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AGENDA
JUNE 6, 2012
BOARD OF TRUSTEES
VILLAGE OF BRIARCLIFF MANOR, NEW YORK
REGULAR MEETING – 7:30 PM

Board of Trustees Announcements

Village Managers Report

Public Comments

1. Board/Committee Appointments
2. Adoption of Village Seatbelt Policy
3. Award of Bid
 - a) DPW Work Wear Services
 - b) Bus Transportation
4. Tax Abatements
 - a) The Residences at Trump National Golf Club
 - b) Yellow Brick Road Apartments, Inc.
 - c) 345 Elm Road
5. Transfer of EFC Interest and Principal into the Full Supply Capital Reserve Fund
6. Minutes
 - May 2, 2012 – Regular Meeting
 - May 16, 2012 – Regular Meeting

NEXT REGULAR BOARD OF TRUSTEES MEETING – JUNE 20, 2012

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
JUNE 6, 2012

1. BOARD APPOINTMENTS

BE IT RESOLVED, that the Board of Trustees of the Village of Briarcliff Manor hereby makes the following appointments:

Maureen Fraietta to the Recreation Advisory Committee for a term to expire on April 1, 2015.

Greg DiMilia to the Recreation Advisory Committee for a term to expire on April 1, 2015.

Daniel Shine to the Recreation Advisory Committee for a term to expire on April 1, 2014.

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
JUNE 6, 2012

2. ADOPTION OF VILLAGE SEAT BELT POLICY

BE IT RESOLVED that Board of Trustees does hereby adopt the following policy:

**Village of Briarcliff Manor
Seat Belt Policy**

I. Purpose:

To establish a policy to assure maximum operator and passenger safety, thus minimizing the possibility of death or injury as a result of motor vehicle accidents. This policy will apply to all Village personnel operating or riding in Village vehicles.

II. Discussion:

Research clearly indicates that the use of safety belts has a significant effect in reducing the number of death and severity of injuries resulting from traffic accidents. The use of safety restraints reduces this risk of death and serious injury and assists personnel in maintaining proper control of their vehicles.

III. Policy:

To assure the safety of all Village personnel and authorized passengers, safety belts shall be worn while operating or riding in all vehicles owned, leased or rented by the Village at all times. This also applies to the operation of privately owned or other vehicles if used on Village business. Unauthorized passengers are prohibited at any time.

IV. Recommendation:

It is strongly recommended that safety belts be utilized by Village personnel and their passengers in vehicles while in an off duty capacity to further reduce the risk of death or injury.

V. Procedure:

1. Village personnel shall use the safety belts installed by the vehicle manufacturer properly adjusted and securely fastened when operating or riding in any vehicle so equipped. This requirement shall not apply to vehicles in which the manufacturer has not installed seat belts.
2. Lap belts shall be properly secured in those vehicles equipped with automatic safety belt systems that require the lap portion of the belt be manually secured.

3. The driver of the vehicle is responsible for insuring compliance by all authorized occupants of the vehicle they are operating.
4. No person shall operate a Village vehicle in which any safety belt in the driver's seat is inoperable. No person shall be transported in a seating position in which the safety restraint is inoperable.
5. No person shall modify, remove, deactivate or otherwise tamper with the vehicle safety belts systems or alarms except for vehicle maintenance and repair or with the express authorization of the Village Manager.
6. Personnel who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.
7. Whenever possible, all prisoners are required to be secured in the vehicle by a safety belt in all seating positions for which safety belts are provided by the vehicle manufacturer. Caution: Prisoners that are handcuffed in front have the ability to release the handcuffs using the safety restraint latch plate.
8. When arriving at an emergency call or making a vehicle traffic stop, the Officer may remove the safety restraint just prior to stopping for quick exit. Caution should be exercised to insure that during the traffic stop the violator is in fact going to stop. This prevents becoming involved in a pursuit without the use of a safety belt.
9. The foregoing policy shall be provided in writing to all employees and a formal acknowledgment by each shall be documented upon assignment of a Village vehicle or authorization for reimbursement. Further, this policy shall be incorporated into the VBM employee handbook and other rules, regulations or policies governing individual departments within the Village.
10. This policy shall be subject to amendment by the Village Manager under the direction of the Board of Trustees.
11. The Village Manager is hereby authorized to make non-material changes to this policy, periodically, in order to better effectuate the Terms, Conditions and Intent of this vehicle policy.
12. Employees found violating this policy shall be subject to disciplinary action at the discretion of the Village Manager.

This policy was adopted by the Village of Briarcliff Manor Board of Trustees on June 6, 2012 and will be incorporated as an addendum to the Village Vehicle Policy adopted on June 16, 2010.

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
JUNE 6, 2012

3A. AWARD OF BID, DPW WORK WEAR SERVICES

BE IT RESOLVED that the bid for the furnishing of Work Wear Services for the Department of Public Works (VM-1213-1) is hereby awarded to S&H Uniform Corp., 1 Aqueduct Road, White Plains, New York as per the rates in the attached schedule for June 1, 2012 through May 31, 2014.

BE IT FURTHER RESOLVED that the Village Manager is hereby authorized and directed to execute a contract with S&H Uniform Corp. for said services.

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
JUNE 6, 2012

3B. AWARD OF BID, BUS TRANSPORTATION

BE IT RESOLVED that the bid for the furnishing of Bus Transportation Services for various programs operated by the Recreation and Parks Department (VM-1213-1) is hereby awarded to Briarcliff Bus Co., Inc. of Briarcliff Manor, New York as per the rates in the attached schedule.

BE IT FURTHER RESOLVED that the Village Manager is hereby authorized and directed to execute a contract with Briarcliff Bus Co., Inc. for the furnishing of Bus Transportation Services for the Recreation and Parks Department.



RECREATION and PARKS DEPARTMENT

Village of Briarcliff Manor

Henry A. Jamin, CPRP, Superintendent

MEMO TO: Philip E. Zegarelli, Village Manager
FROM: Henry Jamin, Superintendent *HJ*
DATE: May 23, 2012
RE: 2012-2013 Transportation Service Contract

Bids for our department's 2012-2013 transportation services contract were opened at 11:00 am this morning, May 23rd. This year only two companies submitted bids. Analyzing these bids involves determining how the unit cost prices submitted will translate into true expenditures once we are into the actual provision of the services we require. The bid involves transportation for our summer day camp programs, and variables such as final camper enrollment (determines the true # of buses needed for each trip) and possible cancellations due to weather make this contract one that cannot be assigned a specific dollar amount at the time of award. We can, however, calculate an anticipated expenditure total and award the contract based upon this analysis. To this end, I have multiplied each unit price by the number of buses we anticipate using for each of the trips included in the bid. This analysis provides us with an estimate that is as accurate as can be determined at this time, and a copy of the bid analysis worksheet is attached for your review and information.

Briarcliff Bus Company was the low bidder with a projected total contract amount of \$35,665. The second bid was submitted by Royal Coach Lines with a projected total of \$36,518. Ardsley Bus Corp. was also provided with a bid package, but did not submit a bid this year. The low bid projection for Briarcliff Bus is \$1,698 less than our budgeted total of \$37,363 for these services, and their total is projected to be \$853 less than the Royal total of \$36,518.

Based upon their low bid and the very positive experiences we have had with them over many years of service, I recommend that the Village Board award this year's contract, VM-1213-1, to Briarcliff Bus Company at the unit prices submitted. The term of the contract shall be from date of award through August 3, 2012.

Please let me know if you have any questions, or if there is anything further I can provide regarding the matter of this contract award. Thank you for your attention and consideration.



Village of Briarcliff Manor Bus Bid Results FYE 2013

Bid Item #	Item Description	projected # of buses	# of days or trips
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A7314.444 TREE CAMP			
A	Shuttle Buses	1	29
B-1a	Cortlandt Lanes	3	1
B-1b	Bounce - Yorktown	3	1

A7315.444 SUPER CAMP			
A	Shuttle Buses	1	29
B-2a	Bounce - Yorktown	2	1
B-2b	Puinam Valley HS	2	1
B-2c	Maritime Center	2	1
B-2d	The Cliffs - Valhalla	2	1
B-3a	Splashdown - Fishkill	3	1
B-3b	Rockland Boulders Stadium	3	1
B-3c	The Cliffs - Valhalla	3	1
B-3d	Bounce - Yorktown	3	1

A7316.444 CAMP ADVENTURE			
A	Shuttle Buses	1	14
B-4a	Playland	2	1
B-4b	Medieval Times	2	1
B-4c	The Castle Fun Center - Chester	2	1
B-4d	New Roc City	2	1
B-4e	Lake Compounce - Bristol	2	1
B-4f	Club Getaway - Kent, CT	2	1
B-4g	Palisades Center	2	1

A7317.444 CAMP HORIZON			
B-5a	Brownstone Park	1	1
B-5b	Mountain Creek	1	1
B-5c	Medieval Times	1	1
B-5d	Playland	1	1
B-5e	Six Flags New England	1	1
B-5f	Lake Compounce - Bristol	1	1
B-5g	The Castle Fun Center - Chester	1	1
B-5h1	Sportime USA	1	1
B-5h2	The Cliffs - Valhalla	1	1
B-5h3	Cortlandt Lanes	1	1
B-5h4	Croton Point Park	1	1

B-6	Cancellation Fee	0	0
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Low Bid Amount

ROYAL COACH LINES	
BUS	Total

275	7975
255	765
255	765

275	7975
255	510
275	550
335	670
255	510
325	975
365	1095
255	765
255	765

275	3850
325	650
395	790
375	750
275	550
425	850
425	850
365	730

575	575
575	575
395	395
325	325
700	700
385	385
375	375
212	212
212	212
212	212
212	212

100	0
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BUDGET as APPROVED	
BUS	Total

258	7482
290	870
290	870

258	7482
289	578
289	578
368	736
268	536
363	1089
289	867
268	804
289	867

258	3612
362	724
450	900
430	860
357	714
551	1102
495	990
362	724

557	567
586	588
450	450
362	362
640	640
551	551
430	430
350	350
350	350
350	350
350	350

0	0
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TOTALS >>>
 Amount less than Royal Coach Total = \$ (853)
 Amount less than Adopted Budget = \$ (1,698)

\$ 36,518.00

\$ 35,665.00

\$ 37,363.00

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
JUNE 6, 2012

4A. TAX CERTIORARI, THE RESIDENCES AT TRUMP NATIONAL GOLF CLUB

WHEREAS, The Residences at Trump National Golf Club, Meredith & Cary Hershey, Et Al instituted tax certiorari proceedings pursuant to Article 7 of the Real Property Tax Law of the State of New York; and

WHEREAS, the tax certiorari filings were for Town of Ossining assessment year 2011; and

WHEREAS, the tax certiorari filings relate to Village of Briarcliff Manor fiscal year 2012-2013; and

WHEREAS, an Consent Judgment of the Supreme Court of the State of New York, County of Westchester, was entered on May 17, 2012;

WHEREAS, the Consent Judgment was received after the finalization of the approval of the Village budget for Fiscal Year 2012-2013;

NOW THEREFORE, BE IT RESOLVED, that the Board of Trustees does hereby authorize the abatement of the tax bills for Fiscal Year 2012-2013 based upon the reduced assessment values for Fiscal Year 2012-2013 in the following amounts based upon assessment values reduced in accordance with the Consent Judgment:

Assessment Year	Address	Assessed Value	New Assessed Value	Assessment Reduction	Original Tax Amount	Reduced Tax Amount	Total Abatement
2011	12 Shadow Tree Ln	\$67,500	\$50,625	\$16,875	\$6,096.60	\$4,572.45	\$ 1,524.15
2011	14 Shadow Tree Ln	\$72,500	\$54,375	\$18,125	\$6,548.20	\$4,911	\$ 1,637.05
2011	16 Shadow Tree Ln	\$72,500	\$54,375	\$18,125	\$6,548.20	\$4,911.15	\$ 1,637.05
2011	18 Shadow Tree Ln	\$72,500	\$54,375	\$18,125	\$6,548.20	\$4,911.15	\$ 1,637.05
2011	8 Arrow Tree Dr	\$72,500	\$54,375	\$18,125	\$6,548.20	\$4,911.15	\$ 1,637.05
2011	10 Arrow Tree Dr	\$72,500	\$54,375	\$18,125	\$6,548.20	\$4,911.15	\$ 1,637.05
2011	12 Arrow Tree Dr	\$125,000	\$62,500	\$62,500	\$11,290.00	\$5,645.00	\$ 5,645.00
				\$ 170,000			\$ 15,354.40
				TOTAL AV REDUCTION			TOTAL REVENUE REDUCTION

BE IT FURTHER RESOLVED, that the assessments for the Fiscal Year 2012-2013 shall be adjusted in accordance with the Consent Judgment.

BE IT FURTHER RESOLVED, that the Board of Trustees does hereby authorize the abatement of the tax bills for Fiscal Year 2012-2013 in the amount of \$15,354 and the issuance of new tax bills based upon the reduced assessment value in the Consent Judgment.

JEFFREY S. RODNER
BRANDON R. SALL*

*ALSO ADMITTED IN NJ, CT & FL

GELLERT & RODNER
COUNSELLORS AT LAW
ELEVENTH FLOOR
ONE NORTH LEXINGTON AVE.
WHITE PLAINS, N.Y. 10601

(914) 644-8900
FAX: (914) 644-8393

PERCY G. GELLERT
1887-1991

Robin + CD

May 22, 2012

P2

copy to M/BOT

Resolution?

Village Manager
Village of Briarcliff Manor
1111 Pleasantville Road
Briarcliff Manor, NY 10510

Re: **The Residences at Trump National Golf Club vs. Village of Briarcliff Manor**

Dear Sir/Madam:

Enclosed please find copy of Consent Judgment with Notice of Entry and Application for Refund re the above.

Please have the Village prepare the necessary tax refunds and forward same, by check made payable to **The Residences at Trump National Golf Club, by Gellert & Rodner, Esqs., Agents**, to this office.

Thank you for your cooperation.

Cordially,

GELLERT & RODNER

Jeffrey S. Rodner

JSR/tmg
enclosure
Copy: Village Comptroller

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

In the Matter of the Application of
THE RESIDENCES AT TRUMP NATIONAL GOLF CLUB,
MEREDITH & GARY HERSHEY, ET AL

Petitioners,

-Against-

THE ASSESSOR OF THE TOWN OF OSEWINGO, ET AL

Respondents

BRIARCLIFF MANOR UNION FREE SCHOOL DISTRICT

Intervenor-Respondent

By Richard Tracy Astle of the FDNY

CONSENT JUDGMENT

GELLERT & RODNER, ESQS.

Attorneys for Petitioners

ONE NORTH LEXINGTON AVENUE
WHITE PLAINS, N.Y. 10601
(914) 341-3900

Pursuant to 22 NYCRR 130-1.1-a, the undersigned an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contents contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, its filing was not deemed although illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or seeking to any fee awarded therefrom, and that (3) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.2(a).

Dated: _____ at _____
Signed: _____
Print Signer's Name _____

Stipulate of a copy of the within _____
Dated: _____
Authorized for _____

PLEASE TAKE NOTICE

that the within is a (certified) true copy of a
NOTICE OF ENTRY entered in the office of the clerk of the within-named Court on 20

that an Order of which the within is a true copy will be presented for settlement to the
NOTICE OF SETTLEMENT Hon. _____
at _____
on 20 at NY

Dated: _____
Attorneys for GELLERT & RODNER, ESQS.

To: ONE NORTH LEXINGTON AVENUE
WHITE PLAINS, N.Y. 10601

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
In the Matter of the Application of

THE RESIDENCES AT TRUMP NATIONAL GOLF CLUB,
MEREDITH & CARY HERSHEY, ET AL,
BY GELLERT & RODNER, ESQS., AGENTS,
Petitioner,

NOTICE OF ENTRY
AND
APPLICATION FOR
REFUND

- against -

THE ASSESSOR OF THE TOWN OF OSSINING,
BOARD OF ASSESSMENT REVIEW OF THE TOWN
OF OSSINING AND THE TOWN OF OSSINING,
Respondents,

Tax Map #98.14-1-1./0006
Tax Map #98.14-1-1./0007
Tax Map #98.14-1-1./0008
Tax Map #98.14-1-1./0009
Tax Map #98.14-1-1./0014
Tax Map #98.14-1-1./0015
Tax Map #98.14-1-1./0016

-and-

BRIARCLIFF MANOR UNION FREE SCHOOL DISTRICT,
Intervenor-Respdent.

For a Review Under Article 7 of the RPTL.

-----X
SIRS:

PLEASE TAKE NOTICE that the within is a true copy of Consent Judgment in the above-entitled matter dated May 15, 2012, and filed in the Office of the County Clerk of Westchester County on May 17, 2012.

PLEASE TAKE FURTHER NOTICE that the undersigned hereby demands that the refunds directed to be audited, allowed and paid to the petitioner in the above-entitled proceeding be allowed and paid according to the terms of said Order, and

PLEASE TAKE FURTHER NOTICE that this demand is made pursuant to §726 of the Real Property Tax Law of the State of New York.

Dated: White Plains, New York
May 23, 2012

GELLERT & RODNER
Attorneys for Petitioner
One North Lexington Ave, 11th Floor
White Plains, New York 10601
(914) 644-8900

TO: Village Manager
Village of Briarcliff Manor
1111 Pleasantville Road
Briarcliff Manor, NY 10510

FILED
AND
ENTERED
ON 5-17-2012
WESTCHESTER
COUNTY CLERK

At an IAS Term of the Supreme Court
of the State of New York held in
and for the County of Westchester
at White Plains, New York on the
15th day of May, 2012.

PRESENT:

HON. JOHN R. LaCAVA,

JUSTICE.

-----X
In the Matter of the Application of

THE RESIDENCES AT TRUMP NATIONAL GOLF CLUB,
MEREDITH & CARY HERSHEY, ET AL,
BY GELLERT & RODNER, ESQS., AGENTS

C O N S E N T
J U D G M E N T
Index No.
16713/11

Petitioner(s),

-against-

THE ASSESSOR OF THE TOWN OF OSSINING,
THE BOARD OF REVIEW OF THE TOWN OF
OSSINING and THE TOWN OF OSSINING,

Respondents,

-and-

BRIARCLIFF MANOR UNION FREE SCHOOL DISTRICT,

Intervenor-Respondent

For Review Under Article 7 of the RPTL.

-----X
The above petitioner(s) having heretofore served and
filed the Petitions and Notices to review the tax assessments
fixed by the Town of Ossining for the assessment year 2011 upon
certain real properties located at Shadow Tree Lane and Arrow
Tree Drive, Town of Ossining, and designated as Tax Map #98.14-
1-1./0006, 1./0007, 1./0008, 1./0009, 1./0014, 1./0015 and

1./0016 on the Official Assessment Map of the Town of Ossining,
and

The issues of these proceedings having duly come on for trial at an IAS Term of this Court, and the petitioner having appeared by **JEFFREY S. RODNER, ESQ.**, of Gellert & Rodner, and the respondents having appeared by **WAYNE SPECTOR, ESQ.**, Town Attorney for the Town of Ossining, and the intervenor having appeared by **MARC E. SHARFF, ESQ.**, attorney for the Briarcliff Manor Union Free School District and the parties having made their settlement, it is

ORDERED, that the assessments on the above referenced properties be and the same are hereby reduced, corrected and fixed for the 2011 assessment year as follows:

<u>Unit Owner</u>	<u>Tax Map ID</u>	<u>2011 Assessed Valuation</u>		<u>Amount of</u>
		<u>Reduced From</u>	<u>Reduced To</u>	<u>Reduction</u>
Hershey	98.14-1-1./0006	67,500	50,625	16,875
McLaughlin	98.14-1-1./0007	72,500	54,375	18,125
Hyun	98.14-1-1./0008	72,500	54,375	18,125
Nardizzi	98.14-1-1./0009	72,500	54,375	18,125
Carini	98.14-1-1./0014	72,500	54,375	18,125
Glaser	98.14-1-1./0015	72,500	54,375	18,125
Baron	98.14-1-1./0016	125,000	62,500	62,500
Total		555,000	385,000	170,000

ORDERED, ADJUDGED AND DECREED, that the officer or officers having custody of the assessment rolls upon which the above-mentioned assessments and any taxes levied thereon are entered shall correct the said entries in conformity with this

Order and shall note upon the margin of said rolls, opposite of said entries, that the same have been corrected by the authority of this order, and it is further

ORDERED, that there shall be audited, allowed and paid to the petitioner by the **TOWN OF OSSINING** the amount of Town and Town Special District taxes paid by the petitioner as taxes against the said erroneous assessments in excess of what the taxes would have been if the said assessments made in the aforesaid years had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, and it is further

ORDERED, that there shall be audited, allowed and paid to the petitioner by the **VILLAGE OF BRIARCLIFF MANOR** the amount of Village taxes paid by the petitioner as taxes against the said erroneous assessments in excess of what the taxes would have been if the said assessments made in the aforesaid years had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, and it is further

ORDERED, that there shall be audited, allowed and paid to the petitioner by the **BRIARCLIFF MANOR UNION FREE SCHOOL DISTRICT**, the amount of School taxes paid by the petitioner as taxes against the said erroneous assessments in excess of what

the taxes would have been if the said assessments made in the aforesaid years had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, and it is further

ORDERED AND DIRECTED, that the County Legislators of the **COUNTY OF WESTCHESTER**, State of New York, be and are hereby directed and authorized to audit, allow and pay to the petitioner the amount, if any, of State, County, Judiciary and Sewer District taxes paid by the petitioner as taxes against the erroneous assessments in excess of what the taxes would have been if the said assessments had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, and it is further

ORDERED AND DIRECTED, that the Commissioner of Finance of Westchester County be served with a copy of this judgment with notice of entry, together with proof of payment of State, County, Judiciary, Sewer and any other Westchester County special district taxes, and it is further

ORDERED AND DIRECTED, that all tax refunds are to be paid with interest pursuant to §726 of the Real Property Tax Law of the State of New York; except that in the event the refund of taxes is paid within sixty (60) days from the date of service of

a copy of this judgment with Notice of Entry, then interest is waived; together with the amounts of interest and penalties, if any, paid on the excess of any of the aforesaid taxes by reason of delinquent payment, and it is further

ORDERED AND DIRECTED, that all tax refunds hereinabove directed to be made by respondent, the **TOWN OF OSSINING** and/or any of the various taxing authorities, be made by check or draft payable to the order of **GELLERT & RODNER**, as attorneys for the petitioners, who are to hold the proceeds as trust funds for appropriate distribution, and who are to remain subject to the further jurisdiction of this Court in regard to their attorney's lien, pursuant to Judiciary Law §475 and it is further

ORDERED, that this Order hereby constitutes and represents full settlement of each of the tax review proceedings herein, and there are no costs or allowances awarded to, by or against any of the parties, and that upon compliance with the

terms of this Order, the above-entitled proceedings be and the same are settled and discontinued.

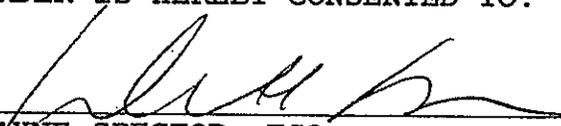
E N T E R,

HON. JOHN R. LACAVA

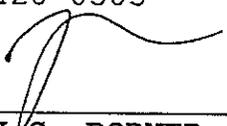
J.S.C.


HON. JOHN R. LaCAVA, J.S.C.

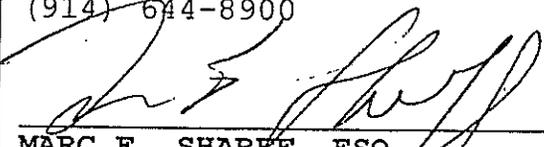
SIGNING AND ENTRY OF THE WITHIN
ORDER IS HEREBY CONSENTED TO:


WAYNE SPECTOR, ESQ.

Town of Ossining
16 Croton Avenue
Ossining, NY 10562
(914) 428-0505


JEFFREY S. RODNER, ESQ.

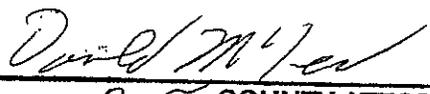
Gellert & Rodner
Attorneys for Petitioner
One North Lexington Avenue, 11th Floor
White Plains, New York 10601
(914) 644-8900


MARC E. SHARFF, ESQ.

Shaw, Perelson, May & Lambert, LLP
Attorneys for Intervenor-Respondent
115 Stevens Avenue
Valhalla, NY 10595
(914) 741-9870

THE OFFICE OF THE WESTCHESTER
COUNTY ATTORNEY HAS NO OBJECTION
TO THE ENTERING OF THE WITHIN
ORDER.

DATED: 4/17/12


COUNTY ATTORNEY
THE COUNTY OF WESTCHESTER

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
JUNE 6, 2012

4B. TAX CERTIORARI, YELLOW BRICK ROAD APARTMENTS, INC.

WHEREAS, Yellow Brick Road Apartments, Inc. instituted tax certiorari proceedings pursuant to Article 7 of the Real Property Tax Law of the State of New York; and

WHEREAS, the tax certiorari filings were for Town of Ossining assessment years 2005 through 2011; and

WHEREAS, the tax certiorari filings relate to Village of Briarcliff Manor fiscal years 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012 and 2012-2013; and

WHEREAS, an Consent Judgment of the Supreme Court of the State of New York, County of Westchester, was entered on May 2, 2012;

WHEREAS, the Consent Judgment was received after the finalization of the approval of the Village budget for Fiscal Year 2012-2013;

NOW THEREFORE, BE IT RESOLVED, that the Board of Trustees does hereby authorize the refund or abatement of the tax bills for Fiscal Years 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012 and 2012-2013 based upon the reduced assessment values in the following amounts based upon assessment values reduced in accordance with the Consent Judgment:

FY 2006-2007	\$1,407.42
FY 2007-2008	\$1,722.22
FY 2008-2009	\$1,812.49
FY 2009-2010	\$1,818.18
FY 2010-2011	\$1,916.43
<u>FY 2011-2012</u>	<u>\$1,842.30</u>
Total Refund	\$10,519.04

BE IT FURTHER RESOLVED, that the assessment for the Fiscal Year 2012-2013 shall be adjusted in accordance with the Consent Judgment.

BE IT FURTHER RESOLVED, that the Board of Trustees does hereby authorize the abatement of the tax bill for Fiscal Year 2012-2013 in the amount of \$1,707.05 and the issuance of a new tax bill based upon the reduced assessment value in the Consent Judgment.

YELLOW BRICK ROAD APARTMENTS, INC.

Year	Address	Original Assessed Value	New Assessed Value	Assessment Reduction	Original Tax Amount	Reduced Tax Amount	Refund	Abatement
2006	149 Central Dr	\$56,950.00	\$39,000	\$17,950	\$4,465.32	\$3,057.90	\$1,407.42	
2007	149 Central Dr	\$56,950.00	\$35,700	\$21,250	\$4,615.55	\$2,893.33	\$1,722.22	
2008	149 Central Dr	\$56,950.00	\$35,600	\$21,350	\$4,834.73	\$3,022.24	\$1,812.49	
2009	149 Central Dr	\$56,950.00	\$35,950	\$21,000	\$4,930.74	\$3,112.56	\$1,818.18	
2010	149 Central Dr	\$56,950.00	\$35,000	\$21,950	\$4,972.24	\$3,055.81	\$1,916.43	
2011	149 Central Dr	\$56,950.00	\$36,250	\$20,700	\$5,068.55	\$3,226.25	\$1,842.30	
2012	149 Central Dr	\$56,950.00	\$38,050	\$18,900	\$5,143.72	\$3,436.68		\$1,707.05
				\$143,100		Total	\$10,519.04	\$1,707.05
				TOTAL AV REDUCTION			TOTAL REVENUE REDUCTION	TOTAL ABATEMENT

FILED
AND
ENTERED
ON 5-2-2012
WESTCHESTER
COUNTY CLERK

At an IAS Term of the Supreme Court of the State of New York held in and for the County of Westchester, at the Courthouse located in White Plains, New York.

PRESENT

HON. JOHN R. LACAVA,

Justice.

-----X
In the Matter of the Application of

YELLOW BRICK ROAD APARTMENTS, INC.,

Petitioner,

-against-

THE ASSESSOR OF THE TOWN OF OSSINING,
THE BOARD OF REVIEW OF THE TOWN OF
OSSINING and THE TOWN OF OSSINING,

- and -

BRIARCLIFF MANOR UNION FREE SCHOOL DISTRICT,

Intervenor-Respondent.

For a Review of Tax Assessments under
Article 7 of the Real Property Tax Law.
-----X

CONSENT
JUDGMENT

Index Nos.

17307/05

18651/06

18872/07

22403/08

23428/09

25032/10

15047/11

The above Petitioner having heretofore served and filed the Petitions and Notices to review the tax assessments fixed by the Town of Ossining for the assessment years 2005 through 2011, and upon certain real property located at 149 Central Drive, Town of Ossining, and designated as Section 98.09, Block 1, Lot 44, on the Official

Assessment Map of the Town of Ossining, and

The issues of these proceedings having duly come on for trial at an IAS Term of this Court, and the petitioner having appeared by **WILLIAM E. SULZER, ESQ.**, of Griffin, Coogan, Blöse & Sulzer, P.C., and the respondents having appeared by **WAYNE SPECTOR, ESQ.**, Town Attorney, and the intervenor-respondent, **BRIARCLIFF MANOR UNION FREE SCHOOL DISTRICT**, having appeared by **MARC E. SHARFF, ESQ.**, of Shaw Perelson, May & Lambert, LLP, and the parties having made their settlement, it is

ORDERED, ADJUDGED AND DECREED, that the assessments on the subject property be and the same are hereby reduced, corrected and fixed for the assessment years as follows:

<u>Assess. Year</u>	<u>Assessed Valuation</u>		<u>Amount of Reduction</u>
	<u>Reduced From</u>	<u>Reduced To</u>	
2005	56,950	39,000	17,950
2006	56,950	35,700	21,250
2007	56,950	35,600	21,350
2008	56,950	35,950	21,000
2009	56,950	35,000	21,950
2010	56,950	36,250	20,700
2011	56,950	38,050	18,900

and so reduced and confirmed, it is further

ORDERED, ADJUDGED AND DECREED, that the officer or officers having custody of the assessment rolls upon which the above-mentioned assessments and any taxes levied thereon are entered shall correct the said entries in conformity with this Order and shall note upon the margin of said rolls, opposite of said entries, that the same have been corrected by the authority of this order, and it is further

ORDERED, ADJUDGED AND DECREED, that there shall be audited, allowed and paid to the petitioner by the **TOWN OF OSSINING** the amount of all Town taxes, together with the proportionate share of any interest or penalty paid by reason of delinquent payment of any excess taxes, paid by the petitioner as taxes against the said erroneous assessments in excess of what the taxes would have been if the said assessments made in the aforesaid years had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, and it is further

ORDERED, ADJUDGED AND DECREED, that there shall be audited, allowed and paid to the petitioner by the **BRIARCLIFF MANOR UNION FREE SCHOOL DISTRICT** the amount of all School and/or library taxes, paid by the petitioner as taxes against the said erroneous assessments in excess of what the taxes would have been if the said assessments made in the aforesaid years had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute,

and it is further

ORDERED, ADJUDGED AND DECREED, that there shall be audited, allowed and paid to the petition by the **VILLAGE OF BRIARCLIFF MANOR** the amount of all Village taxes paid by the petitioner as taxes against the said erroneous assessment in excess of what the taxes would have been if the said assessment made in the aforesaid years had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, and it is further

ORDERED, ADJUDGED AND DECREED, that the County Legislators of the **COUNTY OF WESTCHESTER**, State of New York, be and are hereby directed and authorized to audit, allow and pay to the petitioner the amount, if any, of State, County, Judiciary and Sewer District taxes, paid by the petitioner as taxes against the erroneous assessments in excess of what the taxes would have been if the said assessments had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, and it is further

ORDERED, ADJUDGED AND DECREED, that the Commissioner of Finance of Westchester County be served with a copy of this judgment, together with proof of payment of State, County, Judiciary, Sewer and any other Westchester County special district taxes, and it is further

ORDERED, ADJUDGED AND DECREED, that all tax refunds are to be paid with interest pursuant to §726 of the Real Property Tax Law of the State of New York; provided, however, interest shall be waived in the event that payment is made within sixty (60) days from the date of service of this Order, time of the essence, with notice of entry upon the respective taxing authorities, and it is further

ORDERED, ADJUDGED AND DECREED, that all tax refunds hereinabove directed to be made by respondent, the **TOWN OF OSSINING** and/or any of the various taxing authorities, be made by check or draft payable to the order of **GRIFFIN, COOGAN, BLOSE & SULZER, P.C.**, as attorneys for the petitioner, who are to hold the proceeds as trust funds for appropriate distribution, and who are to remain subject to the further jurisdiction of this Court in regard to their attorney's lien, pursuant to Judiciary Law §475 and it is further

ORDERED, ADJUDGED AND DECREED, that this Order hereby constitutes and represents full settlement of each of the tax review proceedings herein, and there are no costs or allowances awarded to, by or against any of the parties, and that upon compliance with the terms of this Order, the above-entitled proceedings be and the same are settled and discontinued.

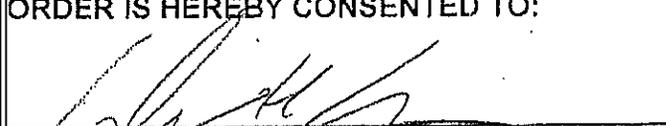
Dated: *April 27, 2012*

ENTER,

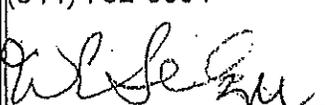
HON. JOHN R. LACAVA
J.S.C.

/s/
HON. JOHN R. LACAVA, J.S.C.

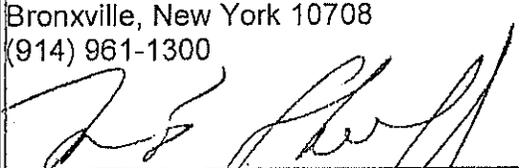
SIGNING AND ENTRY OF THE WITHIN
ORDER IS HEREBY CONSENTED TO:


WAYNE SPECTOR, ESQ.

Attorney for Respondents
16 Croton Avenue
Ossining, New York 10562
(914) 762-6004


WILLIAM E. SULZER, ESQ.

Griffin, Coogan, Blose & Sulzer, P.C.
Attorneys for Petitioner
51 Pondfield Road
Bronxville, New York 10708
(914) 961-1300

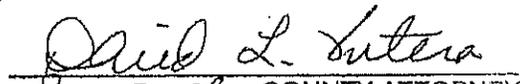

MARC E. SHARF, ESQ.

Attorneys for Intervenor-Respondent
Shaw Perelson, May & Lambert, LLP
115 Stevens Avenue
Valhalla, New York 10595
(914) 741-9870

THE OFFICE OF THE WESTCHESTER
COUNTY ATTORNEY HAS NO OBJECTION
TO THE ENTERING OF THE WITHIN
ORDER.

DATED: *April 17, 2012*

6


David L. Suter
S. ant. COUNTY ATTORNEY
THE COUNTY OF WESTCHESTER

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
JUNE 6, 2012

4C. TAX ABATEMENT – 345 ELM ROAD

WHEREAS, a Small Claims Assessment Review was filed on behalf of the property owner for 345 Elm Road; and

WHEREAS, a Stipulation of Settlement and Order in the Small Claim Assessment Review has been issued for the property at 345 Elm Road for the 2009 Town assessment year, Fiscal Year 2010-2011 Village assessment roll; and

WHEREAS, the Stipulation of Settlement and Order was received after the finalization of the Fiscal Year 2010-2011 assessment roll and the approval of the budget for Fiscal Year 2010-2011;

WHEREAS, the Stipulation of Settlement and Order reduced the tax assessment for the subject property for the Fiscal Year 2010-2011 assessment roll by \$14,650 from \$60,050 to \$45,400; and

NOW THEREFORE, BE IT RESOLVED that the Board of Trustees does hereby authorize the refund of the tax bills for Fiscal Years 2010-2011 and 2011-2012 in the amount of \$2,662.26 and the abatement of the tax bill for Fiscal Year 2012-2013 in the amount of \$1,363.83 based upon the reduced assessment values in the Stipulation of Settlement and Order.

Year	Address	Assessed Value	New Assessed Value	Assessment Reduction	Original Tax Amount	Original Tax Amount	Reduced Tax Amount	Refund	Abatement
2010	345 Elm Rd	\$ 60,050	\$ 45,400	\$14,650	\$ 5,282.18	\$5,282.18	\$3,963.82	\$1,318.36	
2011	345 Elm Rd	\$ 60,050	\$ 45,400	\$14,650	\$ 5,344.45	\$5,344.45	\$4,040.60	\$1,303.85	
2012	345 Elm Rd	\$ 60,050	\$ 45,400	\$14,650	\$ 5,423.72	\$5,423.72	\$4,100.53		\$1,323.19
				\$43,950				\$2,622.21	\$1,323.19
				TOTAL AV REDUCTION				TOTAL REVENUE REDUCTION	TOTAL ABATEMENT

SUPREME COURT
THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

STIPULATION OF SETTLEMENT

THE MATTER OF SMALL CLAIM ASSESSMENT REVIEW

K-M Khosrawshahi

FILING NO. 5588/09

TAX ASSESSING MUNICIPALITY Assenoy

SECTION 4.28

BLOCK 21

LOT 76

IT IS HEREBY STIPULATED AND AGREED by and between the above named petitioner(s) and Tax Assessing Municipality that the 2007 assessment on the referenced tax parcel be reduced:

	AC	60,050
FROM		60,500
TO		45,400
REDUCTION OF		15,100

RECEIVED BY
MAY 30 2012
SCAMP

IT IS FURTHER STIPULATED AND AGREED that the Municipal Officials having custody of the assessment rolls shall correct the entry in the assessment rolls to conform to this stipulation. If any taxes were paid based on the "reduced from" 2007 assessment indicated above, a refund of the taxes paid on the amount of the reduction of the above mentioned assessment will be made to the petitioner.

IT IS FURTHER AGREED that this stipulation represents full settlement of this small claims assessment review proceeding and that no costs or allowances shall be awarded or paid by, to, or against any of the parties.

DATED 5/28/10

SO ORDERED

[Signature]
JUDICIAL HEARING OFFICER

[Signature]
AUTHORIZED REPRESENTATIVE
[Signature]
ASSESSOR

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
JUNE 6, 2012

**5. TRANSFER EFC INTEREST AND PRINCIPAL INTO THE FULL
SUPPLY WATER CAPITAL RESERVE FUND**

WHEREAS the Board of Trustees of the Village of Briarcliff Manor appropriated \$404,089 to fund the third payment by May 31, 2012; and

WHEREAS the Village of Briarcliff Manor's refinancing cycle has been set by the EFC for October 2012;

NOW THEREFORE BE IT RESOLVED that the Board of Trustees of the Village of Briarcliff Manor does hereby transfer the original appropriation of \$404,089 from F9901.910 Transfer Capital Loan EFC to F0878 the Full Supply Capital Reserve Fund for future distribution.

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
JUNE 6, 2012

6. MINUTES

- May 2, 2012 – Regular Meeting
- May 16, 2012 – Regular Meeting

Village Board of Trustees
Regular Meeting
May 2, 2012
7:30 p.m.

The Regular Meeting of the Board of Trustees of the Village of Briarcliff Manor, New York was held in the Village of Briarcliff Manor Village Hall, at 1111 Pleasantville Road, Briarcliff Manor, New York on the 2nd of May, 2012 commencing at 7:30 p.m.

Present

William J. Vescio, Mayor
Mark Pohar, Trustee
Lori A. Sullivan, Trustee

Also Present

Philip Zegarelli, Village Manager
Christine Dennett, Village Clerk
Clinton Smith, Village Counsel

Absent

David Venditti, Deputy Mayor
Robert Murray, Trustee

Board of Trustees Announcements by Trustee Pohar

- The Library has many upcoming events. Please visit their website for their Spring Brochure and programs.
- Recreation Spring Programs are in full swing.
- The Tennis Courts are open. Permits are required and will be enforced.
- Day Camp registration forms are available online and registration is currently open through May 11th without a late fee.
- The Summercliff Players summer show will be Once on this Island. Registration for all interested participants is by May 18th.
- The Pool Concession stand will be operated this year by Vinny Janiello.

Mayor Vescio requested that residents not use fields while they are closed and that the Village staff would determine if a field would be open or not.

Village Managers Report by Village Manager Zegarelli

- Punch list items are being closed out on the FWSP.
- The Village expects to receive \$266,000 from FEMA for last year's storms.
- The Village wide Hydrant Flushing Program is nearing completion.
- The North State Road project is underway.
- RFQ's are going out for the Community Center space.
- Tax bills will be mailed out Memorial Day weekend and the first half will be due by July 2nd. Village Hall will stay open until 7pm that evening.

Public Comments

There were no public comments.

Stormwater Management Presentation by David Turiano, Village Engineer

Village Engineer Turiano gave a presentation on the Village's procedures for control and management of stormwater.

Mayor Vescio requested a log be kept when retention ponds are maintained.

Amend Master Fee Schedule – Water Meters

Upon motion by Trustee Sullivan, seconded by Trustee Pohar, the Board voted unanimously to approve the following resolution:

BE IT RESOLVED that effective June 1, 2012 the Board of Trustees does hereby amend the Master Fee Schedule for the Village of Briarcliff Manor as follows:

DEPARTMENT OF PUBLIC WORKS

STANDARD WATER METERS & ACCESSORIES AND DIGITAL WATER METERS

For all connections up to 2 inches, the fee shall be the retail cost of the meter at the time of the Village's purchase plus 15% for handling and administration. There shall be an additional fee of \$15.00 if the meter is within a pit structure.

PIT REMOTE (REPLACE/REPAIR) N/A \$130.00

Other associated costs not specifically listed herein shall be at retail cost plus 15% or otherwise determined by the Superintendent of Public Works.

Reference is made that installation costs are provided for under Water and Maintenance Service Charges in the Master Fee Schedule.

BE IT FURTHER RESOLVED that the price levels established for the meters and accessories are subject to change without notice and shall adjust automatically as the cost of each varies on a retail basis.

Amended Supplemental SEQRA Determination for Urstadt Biddle Properties, Inc. – Chilmark Shopping Center

Village Attorney Smith clarified that Trustee Pohar could vote on the matter as a current Board member.

Upon motion by Trustee Pohar, seconded by Trustee Sullivan, the Board voted unanimously to approve the following resolution:

**State Environmental Quality Review Act Determination
Negative Declaration – Site Plan
Chilmark Shopping Center Rezoning & Expansion**

WHEREAS, the Board of Trustees (“Board of Trustees”) of the Village of Briarcliff Manor, New York (“Village”) received a Petition dated May 28, 2010, with Exhibit A, and accompanying Full Environmental Assessment Form, Part 1 dated May 28, 2010 (“EAF Part 1”), and other supporting material submitted on behalf of Urstadt Biddle Properties, Inc. (“Petitioner”) seeking to change certain Village zoning code parking requirements for shopping centers in the Village (“Proposed Local Law Zoning Amendments”) and a corresponding amendment of the Chilmark Shopping Center site plan (“Proposed Site Plan Amendment”) and issuance to Chilmark Shopping Center of a special permit for shared parking (“Proposed Shared Parking Special Permit”) if the zoning code parking requirements were changed (“Proposed Action”); and

WHEREAS, the Board of Trustees reviewed the EAF Part 1 for preliminary assessment of the environmental impacts of the Proposed Action under the State Environmental Quality Review Act (“SEQR”), determined that it is subject to SEQR, that it does not involve any federal agency, that it will involve other agencies, and that it is classified as an Unlisted Action under SEQR, and by Resolution adopted June 16, 2010, declared itself Lead Agency for the purpose of a coordinated review of the environmental impacts of the Proposed Action under SEQRA, directed the Village Clerk to transmit and file a notice of the Board of Trustees’ intent to serve as Lead Agency pursuant to 6 N.Y.C.R.R. §617.6(b), and preliminarily classified the Proposed Action as an Unlisted Action under SEQR pursuant to 6 N.Y.C.R.R. §617.6(a); and

WHEREAS, the Board of Trustees thereafter commenced and continued a coordinated review of the Proposed Action under SEQR; and

WHEREAS, the Board of Trustees received and reviewed a Full Environmental Assessment Form, Part 2 (“Zoning EAF Part 2”) prepared on its behalf by the Village Planning Consultant BFJ Planning for assessment of the adoption of the Proposed Local Law Zoning Amendments sought in the Proposed Action; and

WHEREAS, the Board of Trustees held a duly advertised public hearing on adoption of the Proposed Local Law Zoning Amendments at Village Hall at 7:30 PM on October 6, 2010, gave all those wishing to be heard the opportunity to be heard, and closed the hearing on October 6, 2010; and

WHEREAS, the Board of Trustees considered the EAF, the Zoning EAF Part 2, comment letters from the Village Planning Board dated July 19, 2010, and from the Westchester County Department of Planning dated July 30, 2010, and September 29, 2010, and oral comments made at the Public Hearing; and

WHEREAS, by resolutions adopted October 20, 2010, the Board of Trustees (1) determined that the Proposed Action is an Unlisted Action pursuant to 6 N.Y.C.R.R. §612.4(b)(1), that the adoption of the Proposed Local Law Zoning Amendments as sought in the Proposed Action would not have any potentially large impact or any significant adverse impact on the environment, that the circumstances of the procedural sequencing of the zoning changes and site plan amendment and issuance of a special permit as sought in the Proposed Action warranted action on the Proposed Local Law Zoning Amendments prior to final review and action on the Proposed Site Plan Amendment and the Proposed Shared Parking Special Permit, that such review would not be less protective of the environment because the zoning changes do not permit or otherwise allow any physical change in the environment and among other things, any site plan amendment and/or special permit will be subject to review under SEQR, and that the Mayor or his designee was authorized to execute an EAF and, for the reasons set forth, to execute and file a Negative Declaration on adoption of such a Local Law and (2) enacted Local Law 4 of 2010 to adopt the Proposed Local Law Zoning Amendments as sought in the Proposed Action in accordance with the applicable provisions of law; and

WHEREAS, Village Planning Board commented on the Proposed Shared Parking Special Permit by memorandum dated November 12, 2010; and

WHEREAS, the Board of Trustees held a duly advertised Public Hearing on issuance of the Proposed Shared Parking Special Permit at Village Hall at 7:30 PM on January 20, 2011, at which time the Board heard oral comments from Stephen Smalley, Ken Trabine, Rocco Circosta, Trisha Merkel, Anthony Myoki, Kay Gresard, Charles Bradley, Connie Kislack, Charles Mesello, Linda Edelstein, Jerry Morrissy, Sayid [inaudible] from Prescriptions Plus in the Chilmark Shopping Center, and representatives of Petitioner, gave all those wishing to be heard the opportunity to be heard, and adjourned the Public Hearing to a date to be determined; and

WHEREAS, the Planning Board and the Village Manager received letters commenting on the Proposed Site Plan Amendment sought in the Proposed Action from Riker Danzig Scherer Hyland Perretti LLP on behalf of Shopwell, Inc. dated April 26, 2011, and from Jerry Gershner dated October 16, 2011; and

WHEREAS, the Board of Trustees received a memorandum from the Village Planning Board dated January 10, 2012, reporting on its review of the Proposed Site Plan Amendment and the need for the Board of Trustees to complete its review and make a determination under SEQR on the Proposed Action and act on the Proposed Shared Parking Special Permit before the Planning Board could proceed further; and

WHEREAS, the Board of Trustees received letters dated January 30, 2012, and February 24, 2012, and other supporting material submitted on behalf of Petitioner to resume its application for the Proposed Shared Parking Special Permit; and

WHEREAS, the Board of Trustees held a duly advertised public hearing on issuance of the Proposed Shared Parking Special Permit at Village Hall at 7:30 PM on March 7, 2012, at which time the Board heard oral comments from Charles Bradley, Jenny Earl, Emily Sack, and representatives of Petitioner, and gave all those wishing to be heard the opportunity to be heard, and adjourned the hearing to March 21, 2012; and

WHEREAS, the Board of Trustees received and reviewed a Full Environmental Assessment Form Part 2 ("Shared Parking Special Permit EAF Part 2") prepared on its behalf by the Village Planning Consultant BFJ Planning for assessment of the issuance of the Proposed Shared Parking Special Permit sought in the Proposed Action; and

WHEREAS, the Board of Trustees resumed the adjourned public hearing on issuance of the Proposed Shared Parking Special Permit at Village Hall at 7:30 PM on March 21, 2012, at which time the Board gave all those wishing to be heard the opportunity to be heard, no one asked to be heard, and the Board closed the hearing on March 21, 2012; and

WHEREAS, the Board of Trustees considered the EAF, the Shared Parking Special Permit EAF Part 2, memoranda from the Village Planning Board dated July 19, 2010, November 12, 2010, and January 10, 2012, and from the Westchester County Department of Planning dated July 30, 2010, and September 29, 2010, and other written submissions and oral comments made at the Public Hearing;

WHEREAS, by resolutions adopted March 21, 2012, the Board of Trustees (1) affirmed its earlier determination that the Proposed Action is an Unlisted Action pursuant to 6 N.Y.C.R.R. §612.4(b)(1), determined that the issuance of a Special Permit for shared parking at Chilmark Shopping Center under Village Code Section 220-6.K(4) as sought in the Proposed Action would not have any potentially large impact or any significant adverse impact on the environment, and authorized the Mayor or his designee to execute an EAF and, for the reasons set forth, to execute and file a Negative Declaration on issuance of the Proposed Shared Parking Special Permit, and (2) issued a Special Permit for shared parking at Chilmark Shopping Center under Village Code Section 220-6.K(4) as sought in the Proposed Action in accordance with the applicable provisions of law; and

WHEREAS, in its review of the Proposed Local Law Zoning Amendments and Proposed Shared Parking Special Permit, the Board of Trustees also reviewed and received comments and information on the Proposed Site Plan Amendment and other components of the Proposed Action; and

WHEREAS, in its determination on the Proposed Shared Parking Special Permit, the Board of Trustees also reviewed three alternative site plans for the Chilmark Shopping Center and in fact conditioned issuance of the Special Permit on the Village Planning Board's granting site plan approval on any one of those

three alternative site plans (“Special Permit Resolution Site Plan Requirements”); and

WHEREAS, the Board of Trustees’ resolution on the “State Environmental Quality Review Act Determination, Negative Declaration – Special Permit, Chilmark Shopping Center Rezoning & Expansion” adopted March 21, 2012, inadvertently failed to recite the Board’s determination as to any environmental impact that might arise from the Village Planning Board’s granting site plan approval on any one of those three alternative site plans consistent with the Special Permit Resolution Site Plan Requirements; and

WHEREAS, the Board of Trustees wishes to clarify its resolution under SEQR on the Proposed Shared Parking Special Permit dated March 21, 2012, and to supplement its resolution under SEQR on the Proposed Local Law Zoning Amendments dated October 20, 2010, and its resolutions enacting the Proposed Local Law Zoning Amendments dated October 20, 2010, and issuing the Shared Parking Special Permit dated March 21, 2012, all as sought in the Proposed Action (collectively, “Prior Resolutions”), to recite its determination under SEQR on the potential environmental impacts of the Proposed Site Plan Amendment and other aspects of the Proposed Action;

NOW THEREFORE, be it

RESOLVED, that the Board of Trustees hereby reaffirms its earlier determination that the Proposed Action is an Unlisted Action pursuant to 6 N.Y.C.R.R. §612.4(b)(1); and be it further

RESOLVED, that without amending, modifying, or otherwise affecting any of the Prior Resolutions, the Board of Trustees hereby reaffirms and incorporates into this resolution all of the contents and determinations made in the Prior Resolutions; and be it further

RESOLVED, that the Board of Trustees, having considered the facts and conclusions set forth in the EAF Part 1, the Zoning EAF Part 2, the Shared Parking Special Permit EAF Part 2, the Village Planning Board conclusion after review of the application with its consultants, that it did “not find that any of the project-related impacts will result in any potentially significant adverse environmental impacts as defined under SEQRA” in memorandum dated January 10, 2012, and all of the other oral and written comments and submissions regarding the potential environmental impacts of the Proposed Site Plan Amendment and other aspects of the Proposed Action, hereby states that granting the Proposed Site Plan Amendment consistent with the Special Permit Resolution Site Plan Requirements and implementing the other aspects of the Proposed Action will not have any potentially large impact or any significant adverse impact on the environment; and be it further

RESOLVED, that the Mayor or his designee is authorized to execute an EAF and, for the reasons set forth, to execute and file a Negative Declaration on

approval of the Proposed Site Plan Amendment consistent with the Special Permit Resolution Site Plan Requirements and on the other aspects of the Proposed Action in accordance with the applicable provisions of law.

Excavation Permit; Deposit Right of offset for completion of work

The Board had general discussion regarding the resolution and requested changes.

Upon motion by Trustee Sullivan, seconded by Trustee Pohar, the Board voted unanimously to approve the following resolution as amended:

WHEREAS, the Village of Briarcliff Manor ("Village") Department of Public Works ("DPW") issued Excavation Permit No. 3216 ("Permit") for installation of a new driveway at 107 Hickory Road in the Village ("Premises") to Yung Lee and/or Booyong Lee ("Lee") on January 3, 2008; and

WHEREAS, a Special Condition of the Permit requires that the "[o]ld driveway must be removed within the right-of-way (first 10 feet), asphalt curbing replaced and area behind to be top-soiled and seeded" ("Special Condition Work"); and

WHEREAS, Lee deposited the sum of \$1,000.00 with the Village as a guarantee in accordance with Village Code Chapter 186 ("Deposit"); and

WHEREAS, Village Code §186-9 provides that:

In the event of the failure of any person, firm, company or corporation executing the work in such excavation to restore the street, highway, sidewalk or public place in which the excavation is made, prior to the expiration of the permit issued therefor, the Village may apply such deposit, or so much thereof as may be necessary, to the cost of restoring the surface to its original condition, the balance, if any, remaining to be refunded to the applicant.

And

WHEREAS, DPW records indicate that the Permit has not been closed out; and

WHEREAS, DPW found on a recent site visit to the Premises that a portion of the old driveway still exists in the rear of the Premises adjacent to Cypress Lane; and

WHEREAS, by Certified Mail, Return Receipt Requested, dated March 6, 2012, DPW directed Lee to remove that portion of the old driveway, to replace it with topsoil and seed, to reinstall the curbing to the same height as the adjacent curbing and to complete that work by within 30 days of the date of the letter ("DPW Directive Letter"); and

WHEREAS, the DPW Directive Letter further gave notice to Lee that:

Failure to comply with this request will leave the Village no choice but to remove the driveway with Village forces, will result in the right of offset for completion of work of your \$1000.00 deposit currently held as well as you being billed for any and all expenses born the Village above and beyond the \$1000.00 Bond.

And further

WHEREAS, the Village received an executed Return Receipt for the DPW Directive Letter, undated; and

WHEREAS, DPW has reported that Lee still has not performed the Special Condition Work; and

WHEREAS, DPW has requested that the Deposit be declared ~~to be~~ subject to a right of offset for the completion of work and the amount thereof be appropriated and used by the Village to pay for the Special Condition Work;

NOW THEREFORE, BE IT RESOLVED, that the foregoing recitals are incorporated as findings herein, and the Board particularly finds that:

1. Lee has failed to perform the Special Condition Work and otherwise failed to comply with the terms of the Permit.
2. Lee has been given sufficient notice of his failure to perform the Special Condition Work and otherwise comply with the terms of the Permit and sufficient opportunity to cure his failure to perform that work and otherwise comply.
3. Lee has not cured his failure to perform the Special Condition Work and otherwise comply with the terms of the Permit.

And, be it further

RESOLVED, that DPW is authorized to perform, or cause to be performed, the Special Condition Work and any other work necessary to protect Village property under the Permit; and be it further

RESOLVED, that the Deposit, or so much of it as may be necessary, is declared ~~a right of~~ subject to offset for the completion of work and shall be applied by the Village to the cost of performing, or causing to be performed, the Special Condition Work and any other work necessary to protect Village property under the Permit, that any balance remaining thereafter shall be refunded to Lee, and that any deficiency thereafter shall be an obligation of Lee; and be it further

RESOLVED, that the Village Clerk is instructed to forward a copy of this Resolution to Lee forthwith; and be it further

| **RESOLVED**, that any action heretofore taken in furtherance of the objects of this Resolution is ratified and confirmed.

Budget Amendment – Trust & Agency Account

Upon motion by Trustee Pohar, seconded by Trustee Sullivan, the Board voted unanimously to approve the following resolution:

BE IT RESOLVED that the Board of Trustees does hereby authorize the following transfer for fiscal year 2011-2012:

From: TA 30	Guarantee & Bid Deposit	\$1,000
To: A0105.2560	Street Openings	\$1,000

Minutes

Upon motion by Trustee Sullivan, seconded by Trustee Pohar, the Board voted unanimously to approve the minutes of April 18, 2012.

Upon motion by Trustee Pohar, seconded by Trustee Sullivan, the Board voted unanimously to approve the minutes of April 24, 2012 as amended.

Adjournment

Upon motion by Trustee Sullivan, seconded by Trustee Pohar, the Board voted unanimously to schedule a work session for May 16, 2012 at 6:30pm at Village Hall in lieu of the work session scheduled for May 22, 2012.

Upon motion by Trustee Sullivan, seconded by Trustee Pohar, the Board voted unanimously to adjourn the meeting at 8:15pm.

Respectfully Submitted By,

Christine Dennett
Village Clerk