

Board of Trustees
Village of Tarrytown
Regular Meeting No. 15
September 21, 2015
8:00 p.m.

PRESENT: Mayor Fixell presiding; Trustees: Basher, Butler, McGee, McGovern and Zollo; Village Treasurer Hart and Village Attorney Silverberg

ABSENT: Trustee Hoyt; Village Administrator Blau; and Village Clerk Booth

The meeting began with the Pledge to the Flag.

REPORTS

Mayor Fixell noted the following:

- The Eco-Fair will be held this Saturday, September 26th at Patriots Park from 10 a.m. to 2 p.m. The Eco-Fair event will be held during the same time as the Farmer's Market and the Warner Library event.
- There is an Open House #2 for the Station Area Study on Sunday, between 1 p.m. and 4 p.m. at the Senior Center on West Main Street. The Station Area Study group will share their ideas, make presentations and listen to the public's ideas on the economic development strategy for the Village. He welcomed the public to attend.

Trustee Basher sadly noted that Caryl Plunkett passed away a few days ago. Caryl was the Chairperson and member of the Village's Zoning Board of Appeals for many years. On behalf of the entire Board of Trustees, Trustee Basher sends our condolences to her husband Bill and the Plunkett family.

Trustee McGee noted that on Saturday, September 26th, the Headless Halloween Mini-Golf is returning to the Warner Library. The Day Golf, a more "family friendly" experience is from 10 a.m. to 4 p.m. The Night Golf, a more "Halloween scary" experience is from 6 p.m. to 9 p.m. The cost is \$10 for adults and \$5 for children during the day and \$10 for everyone at night. She hopes to see you there.

PRESENTATION BY ALAN KASSAY, PARTNER WITH O'CONNOR, DAVIES TO REVIEW THE AUDIT REPORT FOR THE FISCAL YEAR 2014-2015

Alan Kassay, partner with O'Connor, Davies, read from the second page of the independent Auditor's Report which stated that in their opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, each major fund, and the aggregate remaining fund information of the Village as of May 31, 2015 and the respective changes in financial position, thereof, and the respective budgetary comparison for the General and Water funds for the year then ended in accordance with accounting principles generally accepted in the United States of America. This is known as an unqualified or unmodified opinion, which is the best opinion that a municipality can receive. Mr. Kassay noted that the Village is in a good financial position. The unassigned fund balance increased substantially from the prior year.

PUBLIC HEARING – FIRE PREVENTION

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 21st day of September, 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 add section 4 to Chapter 165 of the Code of the Village of Tarrytown entitled Fire Prevention to address parking of vehicles designated for official use by the Fire Chief, First Assistant Fire Chief and Second Assistant Fire Chief.

Be it enacted by the Board of Trustees of the Village of Tarrytown as follows:

Section A: Purpose.

The purpose of this section is to allow for safe, close and accessible parking at or near the residences of the persons holding the titles of Fire Chief, First Assistant Fire Chief and Second Assistant Fire Chief (individually and collectively referred to herein as the "Tarrytown Fire Chief(s)") of their official Village of Tarrytown Fire Department ("Fire Department") vehicles. The Village has found that the Tarrytown Fire Chiefs have specially equipped vehicles for official Fire Department use that are in their possession at all times because, as Fire Chiefs, they are on call at all times. The Tarrytown Fire Chiefs often park their respective official vehicles at their respective residences and need quick and safe access to said vehicles in order to rapidly respond to emergencies, but given the parking constraints in certain parts of the Village, that is not always feasible. This local law is intended to address that issue.

Section B: Parking spaces designated for the Tarrytown Fire Chiefs.

- 1 Notwithstanding any inconsistent provision of any local code, rule, regulation, law or ordinance, upon the appointment of a Tarrytown Fire Chief in accordance with the Fire Department Constitution and Bylaws, the Village Administrator shall, within fifteen (15) calendar days of that Tarrytown Fire Chief requesting designation of a parking space, make a reasoned written determination based upon the location and type of residence of that Tarrytown Fire Chief, the traffic and parking regulations in that area, as well as any other criteria determined by the Village Administrator to be relevant or instructive, as to whether there is safe and reliable parking available at or within close proximity to that Tarrytown Fire Chief's residence to park their official Fire Department vehicle at any and all hours of the day that will permit quick and safe access in order to rapidly respond to an emergency.
 - a. If the Village Administrator determines such parking is available, the Village Administrator's written determination shall be filed with the Village Clerk and no further action shall be taken by the Village.
 - b. If the Village Administrator determines such parking is not available, the Village Administrator shall add to the written determination the proposed location of a parking space in close proximity to that Tarrytown Fire Chief's residence to be designated for the exclusive use of parking their official Fire Department vehicle during their tenure as a Tarrytown Fire Chief.
 - i. The Village Administrator's determination as to the proposed location of the designated parking space shall be made by consulting with the Police Chief and Superintendent of Public Works, as well as any other local, state or federal agencies as may be warranted given the location of the proposed parking space, in order to ensure that the designated parking space does not present a safety hazard or undue burden upon the community or impede the Village's ability to provide public services in the area.
 - ii. Within thirty (30) calendar days of the Tarrytown Fire Chief requesting designation of a parking space, the Village Administrator shall submit his/her written determination as to the need for a designated parking space and the proposed location of the parking space to the Board of Trustees for review at the next meeting practicable.

1. The Board of Trustees shall review the findings of the Village Administrator as to the need for a designated parking space and affirm or modify the determination of the Village Administrator as to the proposed location of the parking space.
 2. The Highway Department shall be notified upon a final determination being made by the Board of Trustees as to the location of the designated parking space and the Highway Department shall undertake to delineate the designated parking space with yellow paint outlining the parking space and signage designating the parking space with the words "Parking for Fire Chief Vehicle Only" within ten (10) calendar days of the Board of Trustees' final determination.
- 2 At any point during the tenure of a Tarrytown Fire Chief who has been assigned a parking space in accordance with subsection B(1)(b) above, the Board of Trustees may, of its own accord or upon recommendation from the Village Administrator, reevaluate the parking space designated and may change and/or eliminate the space designated if it is found to present a safety hazard or undue burden upon the community or impede the Village's ability to provide public services in the area.
 - 3 Regardless of whether a Tarrytown Fire Chief has been assigned a parking space in accordance with subsection B(1)(b) above, in the event a Tarrytown Fire Chief moves residences during his/her tenure, he/she shall give the Village Administrator at least fifteen (15) calendar days advanced notice and provide the Village Administrator with the exact date of the move and the address of his/her new residence.
 - a. If that Tarrytown Fire Chief had been assigned a parking space in accordance with subsection B(1)(b) above, immediately upon that Tarrytown Fire Chief moving residences the designated parking space will no longer be for the exclusive use of parking that Tarrytown Fire Chief's official vehicle and will revert back to being governed by the parking regulations governing the space before said designation, or as may have been modified thereafter. The Village Administrator shall instruct the Highway Department to remove the paint delineating the designated parking space within ten (10) calendar days of the Tarrytown Fire Chief moving residences.
 - b. Upon the Village Administrator being informed that the Tarrytown Fire Chief will be moving residences and the Tarrytown Fire Chief requesting designation of a parking space at their new residence, the Village Administrator shall consider whether the designation of a parking space is necessary at that Tarrytown Fire Chief's new residence in accordance with the procedure and deadlines set forth in subsection B(1).
 - 4 Subject to subsections B(2) and B(3) above, if a Tarrytown Fire Chief is designated a parking space in accordance with subsection B(1)(b) above, the parking space shall remain designated for official use by that person so long as they consecutively and without interruption hold a title within the definition of Tarrytown Fire Chief set forth in section A, but it need not be the same title, and for so long as the Tarrytown Fire Chief resides at the same location as when the parking space was assigned.

- 5 Immediately upon the tenure of a Tarrytown Fire Chief who has been assigned a parking space in accordance with subsection B(1)(b) above ending, for whatever reason, except as set forth in subsection B(4) above, the designated parking space will no longer be for the exclusive use of parking that Tarrytown Fire Chief's official vehicle and will revert back to being governed by the parking regulations governing the space before said designation, or as may have been modified thereafter. The Village Administrator shall instruct the Highway Department to remove the paint delineating the designated parking space within ten (10) calendar days of the tenure ending.

Section C: Application and Enforcement

- 1 This section shall only apply to the persons holding the positions of Fire Chief, First Assistant Fire Chief and Second Assistant Fire Chief during their tenure as such.
- 2 Whenever a parking space has been designated for use by a Tarrytown Fire Chief in accordance with this section, the designated parking space shall only be used for parking that Tarrytown Fire Chief's official Fire Department vehicle and may be used for that purpose at any time of day on any day of the week, regardless of the parking regulations otherwise in effect in the location of the designated parking space.
- 3 No other vehicle may be parked in the designated parking space, regardless of whether the vehicle is owed by the Tarrytown Fire Chief to whom the parking space was assigned. Any other vehicle parked in the designated parking space shall be treated as a parking violation punishable in accordance with Chapter 1, Article II of the Village of Tarrytown Code.

Section D: Supersession of other laws.

1. All laws, ordinances, rules and regulations of the Village are modified and superseded by this article with respect to their application to parking and enforcement.

Section E: Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

Section F: 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.

Trustee Basher moved, seconded by Trustee Becky 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 Basher moved, seconded by Trustee McGovern, and unanimously carried, that the hearing be closed.

Trustee Zollo 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 amend the Code of the Village of Tarrytown to add Section 4 to Chapter 165, Fire Prevention to address parking of vehicles designated for official use by the Fire Chief, First Assistant Fire Chief and Second Assistant Fire Chief.

WHEREAS, a public hearing was held for the proposed action on September 21, 2015; and

WHEREAS, a notice of public hearing was published in the Journal News on September 12, 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. 7 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.

RESOLUTION AFFIRMING THAT THE VILLAGE OF TARRYTOWN SHALL ENTER INTO AN AGREEMENT TO PARTICIPATE IN THE COMMUNITY CHOICE AGGREGATION (“CCA”) PROGRAM THROUGH SUSTAINABLE WESTCHESTER, INC.

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

WHEREAS, Sustainable Westchester, Inc., a not-for-profit organization now comprised of over forty municipalities in Westchester County, sought approval of a demonstration community choice aggregation (CCA) program in Westchester County in 2014, which would allow local governments to participate in a Sustainable Westchester program to procure energy supply from energy service companies (“ESCOs”) for the residents of the municipalities; and

WHEREAS, on February 26, 2015, the Public Service Commission of the State of New York approved implementation of the first community choice aggregation (“CCA”) pilot program in New York State, which allows Sustainable Westchester to put out for bid the total amount of natural gas or electricity being purchased by local residents or small businesses; and

WHEREAS, the program is intended to provide consumers with the ability to lower their overall energy costs; and

WHEREAS, the potential benefits of CCA programs include price stability for a fixed contract term, lower prices, more favorable contract terms, and the ability to design a program that reflects local preferences and needs, including a preference for cleaner power sources; and

WHEREAS, the Westchester pilot program is intended to include residential and small non-residential customers and to permit the aggregation of both electric and natural gas purchases; and

WHEREAS, Sustainable Westchester, Inc. will issue a request for proposals to suppliers to provide energy to participants and will then award a contract; and

WHEREAS, Sustainable Westchester, Inc. or the Village of Tarrytown will request individual customer data from the utility and the selected supplier will then notify the bundled customers of the contract terms and the customer's opportunity to opt-out of the program within twenty (20) days; and

WHEREAS, the Board of Trustees of the Village of Tarrytown adopted the required local law on September 8, 2015 to enable participation in the CCA program.

NOW, THEREFORE, BE IT RESOLVED, that the Village of Tarrytown shall enter into an agreement to participate in a Sustainable Westchester program for its residents and business consumers who are not currently purchasing electricity from an energy service company (ESCO), only if: 1) the default price is guaranteed to be consistently less than the utility price for the same period; or 2) the default price is fixed at a level that is less than the average utility price for the same commodity, for the same customer class, over the preceding twelve month period; or 3) the default price is at first set at a level that is less than the average utility price for electricity, for the same customer class, over the preceding twelve month period, and only floats upward by less than twenty-five percent (25%) of the price increases implemented by the utilities; and

BE IT FURTHER RESOLVED that the Village of Tarrytown agrees to notify residents and business owners eligible for inclusion in a manner that the Village deems effective and efficient about the program in advance of the program's implementation; and

BE IT FURTHER RESOLVED that based upon the text and prior interpretations of the General Municipal Law ("GML"), a municipality may participate in a Community Choice Aggregation ("CCA") program without undertaking the referendum requirement of GML § 360, which applies only to the construction, leasing, purchasing, acquisition, use or ownership of a "public utility service" as defined in the GML.

BE IT FURTHER RESOLVED that the Village Administrator of the Village of Tarrytown is hereby authorized to execute any and all documents to give effect to this resolution.

SURPLUS VEHICLES/EQUIPMENT

Trustee Basher moved, seconded by Trustee McGovern, and unanimously carried, that the following resolution be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby declare the following Department of Public Works equipment items surplus:

- Miscellaneous old water meters
- Old Scott Air Pack Harnesses
- Street Signs that are no longer regulation
- Old Water fittings and miscellaneous items that have been stored in the old Eastview Pump Station

BOND POST INSURANCE COMPLIANCE

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

WHEREAS, the Internal Revenue Service has issued new regulations requiring issues of tax-exempt obligations to certify on Form 8038-G that they actively monitor compliance with federal tax rules following the issuance of such obligations; and

WHEREAS, the Village of Tarrytown is an occasional issuer of tax-exempt obligations and thus is subject to the aforementioned compliance requirements which are critical for the preservation of preferential tax status of those obligations; and

WHEREAS, it is therefore in the best interest of the Village of Tarrytown to adopt formal written procedures to ensure such compliance and to designate an official responsible for ensuring that such procedures are followed.

NOW THEREFORE, BE IT RESOLVED that the Village of Tarrytown hereby adopts the post-issuance compliance procedures attached hereto as "Schedule A" and resolves to be governed thereby.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon its adoption.

HANDICAPPED PARKING SPACE – 35 CENTRAL AVENUE

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

BE IT RESOLVED that the Village of Tarrytown does hereby authorize the establishment of a handicap parking space placed in front of 35 Central Avenue.

All new material is set forth in CAPITAL letters. No material is to be deleted.

Section 291-92. Schedule XXVII: Handicapped Parking Spaces.

In accordance with the provisions of 291-62, the following described streets, driveways, parking lots and auto parks or parts of streets, driveways, parking lots and auto parks are hereby designated as handicapped parking spaces and are designated for use by persons with handicapped parking permits:

<u>Name of Street, etc.</u>	<u>Side</u>	<u>Location</u>
CENTRAL AVENUE	NORTH	FROM A POINT 90 FEET EAST OF SOUTH WASHINGTON STREET FOR A DISTANCE OF 18 FEET IN AN EASTERLY DIRECTION

HANDICAPPED PARKING SPACE – S. BROADWAY

Trustee Butler moved, seconded by Trustee McGee, and unanimously carried, that the following resolution be approved upon confirmation of the correct meters: Approved: 6-0

BE IT RESOLVED that the Village of Tarrytown does hereby authorize the establishment of a handicap parking space placed on S. Broadway between Main Street and Elizabeth Street.

Material to be deleted is set forth in parenthesis (). Material to be added is in capital letters.

Section 291-92. Schedule XXVII: Handicapped Parking Spaces.

In accordance with the provisions of 291-62, the following described streets, driveways, parking lots and auto parks or parts of streets, driveways, parking lots and auto parks are hereby designated as handicapped parking spaces and are designated for use by persons with handicapped parking permits:

<u>Name of Street, etc.</u>	<u>Side</u>	<u>Location</u>
(Broadway, South)	(West)	(1; the 3 rd metered parking space north of West Elizabeth Street [maximum time limit 2 hours])
BROADWAY, SOUTH	WEST	1; THE 8 TH METERED PARKING SPACE NORTH OF WEST ELIZABETH; MAXIMUM TIME LIMIT 2 HOURS

PHASE VII WATER IMPROVEMENTS – ENGINEERING SERVICES

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

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby authorize and direct the Village Administrator to enter into an agreement with Woodard and Curran, White Plains, New York, for professional engineering services related to Phase VII of the Village's water distribution improvement program including design, administration and construction oversight.

SCENIC HUDSON RIVERWALK PARK REPLANTING DESIGN

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

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby authorize and direct the Village Administrator to enter into an agreement with IQ Landscape Architects, P.C. to provide landscape architecture and design services for the replanting design, bidding and oversight for the Scenic Hudson RiverWalk Park.

SCHEDULE A PUBLIC HEARING – MORATORIUM WAIVER REQUEST FROM TARRYTOWN BOAT CLUB

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

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby schedule a Public Hearing for the regular meeting of October 5, 2015, at 8:00 p.m., in the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider the application of the Tarrytown Boat and Yacht Club, 236 Green Street, Tarrytown, New York (Applicant), which is seeking a hardship variance from the provisions of the Moratorium on Development within the study area designated as the Tarrytown Station Study Area.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF THE BOARD OF TRUSTEES HELD ON SEPTEMBER 8, 2015

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

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 September 8, 2015 as submitted by the Village Clerk.

APPROVAL OF AUDITED VOUCHERS

Trustee McGovern moved, seconded by Trustee Basher, and unanimously carried, that the following resolution be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve Abstract No. 5 of Audited Vouchers to be paid in the following amounts:

General	\$	496,683.75
Water		254,059.86
Sewer Fund		0.00
Capital		62,657.47
Library		10,959.34
Trust & Agency		<u>10,661.60</u>
Total	\$	835,022.02

The Board was polled all voting "aye" with the exception of Trustee McGee who recused herself from Voucher Number 2012251630. Motion carried. 6-0

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

Mayor Fixell asked whether anyone wished to address the Board on any matter. No one appeared.

ADJOURNMENT

Trustee Basher moved, seconded by Trustee Zollo, and unanimously carried, that the meeting be adjourned at 9:25 p.m.

Carol A. Booth
Village Clerk