

THREE THOUSAND THREE HUNDRED FIFTY-THIRD

REGULAR MEETING

Video Conference
Via Zoom
June 9, 2020

A Regular Meeting of the Board of Trustees of the Village of Scarsdale was held on Tuesday, June 9, 2020 via video conference (Zoom) at 7:00 p.m.

Present were Mayor Samwick and Trustees Arest, Crandall, Lewis, Ross, Veron, and Waldman. Also present were Village Manager Stephen Pappalardo, Deputy Village Manager Cole, Assistant Village Manager Richards, Village Attorney Pozin, Deputy Village Attorney Garrison, Village Clerk Conkling, and Assistant to the Village Manager Katzin.

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Minutes

The minutes of the Regular Board of Trustees Meeting of Tuesday, May 26, 2020 were approved on a motion entered by Trustee Crandall, seconded by Trustee Lewis and carried unanimously.

The minutes of the Special Board of Trustees Meeting of Friday, May 29, 2020 were approved on a motion entered by Trustee Crandall, seconded by Trustee Ross and carried unanimously.

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Bills & Payroll

Trustee Veron noted that in all her 4+ years of doing bills, this was a much lighter load. It is clear that there is a tremendous amount of scrutiny over how we are spending money and unfortunately, a lot of the payments are for refunds for programs. It's sad to note, but she stated that we are definitely in austerity mode at this time.

Trustee Veron reported that she had audited the Abstract of Claims dated June 9, 2020 in the amount of \$1,203,608.38 which included no Library Claims previously audited by a Trustee of the Library Board, which were found to be in order and she moved that such payment be ratified.

Upon motion duly made by Trustee Ross and seconded by Trustee Crandall, the following resolution was adopted unanimously:

RESOLVED, that the Abstract of Claims dated June 9, 2020 in the amount of

\$1,203,608.38 is hereby approved.

Trustee Veron further reported that she had examined the payment of bills made in advance of a Board of Trustees audit totaling \$890,944.55 which were found to be in order and she moved that such payments be ratified.

Upon motion duly made by Trustee Veron and seconded by Trustee Crandall, the following resolution was adopted unanimously:

RESOLVED, that payment of claims made in advance of a Board of Trustees audit totaling \$890,944.55 is hereby ratified.

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Mayor's Comments

Mayor Samwick gave the following comments:

“On May 25th, George Floyd, a 46-year-old black man, was tragically killed by a white police officer in Minneapolis. This killing, along with the series of senseless murders of black people by white police officers nationwide is unconscionable. It is also unconscionable that racism continues to plague our nation. While we are in the midst of a national crisis of conscience, as well as a pandemic, we should pause to bear witness to this moment in history. We are undoubtedly at a crossroads that hopefully will lead to systemic change and force us to alter what we as a society value and hold dear. We see the next generation rising up to say “enough” and “we must do better.” We must take their lead and strive to once and for all rid ourselves of racism and senseless violence.

Four Scarsdale High School graduates from the class of 2016 organized a vigil for George Floyd this past Sunday evening in Chase Park. The vigil was attended by hundreds of our friends and neighbors, as well as the Mayor of Mount Vernon and a number of her constituents. All but two of the speakers were black. This is not what we are accustomed to in Scarsdale - and that is exactly the point. We consider ourselves a community that highly values justice, both social justice and legal justice. We prize fairness and equity, and we staunchly denounce racism in all of its forms. While our aspirations are in the right place, it became clear to me on Sunday that we have work to do.

Among the most powerful and courageous speakers were five young black women who are current or former students in Scarsdale schools. They each recounted stories of growing up in Scarsdale. Stories of micro-aggressions, underlying racism and a lack of black teachers to serve as role models and to teach other teachers how to treat topics of black history with sensitivity and understanding. I was deeply moved by the stories of these young women, and I am ashamed that these acts continue to occur today in 2020 in Scarsdale. I spoke with the five young women after the vigil, and I told them that I heard them and that I am deeply sorry that these things happened to them here in our community. This is not the Village we know or at least the one we pride ourselves in being a part of.

This vigil was a wakeup call for me and for many others who attended the event. I

would like to take this opportunity to announce that I am forming a group comprised of residents, representatives from the School District, local clergy, representatives from the Board of Trustees and Village and other stakeholders. The mission of this group will be to challenge us, to challenge our way of doing things, our way of thinking and our approach to one another. What we heard on Sunday evening was not the Scarsdale we want to be. Frankly, it is not the community I thought that we were. We are better than this, much better than this; and, we cannot get to that better place soon enough.

Change is difficult, but it is clearly important for us to take a hard look in the mirror and start to make necessary changes. Change is also required beyond our Village borders. One of the most effective ways that we may have our voices heard is to exercise our right to vote - one of the most important rights we have as citizens of the United States.

Today, we have a vote on the School Board and the School budget. On June 23rd, we have an important primary election and on September 15th we have a Village election. Anyone wishing to vote on June 23rd may do so via absentee ballot. You may contact the County Board of Elections to obtain an absentee ballot application. Because of the pandemic, all registered voters in good standing that request an absentee ballot will be issued a ballot. Please vote. Please vote every time you have the opportunity to have your voice heard in the management of our village, county, state or nation. Thank you.

Ordinarily, I would mention four additional topics, but I wish my comments this evening to be exclusively about racism, social justice and the work that lies before us to be the inclusive and caring community we strive to be for all of our residents. The four additional topics will be addressed by others this evening.

Trustee Veron will speak about Phase 2 of NY Forward and the partnership that the Village formed with the Scarsdale Business Alliance and local merchants to assist merchants in reopening their businesses.

Trustee Waldman will speak about the work session on the opening of the Scarsdale pool in July.

Trustee Arest will address the proposed change in the collection of Village taxes and the extraordinary work that the Village Treasurer has done in this regard. Trustee Arest will also speak about the budget work session that was held earlier this evening.

And finally, Village Manager Pappalardo will speak about Grievance Day, next Tuesday, June 16th."

Mayor Samwick first called on Trustee Veron.

Trustee Veron stated that "I actually had also prepared remarks that will preface my business reopening remarks and surprisingly selected some of the very same words.

On June 2nd, this Board shared a letter with the community, describing how we stand firmly against racial injustice. I am so glad you read our words. Tonight, I want you to hear my voice.

With every fiber in my body, I want to be part of the solution. It is unconscionable that any member of our society should live in fear, and in particular fear of our nation's law enforcement. Not only will I lend my voice to the outrage, but I also want to act to help repair the systems and processes, explicit or implicit, visible or invisible.

We are lucky in Scarsdale that our local police force embodies the values we hold dear. As Police Commissioner, I had countless conversations with our Chief about his department's commitment to diversity and rejection of racism and other insidious bias. Just recently, he and I reflected on what additional measures we as a society, and law enforcement in particular, must take to turn this movement into lasting change.

At the vigil this past Sunday organized by our dedicated Scarsdale youth, I listened carefully to each speaker. I consider myself a person who does a lot of social good, but I learned from those speaking that I need to do far more. I found particularly poignant the stories shared by our SHS students, about the micro aggressions and the offhand remarks. I work daily to lift up the underserved, and yet I fall short. I have challenged myself to examine everything - to be a bigger part of the solution.

As Deputy Mayor, I have the responsibility to represent the values of our community. We require inclusion and respect. We believe in the freedoms afforded by our constitution. I hold myself accountable to you, so that you are proud of the place you call home.

I would like to continue by speaking about a business reopening. Today marks Phase Two of the NY Forward Reopening plan. What that means for Scarsdale is that many of our long shuttered businesses will be opening their doors to welcome you back. The list includes in-store retail, offices, real estate, hair salons and barbershops. The Governor has also made permissible outdoor dining to add to takeout and delivery services.

In record time, our Scarsdale Reopening subcommittee comprised of representatives from the Scarsdale Business Alliance as well as many members of our Village staff came together. I can't overstate how quickly village staff rose to this challenge. They embraced our request to think out of the box and have been incredibly responsive with lightning speed turnaround. In just two weeks, we had multiple zoom meetings and site visits. Leading the charge is Assistant Village Manager Ingrid Richards, Village Engineer David Goessel, our new Village Planner Greg Cutler with help from DPW head Frank Diodati and Dan Pozin our counsel. Village Manager Steve Pappalardo and Mayor Samwick, thank you for your leadership.

We are excited to announce many upcoming changes that our community will see over the next few weeks throughout our retail hubs. Just a note: each Scarsdale retail hub (that is the Village Center, Garth Road, Scarsdale Avenue, Heathcote Five Corners, Colonial and the Golden Horseshoe) has different needs and ownership. We made sure to reach out to merchant representatives and property owners from every area to understand their desires and put together recommendations. Here are the first of many actions we hope to take:

1. .If we expedite the vote on pending legislation after the public hearing tonight, and the vote carries, merchants will be able to make use of their sidewalks to showcase their wares and afford social distancing. This legislation covers Village owned sidewalks.
2. We plan to set up a tented food area in the Village Center for both table service and self-serve. The SBA has rallied the membership and will be sponsoring the effort with financial contributions from landlords led by Scarsdale Improvement. The Village will then close Spencer Place from Harwood to East Parkway allowing Parkway Diner and Yeomiji to expand capacity to serve their patrons and also to provide space for takeout from Martines, Bango Bowls, Popojito, Haagen Dazs and others. We're working with Saponi to expand their outdoor footprint with a closer adjacency. And are also hoping to add seating to Boniface Circle. Traffic will be routed around Harwood Circle and out through Chase Road. Discussions with Garth Road eateries are still ongoing.
3. We are hoping to provide outdoor liquor service and are working out the details.
4. We are issuing free Freightway permits for the merchant community so that spaces in the Village Center can be used by consumers.
5. We will be exploring making available Christie Place parking typically used for commuters given the excess capacity. We are also hoping to extend the parking time to 3 hours as this change has been a strong desire of our community.
6. This year we are hoping to have the Village Center sidewalk sale run for 7 days from July 27-August 2. There is a tremendous amount of inventory that merchants want to offer to their patrons. We have envisioned a sidewalk sale that is pedestrian friendly, with the closure of the heart of the Village Center. We want to afford ample space for social distancing. We are hoping to coordinate with other retail hubs. More to follow.
7. We are exploring opportunities for gyms and yoga studios to provide sessions outside at our parks or parking lots. Our next step is to coordinate with the recreation department and legal counsel.

Scarsdale residents, we are doing everything we can to bring back our businesses and bring back our community. Please be patient with us. There are no playbooks for us. We are making decisions real time and are relying on our community to be of generous mind and spirit as we will likely stumble along the way. We also ask our residents to respect the Governor's orders and to ensure safety and comfort for your neighbors. Wear your masks, keep a distance and wash your hands. Our end goal is provide vital retail hubs while adhering to the new requirements.

I know I will have more to report each time we meet. A special thanks to Trustee Arest who has been my partner in the reopening efforts as well as to Marcy Berman-Goldstein, co-president of the SBA, who has been working her magic to turn ideas into reality.”

Mayor Samwick stated that this was an enormous amount of information Trustee Veron has given, and that pales in comparison to the enormous amount of work that has been done. He thanked Trustees Veron and Arest and the others for the work that they have put into this, as well as Assistant Village Manager Richards. Everyone is doing a phenomenal job.

Trustee Waldman stated that: earlier this evening, the Village Board met in a work session to discuss the opening of the Scarsdale pool and the results of the survey that went out to the community. She thanked Brian Gray and the PRC for distributing the survey, analyzing the data and the thoughtful presentation to the Board this evening by Mr. Gray.

Trustee Waldman stated that the Village and the Board of Trustees has maintained a desire to open the pool complex while awaiting guidance from New York State. The County is opening its pools and has provided its operating guidelines for the Village to use as a benchmark.

The Recreation Department recently sent a survey to the community and she thanked the 2,284 residents who responded; the intent was to gauge the interest from the community in order to make a fiscally responsible decision. Based on the responses and comments, 78% of respondents said they would be willing to buy a permit for the limited season and the majority are willing to accept limitations placed on capacity and programming as directed by New York State.

The Board is sensitive to residents’ needs and appreciates all the comments they received and are happy to work with the community to provide this valuable community resource during these difficult times. While the Village is still awaiting New York State guidance, we intend to open the pool from July 18th to September 13th, an eight week season at a discounted rate.

Trustee Arest stated that there is a lot he could say about current events, but for now he wanted to thank the Mayor and Deputy Mayor for their comments. He also stated that he would like to specifically call out Saadia Naeem, Stephanie Strek, Gabriela Dickson La Rotta and Charles Musoff. He stated that they are the four class of 2016 Scarsdale High School graduates who put this event on and it was it was impressive and necessary. He thanked them very much and stated that he wanted to say that black lives matter. He thanked the Mayor for his leadership and doing something right away on this. He stated that he looks forward to hearing more about what the group that is being established comes up with.

Trustee Arest continued, stating that “We had a budget meeting earlier where we discussed changes in the parking permit schedule and had a productive conversation on our overall budget planning and strategy. In regards to parking permits, we discussed a plan by staff that was designed to extend the parking year by three months with the goal of

promoting fairness, compassion and a focus on health. In addition, because our parking year going forward will be adjusted to reflect the new October 1 start date, there should be no loss of revenue due to this change, only a three month delay in cash flow.

From an overall budget standpoint, we reviewed data from the past, highlighted steps taken to ensure we are prepared in the short term, and discussed how we as a Board, and we as a Village must move forward looking beyond the short term. As we have repeatedly committed, these discussions and decisions will be done with multiple meetings, and adequate information, most of which we still do not have. But, that does not mean we should not prepare so that when such information does become available we are not acting from a completely reactionary position. Reviewing and refining our budget will be an iterative process and I am pleased that we were able to discuss Board strategy and policy and continue refining our road map. I look forward to much more in this regard in the coming weeks and months.

Regarding the changes to our tax payment schedule, I am very appreciative that this Board and Village staff have been looking at ways to help our residents during this very challenging time. While changing the school tax payment schedule from one to two payments has been discussed before, with the School Board's consent, I am proud that this board was able to get it done. The same goes for the Village Tax portion. These are extraordinary times and while we need to monitor the impacts of these changes, any risk or additional expenses associated with this change were carefully examined and determined to be well worth it at this time. A huge thank you to our Village Treasurer for doing the heavy lifting and making us look good. Additionally, I have mentioned our request of the Governor to allow us to delay our interest penalty free period for Village taxes by 21 days as allowed by RPTL Section 925-A2. I am pleased to report that Executive Order 202.36 issued on June 2 has granted that request. Thank you to the Governor and big thanks to Assemblywoman Amy Paulin and her staff for their continual assistance."

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Manager's Comments

Village Manager Pappalardo stated that he has a few items to report on, starting with a couple of seasonal items that impact us on an annual basis here in Scarsdale. The first one is in regard to the leaf blower ban.

"The Noise Law in Chapter 205 of the Scarsdale Village Code, contains a provision banning the summer use of Gasoline powered leaf blowers between June 1 and September 30 annually. This ban takes into account the provision of the blowers during the fall leaf season and the spring cleanup season. The law was adopted in 1994 and was one of the first of its kind in Westchester County.

Similar to the experience of the many other Westchester suburban municipalities that subsequently adopted such a law, enforcement is an issue. For the landscapers, time is money and the leaf blowers allow for an efficient and clean job for which the homeowner expects. Through the Department of Public Works, the Village coordinates annually with the NYS Turf and Landscape Association to inform and remind them of the ban and our

enforcement practices. Over the years we have held workshops in Village Hall with this Association to discuss their practices and alternative products on the market. The proliferation in recent years of smaller grass cutting companies not associated with this professional association has made it more difficult to communicate with those doing business in Scarsdale. Additionally manufacturers have yet to build an electric blower that can perform at a similar level to the gasoline powered equipment and keep a charge long enough to be efficient.

The Village also uses our website, press releases and the local media outlets to remind homeowners of the annual blower ban and ask their assistance in informing their landscapers if applicable. We also take the opportunity to remind residents to cut back overgrown landscaping adjacent to the public Right of Way to eliminate visual obstructions to advance vehicular and pedestrian safety.

In- house enforcement of the leaf blower ban is provided by the Police Department with some recent assistance by our part-time Code Enforcement Officer in the Building and Engineering Departments. Over the past decade an average of 65-75 appearance tickets have been issued annually over this three month period. Defendants come to Court and either plead guilty and pay a fine or discuss their case with the Judge who makes a decision. With resident's currently home do to COVID-19, including children currently distance learning and homeowners working remotely, the noise generated from leaf blowers becomes a quality of life concern for more of our residents this year than normal. I have spoken to the Police and Building Departments in this regard and enforcement efforts are underway. Homeowners witnessing leaf blower use can call the Scarsdale Police Department and a patrol officer will be dispatched. Keep in mind that the Officer must witness the use of the blowers in order to issue a summons. Alternately the homeowner witnessing the blower use can sign an affidavit attesting to the blower use which provides the legal basis for the Officer to issue the summons."

Village Manager Pappalardo stated that in regard to "another seasonal item is that homeowners in the State of New York have the opportunity, once a year in June, to grieve the assessed value on their property with the local taxing jurisdiction. In Scarsdale, the Town Assessor sets the annual assessments at the time of the taxable valuation date which for the 2020 assessments is July 1, 2019. Annual assessments for all taxable property in the Village are included in the Tentative Assessment Roll filed annually on June 1st. As such, the Assessor filed the 2020 Tentative Assessment Roll last week. For those homeowners whose assessments change year-to-year, a separate change of assessment letter is mailed.

As COVID-19 restrictions largely preclude the in-person viewing of the Roll, the document is available on the Assessor's page of the Village website at www.scarsdale.com. If homeowners have difficulty accessing the Roll online, they may contact the Assessor's Office at (914) 722-1133 or email at grievance@scarsdale.com. The Assessor is available by appointment this week, via telephone or Zoom video conference to discuss the Tentative Roll and individual property assessments.

Homeowners wishing to grieve their assessment must complete a grievance application accompanied by supporting documentation. This application is available on the Village website and must be submitted to the Assessor's Office no later than June 16, 2020,

which is the NYS statutory Grievance Day Date for 2020. Prospective grievants can contact the Assessor's Office prior to June 16th for assistance in completing the grievance application.

Scarsdale's Town Board of Assessment Review is appointed annually by the Town of Scarsdale Board members. The Assessment Review Board is a NYS statutory Board charged with reviewing property tax grievance applications submitted by homeowners, and deciding on any assessment reductions. The Assessment Review Board convenes annually on the third Tuesday in June, per statute, to hear from homeowners on grievance applications timely filed with the Assessor. The Board continues to convene throughout the summer months to review and make determinations on all grievance applications prior to the Final Assessment Roll being filed by the Assessor no later than September 15.

Pursuant to an Executive Order issued by the Governor, the Town Board of Assessment Review will convene this year on June 16th via Zoom Videoconferencing. The Board will meet between the hours of 10AM-12Noon, 2PM-4PM and 6PM-8PM. Members of the public may join the Zoom meeting, the instructions for which are on the Village website. Any homeowner filing a grievance may also request a hearing before the Board of Assessment Review at the June 16th Grievance Day. This must be done by appointment through the Assessor's Office no later than June 12 which is this Friday. Homeowners may not meet with the Board of Assessment Review during their subsequent deliberations. I realize that this is a lot of process to comprehend, so I again recommend that any homeowner concerned with their property assessment, contact the Assessor's Office at (914) 722-1133 to have their questions answered, or to schedule an appointment if more time is desired."

Finally, in regard to the Village Hall Re-Opening Plan, Village Manager Pappalardo stated "Please be advised that Governor Cuomo extended Executive Order 202.4 yesterday, allowing a certain number of non-essential local government employees working from home to return to work no sooner than two weeks after our Mid-Hudson Region meets the metrics to move to Phase II of the NYS Reopening Plan, which is expected tomorrow, June 9th. As such, we are planning to reopen Village Hall on Tuesday June 23rd. The Village's Reopening Committee, comprised of Angela Martin, Jeff Coleman, Chief Maturro, Chris O'Brien and Samantha Garrison, have worked diligently over the past 3-4 weeks to review all applicable requirements and guidance documents relative to; employee health screening, safety and preventative measures, physical building changes to advance 6 ft. social distancing requirements, public access and interactions, building cleaning and disinfecting, and departmental staffing levels to adhere to existing guidelines.

Employee training by department is scheduled for this week, and we are finishing the extensive physical changes to the building necessary and required to protect public safety and that of our employees. We will work on a press release so the public better understands how best to access staff and the health and safety parameters associated with visiting Village Hall."

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Public Hearings

Mayor Samwick stated that he would like to open the public hearing scheduled for this evening regarding a proposed local law amending Chapter 256 of the Scarsdale Village Code entitled Street, Sidewalks and Public Places. He stated that this is a temporary amendment to the Village Code that's being proposed, and secondly, if anybody in the public would like to speak about this right now, he asked that they please limit their comments to this exact topic.

Robert Berg, 32 Tisdale Road, stated that he supports the Village's goal of helping our Scarsdale businesses to survive the economic upheaval unleashed by the COVID-19 pandemic. He stated that our businesses are struggling and several have already failed. We certainly want to do everything in our power to assist the remaining businesses.

Mr. Berg stated that he faults the Village Board on the process that has gotten us to the public hearing this evening. He stated that the proposed ordinance discriminates in favor of just first floor retailers of merchandise and first floor food purveyors. In his opinion, this is favoritism to a certain limited class of the businesses, to the detriment of other types of business and by floor in the commercial buildings in the Village. He stated that this ordinance limits the Village benefits to two favorite classes or businesses to the exclusion of all the rest. He stated that he finds this to be illegal under the Equal Protection Clause of the 14th amendment of the U.S. Constitution, as they are arbitrary and capricious.

Mr. Berg stated that he participated in the short notice Zoom Village Board meeting held on Friday evening, May 29th, when the proposed ordinance was first introduced. He stated that this meeting was illegal under the Open Meetings law. The first notice of this meeting was on Thursday, May 28th at 5:08pm when the agenda was publicly posted on the Village's website, and when the Village sent out an e-blast. The public was provided with less than 24 hours' notice of this Village Board meeting. He stated that under the Public Officers Law, normally a meeting should be scheduled at least seven days ahead of time and public notice should be posted at least 72 hours ahead of the meeting. He stated that the Public Officers Law recognizes that circumstances may exist that call for meetings within a shorter timeframe, but he stated that in his opinion, there was no urgency to hold this meeting.

Mr. Berg continued, stating that the courts have interpreted what a reasonable time prior to a meeting means, and it requires urgent or exigent circumstances. He stated that there was nothing here that can be characterized as an emergency, so there really was no reason not to give better notice. If better notice had been given, then the Board could have gotten input from the public. Mr. Berg stated that there are businesses that are not getting the benefit of the proposed local law, which includes those businesses on the second, third, and fourth floor of the Harwood Building, for instance. He stated that calling it a Special Meeting doesn't make it an emergency. He noted that this was the second public meeting this week that the Board didn't allow any public comment.

In regard to the proposed local law, Mr. Berg stated that the Village is looking into temporarily revoking Chapter 256, Streets, Sidewalks and Public Places and replacing it with the new provisions. Although he conceded that it was a laudable goal, the Board still has the situation where they are excluding the businesses not located on street level. He used the example of the Harwood Building, where there are physicians, attorneys, marriage counselors, and other service providers located on the upper floors, all of whom might want to set up booths on the Village ROW to advertise or offer their services and gain new clients. He continued, stating that there are nail salons in the Village Center, which would most likely want to set up in the Village ROW to offer their services to customers who don't want to go inside, as well as customers of hair salons and barbers. Under the proposed local law, these businesses cannot do that; they are shut out, and in his opinion he stated that the Board cannot arbitrarily favor one type of business over another when they're all facing the same struggle to survive.

Mr. Berg also noted that the Board is setting up a committee that has unfettered discretion, and may set the standards under which permits will be granted. He stated that if this were challenged in court that would be problematic. Another issue he noted was that he has a lawsuit against the Village to declare 256-1 to be unconstitutional and there is a pending motion for Summary Judgment that's going to be decided soon. The Board should keep this proposed ordinance separate from 256-1 and possibly designate it as Chapter 257, for example. He stated that the Village shouldn't embroil it within the existing litigation, if some reason he wins his lawsuit. He again suggested that this be separated into a different section.

Finally, Mr. Berg suggested that Trustee Arest not be placed on the committee as his term as Trustee expires right after the September 15th Village election. Since Trustee Ross is a real estate lawyer, whose background is in zoning matters like this and he will be continuing on the Board, regardless of the election outcome, he would be the one more appropriate to serve on the committee.

Marcy Berman-Goldstein, 10 Olmsted Road, stated that she is the Co-President of the Scarsdale Business Alliance. She thanked the Village Board and staff on behalf of all of the SBA members for being so amenable to thinking outside the box and doing everything they can to help the merchants during this difficult time. The Village has spent considerable time listening to the merchants and has been inclusive, welcoming and accommodating. The SBA is thrilled to have entered the Phase 2 re-opening and they are excited to bring vibrancy back to the downtown Village Center and to all of the retail hubs. She stated that the SBA fully supports the Code change, allowing the retail businesses to utilize the sidewalks along their storefronts in a safe, non-obstructive way to help promote sales. With this outdoor space, customers will be able to safely shop, while still adhering to social distancing guidelines. This Code change, which benefits the merchants and customers, as well as property owners is part of the creative adjustments that will have to be made in the new normal. Ms. Berman-Goldstein stated that the SBA looks forward to their continued collaborative partnership with the Village, as they infuse their downtown center and all of the retail hubs in Scarsdale with a renewed sense of community and togetherness after months of being apart.

Randy Whitestone, stated that he wanted to echo Marcy Berman-Goldstein's comments of the amount of work that went into this initiative to help reopen the Village Center and the work with the merchants by Trustees Veron and Arest. He stated that it is really impressive in relation to the innovative approaches that they took to get this done and it is really appreciated. The Village needs to be the vibrant center of the community. If businesses aren't able to make money, then they won't be around for us in a few months. He gave a "hats off" to everyone who made this possible, and stated that he is fully supportive of it.

Mayra Kirkendall-Rodriguez, Fox Meadow Road, thanked the Board for their focus on the Village's small businesses. Anything that can be done to help our small businesses is very much appreciated. She stated that she and her husband worked with the Chair of the Downtown Revitalization Committee, and they did a lot of work on downtown revitalization. She stated that they are very pleased to see this kind of effort on behalf of the Village, Ms. Berman-Goldstein, and the SBA. She urged the Board to be mindful on how they are providing assistance to the small businesses such as marriage counselors, therapists, etc. Businesses need to be thought of in a broader sense, not just providers of restaurants and clubs, but other services. She thanked the Board again for their efforts to help the local economy.

Robert Harrison, 65 Fox Meadow Road, stated that he supports the local law and those who have been involved and worked on it. We want to make our Village Center vibrant. He stated that he thought that Mr. Berg has raised some interesting aspects in regard to different types of businesses. He asked if they have looked at the types of businesses that are on the second, third, fourth and fifth floors of the Harwood Building. He stated his concern as to whether there were businesses located on the upper floors that should also have access to having some small table or similar location on the street level of their building. He knows that there is a dentist office, medical offices and lawyer offices on some of these upper floors, but wasn't sure if they would want to have a table on street level. However, there may be other businesses located in the commercial buildings downtown that would like a space outside. He encouraged the Board to look into this situation.

Trustee Veron stated that she would like to address some of the comments. She stated that they want to be able to give the opportunity to all those who occupy space within the Village, and they discussed issues around privacy and sanitation, as well as space and capacity. This is the first in a series of steps that the Board intends to take, and they have a long list to provide opportunities for everyone to thrive. They spoke not solely about the Village Center, but about all of the businesses in the Village, and there are some issues with respect to ownership of certain areas. She noted that the speakers all made excellent points. This is a work in process and the Board will make sure to do their very best to represent the needs of everybody.

Mayor Samwick stated that what is proposed here is a change to the ability for street facing retail and their tenants to move into the street to sell their wares and provide food and things of that nature. He stated that there's a very substantial difference between street facing retail that includes walk-by traffic as part of their business model as opposed to someone who has a destination business, such as a dentist, a therapist, an attorney, or an architect that you might find on the second or third floor space. It is important to keep in

mind that this is only one of the tools in the toolbox, as was noted. We're going to be closing a small portion of roadway, using Boniface Circle, and we have the ability to use Chase Park. They are not excluding anyone from the ability to do things by nature of their businesses, but having a massage, for example, on the sidewalk is probably not ideal for anybody. The Board certainly has an open mind; we want to help our all of our merchants, but expanding the footprint of an existing storefront into the sidewalk is really one of the main intents here.

Mayor Samwick stated that he would also like to address Mr. Berg's comment challenging Trustee Arest's position on this committee, for whatever purpose he may see fit. He stated definitively there's nobody else who should be on this committee, more than Trustees Arest and Veron. They both are fully engaged, very capable, very competent; they have very strong sales skill sets for this exact work, have strong relationships with people in the Village Center, and are frankly are doing a phenomenal job, both of them. He stated that he wanted to make it clear, whether there's an election coming that Trustee Arest is participating in, as is Mr. Berg, does not play into how the Board is operating this. The Board is trying to do the best job that they can in a nonpartisan way where the election is not factoring into decision making.

Trustee Arest stated that he felt that the Board should ask the Village Attorney to opine on some of the comments made before the Board considers moving forward and making a motion. He stated that he wants to make sure that the Village Attorney doesn't have some of the concerns that were voiced during the public comment regarding the section of the Code that is being amended or the timing of the meeting notices.

Village Attorney Pozin stated that he was not concerned about the section of the Code that's being amended; they are essentially just adding an additional paragraph to Chapter 256 – breaking 256-2 into two paragraphs. If anything is being challenged in the existing 256-1 it will continue to be challenged. The fact that they are just re-numbering that paragraph that will not affect the substance of it. He stated that he is assuming that the lawsuit that was discussed is based on the substance of it as opposed to the numbering. Therefore, he did not think that is a problem. In addition, it was mentioned that in this current proposal, this local law has a sunset provision, so it will eventually expire on November 1, 2020. He stated that of course, the Board can revisit the sunset provision if this is very successful and they want to continue it. He reiterated that he did not have any problems with the local law as drafted or the effect that it will have on the existing Code sections.

Mayor Samwick asked Village Attorney Pozin for his opinion with regard to the notice provisions that the Board adheres to. Mr. Berg is correct that at 5:08 p.m. on Thursday, notice of the meeting was given at that time. When the Board started the meeting it was 5:09 the following day. He asked Mr. Pozin for his view on the compliance issue with that.

Village Attorney Pozin stated that in his opinion, that was fine. There is a 24 hour notice requirement, and the fact that we are looking at 5:00 or 5:08 or 5:09, the meeting wasn't opened any earlier. The public had an opportunity to listen to the meeting. In fact, he stated that he believed Mr. Berg said that it was on zoom at that time, so he had an opportunity to participate or at least to listen to the work session. Tonight is the forum for

everybody to comment on this, and so far they have. Therefore, he does not have a concern with that. There is also the situation that we're in the middle of a pandemic and the State is issuing all kinds of different guidance – the Governor's Executive Orders and guidance from the various State agencies. He did not think that a few minutes here or there would enter into any issue that might arise.

Village Attorney Pozin continued, stating that the fact that the Board wants to act on this as soon as possible does, in effect, become an exigent circumstance because stores and businesses and restaurants are about to start reopening. They will be allowed to have outdoor seating and the Code as it exists would limit the ability to do that. Certainly, none of the Governor's orders talk about retail establishments in regard to selling wares outside. He stated that in his opinion, it was a very good idea by this Board to not only allow restaurants to have outdoor seating, but to allow retail businesses to display their wares outside. In this manner they will be able to maintain social distancing by having the front of their stores outside available for their customers. He stated that he is confident that the Board has taken the right course and that it will be a very successful law.

Mayor Samwick thanked Village Attorney Pozin, noting that the Board really appreciates his input and assistance with the entire process.

At this time Mayor Samwick requested a motion to close the public hearing, seconded by Trustee Arest and carried by a unanimous vote.

Mayor Samwick then requested a motion to adopt the following proposed Local Law Amending Chapter 256 of the Scarsdale Village Code Entitled Streets, Sidewalks and Public Places, seconded by Trustee Ross and approved by the vote indicated below:

A LOCAL LAW TEMPORARILY AMENDING CHAPTER 256 OF THE CODE OF THE VILLAGE
OF SCARSDALE ENTITLED “STREETS, SIDEWALKS AND PUBLIC PLACES”

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

Section 1. The Code of the Village of Scarsdale is temporarily amended by repealing Section 256-1 thereof entitled “Permit Required to Obstruct” in its entirety and replacing same with the following:

“§ 256-1 Permit required to obstruct.

A. No person shall obstruct any street, sidewalk, public easement or other public place without first securing a written permit from the Village Engineer and complying with such regulations affecting obstructions as the Village Engineer may prescribe. The Village Engineer's decision to grant or deny a permit application shall be made within three business days after a completed permit application has been received by the Village. No owner or lessee of any premises in the Village shall permit any goods, wares or merchandise owned or controlled by him to be kept, stored, displayed or sold on or directly above any sidewalk adjoining such premises. No owner or lessee of any premises in the Village shall permit any refuse or waste from such premises to be kept or stored on or directly above any sidewalk adjoining such premises without first

securing a written permit from the Village Manager and complying with such regulations and restrictions as may be prescribed in such written permit.

- B. Notwithstanding anything contained in Chapter 245 of this Code or subsection A above to the contrary, any owner or lessee of any premises operated as a retail store, food service establishment or sidewalk café as such terms are defined in this Village Code, or as a nonresidential use occupying any ground floor street-facing space, located in the Village Center and/or adjacent to any retail or food service establishment property in other areas of the Village, shall be permitted to display and/or sell on or directly above any sidewalk or other public space its goods, wares or merchandise, food and beverages subject to such owner or lessee obtaining a revocable permit for same from the Village Engineer at his/her sole discretion. Such permit shall be subject to reasonable rules and conditions to be established by a committee comprised of two (2) members of the Village Board of Trustees as designated by the Mayor, the Village Manager or his/her designee, the Village Planner and the Village Engineer. Such permit shall be subject to any limitations or conditions of any executive order or equivalent, issued by the Governor of New York or the Westchester County Executive.
- C. This local law shall automatically expire on November 1, 2020, unless sooner repealed by the Board of Trustees.

Section 2. This local law shall automatically expire on November 1, 2020, unless sooner repealed by the Board of Trustees.

Section 3. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any part of this local law which can be given effect without such valid part or parts.

Section 4. Effective Date. This local law shall take effect immediately upon filing in the Office of the Secretary of State of New York in accordance with the provisions of the Municipal Home Rule Law.

<u>AYES</u>	<u>NAYS</u>	<u>ABSENT</u>
Trustee Arest	None	None
Trustee Crandall		
Trustee Lewis		
Trustee Ross		
Trustee Veron		
Trustee Waldman		
Mayor Samwick		

Trustee Lewis noted that he was voting in favor, acknowledging and hoping that this is a first step.

Trustee Ross stated that he would like to note that he would like to echo the Mayor's comments and stated that this is certainly one of a number of steps, but he believes that it's important to acknowledge that as a group, the ground floor businesses are more dependent

on high visibility and easy public access than other businesses. With that, he enthusiastically voted in favor.

Mayor Samwick thanked everyone for their efforts and stated that as was noted by a number of people, this has been quite an effort and a very high priority item for this Board to work with the merchants in the Village Center and elsewhere within the community to try to assist them with the reopening process. He also stated that he would be remiss if he didn't single out Assistant Village Manager Ingrid Richards again for all the work that she's doing in this regard.

Public Comments

Mayor Samwick opened the public comment portion of the meeting, which he stated will be subject to a 5 minute limit. He noted that there is a second public comment section at the end of the meeting, which this evening would be at the end of the Town Board meeting, subject to that that point in the meeting occurring prior to 10:00 pm.

Andrey Wax, 260 Madison Road, thanked the people who worked on the pool opening as it means a lot to seniors. She stated that she would email Brian Gray with a couple of other questions that she has, one of which has to do with the possibility of bringing guests and the other had to do with the possibility of the early swim program. Yet another question she had was whether the pool could open earlier than July 18th, if possible.

Robert Berg, 32 Tisdale Road, stated that he disappointed that the Board didn't broaden the ordinance change to include other merchants and other tenants in the buildings. He stated that he didn't think the Village would run out of sidewalk space to accommodate other tenants in the commercial buildings. There are businesses in the Village that are not being accommodated for and there is space on the streets for them.

Mr. Berg next discussed the Village Board work session regarding the commuter parking garages and the parking permit extension of three months. He stated that he had previously mentioned that he was disappointed in how that decision was made in that it was made by the Village Manager and the Village Clerk without the Board of Trustees making the decision, and the revenue that's being forgotten is substantial. He stated that he doesn't disagree with the decision to do what has been done, but he stated that the decision should have been made with public notice and by the Board of Trustees, as opposed to being decided by the Village Manager and the Village Clerk. He stated that three months of revenues from the parking permit sales is about \$350,000, had this not extended by three months, the Village probably wouldn't get that amount for this period of time, but there will be some amount of revenues foregone. He stated that it is not true that the Village will not lose any revenue from this.

Mr. Berg asserted that had the permit sales begun in June or July, there would be people that would have bought the Christie Place parking permit because no one wants to give up that opportunity to procure that particular parking permit. He stated that the Village probably would have gotten approximately \$200,000 of revenue. He stated again that he did

not necessarily disagree with the decision, but he believed it should have been made by the Board of Trustees and not by Steve and Donna.

Finally, Mr. Berg spoke about the two installment payment plans for both the Village and School taxes. He stated that he is delighted that the Board is going to be doing that. That was an idea that was discussed many times, apparently by the Village Board and rejected over the years. This is something that has been implemented by literally every other town with respect to the School Board, and by virtually every Village with respect to taxes in Westchester County for many years. He stated that this was an idea that the Voters Choice Party people brought up in April of this year, it was not something that was originated by the Village Board. He complained that the Board is now saying that 'this is a great thing that we're doing for the Village'. Although it is true that the Board is doing it, it's not something the Board originated. This is something that the Voters Choice Party brought to the attention of the people and the people demanded it.

Randy Whitestone, 94 Sprague Road, stated that he wanted to address the Mayor's opening comments and Deputy Mayor Veron's comments. He stated that he was really impressed by the impassioned eloquence and genuine feeling that they expressed. He stated that this really is an important moment in history that we are experiencing.

Mr. Whitestone stated that he pays tribute to George Floyd and many others who've been needlessly killed. He stated that he thought we should honor their memory and figure out what we can constructively take away from this moment, and listen and learn and work toward a better tomorrow, including here in Scarsdale, working towards, in the words of the Pledge of Allegiance that we lead the meeting off with for liberty and justice for all - true liberty and justice.

Mr. Whitestone next stated that it was a fascinating discussion at the Village Board work session earlier this evening. He stated that he appreciated the good work done by Parks and Recreation Superintendent Gray regarding different scenarios around opening the pool, and also by Village Clerk Conkling concerning the shifting of the parking permits season. As someone who parks at Christie Place but it hasn't done since early March, the solution of extending the permit expiration date is creative and reasonable.

Mr. Whitestone added that he also appreciates the work that went into surveying residents regarding their pool preferences, and the dedication of Village staff during this tough time is appreciated. He stated that even more impactful is the innovation and flexibility of solutions. Village staff that isn't afraid to try new things in response to changing conditions. He stated that he also appreciates the Trustees, and their work with the merchants on reopening the Village Center, which he stated brings him to the second part of the work session which was discussion among the Trustees about the frequency of scenario planning, and dynamic data and strategic prioritization and how they can make budget decisions on capital projects, department operating budgets, and on reserves.

Mr. Whitestone stated that Trustees Veron and Lewis made good cases for why such an approach is particularly needed as we continue to face great uncertainty. We're only in day 9 of the fiscal year, and he stated that he looks forward to continuing discussion as the numbers unfold. Thank you.

Robert Harrison, 65 Fox Meadow Road, urged the Board to permit people to ask questions on work session zoom meetings. He stated that at the last work session the Board did not allow anyone on zoom to raise their hands and ask a question.

Mr. Harrison noted that the pool presentation by Brian Gray was excellent. He asked if July 18th was the opening date, to which Mayor Samwick replied affirmatively.

Mr. Harrison then addressed the cost of a pool permit and the 75% reduction in cost, and urged the Board to have the cost of the permit be 65% of the original cost since the pool usually opens on Memorial Day and is opening much later this year.

Mr. Harrison complimented the Village for the opening of the tennis courts, he stated that it's going nicely, it is very well organized, and there is some great younger tennis player attendance - generally high school freshmen and through their freshman year in college. He asked how many tennis permits the Village has sold and asked that this information be relayed to him later.

Mr. Harrison praised the Mayor's opening remarks and thanked him. He stated that it was a deeply moving statement and his grandchildren attended the vigil – unfortunately, he was out of town.

There being no further public comments, Mayor Samwick closed the first public comment section of the meeting at this time.

Mayor Samwick stated that he would like to just address a few of the things that were commented upon. He stated that there appears to be some widespread misunderstanding, even on the part of people who participated in the work session, about parking - specifically with regard to the parking revenue for the Village. He stated that the Village fiscal year from June 1st to May 31st. Therefore, whether the Village sells a one year permit for parking on June 1, August 1, December 1, etc., as long as it occurs within that fiscal year, revenue theoretically would be the same. Depending on seasonal factors and other things, this might change a little bit depending on the demand from people for parking permits. However, as long as we sell a full year permit within the fiscal year, that in and of itself will not fundamentally change the revenue that's derived from the sale of parking permits.

Mayor Samwick noted that Mr. Berg went out of his way to take credit for the two installment payment program for both the School and Village taxes, and he reminded people that political statements are discouraged here at the Board meetings. He stated that the conversations that were happening within the Village at the time that the pandemic started about what the Board might do to assist residents was certainly not something that he was aware of at that time.

Trustee Liaison Reports

Trustee Lewis reported as the liaison to the Village's Advisory Council on Human Relations, and stated that he would like to provide an important update. First, he

acknowledged the challenge of our time; the crisis we face as a nation is of our own making. Generations of Americans have turned the other way as their black neighbors have been oppressed; their aspirations and voices silenced by prejudice, violence; and murder and evil directed at them because of race and history. We want to face this challenge directly or watch our nation be torn asunder, we must use the full force of every level of government; Federal, State, and local to right these wrongs.

Trustee Lewis stated that at the local level, Jennifer Fischman, Chair of the Advisory Council on Human Relations, will be working with her Council members to develop a survey for our fellow neighbors to map our aspirations to be a more inclusive community and to map the challenges before us to reaching that goal. Along the way, we expect the help and work of the Village's Advisory Council on Human Relations to be an addition to the initiative noted by the Mayor. We hope to reach our highest aspirations for building a diverse, open, and welcoming community. He gave his thanks in advance to the Advisory Council on Human Relations for undertaking this important and historic initiative.

Trustee Veron presented the Library report, stating that “Margot Milberg, the new Library Board president, who has assumed responsibility in the most seamless and capable manner imaginable, sent me updates to share this evening.

- The Library started accepting the return of materials Monday – Friday from 9 a.m.-noon on June 1. It is going well and patrons are dropping off their books in bins located outside the Loft. Based on best practices, items are being quarantined for at least 72 hours before they are handled and checked in.
- The Library is hoping to launch contactless pickup of holds beginning June 15th. Since this is a new service, there are many details to consider. Check the Library website for this week updates on the process.
- Beth Bermel, the Library Director, is working with other local libraries to determine how their contactless pick up and return service is working and will make changes to our plans if needed.
- If Library patrons need book recommendations, they can contact the librarians through email, which is scaref@wlsmail.org. Book recommendations for all ages have been posted on the Library website. The Library staff has been posting virtual programs and activities for Scarsdale patrons on the Library website and is sharing this also through other social media including Facebook and Instagram.
- Additionally, the Library is partnering with the elementary school librarians to promote the Library's summer reading program, which starts later this month. Work is also in progress to collaborate on summer programming with the HS teens.

As liaison to the Board of Architectural Review and the Board of Appeals, Trustee Arest stated that he wanted to impart how much he appreciated all the hard work of staff, including Planner Liz Marrinan and Greg Cutler now stepping in now as Village Planner; Frank Diodati, Building Inspector and the Village Manager's office. He stated that there are just so many different players that were required to step up and ensure that this important business could continue for the Village. He stated that tomorrow is the Board of Appeal's first zoom meeting; the Board of Architectural Review has already held one and there are additional meetings planned. He stated that with all the challenges and changes, there will be growing pains like everything else, but he hoped that the entire community appreciates that there was a lot of work behind the scenes. He thanked Village Manager Pappalardo and staff for that.

Trustee Arest

Trustee Arest noted, that as the Village Board, the Board is considering the following resolution regarding the FY 2020-2021 Village Tax Levy and a two payment installment program. He noted that the adjustment to the School Tax payment plan falls under the Town Board and that will be considered at the Town Board meeting directly following this meeting. He noted that the Board has had many discussions regarding this.

Upon motion entered by Trustee Arest, and seconded by Trustee Crandall, the following resolution regarding Levy of Village Taxes for 2020-2021 in Two Installments was approved by the vote indicated below:

- WHEREAS,** the Real Property Tax Law of the State of New York Section 1434 provides that a village board of trustees may by resolution determine to collect village taxes in two installments; and
- WHEREAS,** the collection of village taxes in installments will help reduce the financial burden on Village taxpayers in response to the current COVID-19 pandemic, and
- WHEREAS,** pursuant to the provisions of Section 17-1722 of the New York State Village Law, the Board of Trustees must levy Village taxes for the current fiscal year not later than the twenty-fifth day of June; and
- WHEREAS,** in order to allow sufficient time to process the tax bills, it is necessary that the following resolutions be adopted at the June 9, 2020 Board of Trustees meeting; and
- WHEREAS,** The Village Board wishes to provide taxpayers with the option of paying Village taxes in two equal installments; now therefore be it

RESOLVED, that pursuant to Village Law Section 17-1722, there be levied and assessed against the taxable property in the Village of Scarsdale, as contained on the last completed single Village/Town assessment roll, the sum of \$41,809,855, being the net amount to be assessed and collected in accordance with the 2020-2021 Budget adopted April 28, 2020, which sum together with the other revenues estimated in said budget shall be applied to the purposes set forth in said budget as follows: **(SEE ATTACHED BUDGET SUMMARY)**; and be it further

RESOLVED, that pursuant to Real Property Tax Law Section 1434 (1) the Village Treasurer is hereby authorized and directed to collect said amount either (i) in one installment due not later than August 1, or (ii) two equal installments due not later than August 1 and December 31 respectively, and be it further

RESOLVED, that pursuant to Real Property Tax Law Section 1434(1) the Board of Trustees hereby determines that on the first installment of all such taxes remaining unpaid after August 1, 2020 a two percent (2%) penalty will be added for the first month and an additional one percent (1%) for each month or fraction thereof until paid; and that a seven percent (7%) penalty be added to all Village taxes that remain unpaid after December 31, 2020 and an additional one percent (1%) for each month or fraction thereof until paid; and be it further

RESOLVED, that notwithstanding the payment of village taxes in installments hereunder, annual village taxes shall be a lien on the taxable property of the village on the first day of the fiscal year for which it is levied until paid or otherwise satisfied or discharged; and be it further

RESOLVED, that the Village Clerk shall cause to be published in the Scarsdale Inquirer notice of collection of the taxes levied herein.

<u>AYES</u>	<u>NAYS</u>	<u>ABSENT</u>
Trustee Arest	None	None
Trustee Crandall		
Trustee Lewis		
Trustee Ross		
Trustee Veron		
Trustee Waldman		
Mayor Samwick		

Trustee Ross noted that the following resolution is for approval of an agreement amending a drainage easement. Before reading the resolution, he noted that two weeks ago, the Board voted to allow improvements in a Village owned ROW after the applicant had installed said improvements without the Village's prior consent. This request for an easement agreement from the Village would be to allow improvements to remain on private property in the location of the Village easement, also after having been installed without the Village's consent. He stated that in this case, he intended to vote authorizing the agreements; it's been presented to the Board and permits the improvements to remain.

Trustee Ross stated that he believed that the Board is facing a question of policy that should be considered by this Board in connection with future votes of this kind, and that question relates to whether some deterrent action by the Village would be advisable, so that we might see fewer cases like these. However, with that said, this particular matter relates to work that was done years ago, and in that time there's been substantial work by staff on this matter, as well as negotiation with the property owner and discussion among our Board members. Trustee Ross stated that he believes that the accommodation that has been reached is reasonable within the framework of the Village's customary approach to such matters.

Upon motion entered by Trustee Ross, and seconded by Trustee Lewis, the following resolution regarding Approval of Agreement Amending Drainage Easement was approved by the vote indicated below (6-1):

- WHEREAS,** in or about April 2015, the Village issued permits for the demolition and reconstruction of a single family home located at 4 Bethel Road, Scarsdale, which property is shown on the Village's tax map as Section 14, Block 5, Lot 21 (the "Premises"); and
- WHEREAS,** the approved plans and pre-construction survey upon which said permits were granted identified an existing 10 foot wide storm drainage easement extending along the left yard setback of the Premises which conveys road runoff water between Bethel Road and an open water course to the rear of the Premises (the "Easement"); and
- WHEREAS,** the said permits indicated that the drainage system was to be protected and preserved and that no development was to take place within the areas of the Easement; and
- WHEREAS,** the work to be performed pursuant to the said permits commenced during the summer of 2015, with completion in or about August 2016; and
- WHEREAS,** upon completion of such work, an inspection was performed which confirmed that the reconstructed dwelling was in conformance with the approved plans, but disclosed that certain improvements were installed within or encroaching upon the area of the Easement

including an asphalt concrete driveway extension, cobblestone curbing, large ornamental boulders, permanently mounted basketball hoop, heavy stone retaining wall, and soil fill of approximate depth ranging between two and four feet, (the “Encroachments”); and

WHEREAS, none of such Encroachments were approved in advance nor permitted by the Village within the area of the Easement; and

WHEREAS, a temporary certificate of occupancy was issued for the dwelling with the provision that a final certificate of occupancy (“Final CO”) could be granted only upon the owners of the Premises rectifying the issue of the Encroachments; and

WHEREAS, the owners of the Premises have requested that the Village agree to accept the Encroachments and permit them to remain; and

WHEREAS, the owners of the Premises have agreed to enter into an agreement to amend and/or modify the Easement relative to the Encroachments; and

WHEREAS, the owners have offered and agreed to perform certain additional work at the Premises as a condition precedent to the issuance of the Final CO, such additional work to be performed to the satisfaction of the Village Engineer, and to include the following:

1. Perform a video inspection/assessment of the storm drain; and
2. Install a cured in-place pipe liner to protect the pipe collectively, the “Work”; and

WHEREAS, after due consideration of all of the above, the Board of Trustees is willing to enter into an agreement amending and/or modifying the Easement; now, therefore, be it

RESOLVED, in light of the unique circumstances of this matter involving the demolition of an existing home and the reconstruction of same which lead to the installation of the Encroachments, the Village Board of Trustees hereby authorizes the Village Manager to execute the Agreement Amending Drainage Easement in substantially the form annexed hereto which shall be recorded against the Premises, subject to the performance of the Work by or on behalf of the owners of the Premises to the satisfaction of the Village Engineer.

AYES

Trustee Arest
Trustee Crandall
Trustee Lewis
Trustee Ross

NAYS

Trustee Crandall

ABSENT

None

Trustee Veron
Trustee Waldman
Mayor Samwick

Before voting, Trustee Arest noted that he had a question, to which he thought he already had the answer to, however, he wanted to confirm that this was on the Board's agenda at least once before and they had pushed back on it and tabled it. He stated that he knew that staff had been working on this for quite a while and that Trustee Ross has also been working on this with staff. This was confirmed by Trustee Ross.

Trustee Arest stated that two weeks ago, he abstained from voting on a similar resolution, and laid out his arguments as to why he's been consistent for many years now about concerns about these items coming to the Board after the fact. As he said two weeks ago, he understands that Village staff can't be everywhere, but that we just have to be careful that we're not rewarding bad behavior. This situation, however, is a little different because he really appreciates all the work that staff and Trustee Ross has done, who he respects very much and he has no problem with this particular situation. The last time this was on the Board's agenda, he pushed back on this with his colleagues and it was tabled. This is now a much better arrangement. He stated that he is still concerned, and he does know that the Board, Village Manager and Village staff agrees that they will move forward in a productive direction when it comes to this whole issue. Therefore, he will vote in favor of this agreement before the Board.

Trustee Crandall stated that in her opinion, the Board is rewarding bad behavior with this resolution. She stated that there should have been a hefty fine imposed upon all those responsible for this disregard of our Village procedures, therefore she stated she will vote 'nay'.

Trustee Veron stated that this item has been going on for quite a while and she thanked Trustee Ross and the staff for doing all the research on this. She voted 'aye'.

Trustee Waldman agreed with Trustee Veron's comments and voted 'aye'.

Mayor Samwick voted 'aye' and pointed out that the work that is required is a meaningful form of penalty here.

Upon motion entered by Trustee Ross, and seconded by Trustee Crandall, the following resolution regarding Authorization to Execute an Amendment to the Intermunicipal Agreement with Westchester County for Solid Waste and Recyclables Disposal was approved by the vote indicated below:

WHEREAS, the Village of Scarsdale has been a member of the Westchester County Refuse Disposal District #1 (District) for nearly 40 years,

transporting its Municipally Collected Solid Waste to the County transfer facility in White Plains; and

WHEREAS, the arrangement, facilitated through intermunicipal agreement (IMA) with the municipalities comprising the District since 1982, has benefited the Village by providing an environmentally and economically viable solution for solid waste and recyclables disposal; and

WHEREAS, the existing IMA expired on October 21, 2019, but included an optional five-year extension which the County now wishes to retroactively exercise, thereby extending the terms and present terms and conditions, but for limited, specified amendments which are not unduly burdensome to the Village financially or operationally, through October 21, 2024; now, therefore, be it

RESOLVED, that the Village Board of Trustees herein authorizes the Village Manager to execute the Amendment to the Intermunicipal Agreement between the Village of Scarsdale and Westchester County in substantially the same form as attached hereto and to undertake all administrative acts required pursuant to the terms of the Agreement.

AYES

Trustee Arest
Trustee Crandall
Trustee Lewis
Trustee Ross
Trustee Veron
Trustee Waldman
Mayor Samwick

NAYS

None

ABSENT

None

Written Communications

Village Clerk Conkling reported that two (2) communications have been received since the last regular Board of Trustees meeting. All written communications include responses from the Mayor, and may be viewed on the Village’s website at www.scarsdale.com.

- An email from Robert Berg supporting the adoption of a resolution by the Town Board to authorize two installment no penalty billing for School taxes. A petition signed by 147 residents is included.
- An email from Robert Harrison in support of the adoption of two installment payments for School taxes.

There being no further business to come before the Board, the meeting was adjourned at 8:36 P.M.

Respectfully submitted,

Donna M. Conkling
Village Clerk