

MINUTES OF REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE VILLAGE OF BRONXVILLE HELD ON DECEMBER 10, 2007 AT THE VILLAGE HALL, 200 PONDFIELD ROAD, BRONXVILLE, N.Y.

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PRESENT:	Mary C. Marvin	Mayor
	Glenn D. Bellitto	Trustees
	William H. Barton, Jr.	
	Anne W. Poorman	
ALSO PRESENT:	Harold Porr III	Village Administrator
	Darius Chafizadeh	Co-worker of Village Attorney
ABSENT:	Robert S. Underhill	Trustee
	Lino J. Sciarretta	Village Attorney

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**WORK SESSION & EXECUTIVE SESSION**

In attendance were Mayor Marvin, Trustee Bellitto, Trustee Poorman and Trustee Barton. Also, Village Administrator, Harold Porr, Village Attorney, Lino Sciarretta, Co-worker of Village Attorney, Darius Chafizadeh, and Attorney, Jim Staudt.

At 7:00PM, on motion of Trustee Bellitto, second by Trustee Poorman, the Work Session was called to order by Mayor Marvin. The Trustees discussed the agenda for the Board meeting.

At 7:04PM, on motion of Trustee Poorman, second by Trustee Barton, the Trustees entered into Executive Session to discuss WCI contract negotiations with legal counsel.

On motion by Trustee Barton, second by Trustee Poorman, the Trustees exited the Executive Session at 8:05PM.

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At 8:13PM, Mayor Marvin opened the meeting. She stated that Trustee Underhill and Village Attorney, Lino Sciarretta, would not be in attendance and that Mr. Sciarretta sent a co-worker, Darius Chafizadeh, in his place.

**NEW BUSINESS**

**RESOLUTION - AvalonBay Communities Lease Agreement**

On motion of Trustee Poorman, second by Trustee Bellitto, the following resolution was unanimously approved:

**WHEREAS**, AvalonBay Communities, Inc. is the landlord of a parking area known as the so-called Mobil lot (the "Parking Area") located on the real property located at Parkway Road, Bronxville.

**WHEREAS**, the Village seeks to enter into a parking lease for the Parking Area,

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Trustees hereby authorizes the Mayor to execute a parking lease with AvalonBay Communities, Inc. for the Parking Area in a form approved by the Village Attorney, and to execute any other documents necessary to effectuate the parking lease.

**RESOLUTION - Municipal Purchasing Legislation, Act No. 8-1983 (continuous)**

On motion of Trustee Barton, second by Trustee Bellitto, and unanimously carried, the following resolution was adopted:

**NOW, THEREFORE, BE IT RESOLVED** that the County Purchasing Agent is hereby authorized to act as Purchasing Agent for the Village of Bronxville on a continuing basis and

**BE IT FURTHER RESOLVED**, that the following officers and employees are hereby authorized to sign appropriate requisitions:

Harold Porr, Village Administrator  
Rocco V. Circosta, Superintendent of Public Works  
Christopher Satriale, Chief of Police

**AND BE IT FURTHER RESOLVED**, that the following named officials are hereby authorized and directed to audit and pay County bills for the cost of County services within thirty (30) days after receipt of said bills:

Robert Fels, Village Treasurer

**AND BE IT FURTHER RESOLVED**, that the following named official is hereby authorized to secure and provide to the County of Westchester any and all insurance required by the County's Director of Risk Management, in accordance with County Act No. 8-1983:

Robert Fels, Village Treasurer

**RESOLUTION - Houlihan Lawrence**

On motion of Trustee Bellitto, second by Trustee Barton and unanimously carried, the following resolution was adopted:

**BE IT RESOLVED** the Board of Trustees authorizes the Mayor to execute an Agreement with 4 Valley Road General Partnership for renewal of a lease for certain property used as a parking lot located on Garden Avenue, subject to final approval by Village Attorney.

**RESOLUTION - HSBC Bank**

On motion of Trustee Poorman, second by Trustee Bellitto, and unanimously carried, the following resolution was adopted:

**BE IT RESOLVED** that the Board of Trustees authorizes the Village Treasurer to establish an account with HSBC Bank and to authorize HSBC Bank to become a depository of Village funds.

**RESOLUTION - Authorizing Corrections to Current Assessment/Tax Roll**

On motion of Trustee Belitto, second by Trustee Barton, and unanimously carried, the following resolution was adopted:

**WHEREAS**, clerical and factual corrections to the Final Roll and Tax Roll are permissible under certain legal guidelines; and,

**WHEREAS**, the Real Property Tax Law Sec 550 provides for procedures allowing taxpayers and municipal officials to apply for corrections; and,

**WHEREAS**, the Assessor and his designee have reviewed and investigated each application: and,

**WHEREAS**, the Assessor and his designee have prepared the following list of recommendations; and,

**WHEREAS**, the Village Board of Trustees is empowered to dispose of each application as it deems appropriate;

**NOW THEREFORE BE IT RESOLVED**, that the Village Board hereby authorizes the Honorable Mayor, Mary C. Marvin acting within her role as Chief Executive Officer for the Village of Bronxville, to execute each application in accordance with the following schedule.



Mayor Marvin stated that the Board gave WCI the opportunity to speak with the Village, however, Village Board meetings are not the appropriate venues to negotiate contracts.

Ms. Harrington asked if Mr. Starkey, CEO of WCI, assured the Village of WCI's commitment to the Village.

Mayor Marvin told her that WCI wants this project but in terms that the cost is not so prohibitive that they lose money.

Ms. Harrington asked if the last extension was granted for closing into January to allow for the full completion bond to be obtained or to negotiate a timeline.

Mayor Marvin stated WCI asked for an extension on the closing date.

Mr. James Kroulas, 70 Parkway Road, was concerned that starting prices originally were to be \$650K but are now \$1.3 million. Since the parameters have been changed, this gives no credibility to Mr. Starkey or WCI.

Mayor Marvin replied that because the market has changed this does not reflect on Mr. Starkey's credibility.

Mr. Kroulas disagreed with the Mayor. He stated that the Board had to have voted on the change, which he has no problem with, but struggles with the issue of working with them.

Mayor Marvin stated this is a mutually beneficial partnership. Other builders told us what we were not willing to work with the Village. WCI made a great design for the Village and listened to residents input.

Mr. Kroulas told the Mayor she should stand firm on the financial aspect. He is pleased the Finance Committee will review it.

Mrs. Harding mentioned that originally there were going to be 76 apartments in the \$650K - \$1.2 million range and then in the process a change was made to 55 units with prices increasing to apartments starting at \$1.3 million. Apartments were to be pitched to empty nesters but now all bedrooms are large.

Mayor Marvin replied that many neighbors of the project and the Board felt that 76 new addresses was too many people. They felt it would be much more comfortable with less addresses so WCI cut the project substantially.

At 8:49PM, public comments were ended.

At 8:50PM, Chief Satriale was introduced by Mayor Marvin. She stated that last week he was sworn-in in front of 50 people including his wife and three children, parents and grandmother. Also in attendance was District Attorney Janet DiFiore. Mayor Marvin also thanked all of the sergeants and the PBA rep for attending tonight's meeting.

Chief Satriale called up the sergeants and PBA rep and thanked them for their help and support. He stated that all of the new officers were superior candidates and that they would be alone on the streets in the next two to three weeks.

Chief Satriale called up each officer individually, read a brief bio about them and then they were sworn in individually by Mayor Marvin. The new officers are: Donald Gannon, Watson Morgan, William Carroll, Nicholas DeYoung and Lauralee Ulrich.

Mayor Marvin called the public hearing to order at 9:00PM.

On motion of Trustee Bellitto, second by Trustee Barton, the Public Hearing was opened.

**PUBLIC HEARING** - *Local law adding Chapter 46 "Public Access to Records" to the Village Code of the Village of Bronxville.*

Mayor Marvin stated that the intent of this local law is to provide uniform procedure for public access to records. It is a way to codify and professionalize our procedures.

Mr. Thomas Wolff, 230 Pondfield Road, stated that Mayor Marvin should have received a fax from him earlier in the day and that it has to do with this proposed law.

Village Administrator, Harold Porr III, replied that it was forwarded to the Village Attorney, Lino Sciarretta, for review and that someone would get back to Mr. Wolff with comments.

Mr. Wolff asked if the Board would enact this law tonight.

Mayor Marvin responded that they would but that there were some minor language changes that needed to be made first.

Mr. Wolff asked if this law is consistent with the Village law of the State of New York.

Co-worker of Village Attorney, Darius Chafizadeh, replied that in drafting the law, all New York State laws were taken into consideration.

Mr. Wolff then questioned the Village Attorney's right to inform of the Village's decision.

Mr. Chafizadeh stated that it is pretty clear that the Village Attorney is the appeals officer and that the Village itself is not making the decision on an appeal.

Mrs. Betsy Harding, 39 Homesdale Road, asked if the law could include something that states the search of all Village records just not those on the premises of Village Hall. She then asked why the Village wanted to lock in the Village Attorney as the appeals officer and asked why not have someone in the administration.

Mayor Marvin replied that this is the customary way most other Villages do this and that the Board was more comfortable having the Village Attorney do this.

Mr. Chafizadeh stated that most municipalities do it through counsel and that the theory is that the attorney is the most knowledgeable on the laws.

Mayor Marvin said that she does not make a decision on an appeal unless she has approval of the Village Attorney as it stands now.

Mrs. Harding asked if the attorney denies the appeal, who would represent the Village in a lawsuit.

Mayor Marvin replied that the board will deal with this when/if any lawsuits happen.

Mrs. Harding stated this is an inherent conflict of interest to have the Village Attorney do this and inferred that the attorney would be double dipping.

Mr. Chafizadeh responded that FOIL law is not a money generating law and that attorneys are governed by strict ethics.

Village Administrator, Harold Porr III, stated that in his four years with the Village, no one has ever sued over a FOIL.

Mrs. Harding then asked if the retainer for Village Attorney, Lino Sciarretta, would be changed to reflect his new duties.

Mayor Marvin responded no.

Mrs. Harding asked again if Village Attorney, Lino Sciarretta, would be taking on the role of appeals officer with no compensation.

Mayor Marvin responded yes.

At 9:13PM, the Public Hearing was closed on motion of Trustee Barton, seconded by Trustee Poorman.

On motion of Trustee Poorman, seconded by Trustee Barton, the following Local Law was unanimously approved:

**BE IT ENACTED** by the Board of Trustees of the Village of Bronxville as follows:

**Section 1.** Adding Chapter 46 "Public Access to Records"

§46-1. *Title.*

This chapter shall be known and may be cited hereinafter as the "Records Access Law of the Village of Bronxville."

§46-2. *Legislative intent.*

It is the intent of this chapter to provide for a uniform procedure for giving public access to public records in the Village of Bronxville.

§ 46-3. *Purpose and scope.*

- A. The People's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- B. This chapter provides information concerning the procedures by which records may be obtained.
- C. Personnel shall furnish to the public the information and records required by the Freedom of Information Law (Public Officers Law §85 et seq.) as well as records otherwise available by law.
- D. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 46-4. *Records Access Officer.*

- A. The Board of Trustees of the Village of Bronxville is responsible for ensuring compliance with the regulations herein and the Board of Trustees shall appoint a Records Access Officer to assist said Board in the administration of this chapter. The Records Access Officer shall be the Village Clerk.
- B. The Records Access Officer shall be responsible for ensuring appropriate agency response to public requests for access to records. The designation of a Records Access Officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.
- C. The Records Access Officer shall ensure that personnel:
  1. Maintain an up-to-date subject matter list.
  2. Assist the requester in identifying requested records, if necessary.
  3. Upon locating the records, take one of the following actions:
    - a. *Make records available for inspection.*
    - b. *Deny access to the records in whole or in part and explain, in writing, the reasons therefor.*
  4. Upon request for copies of records:
    - a. *Make a copy available upon payment or an offer to pay established fees, if any, in accordance with § 46-10; or*
    - b. *Permit the requester to copy those records.*
  5. Upon request, certify that a record is a true copy.
  6. Upon failure to locate records, certify that:
    - a. *The Village of Bronxville is not the custodian for such records; or*
    - b. *The records of which the Village of Bronxville is a custodian cannot be found after a diligent search.*

§ 46-5. *Location of records.*

Records shall be available for public inspection and copying at the Village Offices, 200 Pondfield Road, Bronxville, New York 10708.

§ 46-6. *Hours for inspection.*

Requests for public access to records shall be accepted and records produced during all hours regularly open for business.

§ 46-7. *Requests for access.*

- A. All Freedom of Information Law (FOIL) requests shall be written and submitted either in person, by mail, fax, or electronically to the Records Access Officer.
- B. Within five business days of receiving a FOIL request, the Records Access Officer shall either provide the records requested, deny the request or send a written response to the requester acknowledging that the FOIL request has been received.
- C. A FOIL request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.
- D.** If the Records Access Officer does not provide or deny access to the records sought within five business days of receipt of a request, he or she shall have 20 business days to provide the documents. If more time is needed to provide the requested documents due to the nature of the FOIL request, the Records Access Officer may state the need for additional time. If the Records Access Officer does not grant, deny or state the need for additional time within 20 business days after the date of acknowledgment of receipt of a request, the request may be construed as a denial of access that may be appealed.

§ 46-8. *Subject matter list.*

- A. The Records Access Officer shall maintain a reasonably detailed current list by subject matter of all records in his or her possession, whether or not records are available pursuant to Public Officers Law § 87(2).
- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- C. The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

§ 46-9. *Denial of access; appeals.*

- A. Denial of access to records shall be in writing stating the reason therefor and advising the requester of the right to appeal to the individual or body established to hear appeals.
- B. If requested records are not provided within the time period required in § 46-7D of this chapter, such failure shall also be deemed a denial of access.
- C. The Village Attorney shall hear appeals for denial of access to records under the Freedom of Information Law (§ 85 et seq. of the Public Officers Law).
- D. The time for deciding an appeal by the body designated to hear appeals shall commence upon receipt of a written appeal identifying:
  - 1. The date of the appeal.
  - 2. The date and location of the request for records.
  - 3. The records to which the requester was denied access.
  - 4. Whether the denial of access was in writing or due to failure to provide records promptly as required by § 46-7.
  - 5. The name and return address of the requester.
- E. The Village Attorney shall inform the requester of its decision, in writing, within 10 business days of receipt of an appeal.
- F. The Village Attorney shall transmit to the New York State Department of State Committee on Open Government copies of all appeals upon receipt of appeals.
- G. The body designated to hear appeals shall inform the appellant and the Committee on Open Government of its determination, in writing, within 10 business days of

receipt of an appeal. The determination shall be transmitted to the Committee on Open Government.

§ 46-10. Fees.

- A. There shall be no fee charged for:
  1. Inspection of records.
  2. Search for records.
  3. Any certification pursuant to this chapter.
- B. The fee for photocopies not exceeding 8 1/2 inches by 14 inches is \$0.25 per page.
- C. The fee for copies of records not covered by Subsections A and B of this section shall not exceed the actual reproduction cost (which is the average unit cost for copying a record, excluding fixed costs of the Village, such as operator salaries).

§ 46-11. Public notice.

A notice containing the title or name and business address of the Records Access Officer and appeals body and the location where records can be seen or copied shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation.

Section 2. Severability.

The provisions of this section shall be severable, and if any clause, sentence, paragraph, subdivision or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confirmed in its operation of the clause, sentence, paragraph subdivision or part thereof directly involved in the controversy in which such judgment shall be rendered.

Section 3. This Local Law shall become effective immediately upon filing in the Office of the Secretary of State.

**MAYOR'S REPORT**

2007 was a year of growth and change in Village government and one of unprecedented activity. We tried as your Board to confront issues directly and fairly and I believe we accomplished a great deal, though there are many more issues to address and improvements that can be made in 2008.

I thought I would just recap or highlight some of the events/changes in Village government in the last twelve months.

- 2007 brought the completion of the first revaluation of Village property in 40 years.
- We did the first renovation of Village Hall in 65 years and finished on budget and approximately one month late.
- We have contracted with two engineering firms to try and find solutions to the perennial problem of flooding in the village. One company is looking at things in the long-term macro picture while the other is helping us to pinpoint short-term mitigation measures.
- The Girl Scout Cabin Committee has been meeting to decide what to do with that property now especially in light of new flood plain regulations governing its use. The Committee requested and I believe just received the results from soil sample studies taken of the property.
- We have added a paid legal counsel, have begun updating and professionalizing our Village procedures and the Village Code in general.
- We have reached out to neighboring municipalities and have entered into more shared purchasing and service agreements than ever.
- We have worked with the business district to attract new businesses and now all of our shops have been rented.
- We have many new benches donated throughout town and we have begun a tree donation program; starting in the business district, but with a plan to expand Village-wide.

- Tonight in addition to the company of our new police chief, we have hired 5 new police officers to raise the force to 20 with a goal of reaching the full complement of 23 officers early in 2008.
- We have focused on the quality of life in the Village; trimming trees, replanting and we have paved and curbed more streets than ever before.
- We negotiated a very favorable agreement for the Village with Verizon to give residents a choice in cable services.
- Our Citizen's Advisory Committee continues to meet and suggest projects and point out safety issues throughout the Village that we correct – for example, you will see new traffic signage on Sagamore and Kensington Roads and along the curve of Tanglewylde Avenue near the school track.
- We continue to focus our attention on the maintenance of property and quality of service offered by Metro North and our Post Office and we will continue to aggressively pursue higher standards from both of them.
- We are looking at our entire parking organization: back office, ticket collection, enforcement and will be meeting this week to discuss changes/improvements.

It has been an extremely busy and fulfilling year.

I want to close by thanking everyone who has volunteered for Village government. We have tapped many new people never involved in Village committees before and also we continue to rely on the help and guidance of volunteers like Anna Longobardo and Jim Fischer who have volunteered for almost 2 decades each for the Village. And, a special thank you to all the people who worked for the Village - police, Department of Public Works administrative staff. I never cease to be impressed by their dedication and loyalty to the Village. They make coming here every day a real joy. Thank you to my colleagues on the Board, who are dedicated and bring diverse skills that makes for lively debate. Thank you for letting me serve as your mayor. I am honored and humbled every day to serve such special citizens and thank you for the trust you place in me.

And I wish you a wonderful holiday with your family and friends.

## **TRUSTEE REPORTS**

**Trustee Bellitto** – he stated how wonderful it is to have the new police officers here.

With regard to the Parking Office, he reported that revenues were up in November and that they were higher than last year at this time.

The Holiday Tree Lighting on December 2<sup>nd</sup> was a great Bronxville moment and it was a great start to the holiday season.

**Trustee Poorman** – she mentioned that with regard to street striping, most people liked the basic concept but felt that school pick-up was still difficult especially if the police do not ticket vigorously those who park up to the curb. She asked that people refrain from parking in the “no parking” areas at pick up time to allow the Village to see if this street striping will work.

She encouraged people to do their holiday shopping in Bronxville and to give merchants a chance.

**Trustee Barton** stated that no FOIL requests were made in the past month.

He reviewed the Village Treasurer's report. We are ahead this year due to two things: a late payment penalty by a mortgage company and building permit applications being ahead of last year. Our funds are with safe securities and have no exposure to breakdown in investments.

With regard to the Department of Public Works, leaf collection is behind from last year. They will continue to pick up leaves until they are all gone. He reminded residents that garbage collection days will change in January.

**Village Administrator, Harold Porr III**, reported on the Building Department. He stated that building permit activity has been consistent this year. Construction activity is now double from last year.

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There being no further comments, the meeting was adjourned at 9:34PM by motion of Trustee Bellitto, second by Trustee Poorman.

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Harold Porr III  
Village Administrator