

INCORPORATED VILLAGE OF PIERMONT
BOARD OF TRUSTEES MEETING
July 10, 2018

Present: Mayor Bruce Tucker, Deputy Mayor Mark Blomquist, Trustee Ivanya Alpert, Trustee Rob Burns, Trustee Lisa DeFeciani, Walter Sevastian, Esq. -Village Attorney and Jennifer DeYorgi-Village Clerk-Treasurer.

Mayor Tucker called the meeting to order and led everyone in the Pledge of Allegiance.

Mayor Tucker requested an Executive Session regarding pending litigation.

Item #1 – Approval of Meeting Minutes

Trustee Alpert made a motion to approve the minutes for June 19, 2018. The motion was seconded by Trustee DeFeciani and so carried with a vote of 5 ayes and 0 nays.

Item #2 – Approval of Warrant

Deputy Mayor Blomquist made a motion to approve Warrant #052818 in the amount of \$32,164.30, Warrant #070318 in the amount of \$13,710.05 and Warrant #071018 in the amount of \$185,160.39 for a grand total of \$231,034.74. The motion was seconded by Trustee Burns and so carried with a vote of 5 ayes and 0 nays.

Item #3 – Department Reports

Department of Public Works - Highway Superintendent Tom Temple informed the Board he turned in his June report. He reviewed the price quote from Tilcon for the road resurfacing this year. He sent an email to the Board this afternoon as he just received the quote today. The quote is for \$247,724.00. That includes Rite Street, Hudson Terrace, Paradise and the end of the Pier. He asked if the Board could approve this tonight so he could get the ball rolling as the residents on Hudson Terrace have been patient. The faster we get it signed, the faster they can come in and do the work.

Trustee DeFeciani made a motion to approve the road resurfacing as quoted by Tilcon. The motion was seconded by Trustee Alpert and so carried with a vote of 5 ayes and 0 nays.

Tom Temple recognized the Piermont Civic Association for their donation of the picnic tables in Kane Park. One picnic table was donated to the Community Center from Tim Temple from Piermont Computers. Mayor Tucker asked about the “cars only” signs for the last two spots? Tom Temple stated they are on order and as soon as they come in he will have them installed for the last two diagonal spots. In front of 14 & Hudson they could put two posts on each end with arrows stating, “cars only” to try to get away from putting a post on each individual spot. Mayor Tucker asked they status of the hedge picker with the arm? Tom Temple stated it is up in Albany and they are trying to figure out what is wrong with it. He believes it is part of the hydropack drive of the transition. It has been up there for 3 weeks and they are still working on it, he spoke to the mechanic today. Mayor Tucker stated they do want to get the fence done with the trees. Tom Temple stated he can send a crew up there, it is just going to take time. Mayor Tucker asked if they could meet tomorrow, if they have time, to prioritize this. Tom Temple stated they will do that.

Police Department – Chief O’Shea informed the Board officer Leuthner is working with the traffic tonight. Trustee Alpert is heading the traffic safety committee, which he believes is very successful and they came up with some solutions. At the intersection of Bunberry, Tom Temple

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took the 15-minute signs down. They have long-term and short-term goals. He is looking at New Rochelle, who might fit their needs for the definition of compact cars. The PAL golf is a real outstanding success. The two new officers, Dicembri and Boutros, are community police officers. The outreach to the bike club is working and the violations are down because they are getting voluntary compliance. They have patrols assigned to the hairpin turn. The mirror has made the turn so much safer and he thanked Tom Temple. Officer Rolon has been doing a great job with radar on the Pier, he wrote a couple tickets today, and they are going to continue to do enforcement on the Pier. It is engineering, education and enforcement and they are doing that and it is working. He further stated we couldn't do what we do without the support of the Mayor and the Board.

Building Department - Building Inspector Charles Schaub turned in his monthly report. AT&T would like to work on their cell tower and he believes that has to come before the Board first as that is a special permit. Village Attorney stated he will interface with them to get it scheduled. He also stated that on 197 & 201 Tweed Blvd, they put in an excessive amount of fill illegally. The Village Engineer estimated it at roughly several thousand yards of fill. They wanted to move forward with what kind of time frame to move forward to remove it or to stabilize it? As it sits now, it could cause a mud slide. He asked how much time we should give him? Village Attorney stated that determination needs to be made with the engineer and an Order of Remedy needs to be given. Village Attorney stated bringing fill onto the property violates ordinances and he can be sited for that, but it is not for this Board to determine. Building Inspector stated he was at a Planning Board meeting last night and stated he needs to remedy that situation before he moves forward on any site work. Village Attorney asked what the applicant's response was? Building Inspector stated his response was "okay". The Planning Board told him not to come back until he dealt with the Village Engineer and his site plan and until the Village Engineer approved everything, they told him to not bother coming back anymore until he gets everything worked out with the Village Engineer and his engineer. Village Attorney stated, if you want compliance, the quicker we have an Order of Remedy with a time frame to deal with them on it, the better it is.

Parks Department – Dan Sherman, Chairman of the Parks Department, informed the Board that the bridge lights will be installed next week. The dedication is still planned for October 5th and he still needs to speak with Chief O'Shea regarding traffic for that evening. Further, the money for the picnic tables from the PCA was donated from Lynne Boone. She also donated \$1,000 to the Dog Park for the entrance and putting in a new gate.

Fire Department – Chief Don Hardy was not present.

Item #4 - Old Business

Village Clerk-Treasurer stated she never heard back from the Peddler's permit applications. She called the woman in charge and Detective Hurley has done work on those applications, but she has not heard back from any of them. They have reached out to them several times and not heard back. Village Attorney stated she write down when she contacts them. Village Clerk-Treasurer stated she writes down when she calls and the date/time. Mayor Tucker asked if Detective Hurley has interviewed any of them? Village Clerk-Treasurer stated he has done the background check and fingerprints, but she doesn't believe he has actually interviewed anyone.

Mayor Tucker

Deputy Mayor Blomquist stated he is still waiting to hear back from John Mulgrew with Sen. Carlucci's office.

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Trustee DeFeciani had no old business to discuss.

Trustee Alpert had no old business to discuss

Trustee Burns had no old business to discuss.

Village Attorney had no old business to discuss.

Item# 5 New Business

Village Attorney had no new business to discuss.

Village Clerk-Treasurer presented a resolution to the Board from Sylvia Welch, which needs to be approved tonight. It is for the Department of State application for the CFA grant and the application has to be filed within the next two weeks. Sylvia Welch stated we are applying to the Department of State to finish the work of the LWRP to update our zoning and building codes in terms of resiliency and other land use issues related to sea level rise and other development issues. The consultant told her that \$55,000 should be more than adequate to hire a consultant to do this work. She is making the grant \$80,000 and will be matching it with the volunteers on the task force committees, 1.5 hours a month for 12 months, so the work should be able to be done. The Department of State also changed the match, it was 50/50 and now it is 75/25.

Village Attorney stated the resolution is simple and basically authorizes the submission of a grant application.

Trustee DeFeciani made a motion to accept the resolution as drafted for application to the Department of State for funding for the LWRP. The motion was seconded by Trustee Burns and so carried with a vote of 5 ayes and 0 nays.

Village Clerk-Treasurer stated she emailed the Board a 30-day liquor license application from Carolina and Benny Castro, the new owners of The Reef Restaurant and they have requested we waive the 30-day liquor license. Trustee Burns made a motion to waive the 30-day license. The motion was seconded by Trustee DeFeciani and so carried with a vote of 5 ayes and 0 nays.

Village Clerk-Treasurer stated she received an employment application for a seasonal worker for DPW. Every summer, Tom Temple hires someone to be a seasonal worker. Tom Temple state he needs approval for the application, so he can send it to Rockland County Personnel. They have a seasonal worker every year. They will be filling that position for 12-15 hours a week for 8 weeks. He is a high school graduate, right before college, eager and ready to go. Trustee Burns made a motion to accept the application of the DPW seasonal worker. The motion was seconded by Trustee DeFeciani and so carried with a vote of 5 ayes and 0 nays.

Mayor Tucker stated the air conditioning went out in the Firehouse and he had the estimate to repair it, which he gave to the Board. Chief Hardy came to him and stated the Fire Department will cover it and is looking for help from the Village. Deputy Mayor Blomquist stated it is in the building, which is partially owned by the Village and Empire Hose Company. Mayor Tucker stated the total of estimate is \$22,500. Village Attorney stated, from the Village's standpoint, a cost of this amount is over the threshold for getting quotes. They should have three separate quotes. Deputy Mayor Blomquist stated they have three separate quotes. Mayor Tucker asked if this could be bonded? Village Clerk-Treasurer stated yes, it is a long-term item. Deputy Mayor Blomquist stated when he asked, he was told this couldn't be financed, but he doesn't see a reason why the Village couldn't act as their financier for this project. Trustee DeFeciani asked if they are telling us how much they need, what is in their budget, what their financials are? Deputy Mayor Blomquist stating they have a line item, building maintenance, that goes into the operating

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budget, which they contribute to. But, if this is going to be \$22,000 over 20 years, then we are roughly looking at something between \$1,000-\$2,000 over a 20-year period, why wouldn't we finance it? They are not asking for a specific amount, they want to know what the Village is willing to contribute. This has to be done, the question is if we are willing to chip in on this being that half the building is owned by the Village and half by them. Deputy Mayor Blomquist stated the principal issue here is that as Empire Hose, they cannot get long-term financing for this. If the Village can arrange for long-term financing and we can have them kick in for their piece of it over time. Trustee Alpert asked if there is a way to structure it as a loan? Deputy Mark Blomquist stated the problem, he was told, is that they cannot get a loan for this, but if they Village takes it on as a loan, Empire Hose is paying back the Village "x" amount over the next 20 years, or something like that.

Village Attorney asked if we have any agreements in place with them that they contribute to the Village? Deputy Mayor Blomquist stated there is no reason we can't put one in place. Village Attorney stated this seems like the way to go. The Village adds it as a Capital item and then has an agreement with them, annually they have a budget line for debt service, Village of Piermont. Village Clerk-Treasurer stated there was something similar with the Library loan. Every year when we paid them we deducted the \$35,000 until the loan was paid. Mayor Tucker asked Deputy Mayor Blomquist to look into the ratio of how much of the building the Village owns. He will bring this up in old business at the next meeting.

Trustee DeFeciani also requested an executive session regarding a personnel issue.

Mayor Tucker had no new business to discuss.

Trustee Alpert had no new business to discuss.

Deputy Mayor Blomquist had no new business to discuss.

Trustee Burns had no new business to discuss.

Item #6 Other Non-Agenda Items:

Village Clerk-Treasurer stated Matthew Schook, Director of Development and Special Projects for Palisades Interstate Park Commission with Bear Mountain Park. Every year they do an art project. Last year, they went to the Goswick Pavilion and did a program with Palisades Park Conservancy. They are asking again if they can use the Pavilion from 11am-1pm on July 21st. Last year they used it and cleaned everything up, it was only for a few hours. He did fill out an application and he is asking if the Board would waive the rental fee. Village Attorney asked if this is a Department of NYS Government? Village Clerk-Treasurer stated it is the Palisades Interstate Parks Commission/Bear Mountain State Park and they work in conjunction with Strawtown Studio. Trustee DeFeciani asked if we waived this last year? Village Clerk-Treasurer confirmed and it is for a few hours and they clean up after themselves and it is not rented that day.

Trustee Alpert made a motion to waive the pavilion rental fee as it is a Department of NYS office. The motion was seconded by Deputy Mayor Blomquist and so carried with a vote of 5 ayes and 0 nays.

Item #7 Appoint Full-Time Police Officer into vacant position

Chief O'Shea stated the Board is our Police Commission. They have a committee and when they hired, they have had many people apply and they weed them out. They look for education, experience, people who really want to be a part of a community. You can teach tactics and law,

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but you can't teach people to care. Chief O'Shea, Deputy Mayor Blomquist, Sgt. O'Leary and another officer interview and do a background check. They also do a writing exercise. Officer Dicembri has an outstanding record, good education, 10 years' experience, family man. He respectfully asked that the Board pass a resolution stating that Officer Dicembri be appointed, pending the approval of the Rockland County Personnel Department. His paperwork is in and they expect an approval very shortly. Once he learns our rules, regulations and computer system, he goes on the road. Deputy Mayor Blomquist stated as part of the hiring committee they also included the PBA ref, who is the rank-in-file detective. In the past they have had some issues with them and this is a big effort on the part of the Village to make sure they do not have misunderstandings going forward, as they have in the past.

Deputy Mayor Blomquist made a motion to hire Officer Matthew Dicembri, pending approval from Rockland county Personnel. The motion was seconded by Trustee Burns and so carried with a vote of 5 ayes and 0 nays.

Mayor Tucker swore in Officer Matthew Dicembri as full-time police officer of the Piermont Police Department.

Item #8 Review suggested locations from Piermont Public Art

Dan Sherman stated the temporary committee met on July 2, 2018 and they had 9 or 10 interested responses to the request for permanent members of this art committee. At that meeting, they reviewed the resumes that they had and talked about them and they are still considering. They believe there should be 7 members and quarterly meeting. They scheduled a meeting on July 30th to invite the people who they asked to be on the committee. He reminded the Board that at the June 19, 2018 meeting the committee presented locations to the Board for art in public places. He went over those 9 locations again at this meeting, Half-Moon Park, Flywheel Park (if the Village should acquire it), gravel area at the beginning of the Pier, Depot Museum, Bridge Street Draw Bridge, Rockland Road Bridge and Eleanor Stroud Park. He asked if the Board has a chance to review and if they have any questions.

Trustee DeFeciani stated she liked the fact that they designated specific sport and it will only be those spots and that will be a committee that will be a majority vote of what goes where. Dan Sherman stated the committee will come to a consensus and bring their suggestion to the Board for final approval. Trustee DeFeciani stated this is a great idea.

Trustee Burns made a resolution to approve the Village of Piermont Art Site Plan selected by the Piermont Public Art Committee. The motion was seconded by Trustee DeFeciani and so carried with a vote of 5 ayes and 0 nays.

Village Attorney stated when a formal committee gets together, they should have a list of exactly procedure going forward so there is something in writing that someone can look at.

Item #9 7:45 Public Comment on the Village of Piermont's 2018 MS-4 Annual

Tom Temple stated this is the MS-4 report for the DEC that they do for the storm sewers and all the outfalls and any site development that gets tampered over an acre for their SWPPPs, this is just a public comment period for that. The report has been on the website for review. It is more a formality for the reporting.

Village Attorney stated the State requires the Village Board approve the Annual MS-4 report and the Clerk forwards it on to the State. It requires public comment before that is done.

Trustee Burns made a motion to approve the MS-4 Annual Report and authorize the Clerk to submit it to New York State. The motion was seconded by Trustee Alpert and so carried with a vote of 5 ayes and 0 nays.

Item #10 Continuation of Public Hearing Application to amend existing Special Permit for Pier 701 Restaurant to allow ambient music outdoors

Mayor Tucker recused himself.

The Village Attorney stated the property tenant at 701 Piermont Avenue has an existing special permit regarding a restaurant operation. Special Permits, if the conditions of the special permit have not been violated, are automatically renewed administratively. But, when somebody makes an application to change a special permit, maybe expand the area where they are operating, they are required to come before the Board to authorize that expansion. In this specific case, the existing special permit prohibits any outdoor music. In that regard, the business owner came to the Village this year and said that he wanted to play ambient music outside for diners and that came before the Board. We established an escrow account to pay an acoustic engineering company to test the system that is proposed to be used by a business owner. Supposedly what this acoustic engineering company did, is set up sound monitoring at six locations in the Village, which is reflected on page 3 of the report Locations are: the house across from the driveway of 701, the sign post in front of 701, the patio at the beach area at 701, the Piermont Community Center, the back of the Firehouse wood fence and an Orchard Terrace location. The purpose of doing that was to get a reading on the standard ambient noise level in that area. Noise that exists every day from cars, or whatever. Then, to monitor the type of music the applicant is seeking. They are looking at a Sonos Wi-Fi music system set at a certain level that was monitored. First, monitor the level that exists, then monitor what, if any, change occurred, when the music was played through this system. The idea was to make sure that the acoustic engineering company set forth exactly what was proposed to be done, with what equipment. It was stated in the report that the music is controlled only by certain individuals through electronic means. If the Board were to entertain this request, it could have access to that, he would imagine, sort of like a key to the Northshore Walkway. If there is a problem with this system and the police need to turn it off, they may be able to have an electronic device. These are the kind of conditions that exist in special permits.

Village Attorney continued that the Sound Engineering report came back and it concludes that it doesn't mean the music proposed would be inaudible, but it would not contribute to the difference in noise level that exists in the areas that were monitored. It is not going to change what is already there, ambient wise.

Trustee DeFeciani asked if this was posted on our website? Village Clerk-Treasurer stated she posted it on the Village website and Facebook.

Deputy Mayor Blomquist stated he would've like to have the sound engineer here to go over their report. From reading the report, it wasn't clear what conclusions they reached.

Trustee DeFeciani stated she read the report about 3 times and because she is not a sound engineer, it seemed like she was reading a different language. She thought they were going to be here tonight.

Trustee Burns asked the Village Attorney if he had a follow-up telephone conversation with the sound engineers? Village Attorney stated when they sent him the report, he wanted to speak to the company representative, because in the initial draft report, they were missing the sound level for unit monitor 41 (Orchard Terrace location) and he wanted to make sure that he understood what the graphing data meant and that the type of system they were monitoring was specifically called out. He did re-submit the report and he followed up with them. The sound engineer's explanation to the Village Attorney is basically his conclusion in the report. In everyday life there is noise in any location, mainly from cars, people talking, lawnmowers, etc. He said, while this is additional noise that may not be inaudible, it will not make a difference in the noise levels that exist in the areas that they monitor.

Trustee DeFeciani stated he is not saying you can't hear the noise from other locations either.

Peter Keiper stated he was disappointed he did not know the report was available. His concern is enforcement should this go through. The volume is audible then the report says. Last time the sound was allowed, there were dozens and dozens of calls made to the police department and building department and one violation came out of all those dozens of phone calls. He concerns about the recourse. There is a little bit of a difference between ambient noise and music, in decibels it might be the same, but it is continuous. And there is also certain personal elements to the music because you might hear something you might not like, so it makes more of a connection than a lawnmower.

Tammy Keiper she is concerned that in the past, dozens of calls were made about the noise and nothing was done. It took so much effort to get anyone to recognize any sort of violation. If this is going to go forward, she would like some very clear language as to who they are to call. Who is the responsible person or department, what specific actions are going to be taken if the music is audible and it is a nuisance and there are calls? Supposedly it is not going to get turned up. Before we couldn't master a volume knob, it took 4 years to master a volume knob and leave it. There needs to be tangible, actionable steps, responsible persons and very specific penalties put in place.

Village Attorney asked Mrs. Keiper how it has been under the existing Special Permit, in terms of music. Mrs. Keiper stated the music has been fine, there hasn't been a problem at all, it has been almost "bliss". Last summer, not being woken up at 3am, it has been amazing.

Ann Putko asked the Board to settle this issue once and for all, it has gone on for a number of years. The residents in the area do have a significant problem with music that is playing. We live in an area, with a hill behind us and noise from the shore is amplified. She supports this restaurants desire to have a successful business, but she doesn't want their business to impact our lives. If she is having guests in her yard and they are listening to opera, she doesn't want to hear rock music that is coming from the restaurant. They need a permanent answer. In her opinion, there doesn't seem to be a real need to have music in the outside of the restaurant. They are able to play music inside the restaurant as long as that music doesn't go out bounds of their property. People don't move into this community to have a 24/7 job protection their property and themselves against their neighbors. We are all supposed to be in this together, residents and businesses. She wants to support the businesses and she wants the businesses to support her and the other residents.

Village Attorney stated in terms of the permanence, people are entitled to come and make land use applications. Whether it is to build a house, establish a store or change the scope of a special permit, so it is not possible for the Board to say they are doing this for the rest of time.

Anthony Riso stated they have gone over this issue for two years while the applicant had a special permit and during that time, numerous violations occurred. Despite a special permit, they continued to have outdoor music. Dozens of complaints and police reports documenting that he had outdoor music, which was banned from the special permit. He is not trustworthy, he hasn't followed his special permit. Why now, do we think that undefined ambient music is going to be adhered to. What are we going to do if he cranks up the volume and we have no recourse at that time, except come back to the Board and say they think the decibel levels shoot high, is unenforceable. He believes we are putting the community in great jeopardy by giving this applicant any sort of outdoor music, because he is not reliable, we can't determine that we can depend on his word that he is going to keep it a certain level, which is unenforceable. What the Board hasn't considered is, this is not a benefit to the community to get an applicant that has demonstrate disregard. This Board needs to protect its community by not approving any further outdoor music.

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Jonathan Levy lives on Orchard Terrace. He is speaking as a resident and a video editor. He spoke to a colleague, who is a sound engineer, about the report. The DB number is a number that no one can imagine what it sounds like. Not only is it a number, it is an LEQ number, an average. The highs are 95 DB, 95 is like a subway car.

Village Attorney stated that is why they ordered it the way they did. The sound engineer was here and stated they had to measure DB and they couldn't go over a certain level. The Board's feeling was, those are numbers. If someone drives a truck by your house, those are going to be a different number. The Board wanted to know what people hear when they are sitting on their porch, what he wants to play and what the effect of that was. Sound enforcement is hard.

Jonathan Levy stated everyone is looking for a scientific solution for this issue. Even though that DB number sounds scientific, it is not informing us of what it is to be at a given location and hear what the sound system is putting out. It does not tell us anything. It does tell us an average and to look at the graph closely, it averages out real quiet and then there are things that were at 95 DB. To base a decision on this, it is tricky.

Village Attorney stated it is tricky, but they tried to simplify it by saying is what the applicant wants going to change what people are hearing?

Jonathan Levy stated the residents were not told when the experiment was going to happen so they could be in their spots to see if they heard it, etc.

Village Attorney stated the idea of hiring someone independent who does this for a living, is that he, theoretically, tainted by bias or self-interest. IF you live there, you want a certain result and you see life through that frame of referent. When you hire a professional, he is just going to answer a certain question based on data, so we tried to do that. He thinks it was kind of intentional to not have it announced when it was going on, so that nothing was askew with it, so that it was a clean test. It is interesting to know that we did the test and that we didn't have noise complaints.

Jonathan Levy asked if he took a reading with no music at Orchard Terrace and another reading with music? Village Attorney stated that was the idea was that the ambient noise level of everyday life are the numbers and the graphs represent how the numbers were reached. He did that first and then tested it with the music on at the levels the applicant said he wants to see what, if any, difference there was, and what is the normal or average level. What difference is this going to make, which is what the Board wanted to know.

Jonathan Levy stated the crucial part is, in his conclusion he stated, will the music be audible to you and the answer is yes. What does that mean? It is objectionable.

Village Attorney stated this does not mean that the music will be inaudible, but it will not contribute to a difference in the noise level in the area. Jonathan Levy stated that is pretty ambiguous. Village Attorney stated that is what the Board was looking for.

Trustee DeFeciani stated one of the main issues with the music is that we don't want it to be heard past the property line. This report is not telling us if it can or cannot be heard past the property line. Village Attorney stated he believes it is implying that is may be audible, people may hear music.

Trustee Alpert stated there is some degree of noise you are going to hear and it's a question of where is that line. We were hoping the report gave us a definite answer of where the line, but it didn't. It's the same with a motorcycle going by or a car honking. If we do allow this, there needs to be restrictions, such as the shut off valve the police can push if it gets to a certain level. Maybe make it conditional for a certain number of months and then reevaluate.

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Trustee DeFeciani asked if that is something that the Police can enforce and are they willing to enforce it?

Village Attorney stated that is the problem with trying to monitor it with a common-sense approach of what you hear and don't hear vs. the scientific approach. It would be a perfect world if there was a decibel level reading that was in the possession of the code enforcement in the Village, but there is not. That would be admissible in Court to prosecute violations. It is an imperfect science and is a balance with this particular special permit and any special permit which essentially says they can do this use there, but this use has the potential to affect the neighbors more than a normal use. In this case it is probably geographic at this location there has been a restaurant there for an extended period of time and the zoning grew up around it. Fort Comfort was there before zoning was even in place. There has always been a balance between the commercial and the residential being so close. In the past, it has been a difficult balance to strike and it may or may not have worked, but everyone is entitled to ask. It doesn't mean they are going to get what they ask for, but they are entitled to ask. The question for the Board is if there is a workable way to implement it, or not?

Trustee Burns stated he believes we need to have a reasonable balance between a person's right to do business and to have ambient music and the right of people that live close by to enjoy their quiet enjoyment. As an example, the people on Gair Street are near the Tallman Pool. The Tallman Pool is outside the jurisdiction of Piermont and they are getting blasted with music coming across the water and affecting their way of life. We can't regulate, but we can regulate this. When you are on the square, at times you hear music from other places of business and we are permitting that. That affects people in the apartments above and the houses around there. His feeling is that the way Walter is interpreting the report and the way he hears it is that the amount of ambient music that it was set to that night at the 6 locations did not impinge upon a person's right in the adjoining houses. He would suggest, and he is in favor of, a limited number of dates, a limited number of times and a limited number of hours. He suggested two Saturdays in July and two Saturdays in August setting the specific time and specific hours that can be. If we agree on it, it would be ambient music only on the Sonos wi-fi system with the speakers set in the same position they were that night, with the setting being used exactly as it was that night and he would put in it, any deviation from the dates, times, type of music and settings would result in an immediate revocation of the special permit and would have a fine built into it. He would also want the owner to be able to give access, if there is a complaint, to a police officer and if he finds that there is a deviation, the right to turn the music off at that time. It is not easy to monitor it, but he doesn't think it is fair that other people can have ambient music outside and this facility was there for a long time and it isn't fair to restrict them. Give them a trial and if they fail at the trial, then it's over.

Trustee DeFeciani asked if anyone else has ambient music outside, or is it ambient music inside that is being heard outside?

Dennis Whitton stated there are five other restaurants that play outside in this Village.

Trustee DeFeciani stated we turned down an applicant who wanted to put tvs outside because we were concerned about the noise. She is not aware of any other restaurants that have ambient music outside. Indoors with the doors open, yes, but not outdoors.

Trustee Burns stated if the indoor music, either live or other type is right near the open door, it does basically the same thing this applicant is asking for. We are regulating the type of music they are asking for, we are putting restrictions on their ability, whereas we are not doing it with other eating establishments who have music on right inside the door with the doors open. He believes we have to impose these laws on everybody equally and not deprive somebody of the use of their deck.

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Trustee DeFeciani stated we are not giving these restaurants permission to leave their doors open so music can be heard outside, we have never allowed that. We have not gotten any complaints on that. If it is happening, nobody is complaining.

Village Attorney stated this is happening because of the location of this place. That is why you have special permits. Although they are allowed to operate, they can have more of an effect of people because of their geographic location and you are allowed to put a condition on it. Lawyers fight all day over how much of a condition you can put on it, but you are allowed. In Nyack they are considering amending the zoning to put a definition of bar in their code and have all bars operate under special permits so more conditions can be put on them. Noise ordinances are difficult to enforce everywhere. In other jurisdictions, music or uses can be regulated by special permit, and they are.

Dennis Whitton stated he is a small business. Himself or his wife would not be here representing the restaurant after spending so much time and thousands of dollars between the sound guy, lawyers, putting up the fence, moving and positioning speakers, all of these things that has taken a lot of time, effort and money, etc. He went around with the sound guy one night to where some of the recordings were and up with his managers some other nights. He could hear things in the town and other restaurants, but he could not hear anything from those walls anymore, they are solid fences which replaced the old ones. The monitors are locked on amplifiers. It is not only on his phone anymore, it is locked on the computer, and the only person with access to that computer is himself. Once the computer is turned on and the music is playing, it stays there, it cannot be re-opened. If he was to change it from his phone and change the station or turn the music up and walks back in the kitchen, he loses wi-fi and it shuts off because it loses wi-fi. It is all protected by what they have spent a lot of money on to try and get this done. He asked why not try this straight forward for a month and see what happens in a month, or even two weeks? He stands by all of this effort. They have tried very hard at this. There has not been outdoor music, doors open, etc., that was over a year ago. He is asking for a chance. They are trying to get to a medium where everyone is happy, including themselves. They are trying to make a living and they have 4 months.

Village Attorney asked if the Board considered his request, did he have a problem giving the Building Department access to see exactly what the deal is with this system, see how it is set so it could be worked into a resolution.

Dennis Whitton stated he does not have a problem with that at all.

Deputy Mayor Blomquist asked Chief O'Shea, if the police department or building department were given the right to turn this off in case of a given violation. These noise levels will fluctuate based on environmental conditions and other things like that, is that something they will feel comfortable with making a judgement call on?

Chief O'Shea stated there have not been any complaints. If there is an obvious violation, no, we ask and he's been very cooperative. If there has been a violation, the owner has turned it off or done what he had to do to end the problem. Yes, if there is a blatant violation, they always speak to the manager or owner and they turn it off or they ask them to close the doors.

Deputy Mayor Blomquist asked, if the Village was given access to the system, the Village Police Department or Building Department could turn it off. Are they comfortable with that?

Village Attorney stated they are allowed to put conditions on special permits. Apparently, you can point your phone at this and it turns off. If the police had that, they could point their phone at it and do the same thing.

Chief O'Shea stated the other thing they can do is, if they have a violation, they can put it in the conditions that if they ask him to turn it off and he says no, then he violated the permit and he loses the permit. He would rather have in the ability to direct him to turn it off, that way they are not responsible for damaging equipment or anything else.

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Trustee DeFeciani stated, in the past when there was outdoor music, residents have called and the police told residents they don't monitor the special permit, they only monitor the noise ordinance and that was the issue.

Chief O'Shea stated that is not the issue. They get complaints and they document every complaint. Most of the complaints were unfounded. They had people that were moving officers around like chess pieces to find the noise, that is an unfounded complaint. If they did receive a complaint where an officer did hear noise, they ask the resident if they want to sign a complaint and they tell the owner they have a complaint and they have to turn it off. Many times, it was simply shutting the doors. Chief O'Shea stated they have not gotten any calls in the last year.

Trustee DeFeciani stated that's because there is no music outside.

Chief O'Shea stated people say they call and they don't and they have gone through this in other areas.

Trustee Alpert stated it is hard for the police to be in the position to say is this loud, is this not loud. There has to be some objective measure. Is the knob turned to such and such.

Building Inspector Schaub stated last year the Board gave him permission to come down on some weekends and do enforcement. He went to every restaurant and listened everywhere. On 90% of the occasions he did not have music loud enough for him to give a violation. On one instance, he caught the live band outside. He is not asking for that now, he is asking for ambient music and there is a difference. He thinks the complaints came when he had the live music outside.

Chief O'Shea stated the noise section states if you disturb the neighbors, it is a violation. Most of the time when the go, they pull up and listen and go to the complainant's house.

Building Inspector Schaub did not come where there was a complaint. He came when nobody knew. Target enforcement is unfair, so he went to every single restaurant and parked outside, listened for a few minutes, walked around, never let them know he was there and went on to the next place. He stopped on certain streets and tried to see if he heard anything.

Trustee Burns made a motion to close the public hearing at 8:57pm. The motion was seconded by Trustee DeFeciani and so carried with a vote of 5 ayes and 0 nays.

Trustee Alpert stated she leans toward giving some sort of conditional acceptance. We asked him to make all these changes. He put up a fence and hired a sound engineer. If we were not planning to consider permission, they we shouldn't have asked him to make those changes.

Trustee DeFeciani stated the sound report isn't giving us enough information to make a decision.

Trustee Burns stated it is fair to say that many people would read that report and some would agree that you are not getting the answer and some would say that the answer is there. In his opinion, when the Village Attorney made the call to them, the answer was there, that it is not something that would affect the neighbors adversely.

Deputy Mayor Blomquist stated he would be in favor of some sort of limited trial period, but if there are violations past that, the special permit is revoked. If anybody wants to make that motion, he would be happy to entertain that.

Village Attorney stated we are looking for a consensus at this point and he will have to write it up. This special permit resolution is fairly detailed in terms of parking, times, etc. He would have to modify an existing one to reflect the consensus. It sounds like the Board wants a trial period within this operation year of the special permit and is it tying into what this system is, giving access to Police and Building Inspector making sure the levels are where they are supposed to

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be? If it is a violation of these conditions, then that aspect of the special permit will be revoked. Trustee Burns stated we can also add a penalty.

Trustee Burns stated the applicant is asking for more dates than he was suggesting. He thinks Saturday night is a social night and is not against doing Saturdays from when the resolution is approved until Labor Day weekend. He hopes the neighbors will be realistic about it, that if they hear just a dot of music they don't call the Chief and make a complaint, but if they are deviating at something that is annoying for a period of time, then call the police department and have them come out.

Village Attorney stated this is difficult enforcement wise, complaint wise and operational wise.

Trustee Burns stated this is only a trial period.

Trustee Burns made a motion to grant the special permit subject to the adoption of the formal written resolution directing the Village Attorney to draft a resolution, setting a special meeting on July 16, 2018 at 6:00pm to adopt the resolution. The motion was seconded by Trustee Alpert and so carried with a vote of 3 ayes and 1 nays.

Item #11 Review proposed amendments to Peddling/Solicitation of the Village Law to establish a "Do Not Knock Registry"

Village Attorney stated this came up at a previous meeting when a pesticide company recently submitted application. The No Knock Registry would be a list of people who have registered with the Village that they don't want solicitors knocking on the door and the list will be given to the solicitors at the time their permits were issued. The Board left it at three main changes: 1. Tweaking the law to put the background check language in the law. 2. Establishing this registry and 3. Enhancing the violation section of this particular statute. This would be up to \$1,500 first time, not less than \$1,500 second time and \$3,500 to \$10,000 the third time. The one thing that will be difficult for the Board in adopting this legislation, which would have to be done after a public hearing, is how to implement it. It is more work for the clerk to maintain the list. Orangetown has an FAQ No-Knock Registry which he will give to Village Clerk-Treasurer to put on the website. Some municipalities, such as Chestnut Ridge, their No-Knock Registry is a big thing. He modeled this after Orangetown, which basically says the Clerk prepares a list of people to contact. The Board has to internally figure out if this is something that can be done on the website, do they have to make a call, etc. The essence of the statute, which we have to set a public hearing to adopt, would be that the list would be maintained and given out when people get their license.

Trustee Alpert asked if most municipalities have a sticker or a sign to be given out to people if they are on the list? Village Attorney stated yes.

Trustee DeFeciani stated we had a nice label made for Sustainable Piermont, we could make a nice label for "Do Not Knock".

Mayor Tucker stated we do not have an application fee for a Peddler's License?

Village Clerk-Treasurer stated there is no fee, the only thing required is the \$1,000 bond.

Village Attorney stated he doesn't believe you could go more than \$50. He further asked if they want to have people fill out a form be on the registry or can they call?

Mayor Tucker stated not call, we can have Tim set something up on website to register.

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Village Attorney stated he will do the minor changes to the law, give the Clerk the Public Hearing Notice do an easy adoption resolution and it could be done on August 7, 2018.

Deputy Mayor Blomquist made a motion for a public hearing on August 7, 2018 at 7:45pm to amend the local law. The motion was seconded by Trustee Burns and so carried with a vote of 5 ayes and 0 nays.

Item #12 Review proposed amendment to Zoning Code regarding Floor Area Ratio exceptions based on ceiling height

Building Inspector Charlie Schaub stated currently in our code we have that 7ft 6in ceiling is 9times floor area or less. The problem is, when you have a house rebuilt and the new house is the same size as the existing house, but they are doing a whole level of 7ft 6in, it is 1,000sq ft bigger, but on paper is shows it is the same size because of that.

Village Attorney stated it used to be in State Code that it wasn't habitable unless it was above 7ft 6 in, now the State made it 7ft.

Building Inspector Schaub stated even if they are under 7ft, you can get a variance from the State and there are only about 4 people in the State that are doing it.

Village Attorney stated this would be an amendment to floor are in our code. He made a simple change that says, "as you measure floor area the gross horizontal areas of every floor, measure from the exterior faces of exterior walls or from a center line of a party or common wall, including basement space, attic space, whether or not floor has been laid over which there is structure head room of 7 feet or more." There is also another place in that definition where it states 7 feet. Currently, it stated 7ft 6 in or more. When we amend the zoning code, we have to refer to the Planning Board for comment and also has to be referred to adjacent municipalities (Grand View, Orangetown and Rockland County Planning) and you have to give them 30 days to respond. And there is SEQR compliance because the area of land could be affected by this change is Village wide, it is a type 1 action of SEQR. No environmental impact statement is required.

Trustee Burns made a motion to schedule a public hearing on September 4, 2018 at 7:45pm and authorize the clerk to publish the notice of intent and referrals for the SEQR review. The motion was seconded by Trustee DeFeciani and so carried with a vote of 5 ayes and 0 nays.

Item #13 Review proposed Reusable Bag Law

Mayor Tucker stated the review will be moved to the August 7, 2018 agenda and the Public Hearing will be set for September 4, 2018.

Item #14 NYS DEC response to the Village of Piermont's resolution of February 20, 2018

Mayor Tucker stated on February 20, 2018 the Board made a resolution back to the DEC in regard to their draft Piermont Marsh Reserve Management Plan December 2017 with 5 concerns, which we asked them to address, which they are doing in this response. They are asking us to move ahead with their plan, based on the fact that they have addressed our five concerns.

Trustee Alpert stated she does not believe we have much power, it is not our jurisdiction and they are going to move forward with or without our blessing. We had asked for an independent

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monitor which they are not providing, they are providing their own monitor. We also talked about doing more to clean the Sparkill Creek. Their response was something about doing some project at Tappan Zee High School with the drainage, she doesn't think is sufficient at all.

Mayor Tucker stated the money they received from the Bridge people is to remediate the Phragmites, not to clean the Sparkill Creek.

Trustee Alpert stated their original proposal stated one of the goals was related to the Sparkill Creek.

Mayor Tucker stated we need to focus on the December 2017 report.

Trustee Alpert stated our fifth concern in our resolution was regarding Sparkill Creek.

Mayor Tucker stated we could go back to them saying they didn't adequately address our concern. He thinks part of it is that they don't have money to designate to Sparkill Creek. He got a call from Bill Rudge before this letter came and he said he is sending this letter which we can respond to, or he can send me the letter that says that they are going ahead with the project. He asked Bill to send the letter which we can respond to because he thinks we should demand an independent monitor and that we would give them permission to proceed with the remediation, but just the 10 acres. And at the end of that remediation, tell them to come back and report to the Board first (allowing for additional input), before they go ahead with anymore, or not. This is Orangetown and State land and they are going to go forward with this regardless.

Mayor Tucker stated he is not taking public comment.

Trustee Burns stated he agrees with Mayor Tucker's approach.

Trustee DeFeciani stated we should still make it clear to them that we are opposed to it, even though they plan to do it. If they do not supply an independent monitor, we can do it ourselves as well. Test the soil pre- and post and if we find anything in Kane Park or anything in the playgrounds, that there is going to be an issue.

Mayor Tucker read the five concerns that the Board sent to the DEC: 1. Further investigation into alternative methods for eradication to Phragmites including a cost analysis with a method of hand pulling with a written report to the Board detailing these costs. 2. Written notice to the Board detailing the specific formulation herbicide be used as well as the half-life of the herbicide and the details about the application including the contractor that will be doing the applications. 3. Advance notice if, and when, herbicides will be used and appropriate signage to notify residents and visitors of use. 4. Herbicide monitoring program to be conducted by an independent contractor with input from the Village and public notification of results of testing with specific notification paid to the soil in Kane Park, Rittenburg Ballfield and the playground adjacent to the ballfield. 5. Include funding to enhance the quality of Sparkill Creek storm water entering the water as detailed in the original Tappan Zee Bridge permit of March 25, 2013.

Trustee DeFeciani stated we asked for specifics on the cost analysis of hand pulling because we were very concerned about the use of herbicides.

Mayor Tucker stated we didn't ask for that in our resolution. Trustee DeFeciani stated she didn't agree that it wasn't in the resolution.

Mayor Tucker stated we can go back to them and tell them we are concerned or do nothing and they will do it anyway.

Trustee DeFeciani stated we shouldn't do nothing, we should put something on the record. What happens if an independent monitor finds herbicide in the park and in the playgrounds? What happens then?

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Mayor Tucker stated they will add that if they detect anything on the shores, they will cease and desist immediately. Trustee DeFeciani agreed to add that.

Trustee DeFeciani stated maybe a good compromise is to tell them, if they are going to use herbicides, if the independent monitor does find that the herbicide use has reached our parks or recreational areas beyond “x” amount of feet from the remediation site, then they have to cease and desist.

Mayor Tucker will write something up for the Board to review via email.

Item #15 Review offer from O&R to purchase street lights

Mayor Tucker stated we finally received a price from Orange and Rockland to purchase our street lights as a first step in switching to LED. Our Sustainability Coordinator thought it was a great price and we as we also signed with Real Term Energy to go ahead with this project, it behooves us to move forward with the purchasing of these lights. The purchase price is \$243 per light and there are 182 lights. The total comes to \$44,166.00.

Trustee Burns made a motion to move forward with the purchase of the lights, based on the offer from Orange and Rockland dated June 25, 2018 and to authorize a bond for that capital project.

Village Attorney stated we can access the money and roll it into financing later. The motion was seconded by Deputy Mayor Blomquist and so carried with a vote of 5 ayes and 0 nays.

Item #16 Public Comment

Tammy Keiper – She wanted to know if the Army Corp of Engineers was putting proposals out to put a protective barrier at the mouth of the Hudson River to control the flow of the Hudson. They are looking at movable doors, that shut if there is a surge and prevent the storm surge from coming up the Hudson and that would protect the Hudson Valley from the storm surge. Another proposal they had was to build a wall across the wall of the Hudson. Mayor Tucker stated he is aware of this. Ms. Keiper asked the Board if they were going to be reviewing the proposals and asking for public comment meeting because they are not doing it in Rockland County. Trustee DeFeciani stated the Piermont Waterfront Resiliency Commission, Klaus Jacob is a member and that is his specialty. He will look at it with the committee and give his feedback on it. Trustee DeFeciani will get in contact with Klaus. Mayor Tucker stated he read Riverkeepers response to the proposal as well.

Ann Putko – 680 Piermont Avenue has a new buyer and the buyer would like to demolish the 1850s brick home and put up what most people would call a big mansion, two to three times the current structure. She has attended several Planning Board meetings to voice her dissent. Her property is adjacent to that property. They have discussed alternatives. At present, it seems that the new owner would like to go ahead with the demolition. It is not in the long-term interest of Piermont to allow builders to demolish its historical buildings and replace them with homes that are typical of suburbia and homes that are far too large for the properties they are being built on. Fox 5 New York News recently published an article describing the Village as a gem and totally worth visiting. One of the reasons the Village is described in that manner is because of its historical buildings and its quality where buildings are completely different from each other. If Piermont loses its quaintness, it is going to impact the Village in many ways. It will not maintain its appeal to tourists and homebuyers. She asked the Board to consider adopting regulations that would limit the size of proposed new homes on the site where existing homes are. They have adopted laws in other states across the country. She asked the Board to consider asking the Historical Society to voice an opinion on this, perhaps work with the new owner to consider maintaining the building, revamping it and maintaining the history.

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Village Attorney stated the purpose of Zoning is twofold: use and dimensions. Currently, we have dimensional requirements in our code that limit the size of a home, such as the floor area definition we were reviewing tonight. If people buy property, they are entitled to use it, and usually they use it to the extent that the code permits. But, many municipalities do look at tear down legislation and that is something we can put on the list for our planner. The Village Board using the bully pulpit to approach a new owner saying they'd like him to keep a building a certain size, they cannot do that. People have property rights and those rights in this country are serious. They are entitled to rely on what the zoning was when they bought the place and plan the use accordingly and the zoning does limit what they can do size wise. Many people never really build out to where their building envelope is on a piece of property, taking into account the dimensional setbacks.

Margaret Grace – Gave her personal written comments to the Board regarding the Marsh.

Cindy McDonald, 66 Orchard Terrace, loves the town and has lived here about 4 years. They have a dog and they love taking him around town. They will on occasion bring him to the blacktop, fenced in area adjacent to Half-Moon Park which is the only place in the area that enclosed so that their dog does not run away and not be infested by ticks. Other residents have also joined them in bringing their dogs there. Unfortunately, they were recently busted playing there with their dogs on a Sunday morning and the police came. She praised the DPW, Police and Fire Department. They had joined the dog park, heard it got cleaned up from a previous tick problem. They went back there a few weeks ago and she came home with a tick on her foot and another dog had 20 ticks. Her dog did not get a tick, another dog got 2 ticks. They are very concerned. They do not want to go to the Dog Park anymore, they have going to Westwood, New Jersey. She asked if the Board would consider taking down the sign that says "No Dogs" on the fenced in area. She doesn't see children playing there. It seems there is an issue now that someone has moved in and they want to use that for themselves.

Village Attorney stated there is a leash law in the Village in our parks. If you have to have a dog on a leash when going through a park, unless posted otherwise.

Mayor Tucker asked if this is even our park?

Chief O'Shea stated this is a park. We used to have a very vigorous basketball program and we let it go. As the Village Attorney stated, dogs have to be leashed. However, dogs are not allowed to be unleashed in any park.

Village Attorney stated either you are going to make this a dog park. Ms. McDonald stated she is not asking to make it a dog park. Village Attorney stated she is because in our law says, in a park if you have a pet, unless otherwise posted, the pet has to be on a leash. It is not as simple as just taking the sign down. We would have to change the law for every park, unless you make this park a dog park.

Another Resident stated she lives next door to the basketball court and 50% of the time people are bringing their dogs in there and for the most part people are good about picking up after their dogs. Mayor Tucker asked if they would want their kid bouncing a basketball on a place where they picked up their dogs. The resident stated it is used by dogs and used by people with dogs and has been that way for years without a problem.

Village Attorney stated it is never a problem until it's a problem. In Memorial Park in Nyack on Sunday mornings, people used to bring their dogs and it was great. Then, a dog ate a little dog and now there are no dogs in the park. Either we are going to designate this a dog park and all that entails, which is whatever construction is necessary to make it safe for dogs and looking at what effect, if any, it can have on neighboring properties or leave the rules in the park as they are and that is a policy decision for the Board. If we let this go on informally, it is never a problem until something happens.

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Mayor Tucker stated there is no informal, there are no dogs allowed inside that basketball court.

Ms. McDonald stated the new residents seem to be very difficult anyway and seem to have some problems around town.

Trustee DeFeciani stated it was previously discussed that if we get a planner to take a look at all of our parks as some of them really need to be cleaned up. This was one of the parks/areas that was mentioned.

Ms. McDonald asked if we can leave the park as it is, but have a sign that says you must pick up after a dog. Mayor Tucker stated no.

Chief O'Shea stated a law regarding picking up after your dogs is already on the books. There are no dogs allowed in parks, it's a safety issue.

Trustee DeFeciani suggested maybe the planner can figure out a place to put the dog park without ticks, moving forward.

Mayor Tucker asked if they addressed the people who run the dog park regarding the ticks?

Ms. McDonald stated no one wants to use the space because of the ticks.

Village Clerk-Treasurer stated the ticks are a big problem, she gets calls about them all the time and she has to tell people, unfortunately, we do not run the dog park.

Ms. McDonald stated it is a very dog friendly town and this creates a sense of community, is there something that we can do?

Trustee DeFeciani suggested they reach out to the people who run the dog park and get together and see if there is an alternative.

Executive Session

Trustee DeFeciani made a motion to enter Executive Session at 9:57pm. The motion was seconded by Trustee Burns and so carried with a vote of 5 ayes and 0 nays.

Trustee Burns made a motion to exit Executive Session at 10:27pm. The motion was seconded by Deputy Mayor Blomquist and so carried with a vote of 5 ayes and 0 nays.

No action was taken in Executive Session

Item #17 Adjournment

Trustee Burns made a motion at 10:28pm to adjourn. The motion was seconded by Trustee DeFeciani and so carried with a vote of 5 ayes and 0 nays.

Respectfully submitted,

Jennifer DeYorgi
Clerk-Treasurer