN STREET NORTH PARKING LOT

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

WHEREAS, the Village issued an Request for Proposals for the construction of new sidewalks on Green Street creating connection from the southwest ramp of the H-Bridge to the northern access point to the Metro North Railroad Station elevators and staircase; and

WHEREAS, three proposals were received in response to the RFP; and

WHEREAS, the three proposals received are as follows:

- PVS Construction                      \$33,051.00
- Benny Siniscalchi Paving, Inc.    \$33,700.00
- Maple Leaf Associates, Inc.        \$34,680.00

NOW THEREFORE, BE IT RESOLVED that the Board of Trustees does hereby award a contract for the construction of sidewalks on Green Street to PVS Construction of Hopewell Junction, New York per their proposal of \$33,051.00

BE IT FURTHER RESOLVED that the Board of Trustees does hereby authorize and direct the Village Administrator is execute an agreement with PVS Construction for the construction of sidewalks on Green Street.

SCHEDULE A PUBLIC INFORMATION MEETING

Trustee Basher moved, seconded by Trustee McGovern, 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 schedule a Public Information session for the regular meeting of September 8, 2015 to discuss and obtain public input on five proposed parking spaces on Wilson Park Drive to service the Wilson Park open space.

SCHEDULE A PUBLIC HEARING – COMMUNITY CHOICE AGGREGATION (ENERGY) PLAN

Mayor Fixell urged residents to come to this public hearing to learn about how this plan would work. If this proposed legislation is adopted, the default energy supplier, which currently is Con Edison, would allow residents of Westchester County, working with a group called Sustainable Westchester, to choose a new default energy supplier. It would not prevent anyone to stay with Con Edison. The default company would be altered based upon the energy company proposals to the Village. This will help residents save money on their energy bills.

Trustee Basher 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 schedule a Public Hearing for the regular meeting of September 8, 2015, to hear and discuss and act upon a proposed amendment to the Code of The Village of Tarrytown by adding a new Chapter 119, entitled “Community Choice Aggregation (Energy) Program” to allow the Village of Tarrytown to reduce costs and provide cost certainty for the purpose of economic development, to promote deeper penetration of energy efficiency and renewable energy resources such as wind and solar, and wider deployment of distributed energy resources as well as to examine the retail commercial customers in those markets.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF THE BOARD OF TRUSTEES HELD ON JULY 20, 2015

Trustee McGovern moved, seconded by Trustee Basher, that the following resolution be approved. Motion carried, all voting “aye” with the exception of Trustee Zollo who abstained. Approved: 6-0-1

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 July 20, 2015 as submitted by the Village Clerk.

APPROVAL OF AUDITED VOUCHERS

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 Abstract No. 3 of Audited Vouchers, which includes the August 3, 2015 and the August 17, 2015 vouchers to be paid in the following amounts:

General	\$	428,908.60
Water		194,426.66
Sewer Fund		0.00
Capital		273,310.74
Library		14,233.06
Trust & Agency		22,505.51
Total	\$	933,384.57

The Board was polled all voting “aye” with the exception of Trustee McGee who recused herself from Voucher Number 2012251232 and Trustee Hoyt who recused himself from Voucher Number 2012251054. 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

Asten Morgan Jr., 15 Oak Avenue, stated that he is speaking in regard to the horrific road conditions of Cobb Lane and Oak Avenue. He stated that he met with Howard Wessells, Superintendent of Public Works at Oak Avenue and Mr. Wessells said that the road work will be done this year without any specific timeframe. Mr. Morgan was under the impression that both Cobb Lane and Oak Avenue would be paved. He has now been told that Oak Avenue is going to return to its original condition, which was gravel and in horrific condition. Mr. Wessells was there with the contractor and the contractor noted that he can find the right gravel for the road, which is smaller gravel than was originally placed on the road by the contractor. However, it seems that they plan to just patch holes with the gravel, which is a horrible way to fix the road. He asked Howard Wessells if the road is going to be properly graded for proper drainage. There are now drainage issues with Cobb Lane and Oak Avenue ever since the Village worked on the water project. When it rains, the amount of water coming toward his house has increased significantly. He asked the Board if they knew when these road conditions would be resolved and asked the Board to have a common sense approach to repairing these roads, even though Mr. Morgan understands that these are private roads. Mr. Morgan stated that the entire condition of Cobb Lane deteriorated as a result that a portion of the road has been torn up and poorly repaired. The whole road should be repaved.

Trustee Butler asked Administrator Blau to have the Village Engineer look at the drainage issues on Cobb Lane and Oak Avenue.

Trustee Zollo asked Administrator Blau to report to the Board at the next work session, the names and sections of the streets that need to be repaved or restored including Wilson Park Drive, from Beech Lane to Warren Avenue, Cobb Lane and Oak Avenue. Trustee Zollo asked the Administrator Blau consult with the Village Attorney concerning repairs and repaving on private roads.

ADJOURNMENT

Trustee Basher moved, seconded by Trustee Butler, and unanimously carried, that the meeting be adjourned at 8:35 p.m.

Carol A. Booth  
Village Clerk