

THREE THOUSAND THREE HUNDRED SIXTY-THIRD

REGULAR MEETING

Video Conference
Via Zoom
November 10, 2020

A Regular Meeting of the Board of Trustees of the Village of Scarsdale was held on Tuesday, November 10, 2020 via video conference (Zoom) at 7:00 p.m.

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

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Minutes

The minutes of the Board of Trustees Regular Meeting of Tuesday, October 27, 2020 were approved on a motion entered by Trustee Whitestone, seconded by Trustee Crandall, and carried unanimously.

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Bills & Payroll

Trustee Lewis reported that he had audited the Abstract of Claims dated November 10, 2020 in the amount of \$592,311.30 which included \$3,346.59 in Library Claims previously audited by a Trustee of the Library Board, which were found to be in order and he moved that such payment be ratified.

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

RESOLVED, that the Abstract of Claims dated November 10, 2020 in the amount of \$592,311.30 is hereby approved.

Trustee Lewis further reported that he had examined the payment of bills made in advance of a Board of Trustees audit totaling \$50,882.33 which were found to be in order and he moved that such payments be ratified.

Upon motion duly made by Trustee Lewis 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 \$50,882.33 is hereby ratified.

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Mayors Comments

Mayor Samwick stated that his comments this evening would be exclusively related to COVID-19. He stated that there has been a dramatic uptick in COVID-19 infection rates nationwide. Cases have gone up from 9 million cases to 10 million cases in the United States within a period of 10 days. This is a record number. In New York State, we are seeing this to a lesser extent, but there still are increases.

Mayor Samwick stated that he had the Governor's update as of today, and in regard to the positivity rate, the number of positive cases for New York State was above 3% yesterday, which is the highest level it has been in a long time. He stated that there are what the Governor calls 'micro clusters', and those areas have a higher positivity rate, which brings up the statewide average. The statewide positivity rate outside of micro cluster areas was over 2 ½% percent today.

In terms of positive cases in Scarsdale, Mayor Samwick stated that the worst month was April; there were over 200 positive cases. By June, Scarsdale was down to 6 positive cases. He noted that an enormous amount of progress was made. For July, August, September and October, there were 10-12 new cases in each of the months of July and August, and 18-20 for the months of September and October.

In Westchester County, Mayor Samwick stated that the County Executive uses active cases as a measurement, which are diagnoses within the past two weeks. There are slightly over 2,000 active cases in the County right now. Three months ago there were 442 active cases. The number of active cases are up over fourfold; almost fivefold. The positivity rate in the County yesterday was 3.4%. Today, he stated that he believed it was up to about 4%. Three months ago to the day, we had a 1.1% positivity rate. As of November 6th, there were 82 COVID-19 related hospitalizations. That number is up from 48 as of the first of November - over a five day period, the numbers went from 48 to 82 hospitalizations. Although this is nowhere near the peak that of 1,200 hospitalizations, the trends are concerning.

Mayor Samwick stated that the Village of Scarsdale has been diligent; in spite of the fact that the numbers have crept up, they are still in a reasonable range. The Village has been lucky because there are a number of communities that have had micro-clusters or mini-outbursts of outbreaks. As we head into winter months, and we are indoors, it is becoming increasingly difficult as we are weary from months and months of the COVID-19 restrictions. However, some very good news is happening in that a Pfizer vaccine was reported yesterday to have phenomenal success rates but it is going to be some time before that gets through to the population. Therefore, he stated that we need to remain diligent and we must wear our masks and continue to distance from each other, wash our hands, stay at home when you are sick, and avoid large gatherings.

Mayor Samwick stated that one thing that he would also like to alert people to is the return of college students over the coming weeks. It is very important that the college students follow the Governor's guidelines. He noted that the New York State website has a COVID-19 travel advisory page, and depending on which state the students may be in, there may be different requirements. He asked that everyone continue to be vigilant and as careful as they have been. It is not time to let your guard down and there is some daylight now that we are looking at with respect to a vaccine, and getting from here to widespread vaccinations is going to be a real challenge. He ended by stating that by and large, our community has done a very, very good job. It's not easy, but let's keep it up.

Manager's Comments

None.

Public Comment

Mayor Samwick opened the public comment portion of the meeting, noting that five minutes is allocated for each speaker. Shortly before the five minutes are up, Assistant to the Village Manager Aylone Katzin will hold up a time clock showing the final time elapsing. He noted that there is a second public comment section at the end of the meeting.

Anne Hintermeister, 40 Chase Road, stated that she wanted to follow up in public comment on a letter that she submitted to the Mayor and to the Board of Trustees that was included in the agenda for this evening's meeting. The pandemic has changed life for most residents, spending a lot more time in our homes, working at home, studying and homeschooling at home, eating at home, or spending more time in our own outdoor spaces for recreation. Residents have been spending more time walking, jogging and cycling on Scarsdale streets, and the Mayor's update on COVID-19 suggests that this is going to be continuing for a long time.

Ms. Hintermeister stated that if gas powered leaf blowers were tolerable or were only a nuisance in the Village, those days are over. The more time we are at home and on our streets, the more we are victimized by the constant penetrating, high decibel, and filthy dust the blowers stir up and spread. The Mayor has stated that he can't or won't ban gas leaf blowers without proof that comparable electric machines are available. However, while that information is being studied, there are some small and easy things that the Board could do now to balance the quality of life for people who live here against the convenience and profit margins of landscaping companies that operate in the Village. She suggested that the Board could limit the hours during which gas leaf blowers can be operated. She stated that permitting them to begin at 8:00 a.m. is too early, and they should ban gas blower operation on the weekend. She stated that gas blowers are especially burdensome to residents in more densely populated neighborhoods. She also urged the Board to ban the use of gas blowers

50 feet from property lines starting now, as well as banning them from use 50 feet from a sidewalk or road. The noise and the dirt associated with these machines should be confined to their user's property. There should be no more than one blower operating at a time.

Mayor Samwick stated that this issue was studied a couple of years ago and whether or not the use of leaf blowers could be converted to battery powered blowers. He noted that at the time, the technology wasn't there. This is a good opportunity to investigate as to whether the technologies have progressed to a level that can work for Scarsdale residents.

Mayor Samwick stated that he would like to make one clarification that Ms. Hintermeister mentioned with respect to the landscapers and their convenience and their profit margins. He stated that this is directly related to how much we get charged. Therefore, he thought that if the Board acts a bit too early in terms of a ban, in addition to moving forward on some of the other suggestions that she made, which sound reasonable, those costs are going to get passed through to the residents. Understanding where we are along the spectrum of that technological gain is important, before the Board makes any decisions. It is something that the Board would like to see studied further and he expressed the Board's appreciation for her comments.

Trustee Lewis stated that since the Board has a short agenda this evening, he thought it might be useful that the Board weight in on this subject as a group towards the end of the meeting.

Mayor Samwick inquired of Village Manager Pappalardo if the Board has the latitude, given the set agenda, to add this subject to the meeting as suggested by Trustee Lewis.

Village Manager Pappalardo stated that if the Board wants to have a discussion about it, or at least if Trustee Lewis is interested in making a comment, he could do so during his liaison report; or ,if the Mayor would like to recognize him now, he can make his comments based on the public comment just received from the resident.

Mayor Samwick suggested that the Board finish with any further public comments and then have a discussion.

Claire Hunt, 44 Carmen Road, stated that she would like to speak this evening regarding trampolines in the Village. She stated that they are becoming more and more popular, and because Scarsdale does not regulate them, they are often installed unsafely and in highly visible locations. She stated that trampolines should either be regulated or not allowed for two reasons. The first reason is safety. She stated that the American Academy of Orthopedic Surgeons states that children under six years old should never jump on trampolines. The American Academy of Pediatrics strongly discourages the use of them at any age. Trampolines are often used against the manufacturer's instructions, including not having more than one person jumping at a time, no one doing flips, and that the trampolines should be disassembled and covered for the winter months.

Ms. Hunt continued, stating that backyard trampolines resulted in approximately 103,000 trips to the emergency room in 2017. Fractures are the most common injuries

associated with trampolines, and cervical spine injuries are the leading cause of neurological injuries associated with trampolines. She noted that it is estimated that 8-12% of trampoline injuries result in spinal injuries, and approximately .5% of all of them, result in permanent neurological damage. Many trampolines are installed unsafely and are crammed against walls and fences. A trampoline should be installed at least eight feet away from any obstacle in any direction, so if someone is thrown off the trampoline, they will not hit an object such as a wall or tree at a high rate of speed. Trampolines are supposed to be installed on level surfaces and properly anchored to the ground so they do not fail. There are many videos online of trampolines taking flight during storms and high winds and crashing into homes and cars. Ms. Hunt added that many insurance companies do not cover backyard trampolines or if they do, they require a specific rider to cover them. If someone outside of your household is injured on one, it becomes a homeowner's insurance claim. She stated that many families are either unaware of this or choose to take their chances.

Ms. Hunt then addressed the appearance of trampolines. She stated that there is no regulation concerning their placement, and many time they are abutting the property lines. They are sometimes 10 feet high, which exceeds the maximum allowable fence height in the Village. She noted that her neighbor has their trampoline in their side yard, which is also her side yard. They have had it for approximately seven years and have failed to maintain it. It is now faded and overgrown with vines. She stated that they are allowed this 10 ft. structure and she is restricted to a 4 ft. fence, adding that these platforms are several feet off the ground it allows children to stare directly in her windows. They're not regulated by setbacks and are essentially permanent, in her opinion. She argued that a gazebo, shed, or deck with the same dimensions would be subject to permits and regulations.

Ms. Hunt continued, stating that the trampoline lowers the property values of surrounding homes because they are often neglected and run down after a few years of poor maintenance. Additionally, the noise level from children using the trampolines tends to be much higher than any other play equipment. Children have a tendency to scream while playing on them, disrupting the peace of anyone in surrounding yards. There is no regulations on trampolines, therefore, neighbors have no recourse to request that they be placed further away from the property line to minimize disruption.

Ms. Hunt asked the Board to consider banning trampolines in the Village as they are out of scale and very dangerous. If that is not possible, she encouraged the Board to regulate them with the minimum requirement of a permit and that they have a setback from any obstruction. The trampolines should be anchored properly, buried to the post with proper drainage underneath, and not exceed the maximum allowable fence height. There should also be proof that their homeowners insurance covers this structure. The expiration date should be included on the permit and it should have to be removed upon expiration. Ms. Hunt finally added that the erection of a trampoline should require Board of Architectural Review approval with neighbor notification, as well as a landscape screening plan to hide the structure.

Robert Harrison, 65 Fox Meadow Road, stated that on the Board's agenda this evening is an agreement with the Scarsdale School District to approve the construction of a comfort station at the Middle School tennis courts. He urged the Board to approve this

resolution so they can move forward with this project, which has been on the back burner for over seven years. He stated that in 1984, the Scarsdale Youth Tennis League, through a major effort led by himself, a petition with 3,500 signatures and a contribution of \$25,000 was submitted to the Village and the School District to restore the tennis courts and take over that project.

He stated that in the upcoming fiscal year budgets of the Village and School Boards he sees that there is an allocation to build the comfort station by splitting the cost of the facility. He stated that the Scarsdale Youth Tennis League would like to make a financial contribution to support this project. He stated that he is concerned about why in the resolution, it says that it will take \$150,000 to build the comfort station. He did not understand why this project would cost \$150,000 if the Village is going to use its own personnel to build this facility. The cost should only be for the material costs. However, they are willing to commit \$10,000 to this project, but they want the project to be built as soon as possible this coming spring, so that it will be available for next summer. He stated that he is aware that this has to go to the State for approval, but he didn't think that the Village should have to spend \$150,000 for this project. He urged the Board to approve the resolution and then work on the costs of the project.

Mayor Samwick thanked Mr. Harrison for his generosity and the generosity of other residents in the \$10,000 donation towards the comfort station, which is greatly appreciated. He agreed that discussion surrounding this project has been going on for quite some time. However, the Village Board has already acted on this and has authorized \$150,000 toward this project. He noted that one of the elements of costs that he could speak to is approximately \$30,000 of architectural and engineering work that has to take place. This project is located on School property, and requires State Education Department approval, and because of this, it needs to have detailed plans and specifications. Mr. Harrison is correct in that Village staff is going to be doing a large part of the work.

Village Manager Pappalardo stated that the Village hired a firm and have spent approximately \$50,000 for the architectural and engineering expenses and the design expenses for this project. There will be fees associated with the State Department review, and the balance of those expenses are for materials and for the construction of the structure. The Superintendent of Public Works and the consulting engineers have talked about that number and they think that number is solid; there's some contingency built into it. However, they are comfortable that this can be done for that amount.

Robert Berg, 17 Black Birch Lane, stated that at the last meeting, the Board updated the community on the pending revenue shortfall for the fiscal year. He stated that he would like to address a few expense items. He stated that over his objection, \$200,000 has been budgeted to pay for attorneys and consultants for the Freightway redevelopment project. Five and a half months into the fiscal year, he asked if any of that money been spent, and if not, where that money and what are the plans for spending that money? He stated that those were specifically designated funds. He stated that he would also like to know what the status is of the \$29,000 allocated in the budget for books and periodicals for the Village Attorney.

Village Manager Pappalardo stated that he would have to check the accounts.

At this time Mayor Samwick closed the public comment section of the meeting. Before moving on to Trustee Liaison reports, he noted that Trustee Lewis requested to comment on one of the matters that was brought up during public comment.

Trustee Lewis stated that it is very important that residents stand up when they have views to share with the Board; it takes time and it's not easy to do. He stated that he felt that a very important theme of the times and a growing interest by many members of our community is in matters related to sustainability issues. In regard to Ms. Hintermeister's letter and comments, he stated that a lot of this for him relates to sustainability issues, and how we can reduce our carbon footprint. He stated that the environment encapsulates many things, including the quality of life that we experience as we go through our daily lives. The noise and the dust created by the gas powered leaf blowers all resonate with him, and he feels that many of Ms. Hintermeister's ideas should be more fully explored by the Board. These kinds of conversation decisions have economic consequences for others, but at the same time, it is an important subject for the Board, because as stewards of the community and of the environment, as well as the quality of life in the Village, the level of noise and air pollution and the carbon footprint that's being created here is more noticeable. It was there before, but with many people working from home it is more observable. From his perspective, he feels this is an agenda item that's overdue.

Mayor Samwick stated that in speculation, if everyone were to be asked if they'd like to get rid of gas powered blowers, they would most likely all be in accord. It really does require some study before the Board can bring it up. He suggested that the Board request the Conservation Advisory Council (CAC) to investigate this issue a little bit more and then the Board can discuss it when there is more data to evaluate the situation.

Trustee Crandall stated that as a liaison to the Conservation Advisory Council, there is a meeting of the CAC tomorrow night. She asked the Mayor if she could ask that Council to look into this.

Mayor Samwick suggested that the Board have a discussion, take an informal poll and move on from there.

Trustee Crandall stated that she is in favor of further study by the Conservation Advisory Council on the topic of leaf blowers in terms of noise.

Trustee Arest stated that he stated that there is a short term and a long term discussion to be had. He agreed that there are certain parts that do need further study, and he would definitely be supportive of the CAC getting involved. The more data and more information and the more public conversation the Board has with the community about this, the better off everyone is.

Trustee Arest stated that the Board needs to have a quality of life work session, which would include traffic safety, as well as the noise ordinance which would have to do with more than just the noise created by the leaf blowers. Study of the noise ordinance would also have to do with construction, etc., and whether these activities should occur on the weekends, and whether the hours of the activities should be modified to after 8:00 a.m., but especially on the weekend as Ms. Hintermeister suggested. The Board needs to hear

from the community on this. Everyone is more sensitive to these issues now, but like many things surrounding COVID-19, there has been a growing demand in this regard.

Trustee Arest noted that Michael Rubin was very forceful in his comments about construction on the weekends, quite some time ago before COVID-19. He stated that he felt that his comments need to be addressed. He stated that they have the technology now; the existing noise ordinance is fairly subjective and with technology, decibel levels are much easier to determine. He hoped that the Board would have a work session very soon.

Mayor Samwick requested a show of hands from the Trustees if they support asking the CAC to evaluate gas blowers and other alternatives as a viable solution to managing leaves and other yard waste. As all Trustees unanimously gave a show of hands as approval, Mayor Samwick requested that Trustee Crandall formalize this request and submit it to the CAC at their meeting tomorrow evening.

Trustee Liaison Reports

Trustee Crandall stated that there are some new developments over at the Recycling Center at 110 Secor Road. Residents may now recycle plastic bags and plastic film, which includes empty garbage bags, cereal box liners, bubble wrap, plastic mailers, etc. She stated that there is a complete list on www.scarsdale.com.

Trustee Crandall stated that the other new development is that residents may also bring liquid cooking oil – not Crisco, which is solid, but the other type of oil that you might use, for instance, to deep fry a turkey. You can simply bring the oil to the yard at the Recycling Center and pour it into the receptacle that is there. She asked that residents not bring any motor oil, water, or solid pads. She stated that small amounts of cooking oil that may collect on a paper towel can be put into the food scrap bin, if you have one. If anyone has any questions in this regard, they can email composting@scarsdale.com and someone will respond.

Trustee Crandall stated that at noon tomorrow. It is the very first virtual Aging in Place on Zoom. The topic is Homecare 101. If anyone would like to participate in this free program, they may contact the Aging in Place Coordinator Mary Ellen Sanger at msanger@sfcinc.org, or phone her at 914-723-3281. She will send you the zoom invitation that you need to attend the program, to learn more about Home Care 101.

Trustee Arest stated that the Scarsdale Business Alliance (SBA) would like him to convey that they are “”thrilled to announce its Holiday Shop & Dine the ‘Dale campaign, which will take place from November 1st through December 31st. Join fellow community members this holiday season and celebrate our independent and local businesses. By choosing to shop and dine locally, you are investing in our neighborhood and strengthening our community.

As a part of the initiative, the SBA will be selling raffle tickets, with chances to win gift cards and items from Scarsdale's favorite merchants. Raffle tickets are available for purchase for \$10 each, with a package of 6 for \$50. Proceeds from the raffle sale will support the Scarsdale Business Alliance and all of its members."

Trustee Arest noted that this information was taken directly from the SBA website, which is ScarsdaleBusinessAlliance.com; if you go to that site, you will be able to purchase those raffle tickets.

Trustee Arest noted that the Dine the 'Dale tent will be dismantled this week. However, the picnic tables will stay in place for at least this month, and depending on the weather, possibly for next month as well. He stated that the SBA, along with Village staff, himself, and former Deputy Mayor Jane Veron, the task force meet every week and actively discuss ideas and possibilities for the spring. They want to get in front of this, get community input, and have the ability to take any action needed by the Board, and obtain feedback and approval from the Village Manager for any decisions that need to be made by his office. Therefore, they are hoping to have a work session in the next month or month and a half, where they can present to the Board some of these ideas along with the community, and start again discussing this as early as possible.

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Trustee Waldman stated that she has a report from the Library Board. She stated that there are banners up in Chase Park and Village Hall announcing the modified reopening of the library. The library is still hoping to open to the public in a limited capacity by the beginning of December. She stated that the Library Loft closed on Friday, November 6th, and the books and materials were packed up and moved over to 54 Olmsted Road. She noted that one can still drop off their returns at the Loft at the book drop, Monday through Friday. There will be no more curbside pickups at the Loft. Until the library at 54 Olmsted Road reopens, you will need to choose a neighboring library as a pickup location or suspend your holds. During this time, they will be no fines for late returns.

Trustee Waldman stated that the library received close to 1,000 responses to a survey asking for community feedback on services for the re-opened library. The responses from the survey will help the library to identify priorities for services, and determine how the library will be best used during the COVID-19 restrictions.

Trustee Waldman stated the library has produced a new Bookmarks edition featuring photos and information about the renovated library; this will be mailed out shortly to all Scarsdale residents.

Mayor Samwick stated that everyone is very excited about the grand reopening of the library that's coming up in the next few weeks.

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Trustee Ross gave the following report, stating, "At 5:00 p.m. today, prior to this meeting, the Board held a work session at which the July 19, 2019 report of the Bulk Review

Committee was presented. The Bulk Review Committee, consisting of Jessica Kourakos, former Chair of the Board of Architectural Review, Dan Steinberg, Chair of the Planning Board, and Jeffrey Watiker, Chair of the Board of Appeals, was tasked with addressing the perception of excessive bulk in some of the new or newly renovated homes in Scarsdale. At our work session, we had the benefit of Mr. Watiker's participation, which we greatly appreciate.

The report drafted by the Committee included 5 recommendations:

- 1) Reduce the maximum permitted height of a dwelling to 32' from 35' (and I note that this is the measurement from the average existing or final grade, whichever is lower, to the midpoint of the roof)
- 2) Regarding Floor Area Ratio -- Reduce the side yard bonus by 30% (this refers to the additional 100 square feet of floor area allowed for each foot a house is set back beyond the required side yard, subject to limitations that vary by zoning district)
- 3) Eliminate the FAR requirement that to qualify for the side yard setback bonus, additions to existing homes be to the rear of the house
- 4) Clarify the language of the Code to specify that the FAR garage credit applies only to the square footage on the floor level of the garage where cars are parked but not to space on upper floors (this relates to a provision that excludes the lesser of 250 square feet or the square footage of the garage from the FAR calculation for lots under 10,000 square feet and the lesser of 400 square feet or the square footage of the garage on lots of 10,000 square feet or more)
- 5) Require Planning Board Site Plan approval for single family residential projects involving more than 15,000 square feet of gross floor area, rather than a Special Use Permit from the Board of Appeals

A proposed local law embodying these recommendations will now be drafted by the Village Attorney and referred to the Planning Board for consideration. The Planning Board will report back to this Board, which may then decide to meet to discuss any recommendations the Planning Board might have. This Board may then hold a public hearing at which both Board members and members of the public would offer their feedback. The Board would consider the public comments and may then decide to move forward with a vote on the proposed local law.

I would like to thank Ms. Kourakos, Mr. Steinberg and Mr. Watiker, as well as former Village Planner Elizabeth Marrinan, for their excellent work on these important issues."

Mayor Samwick thanked Trustee Ross for his report and added that he would like to second that the work that went into this was really great.

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Trustee Crandall

Trustee Crandall stated that before she reads the following resolution, she would like to thank Superintendent of Public Works Jeff Coleman and his staff, as well as the Village Conservation Advisory Council for their leadership in Rood Scrap Recycling. She stated that it is because of their hard work that she has the privilege of reading the following resolution regarding the Intermunicipal Agreement with Westchester County for Residential Food Scrap Transportation and Disposal Program.

Upon motion entered by Trustee Crandall, and seconded by Trustee Ross, the following resolution was approved by the vote indicated below:

- WHEREAS,** the Westchester County Department of Environmental Facilities completed a Food Waste Recycling Study in January 2020, having quantified significant financial and environmental benefits in connection with expanded food scrap recycling, an initiative first championed locally and more broadly throughout the county by Scarsdale's Conservation Advisory Council; and
- WHEREAS,** Westchester County is seeking to maximize the benefits of food scrap recycling by growing community participation through lowering program food scrap tipping and transportation costs, a savings achievable through partnership and associated economies of scale; and
- WHEREAS,** based on the IMA's initial rates and our most recent experience of 291 tons of food scraps having been collected in Scarsdale over the past 12 months, the proposed IMA would result in local savings ranging from 49% to 83%, or up to \$14,450 per year, as the current \$60 per ton tipping fee would decline to \$29.28 per ton if the County contractor picks-up from the Village's collection site, or \$15.00 per ton for the first 19.99 tons per calendar year, and \$10.00 per ton thereafter, should the Village elect to deliver food scraps to the Westchester County contractor's transfer station in Mamaroneck; and
- WHEREAS,** because the proposed IMA rate increases are tied to the existing District 1 Solid Waste Inter-Municipal Agreement, which receives an annual rate adjustment on November 01 of each year based on the Consumer Price Index for All Urban Consumers, the proposed IMA, which retroactively takes effect on October 12, 2020, will experience a nominal increase in rates effective November 01, 2020, with projected savings varying accordingly; and
- WHEREAS,** Westchester County requires the execution of an Intermunicipal Agreement to participate in the Residential Food Scrap Transportation and Disposal Program, which staff and the

Conservation Advisory Council enthusiastically support; now, therefore, be it

RESOLVED, that the Village Board of Trustees hereby authorizes the Village Manager to execute the Intermunicipal Agreement between the Village of Scarsdale and Westchester County in substantially the same form as attached hereto; and be it further

RESOLVED, that the Village Manager is herein authorized to undertake all administrative acts required pursuant to the terms of the Agreement.

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

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Trustee Lewis

Trustee Lewis stated that for the following resolution, regarding an Intermunicipal Agreement with the Scarsdale Union Free School District for a Middle School Comfort Station, there is a significant amount of documentation and a number of the whereas clauses within the resolution explain this. He noted that this is one of the more frequently discussed items in their meetings, and added that Mr. Harrison has expounded on this as well.

Upon motion entered by Trustee Lewis, and seconded by Trustee Crandall, the following resolution was approved by the vote indicated below (5-2):

WHEREAS, the Village and Scarsdale Union Free School District (SUFSD) collaboratively developed the concept of a Middle School Comfort Station to provide appropriate sanitary facilities, a refuge area from inclement weather, office space for an attendant, and athletic equipment storage in connection with the Village-owned tennis courts located on premises of the Scarsdale Middle School, 134 Mamaroneck Road, and the Village’s and SUFSD’s respective athletic and recreation programs; and

WHEREAS, via Village Board Resolution dated December 10, 2019, attached hereto and made a part hereof, the Village Board authorized LAN Associates LLP, to provide architectural, and engineering design services as well as the preparation of construction documents and inspection services on behalf of the Village for said Middle School

Comfort Station, said Resolution also appropriating total Village and project funding of \$150,000; and

WHEREAS, the New York State Education Department (NYSED) which serves as the approving agency for new or improved facilities proposed on school grounds, requires that the application be authorized and submitted by SUFSD for their review; and

WHEREAS, LAN Associates has substantially completed construction documents for the proposed Middle School Comfort Station which are ready for submission by the SUFSD to the NYSED for consideration; and

WHEREAS, in advance of such submission, the Village and SUFSD attorneys have drafted an Intermunicipal Agreement identifying the construction and post-construction responsibilities of each party, including operation and maintenance of the comfort station and adjacent District property, with a separate more detailed operating and maintenance intermunicipal agreement to be drafted and executed by the District and Village Administrations post construction; now, therefore, be it

RESOLVED, that the Village Board of Trustees hereby authorizes the Village Manager to execute an Intermunicipal Agreement between the Village of Scarsdale and Scarsdale Union Free School District, in substantially the same form as attached hereto; and be it further

RESOLVED, that the Village Manager is herein authorized to undertake all administrative acts required pursuant to the terms of the Agreement.

AYES

Trustee Crandall
Trustee Ross
Trustee Waldman
Trustee Whitestone
Mayor Samwick

NAYS

Trustee Arest
Trustee Lewis

ABSENT

None

Before calling for the roll call on this resolution, Mayor Samwick stated that he wanted to make sure that the public is aware that this is really just a memorialization of things that had previously been agreed to.

Trustee Arest stated he wanted to take a moment to share with his colleagues and the public as to why he is unable to support this resolution. He stated that it is an important project, and that he thought that it would provide a long sought public amenity to the community. He stated that it has taken over six years of negotiating with various School Boards and administration, only to come up with a completely one sided arrangement where the Village is on the hook for everything, and he doesn't appreciate that. Getting past that, however, and looking at it as an important project and something that appears the community does want, what he still cannot get past is deciding how the dollars are being

expended. He stated that he believed that the Village Manager has said that approximately \$15,000 have been expended already, which leaves \$135,000, not to mention personnel resources. He would like someone to explain to him how that can be considered essential during a time of austerity and right before budget season.

Trustee Arest stated that he felt it was unfair to him and to his colleagues to have to vote on this at this time. This item should be part of the budget discussion, and it should be tabled – he shouldn't have to vote. In the context of the budget, he pointed out that one item that has been discussed with this Board and previous Boards is the recreation fields, as one example. The Village has a shortage of fields in the community. The turf field at the high school went a long way into helping their ISO, their Schools and the Recreation Department to juggle the usage of fields.

The Board looked at Winston field and allocated money for an engineering study to see if it could be repaired by damage, to which the answer was in the affirmative. However, the Board never had another meeting on it because the price was just so excessive; so much more than they had allocated for the project, and it was tabled. Therefore, his question now is what is the community's preference? Right now there are revenue shortfalls and the Board is uncertain if they are going to have to cut services. He asked if the community prefers to improve the fields, or build a comfort station where there are already three in other locations. He stated that he would welcome this conversation during budget conversations and hear from the community.

Also, in looking at the IMA itself, in Section 1, Trustee Arest stated that there is a word in there that everyone needs to recognize what that says – it doesn't say the Village *May*, it says the Village *Shall*. He stated that in legal words, shall means the Village will have to do it. In Section 3, the only way out of the agreement that the Village has after signing the agreement is if the consent of either New York State or the District requires an increase in the cost of construction. So if they come up with an additional item for the scope of work; for instance, if they say we want three or four bathrooms, the Village has an 'out' of the agreement. However, if it is approved exactly as planned, the Village does not have an out. The costs could skyrocket, for whatever reason, and the Village would not have an 'out'. He stated that while he supports Mr. Harrison in his seven year endeavor, and he does hope that there is a comfort station there, he votes 'nay'.

Trustee Crandall stated that she appreciates her fellow Trustees' comments just now, adding that she has given this some serious thought and she is in favor of this resolution. She stated that she anticipates that the Board will have a more detailed discussion during the budget hearings. She stated that she noted from the agreement that the Village has a couple of years after the State gives its approval to construct the comfort station.

Trustee Crandall stated that she was very appreciative of Mr. Harrison's efforts to raise funds, and hoped that this will continue because that would certainly make the budget discussions move faster. She added that she saw the comfort station as serving more than just the people who use the tennis courts, as many residents enjoy walking and will appreciate the convenience of a nearby comfort station. Her hope is that this project will help the Village to become a more walkable community. This comfort station would be on the way to the Weinberg Nature Center where there's another comfort facility, as well as

fresh water that is available to refill water bottles. She stated that she is in favor of this resolution and voted yes.

Trustee Lewis stated that he would also like to acknowledge the work of all the community in support of this effort, including Mr. Harrison, who has been a great advocate for it and stated that the Board truly cherishes his advocacy on behalf of the community. He stated that he has listened very carefully to Trustee Arest's comments, and he has reflected on conversations that have taken place in prior meetings. While he thinks this type of conversation would benefit further if the Board still had their agenda meetings so the Board could talk about things before meetings begin, and he thinks that they have to get back to that procedure, his vote is no.

Trustee Ross stated that he has also thought about this matter and he does appreciate Trustees Arest and Lewis's point of view, he arrives on the side of Trustee Crandall. He stated that this is something that's been discussed for a long time, and that this is really a pre-pandemic project. He thinks that this is something that the community wants, and although they need to think about every expense, including this one, he still arrives at an affirmative vote and that the Village should move forward with it. Trustee Ross voted yes.

Trustee Waldman stated that she agrees with the comments made by Trustee Ross, although she appreciated what Trustee Arest's comments and does agree with some of his points. She stated that she is also going to vote yes for this and congratulated Mr. Harrison for all of his efforts over the past number of years to push this project forward, and is glad that it will get done. She stated that she feels it will benefit the community.

Trustee Whitestone stated that he has listened very carefully to all the points made and he very much appreciated the points that Trustee Arest made. He stated that he believes that this is a question of timing and it's hard for the Village to set its priorities on a particular project that's taken some time, and will take some time, as witnessed earlier this evening at the work session. He stated that he agrees with Trustee Ross in that this is a pre-pandemic project, so he will vote yes.

Mayor Samwick stated that he would like to make a couple of points, and then he will vote yes. He stated that he would like to make sure that everyone understands the process. This project is already fully funded; the money that is set aside is allocated and funded. The Village needs this agreement, so they can go to the State Education Department and get their approval. Once that approval is obtained, which will most likely take six to nine months, the Village then has the ability, not the obligation, to build at that time. He stated that it does say that we do have an obligation there. It doesn't say when and it doesn't have any remedies. He stated that he does think that there are some questions about that point. The Village has 2-3 years after getting State Education Department approval to do this, and if what the Village Manager said earlier is correct, that \$50,000 has been allocated to the architectural and engineering work, then \$50,000 of the \$150,000 has already been spent whether literally or yet to be billed.

Mayor Samwick stated that lastly and most importantly, he feels that it is important for the Board to think about this as a community, not the Village versus the School for the most part, but for the most part we're serving the same community. This is something that

benefits the community, as Mr. Harrison said in his opening comments. For all intents and purposes, the same people are paying for it; this is something that the community really can use and he agreed with Trustee Crandall that it will be useful for walkers and it is a very nice thing to have available. He stated that he enthusiastically votes yes.

Trustee Arest stated that he would like to respond to a couple of the comments. He stated that he didn't realize that pre-pandemic funds were scooped up by the leaf vacuums and he thought that money was fungible. He believed that just because something was committed, it could, in the same way, be uncommitted by a Village Board, although he would check this with Village Attorney Pozin. Secondly, for the engineering firm, there is a termination for convenience, and he believed that the Village Manager has stated that \$15,000 has been expended thus far. Therefore, the rest of it is free money that can be uncommitted at any time. Finally, he stated that it is never the School versus the Village. However, the idea that somehow it doesn't matter who pays for it is concerning to him. In a way, it doesn't make a difference and doesn't matter whether the Village or the School pays for it, but what actually happens when we expend dollars that we can't use anywhere else? We don't have unlimited taxing capacity, we have other projects in our pipeline and priorities that we want to get to that we can't because of that, or we have the option of raising taxes higher. He stated that if he looks at this on the side of the School because the Village has now expended those dollars and they didn't have to, does the Village think that they will then offset our taxes as a community because the Village has spent the money on the comfort station, or will the School just go down on their checklist and spend it on something else? It isn't a net win for the community here just because the Village paid for it. He stated that he thinks it's a loss and that they should be working more collaboratively together. He stated that he also thought that things should be fairly allocated because that's the Board's fiduciary responsibility.

* * * * *

Trustee Waldman

Upon motion entered by Trustee Waldman, and seconded by Trustee Crandall, the following resolution to regarding an Intermunicipal License Agreement with Westchester County for an Updated Hotline System was approved by the vote indicated below:

WHEREAS, the Scarsdale Police Department currently utilizes the Westchester County Hotline system to instantaneously communicate with all participating municipal law enforcement agencies in Westchester County, as well as the New York State Police, Metropolitan Transportation Authority Police, and Greenwich Police Department; and

WHEREAS, Westchester County is upgrading the Hotline system to Voice Over Internet Protocol, supporting faster, clearer communications with enhanced functionality, providing free equipment upgrades to each participating member having executed an updated License Agreement; and

WHEREAS, the Scarsdale Police Department values and desires continued access to the Hotline system; now, therefore, be it

RESOLVED, that the Village Manager is hereby authorized and directed to execute the Westchester County Hotline License Agreement; and be it further

RESOLVED, that the Village Manager is authorized to undertake any administrative acts required under the terms of the agreement.

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

* * * * *

Upon motion entered by Trustee Waldman, and seconded by Trustee Crandall, the following resolution regarding an Intermunicipal Agreement with Westchester County for Mutual Aid and Rapid Response Plan was approved by the vote indicated below:

WHEREAS, the Police Mutual Aid and Rapid Response Plan for the Police Departments of Westchester County, New York (“Plan”), formalizes operational procedures for law enforcement assistance to be provided to participating police agencies throughout Westchester County upon the occurrence of an emergency condition beyond the scope of a single municipality’s resources; and

WHEREAS, the Village of Scarsdale Police Department has participated in the Plan through an Intermunicipal Agreement (IMA) for over thirty years, with the most recent IMA having expired on July 30, 2020; and

WHEREAS, Westchester County has advanced a successor IMA for a five-year term, expiring July 30, 2025, with substantially the same terms as the expired Agreement; and

WHEREAS, the Chief of Police and Village Manager believe it is in the best interest of the Village of Scarsdale to continue participation in the Plan; now, therefore, be it

RESOLVED, that the Village Manager is hereby authorized and directed to execute the Intermunicipal Agreement for the Mutual Aid and Rapid Response Plan for the Police Departments of Westchester County, New York, in substantially the same form as attached hereto; and be it further

RESOLVED, that the Village Manager is authorized to undertake any administrative acts required under the terms of the agreement.

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

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Written Communications

Village Clerk Conkling reported that one (1) communication has been received since the last regular Board of Trustees meeting. Written communications include responses from the Mayor, and may be viewed on the Village’s website at www.scarsdale.com.

- An email from Anne Hintermeister, Chase Road, requesting that the hours during which gas leaf blowers may be operated be adjusted to later than 8 AM, ban their use 50 feet from property lines, allow only one leaf blower per property at one time, and to ban leaf blowers in the Village during the weekends.

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There being no further business to come before the Board, the meeting was adjourned at 8:07 P.M. on a motion entered by Trustee Ross, seconded by Trustee Crandall, and carried by a unanimous vote.

Respectfully submitted,

Donna M. Conkling
Village Clerk