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AGENDA
DECEMBER 17, 2014
BOARD OF TRUSTEES
VILLAGE OF BRIARCLIFF MANOR, NEW YORK
REGULAR MEETING – 7:30 PM

Board of Trustees Announcements

Village Managers Report – 6 Month FY 14-15 Budget Presentation

Public Comments

1. Schedule Public Hearings
 - a) Local Law to Amend Chapter 220 of the Code of the Village of Briarcliff Manor on the Regulation of Steep Slopes
 - b) Local Law to Amend Chapter 131 of the Code of the Village of Briarcliff Manor on the Regulation of Freshwater Wetlands
2. Fire Department Memberships
3. Minutes
 - November 19, 2014
 - November 24, 2014
 - December 3, 2014

NEXT REGULAR BOARD OF TRUSTEES MEETING – JANUARY 7, 2014

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
DECEMBER 17, 2014

**1A. SCHEDULE PUBLIC HEARING: LOCAL LAW TO AMEND CHAPTER
220 OF THE CODE OF THE VILLAGE OF BRIARCLIFF MANOR ON
THE REGULATION OF STEEP SLOPES**

BE IT RESOLVED that a Public Hearing is hereby scheduled for the **January 21, 2015**, Board of Trustees meeting to hear and discuss a proposed local law to amend Chapter 220 Zoning of the Code of the Village of Briarcliff Manor the Regulation of Steep Slopes; and be it

RESOLVED FURTHER that the proposed local law to amend Chapter 220 Zoning of the Code of the Village of Briarcliff Manor the Regulation of Steep Slopes is hereby directed to the Village Planning Board and to the Westchester County Planning Board for review and recommendation and to the Town of Ossining, Town of Mount Pleasant, and Village of Ossining for review and comment as they see fit.

PUBLIC HEARING DRAFT
Ch. 220 - Regulation of Steep Slopes
{00578363.DOC.}

LOCAL LAW TO AMEND CHAPTER
220 OF THE CODE OF THE VILLAGE
OF BRIARCLIFF MANOR ON THE
REGULATION OF STEEP SLOPES

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

1. Section 220-15 of the Code of the Village of Briarcliff Manor, entitled "Protection of natural resources" is hereby amended by deleting it in its entirety and replacing it with the following:

§ 220-15. Protection of Steep Slopes.

Notwithstanding other provisions of this chapter, all development regulated by this chapter shall be subject to the provisions of this section, which provisions are designed to protect and enhance the integrity of land proposed for development containing steep slopes in the Village of Briarcliff Manor. The Village Board of the Village of Briarcliff Manor finds and declares it to be the public policy of the Village to preserve, protect and conserve its steep slopes so as to maintain and protect the natural terrain and its vegetative features, protect wetlands, water bodies and watercourses, prevent flooding, provide safe building sites and protect adjoining property by preventing surface erosion and sudden slope failure. The establishment of regulatory and conservation practices to prevent adverse disturbance of steep slopes is considered to be in the best interest of the public health and welfare to achieve the above stated goals. To these ends the following standards and provisions are set forth.

- A. Steep slopes. Steep slopes are defined as any geographical area proposed for disturbance, whether on a single lot or not, having an area of ten thousand square feet (10,000 sf) or greater with a topographical gradient of 15% or greater (ratio of vertical distance to horizontal distance), with a minimum horizontal dimension of 10 feet. Notwithstanding the foregoing sentence, steep slopes shall not be subject to these regulations if determined by the Planning Board that; (i) the steep slope is entirely within the subject parcel(s) and the impacts from the proposed disturbance of same do not impact any other parcel of property in the Village or can be addressed wholly within the parcel on which such steep slopes are located, or (ii) the steep slopes are part of a system of steep slopes that extend beyond the boundaries of the subject parcel(s) and it can be demonstrated there are no impacts of disturbance of the steep slope beyond the subject parcel.

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B. Applicability.

- (1) Regulated activities. It shall be unlawful to create a new steep slope area or to create any disturbance, other than an exempt activity as defined in §220-15.A.(2) hereof, on any existing or proposed steep slope in the absence of a steep slope approval issued by the Planning Board.
- (2) Exempt activities. The following activities on steep slopes do not require the issuance of a steep slopes approval:
 - (a) Normal ground maintenance, including moving, trimming of vegetation and removal of dead or diseased vegetation, selective trimming and pruning in previously landscaped areas and decorative planting, provided that such activity does not involve re-grading and further provided that such activity conforms with all other applicable ordinances, laws and regulations.
 - (b) The disturbance to steep slopes under temporary emergency conditions, as determined by the Village Engineer, where such disturbance is necessary to protect persons or property from present and imminent danger.

C. Steep slopes map. The Westchester County Geographic Information Systems, "Municipal Tax Parcel Viewer" map illustrating area with slopes of 15-25% and over 25%, is hereby adopted as part of the Village's Zoning Chapter and shall hereinafter be used for reference in the determination of slopes. Said map shall hereinafter be called "The Village of Briarcliff Manor Slopes Map." Further, any applicant, at the applicant's discretion, shall be permitted to prepare a "Site-Specific Steep Slopes Map" prepared by a licensed professional engineer or land surveyor in accordance with §220-15.D. The site-specific steep slopes map shall be the prevailing map, if such map is prepared.

D. Limitations.

- (1) Slopes 25% or more. No land shown on either the Village of Briarcliff Manor Slopes Map or a "Site-Specific Steep Slopes Map" shown as having slopes of 25% or more shall be developed or in any way physically modified, except when in the opinion of the Planning Board, said development or modification is deemed necessary for access, land or natural terrain preservation or enhancement, or some other necessary purpose. These steep lands may be used as or may comprise a portion of development areas so long as such development areas have sufficient "nonsteep" space for the particular type of development proposed and in accordance with the requirements of this chapter.

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- (2) Slopes 15% to 25%. No land shown on either the Village of Briarcliff Manor Slopes Map or a "Site-Specific Steep Slopes Map" shown as having slopes of 15% to 25% shall be developed or in any way physically modified, except when, in the opinion of the Planning Board, said land may be used for a use permitted within the zoning district within which it is located, without creating an adverse impact on the natural terrain ("natural resources" is not defined herein and above in "Protection of Steep Slopes" the term "natural terrain" is used.)of the Village of Briarcliff Manor, including but not limited to land erosion and flooding. In the review and approval procedures established in this chapter the Planning Board is further empowered to mandate development techniques which in its opinion may preserve the steep slopes.
- E. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 184, Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any natural resources or steep slope approval that qualifies as or authorizes a land development activity as defined in Chapter 184, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 184, Article I. The approved steep slope approval shall be consistent with the provisions of Chapter 184, Article I.
- F. Artificial Steep Slopes: The Planning Board at its sole discretion may make exceptions for manmade or artificially created slopes. Artificially Steep Slopes shall be defined as a mound, berm, graded area or other similar feature containing slopes greater than 15%.and located on a single parcel or across several contiguous parcels, whether permanent or temporary.
- G. Permits. Applications for permits to conduct any regulated activities under this chapter shall be submitted in duplicate to the Village Engineer for approval or for referral to the Planning Board and shall include the following information:
- (1) Name and address of applicant or applicant's agent, if any, and whether applicant is owner, lessee, licensee, etc. If applicant is not owner of record, the written consent of the owner must be attached.
 - (2) Statement of the specific purpose, nature and scope of the activity proposed.
 - (3) Any topographical and perimeter surveys, hydrological computations, engineering studies and other factual or scientific data and reports as deemed necessary by the approving authority (Planning Board or Village Engineer) to permit it to arrive at a proper determination.

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H. After a permit shall have been granted by the Planning Board, and as a condition for the issuance thereof, the applicant shall pay a fee as shall be set forth by resolution of the Village Board of Trustees in the Master Fee Schedule, which may be amended, to said Board.

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

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

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
DECEMBER 17, 2014

**1B. SCHEDULE PUBLIC HEARING: LOCAL LAW TO AMEND CHAPTER
131 OF THE CODE OF THE VILLAGE OF BRIARCLIFF MANOR ON
THE REGULATION OF FRESHWATER WETLANDS**

BE IT RESOLVED that a Public Hearing is hereby scheduled for the January 21, 2015, Board of Trustees meeting to hear and discuss a proposed local law to amend Chapter 131 of the Code of the Village of Briarcliff Manor the Regulation of Freshwater Wetlands; and be it

RESOLVED FURTHER that the proposed local law to amend Chapter 131 Zoning of the Code of the Village of Briarcliff Manor the Regulation of Freshwater Wetlands is hereby directed to the Village Planning Board and to the Westchester County Planning Board for review and recommendation and to the Town of Ossining, Town of Mount Pleasant, and Village of Ossining for review and comment as they see fit.

PUBLIC HEARING DRAFT
Ch. 131 – Regulation of Freshwater Wetlands
{00578378.DOC.}

LOCAL LAW TO AMEND
CHAPTER 131 OF THE CODE OF
THE VILLAGE OF BRIARCLIFF
MANOR ON THE REGULATION
OF FRESHWATER WETLANDS

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

1. Chapter 131 of the Code of the Village of Briarcliff Manor, entitled “Freshwater Wetlands” is hereby amended by deleting it in its entirety and replacing it with the following:

“§ 131-1. Short title.

This chapter shall be known as the "Freshwater Wetlands Protection Law of the Village of Briarcliff Manor."

§ 131-2. Declaration of policy.

It is declared to be the public policy of Village of Briarcliff Manor to preserve, protect and conserve freshwater wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of freshwater wetlands, and to regulate the development of such wetlands in order to secure the natural benefits of freshwater wetlands, consistent with the general welfare and beneficial economic, social and agricultural development of the Village. It is further declared to be the policy of the Village of Briarcliff Manor to exercise its authority pursuant to Article 24 of the State Environmental Conservation Law as such law may from time to time be amended.

§ 131-3. Statement of findings.

- A. The freshwater wetlands located in the Village of Briarcliff Manor are invaluable resources for flood protection, wildlife habitat, open space and water resources.
- B. Freshwater wetlands in the Village has been lost, despoiled or impaired by draining, dredging, filling, excavating, building, pollution or other acts inconsistent with the natural uses of such areas. Remaining freshwater should be regulated to preserve their value to the Village.
- C. Recurrent flooding aggravated or caused by the loss of freshwater wetlands has serious effects upon natural ecosystems.
- D. Freshwater wetlands conservation is a matter of Village concern.

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- E. Any loss of freshwater wetlands deprives the people of the Village of Briarcliff Manor of the many and multiple benefits to be derived from wetlands, to wit:
- (1) Flood and storm control by the hydrologic absorption and storage capacity of freshwater wetlands;
 - (2) Wildlife habitat by providing breeding, nesting and feeding grounds and cover for many forms of wildlife, wildfowl and shorebirds, including migratory wildfowl rare species;
 - (3) Protection of subsurface water resources and provision for valuable watersheds and recharging ground water supplies;
 - (4) Recreation by providing areas for, fishing, boating, hiking, bird watching, photography, camping and other uses;
 - (5) Pollution treatment by serving as biological and chemical oxidation basins;
 - (6) Erosion control by serving as sedimentation areas and filtering basins, absorbing silt and organic matter and protecting channels and harbors;
 - (7) Education and scientific research by providing readily accessible outdoor biophysical laboratories, living classrooms and training and education resources;
 - (8) Open space and aesthetic appreciation; and
 - (9) Sources of nutrients in freshwater food cycles and nursery grounds and sanctuaries for freshwater fish.

§ 131-4. Definitions.

The following terms, phrases, words and their derivatives shall have the meaning given herein:

ADJACENT AREA

Any land in the Village of Briarcliff Manor immediately adjacent to a freshwater wetland lying within 100 feet measured horizontally from the boundary of a freshwater wetland.

APPLICANT

Any person or authorized agent who files an application for any permit issued pursuant to this chapter, and includes the agent of the owner or a contract vendee.

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BOARD

The Freshwater Wetlands Appeals Board established by Article 24 of the State Environmental Conservation Law.

BOUNDARIES OF A FRESHWATER WETLAND

The outer limit of the vegetation specified in Subsections A and B of the definition of "freshwater wetlands." **CONSERVATION ADVISORY COUNCIL**

The Conservation Advisory Council of the Village of Briarcliff Manor.

FRESHWATER WETLANDS

A. Any lands and waters lying within the boundaries of the Village of Briarcliff Manor including any natural water body or watercourse such as a pond, reservoir, lake, stream or brook containing any or all of the following criteria, together with any lands and waters as shown on the Freshwater Wetlands Map and also containing any or all of the following criteria:

- (1) Lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semiaquatic vegetation of the following vegetative types:
 - (a) Wetland trees, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other trees; including, among others, red maple (*Acer rubrum*), willows (*Salix* spp.), black spruce (*Picea mariana*) swamp white oak (*Quercus bicolor*), red ash (*Fraxinus pennsylvanica*), American elm (*Ulmus americana*), and larch (*Larix laricina*);
 - (b) Wetland shrubs, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other shrubs; including, among others, alder (*Alnus* spp.), buttonbush (*Cephalanthus occidentalis*), bog rosemary (*Andromeda glaucophylla*), and leatherleaf (*Chamaedaphne calyculata*);
 - (c) Emergent vegetation, including, among others, cattails (*Typha* spp.), pickerelweed (*Pontederia cordata*), bulrushes (*Scirpus* spp.), arrow-arum (*Peltandra virginica*), arrowheads (*Sagittaria* spp.), reed (*Phragmites communis*), wildrice (*Zizania aquatica*), bur-reeds (*Sparganium* spp.), purple loosestrife (*Lythrum salicaria*), swamp loosestrife (*Decodon verticillatus*), and water plantain (*Alisma plantago-aquatica*);

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- (d) Rooted, floating-leaved vegetation; including, among others, water-lily (*Nymphaea odorata*), watershield (*Brasenia Schreberi*), and spatterdock (*Nuphar* spp.);
 - (e) Free-floating vegetation; including, among others, duckweed (*Lemna* spp.), big duckweed (*Spirodela polyrhiza*), and watermeal (*Wolffia* spp.);
 - (f) Wet meadow vegetation, which depends upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other open land vegetation; including, among others, sedges (*Carex* spp.), rushes (*Juncus* spp.), cattails (*Typha* spp.), rice cut-grass (*Leersia oryzoides*), reed canary grass (*Phalaris arundinacea*), swamp loosestrife (*Decodon verticillatus*), and spikerush (*Eleocharis* spp.);
 - (g) Bog mat vegetation; including among others, sphagnum mosses (*Sphagnum* spp.), bog rosemary (*Andromeda glaucophylla*), leatherleaf (*Chamaedaphne calyculata*), pitcher plant (*Sarracenia purpurea*), and cranberries (*Vaccinium macrocarpon* and *V. oxycoccus*);
 - (h) Submergent vegetation; including, among others, pondweeds (*Potamogeton* spp.), naiads (*Najas* spp.), bladderworts (*Utricularia* spp.), wild celery (*Vallisneria americana*), coontail (*Ceratophyllum demersum*), water milfoils (*Myriophyllum* spp.), muskgrass (*Chara* spp.), stonewort (*Nitella* spp.), waterweeds (*Elodea* spp.), and water smartweed (*Polygonum amphibium*);
- B. “Manmade or created freshwater wetlands” with a surface area less than four thousand square feet (4,000 sf) at overflow level are exempt from the provisions of this chapter with the exception of freshwater wetlands created as compensation or mitigation as a result of disturbance to an existing wetland or adjacent area.

FRESHWATER WETLANDS MAP

A map on which are indicated the boundaries of any freshwater wetland and which has been filed with the Clerk of the Village of Briarcliff Manor by the State Department of Environmental Conservation pursuant to § 24-0301 of the State Environmental Conservation Law as such law may from time to time be amended.

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LOCAL GOVERNMENT

A city, county, town or village.

MANMADE OR CREATED FRESHWATER WETLANDS

Aquatic areas for which no existing permit or approval is on file with the Village, or which are not shown on an approved site plan or subdivision plat or on a survey or map 20 years old or less and having one or more of the following characteristics:

- A. Artificially irrigated areas that would revert to upland should irrigation cease;
- B. Artificial lakes or ponds created by excavating and/or diking dry land;
- C. Artificial reflecting pools or swimming pools created by excavating and/or diking dry land;
- D. Ornamental waters created by excavating and/or diking dry land for primarily aesthetic reasons;
- E. Water-filled depressions created incidental to construction activity and;
- F. Groundwater drained through subsurface drainage systems and Erosional features (gullies and rills), and swales and ditches that are not tributaries or wetlands.

PARTY IN INTEREST

The applicant, the Planning Board, the State Department of Environmental Conservation, each local government in which the regulated activity or any part thereof is located, and any person who appears and wishes to be a party in interest at the public hearing held pursuant to § 131-7 of this chapter.

PERSON

Any corporation, firm, partnership, association, trust, estate, one or more individuals, and any unit of government or agency or subdivision thereof.

PLANNING BOARD

The Planning Board of the Village of Briarcliff Manor.

POLLUTION

The presence in the environment of human-induced conditions or contaminants in quantities or characteristics which are or may be injurious to humans, plants, animals or property.

PROJECT

Any action which may result in direct or indirect physical impact on a freshwater wetland, including but not limited to, any regulated activity.

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REGULATED ACTIVITY

Any form of draining, dredging, excavation, removal of soil, mud, sand, shells, gravel or other aggregate from any freshwater wetland including adjacent area, either directly or indirectly; any form of dumping, filling, or depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind either directly or indirectly; erecting any structures or roads, the driving of pilings, or placing of any other obstructions whether or not changing the ebb and flow of the water; any form of pollution, including but not limited to, installing a septic tank, running a sewer outfall, discharging sewage treatment effluent or other liquid wastes directly into or so as to drain into a freshwater wetland; that portion of any subdivision of land that involves any land in any freshwater wetland or adjacent area; and any other activity which substantially impairs any of the several functions served by freshwater wetlands or the benefits derived therefrom which are set forth in § 131-3 of this chapter.

SELECTIVE CUTTING

The annual or periodic removal of trees, individually or in small groups, in order to realize the yield and establish a new crop and to improve the forest, which removal does not involve the total elimination of one or more particular species of trees.

STATE

The State of New York.

STATE AGENCY

Any state department, bureau, commission, board or other agency, public authority or public benefit corporation.

STORM WATER MANAGEMENT

Retention or detention areas/ponds constructed as part of an overall plan to control runoff and erosion control and retain stormwater that are not designed as a wetlands. These are exempt from Freshwater Wetlands Regulation and shall be regulated under Village Code Chapter 184-Stormwater Management.

VILLAGE

The Village of Briarcliff Manor, New York.

VILLAGE ENGINEER

The Village Engineer of the Village of Briarcliff Manor.

§ 131-5. Prohibited activities.

Except as provided in § 131-6 of this chapter, the following activities shall be prohibited and unlawful to construct or permit to be constructed any building or structure of any kind in or upon a wetland or an adjacent area within fifty feet (50') measured from the boundary of a freshwater wetland.

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§ 131-6. Permitted activities.

- A. Activities permitted by right. The following regulated activities are permitted, by right, in or upon a freshwater wetland or an adjacent area thereto, except where the Planning Board submits written notification to the property owner that it is assuming jurisdiction over the activity for the purpose of assuring that the intent of this chapter is not violated:
- (1) Outdoor recreation, including play and sporting areas; field trails for nature study, hiking or horseback riding; and swimming, skin diving, boating, trapping, or fishing where otherwise legally permitted.
 - (2) Maintenance of lawns, grazing, farming, gardening and harvesting of crops where otherwise legally permitted, except for use of chemicals as provided for in § 131-6B(1)(e).
 - (3) The activities of farmers and other land owners in grazing and watering livestock, making reasonable use of water resources, harvesting natural products of wetlands or adjacent areas, selective cutting of timber, draining land or wetlands for growing agricultural products. Each farmer or other landowner who intends to conduct an otherwise regulated activity under this exemption shall notify the Planning Board prior to the activity of his or her intention to engage in such activity stating the methods to be used and the uses to be made of the land. Such notice shall also include the approximate acreage to be affected, the type and location of the activity. Provided, however, that the filing of a soil and water conservation plan prepared by a Soil and Water Conservation District shall satisfy this notification requirement.
 - (4) Operation and maintenance of such dams, retaining walls, terraces, sluices, culverts or other water control structures or devices as were in existence on the effective date of this chapter, or are hereafter approved pursuant to the procedures provided for in this chapter.
 - (5) Incidental removal of brush and trees which would result in no appreciable affect upon the runoff or drainage into any river, wetland, water body or watercourse.
 - (6) Public health activities, orders and regulations of the (State Department of Health, County Department of Health, City Department of Health or other, as applicable) undertaken in compliance with § 24-0701, Subdivision 5, of the State Environmental Conservation Law.

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- (7) Activities subject to the review jurisdiction of the State Public Service Commission or the New York State Board on Electric Generation Siting and the Environment under Article VII or Article VIII of the State Public Service Law, respectively. The standards and restrictions of this chapter will be applied by said bodies in determining whether to issue a certificate of environmental compatibility and public need under such articles.
 - (8) The deposition or removal of the natural products of freshwater wetlands and adjacent areas by recreational or commercial fishing, shellfishing, agriculture, or trapping, where otherwise legally permitted and regulated.
 - (9) To construct or permit to be constructed any building, structure or regulated activity without a permit within an adjacent area fifty feet (50') to one hundred feet (100') from the boundary of a freshwater wetlands.
 - (10) Restoring land elevations that have been altered by erosion or storm damage.
- B. Activities requiring Engineer approval.
- (1) The following regulated activities are permitted in or upon a freshwater wetlands or an adjacent area only if conducted after application to and pursuant to terms and conditions approved and permit issued by the Village Engineer, except that Village Engineer approval shall not be required where the activity is conducted pursuant to terms and conditions of an application approved by the Planning Board.
 - (a) Removing water-deposited silt, sand or other to restore the preexisting land elevations, provided the total quantity removed does not exceed 25 cubic yards of material.
 - (b) The construction, expansion or improvement of private recreation facilities, as otherwise legally permitted, provided the amount of material deposited, removed or re-graded does not exceed fifty cubic yards (50cy).
 - (c) The construction of driveways where alternative means of access are proven to be impractical provided the amount of material to be

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deposited or re-graded in connection with such construction does not exceed 100 cubic yards and there is no restriction of flood flows unless access location has been established as part of a Planning Board application.

- (d) The use of chemicals, dyes, fertilizers, herbicides or other similar materials provided that approval shall be given only after consultation with or pursuant to the guidelines of the NYSDEC.
- (e) Any activity requiring Planning Board approval by the terms of this chapter which the Planning Board refers to the Village Engineer for disposition.

- (2) No well, regardless of its proximity to a freshwater wetland shall be drilled without receiving the approval of the Village Engineer as to its location.

C. Activities requiring Planning Board Approval.

- (1) The following regulated activities are permitted in or upon a freshwater wetland or an adjacent area only after application to, approval by and subject to the terms and conditions and mitigation specified by the Planning Board as a part of a subdivision application, a site development plan application, or an application for permit submitted pursuant to the procedure set forth in § 131-6 of this chapter. Such Planning Board approval, terms and conditions are to be given and imposed so as to enhance or cause the least possible damage, encroachment or interference with the natural resources or functions of the freshwater wetlands and consistent with the purposes of this chapter.
 - (a) Any activity listed in § 131-6B but involving a scale of operation beyond that which is approvable by the Village Engineer.
 - (b) Any activity normally permitted by right or normally requiring Village Engineer approval as set forth in § 131-6A and B where the Planning Board notifies the property owner in writing of the Board's intent to assume jurisdiction in furtherance of the purposes of this chapter.
 - (c) The construction of roads, where alternative means of access are proven to be impractical, provided they do not impede flood flows.

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- (d) The construction of municipal or utility uses as water supply facilities, park and recreation facilities, sewage treatment facilities or other installations which involve any alteration of existing natural conditions.
- (e) Construction of utility lines.
- (2) Regardless of the proximity of the land involved to any freshwater wetlands, all proposed destruction of trees and other plant life other than that referred to in § 131-6A(3) and (5) shall be subject to review and approval by the Planning Board to prevent substantial alteration of runoff conditions.
- (3) The construction of any building(s) or structure(s) within an adjacent area that is beyond the first 50 feet as measured from the boundary of a freshwater wetland.

§ 131-7. Permits.

- A. Applications. Applications for permits to conduct any regulated activities under § 131-6B or C shall be submitted in duplicate to the Village Engineer for approval or for referral to the Planning Board and shall include the following information:
 - (1) Name and address of applicant or applicant's agent, if any, and whether applicant is owner, lessee, licensee, etc. If applicant is not owner of record, the written consent of the owner must be attached.
 - (2) Statement of the specific purpose, nature and scope of the activity proposed.
 - (3) Any topographical and perimeter surveys, hydrological computations, engineering studies and other factual or scientific data and reports as deemed reasonably necessary by the approving authority (Planning Board or Village Engineer) to permit it to arrive at a proper determination.
 - (4) Applications affecting water retention capability, water flow or other drainage characteristics of any wetland, water body or watercourse shall include a statement of the area of upstream and downstream watersheds, impact analysis and information as to rainfall intensity in the vicinity for not less than ten-year return frequency, together with approximate runoff coefficients to determine the capacity and size of any channel sections, pipes or waterway openings together with plans for necessary bridges, culverts, stormwater or pipe drains that, in the opinion of the approving authority, are needed to arrive at a proper determination on the application, consistent with the purposes of this chapter.
 - (5) A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 184, Article I, Stormwater Management and Erosion

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and Sediment Control, shall be required for any wetlands permit approval that qualifies as or authorizes a land development activity as defined in Chapter 184, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 184, Article I. The approved wetlands permit shall be consistent with the provisions of Chapter 184, Article I.

- B. Referral to Conservation Advisory Council. The Planning Board or Village Engineer may refer any application submitted pursuant to this chapter to the Conservation Advisory Council for review and report. The Conservation Advisory Council shall report back to the Planning Board or to the Village Engineer as the case may be, within 30 days of the date of referral or within such other period as may be specified by the Planning Board at the time of referral. Failure to reply within the specified time period may be interpreted by the Planning Board (or Village Engineer) as indicating no objection to the application.
- C. Public hearings and time periods.
- (1) The time period for consideration of, and requirements for public hearings to be conducted in connection with, any application for permission to carry on any regulated activity under § 131-6B and C of this chapter which is made in conjunction with a subdivision application or site development plan application shall be the same as the time period for consideration of, and requirements for public hearing of the subdivision, or site development plan application with which it is associated, provided that such public hearing shall be held no later than 60 days after the Planning Board meeting at which a completed application is received by the Planning Board.
 - (2) The Planning Board shall advertise and conduct a public hearing on any application for approval of a regulated activity submitted pursuant to this chapter which is not associated with a subdivision or site development plan application. Within 60 days of the date of the Planning Board meeting at which a completed application made pursuant to § 131-7A is received by the Planning Board, or within 45 days of the date of any public hearing which may be conducted on said application, whichever period is shorter, the Planning Board shall render a decision to approve, approve with modifications, or disapprove the issuance of a permit for the proposed activity.
- D. Conditions and time limit. In approving any application submitted pursuant to the requirements of this chapter the approving authority may impose such conditions on the proposed activity as it determines necessary to ensure compliance with the intent of this chapter. The approving authority may fix a reasonable time within which any operations must be completed and may also require the filing with the Village Board of cash or surety company performance bond in such amount and form as determined necessary by

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the approving authority to ensure compliance with the approved permit. Any decision to grant, deny, place conditions upon, require a bond for, revoke or suspend any permit must be supported by written findings and reasons.

- E. Disposition by Village Engineer. The Planning Board, at its discretion, may waive its power of review and approval in cases where the Board determines that the proposed nature or scope of activity is such that the application should be handled administratively by the Village Engineer. In such cases, the Board shall direct the Village Engineer to decide the matter in accordance with the normal administrative procedures for applications submitted pursuant to the requirements of § 131-6B of this chapter.

§ 131-8. Planning Board Authority.

- A. The Planning Board is hereby authorized to vary the strict application of the provisions of § 131-6 and to review, upon request of the applicant, the determinations made by the Village Engineer under § 131-6B, where the Planning Board finds there are special circumstances or conditions applying to the land or activity for which approval is sought or the circumstances or conditions are such that strict application of the provisions of this chapter could reasonably be waived or varied and still maintain the purpose of this chapter, or would create a hardship; provided, however, that any such approval which is not in strict compliance with the provisions of this chapter, shall be the minimum variance from the chapter that will accomplish the object of the activity involved and shall be in harmony with the general purpose and intent of this chapter as set forth in §§ 131-1 and 131-2 and any land use regulations as may be applicable pursuant to § 24-0903 of the State Environmental Conservation Law.
- B. A duly filed notice in writing to the Planning Board that the State of New York or any agency or subdivision thereof is in the process of acquiring any affected freshwater wetland by condemnation or negotiation shall be sufficient basis for denying a permit for an activity proposed to be located on such wetland or adjacent area thereto.
- C. The Planning Board, , may with the approval of the Board of Trustees, issue such guidelines as it deems appropriate for the use of the Village Engineer and the Planning Board in carrying out their responsibilities under § 131-6B and C of this chapter.

§ 131-9. RESERVED.

§ 131-10. RESERVED. (This entire section is deleted from Section 131. Section 127-Flood Damage Protection of the Village Code covers this item).

§ 131-11. Fees.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). After a permit shall have been granted by the Planning Board or the Village Engineer, as the case may be, and as a condition for the issuance thereof, the applicant shall pay a fee as shall be set forth

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by resolution of the Village Board of Trustees in the Master Fee Schedule, which may be amended, to said Board. No fee shall be required for permits issued by the Village Engineer in accordance with the requirements of this chapter.

§ 131-12. Suspension or revocation of permits.

- A. The Planning Board or Village Engineer may suspend or revoke a permit issued pursuant to this chapter where it finds that the permittee has not complied with any or all terms of such permit, has exceeded the authority granted in the permit, or has failed to undertake the project in the manner set forth in the application.
- B. The Planning Board or Village Engineer shall set forth in writing in the file it keeps regarding a permit application its findings and reasons for revoking or suspending a permit pursuant to this section.

§ 131-13. Penalties for offenses.

- A. Any person who undertakes any regulated activity within a wetlands or wetlands buffer without a permit or who violates, disobeys or disregards any provision of this chapter shall be liable for a civil penalty not to exceed \$3,000 for every such violation. Each consecutive day of the violation will be considered a separate offense. Before assessment of the civil penalty, the alleged violator shall be afforded a hearing or opportunity to be heard before the Planning Board upon due notice and with rights to specification of the charges and representation by counsel. Such civil penalty may be recovered in an action brought by the Village in any court of competent jurisdiction. Such civil penalty may be released or compromised by the Village, and any action commenced to recover the same may be settled and discontinued by the Village.
- B. The Planning Board shall also have the power, following a hearing, to direct a violator to cease violation of this chapter and, under the Board's supervision, to restore satisfactorily the affected freshwater wetlands or watercourse to its condition prior to the violation, insofar as that is possible, within a reasonable time. Exercising of such power may be with or without the imposition of a fine or civil penalty under Subsections A and D hereof.
- C. Any civil penalty or order issued by the Planning Board shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules within 30 days of the filing of the decision in the office of the Village Clerk of the Village of Briarcliff Manor.
- D. In addition to the above civil penalty, any person who violates any provision of this chapter shall be guilty of a violation punishable by a fine of not less than \$500 nor more than \$1,000. For a second and each subsequent offense, the violator shall be guilty of a violation punishable by a fine of not less than \$1,000 nor more than \$2,000 or a term of imprisonment of not more than 15 days, or both. Each offense shall be a separate and distinct offense and, in the case of a continuing offense, each day's continuance thereof

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shall be deemed a separate and distinct offense. In addition to these punishments, any offender may be punishable by being ordered by the court to restore the affected freshwater wetlands to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Wetlands Inspector.

- E. The Village shall have the right to seek equitable relief to restrain any violation or threatened violation of any provision of this chapter and to compel the restoration of the affected wetlands or wetlands buffer to its condition prior to the violation of the provisions of this chapter.
- F. The Village Engineer and Building Inspectors are hereby authorized to issue appearance tickets and summonses for violations of this chapter.

§ 131-16. Repealer.

Local Law No. 1-1973, enacted February 8, 1973, is hereby repealed.”

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

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

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
DECEMBER 17, 2014

2. FIRE DEPARTMENT MEMBERSHIP

BE IT RESOLVED, that the Board of Trustees of the Village of Briarcliff Manor hereby approves the under 18 membership of **Peter J. Gaperini** to the Briarcliff Manor Hook and Ladder Company.

BE IT RESOLVED, that the Board of Trustees of the Village of Briarcliff Manor hereby approves the under 18 membership of **Joshua N. Papsen** to the Briarcliff Manor Hook and Ladder Company.

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 19th of November, 2014 commencing at 7:30 p.m.

Present

William J. Vescio, Mayor
Lori A. Sullivan, Deputy Mayor
Cesare DeRose, Jr.
Mark Pohar, Trustee
Mark L. Wilson, Trustee

Also Present

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

Village Managers Report by Village Manager Zegarelli

- Potassium Iodide pills are available at Village Hall.
- Village road paving has been completed.
- The Round Hill Road Project is nearing completion and the water customers should be converted back to the regular system shortly.
- Repairs are being done at the pump station.
- Leaf pickup continues
- The second half of Village taxes are due in December by the 31st
- The Community Bonfire and Sing-a-long is on December 7th.

Public Comments

There were no public comments.

Authorize Village Manager to Execute Agreements

Transfer of Organic Waste for Refuse Disposal

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

BE IT RESOLVED that the Village Manager is hereby authorized and directed to execute an Intermunicipal Agreement with Westchester County for transfer of organic waste for refuse disposal.

Assignment Agreement with Briarcliff Manor Investors (“BMI”)

The Board had general discussion regarding the Public Purpose Project and amended the resolution.

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

BE IT RESOLVED, that the Village of Briarcliff Manor Board of Trustees does hereby authorize the Village Manager to negotiate an Assignment of Contract with Briarcliff Manor Investors, LLC (“BMI”), a Delaware limited liability company at 707 Skokie Boulevard, Suite 340, Northbrook, Illinois 60062 for the Village to take assignment of the contract for the Water-Shed Booster Pump component of the Village’s Public Purpose Infrastructure Improvement Project, which component was bid by BMI under a Pump Station Design Build Request Bid and awarded through BMI’s general contractor Andron Construction Corporation to Engineered Fluid, Inc. (EFI), as more particularly described in the purchase order of EFI dated August 2, 2012, a copy of which is annexed to the Assignment of Contract and to negotiate such modifications and revisions to the contract and purchase order as may be in the Village’s interest.

License Agreement with Briarcliff Manor Investors (“BMI”)

Mayor Vescio asked Village Attorney Smith to explain the context and purpose of the proposed license agreement.

Village Attorney Smith briefly reviewed the Village’s Public Purpose Infrastructure Improvements Project for installation of water and sewer mains and other utility improvements through property owned by BMI. As noted at the Board of Trustees last meeting, that work was to be done by BMI, but because of the current utilities deterioration conditions, the Village had decided to proceed with the work on its own and had noticed a public hearing to consider the eminent domain acquisition of easements and rights in BMI’s property necessary to do the work for November 24, 2014. BMI had agreed to give the Village the necessary rights and easements voluntarily in connection with an application to amend its Special Permit, and a public hearing on BMI’s application also has been noticed for November 24, 2014, but the Village must consider BMI’s application on its own merits and has commenced the eminent domain proceeding to run parallel with consideration of BMI’s application to ensure that the Village will be able to proceed with the work regardless of whether or not the Board of Trustees amends BMI’s Special Permit. At the same time, BMI is aware of the Village’s needs and is working constructively with the Village and has offered this License Agreement to give the Village current rights which will enable it to begin work for the Public Purpose Infrastructure Improvements Project and bridge the time gap between today and the Village’s acquisition of permanent easements and rights in BMI’s property, either by BMI’s voluntary grant or by the Village’s eminent domain acquisition.

Mayor Vescio stated the Village was working towards the same goal with BMI but couldn't guarantee what would happen on BMI's application, and the public hearings represented parallel courses that would have the same end result for the Village's work.

Upon motion by Trustee DeRose, seconded by Trustee Wilson, the Board voted unanimously to approve the following resolution:

BE IT RESOLVED, that the Village of Briarcliff Manor Board of Trustees does hereby authorize the Village Manager to execute a License Agreement with Briarcliff Manor Investors, LLC ("BMI"), a Delaware limited liability company at 707 Skokie Boulevard, Suite 340, Northbrook, Illinois 60062 to provide the Village with a temporary right of access to BMI's property identified as Section 98.13, Block 1, Lots 13, 14,15,and19 and Section 98.09, Block 1, Lot 29 for the purpose of installing and constructing the water main facilities and sanitary sewer facilities as part of the Village Public Purpose Infrastructure Improvements Project, and

BE IT FURTHER RESOLVED, that the Village Manager is further authorized to make or accept any change to the License Agreement so long as the change is not material and adverse to the Village's interests and is acceptable to Village Counsel and Village Engineer in form and substance.

Adoption of Fixed Asset Policy

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

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

Village of Briarcliff Manor Fixed Asset Policy

Policy Statement:

The purpose of this policy is to provide guidelines for the physical inventory and reporting controls of Village of Briarcliff Manor (VBM) assets. These assets include, but not limited to, accounting of the assets; meeting financial reporting needs; asset management records keeping; and, where appropriate, the disposal of VBM assets to maximize value for aged, obsolete and/or distressed assets no longer necessary for the operational needs of the VBM.

Policy Purpose:

The intent of this policy is to describe and formulate standard policies required for recording new and existing assets; changes in assets; methodology of record keeping; and, the disposal of assets when the VBM so determines. In addition, this policy is intended to provide a sequence of events for VBM personnel in the safeguarding, accounting for and disposing of VBM assets. New York State Law and VBM accounting standards require that the VBM accurately record and

account for capital assets on a routine basis. Because each VBM Department holds and/or is responsible for the use of capital equipment or other such VBM-owned property, this policy outlines the roles and responsibilities in regards to VBM's overall capital assets.

Responsible Party:

The Village Treasurer (and Finance Department) shall be the designated responsible party to implement and maintain the Fixed Asset Policy. The Treasurer shall report all findings to the Village Manager and coordinate with the Village Clerk in the documentation of new and disposal of obsolete or excess equipment as so determined by the Board of Trustees (BOT).

Physical Asset Reporting Threshold:

For purposes of this policy, the asset reporting threshold shall be set as the gross cost at the time of acquisition: now established as **\$1,500.00**. However, in the case of volumes of like-types of materials, consumables and/or the storage of like physical assets under the individual **\$1,500.00** purchase threshold, those inventories shall be considered on an aggregate basis and reported as such. Examples of this nature are the aggregate of share fire hydrants, water and sewer pipes etc. Notwithstanding common rates of depreciation, "wear and tear" and/or useful life or obsolescence, purchase price (including consolidation of parts or equipment enhancements) shall prevail. However, such items as bulk "fire hose" and firefighter clothing are to be reported as a lump sum fiscal year expense but inventoried as to useful life and/or obsolesce. The VBM utilizes straight-line annual depreciation on capital assets.

Physical Inventory of Equipment:

As provided for by a New York State fixed asset control reporting, department heads are to provide a listing of all reportable property by department responsibility and/or area purchased each fiscal year. The acquisition and payment thereafter shall be designated a Fixed Asset (FA) when entered into VBM's financial software. Each department head is to provide the information to the Treasurer who will coordinate the reporting and documentation of all physical inventories. The Initial Effective Date of this policy shall be as of December 1, 2014. Thereafter on the anniversary date, a review of all physical inventories shall be made and reported to the Treasurer. All new purchases and aggregate increases in like inventories shall be recorded at the time of acquisition to ensure that all assets are verified and recorded on the VBM's physical inventories listing. The purpose of this physical inventory is to verify the existence and useful life of the equipment (individually by unit purchase or in the aggregate) as well as to ensure the accuracy of VBM records. Lost, stolen equipment and/or the destruction of VBM equipment by accident or otherwise shall be reported as soon as the loss is known and assessed to the Treasurer and Manager. Unreported discrepancies are to be noted when identified and the Village Manager is to coordinate with all departments to verify the nature of the loss. For purposes of this policy, the Treasurer shall utilize the current VBM accounting system module (that is, the Munis, and any successor system) to maintain all records and adjustments as currently established and standardized for all Department Heads

to review. In those cases where the VBM's Munis system may not be appropriate for inventory reporting or control, Excel type spread sheet" documentation may be utilized **with appropriate descriptive captions.**

Disposal of Assets:

Upon review of the December semi-annual inventory, each department head shall determine and recommend to the Village Manager what specific assets are no longer of use for VBM operations. Those assets shall be identified and described as to its original purchase price, current operational and/or functional condition, and determination as to its non-operational need for each department. Those separate items with a purchase price of at least \$25,000.00 shall have an independent, outside appraisal/evaluation completed prior to disposal determination. There may come a time or purpose that an asset has no value or redeemable use. An estimated sale value shall be provided as an indicator of revenue recovery by an independent source outside of a VBM departmental determination. The VBM Treasurer and the VBM Clerk shall coordinate all documentation and provide a listing of all defined disposable assets to the Village Manager as soon as practicable, thereafter. The Village Manager, in keeping with New York State asset control reporting and sound accounting practices, shall provide a list to the Mayor and Board of Trustees (M/BOT) for their determination as to the need and their approval to dispose of such assets. The M/BOT shall determine the minimum bid price on all items to be disposed and, by formal resolution shall determine the asset listing that shall be disposed of. Unless otherwise provided, the M/BOT resolution shall direct the Village Manager to provide for public notice as to the sale of all identified assets. Unless otherwise determined, all assets are to be sold by sealed bid on an "as is, where is" basis. Where appropriate, minimum base prices will be established and a 10% down payment included in the bid. Public notice and the procedures for sealed bids shall be determined according to standard New York State and municipal accounting standards. The disposal of such assets as determined by the respective department head and the Village Manager are not to be disposed of, gifted, or otherwise abandoned without a resolution by the M/BOT. All bids are to be reviewed by the Village Manager and any/all assets may be withdrawn from the scheduled sale even after publicly noticed for sale.

Disposition and Removal of Equipment:

Upon award of bids, the VBM Clerk shall notify the highest bidder of the bid award and that the equipment is to be paid for from a documented, identifiable payment source such as money order, bank check or bank wire transfer (no cash) within 3 business days. The equipment is to be removed within 5 business days after full payment is verified. If the winning bidder fails to pay in full, the VBM shall be entitled to seize the 10% down payment. The Treasurer shall determine if the next highest bidder meets the requirements of the bid process for the asset to be disposed or not. Upon payment for the bid item, the Village Clerk and Village Treasurer shall update the VBM's inventory records and provide a summary to the Manager. The manager shall report to the M/BOT the results of all sales (or items not bid on) as soon as practical.

Conclusion:

The VBM shall ensure that this policy's effectiveness be monitored and executed as defined. Variances and/or amendments are to be reported to the M/BOT for their resolution and confirmation. This policy shall be renewed at the M/BOT's annual Re-organizational Meeting as proscribed by New York State Village Law and amended as necessary or appropriate.

Fire Department Memberships

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

BE IT RESOLVED, that the Board of Trustees of the Village of Briarcliff Manor hereby approves the membership of **Ryan Lewis** to the Briarcliff Fire Company.

BE IT RESOLVED, that the Board of Trustees of the Village of Briarcliff Manor hereby approves the membership of **Alex Saitta** to the Briarcliff Fire Company.

Board Appointments

Upon motion by Mayor Vescio, seconded by Trustee DeRose, the Board voted unanimously to approve the following resolution:

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

Jack Zimmerman as the Briarcliff Manor School District Member of the Recreation Advisory Committee for a term to expire at noon on the first Monday of April 2015.

Jake Emerick as the Ossining School District Member of the Recreation Advisory Committee for a term to expire at noon on the first Monday of April 2015.

The Board thanked them for volunteering.

Minutes

Upon motion by Trustee Pohar, seconded by Deputy Mayor Sullivan, the Board voted unanimously to approve the minutes of November 5, 2014.

Adjournment

Upon motion by Trustee Wilson, seconded by Deputy Mayor Sullivan, the Board voted unanimously to adjourn the regular meeting at 8:10pm.

Respectfully Submitted By,

Christine Dennett
Village Clerk

Village Board of Trustees
Special Meeting
November 24, 2014
7:30 p.m.

A Special 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 24th of November, 2014 commencing at 7:30 p.m.

Present

William J. Vescio, Mayor
Lori A. Sullivan, Deputy Mayor
Cesare DeRose, Jr.
Mark Pohar, Trustee
Mark L. Wilson, Trustee

Also Present

Philip Zegarelli, Village Manager
Christine Dennett, Village Clerk
Clinton Smith, Village Counsel
Dan Pozin, Village Counsel
David Turiano, Village Engineer

Public Hearing Amending the Third Amended and Restated Special Permit and Tree Removal Permit, Briarcliff Manor Investors LLC and Integrated Development Group LLC (The Club at Briarcliff Manor)

Upon motion by Trustee Wilson, seconded by Trustee Pohar, the Board voted unanimously to open the Public Hearing.

Mr. William Null, Attorney for the Applicant, stated the development of the site would not change and the amendment to the Special Use Permit was consistent with the zoning amendment that was recently made.

Mr. Matt Philips of Briarcliff Manor Investors stated they were working on the timeline for the project but hoped to start construction in late 2015.

Village Manager Zegarelli stated the contractors would meet to have a preconstruction meeting for the Village Public Purpose Project and the work should not conflict with the development of the site.

Village Attorney Smith stated because the amendment to the Special Use Permit would not change the physical project an additional SEQRA review was not necessary.

Upon motion by Trustee Wilson, seconded by Trustee Pohar, the Board voted unanimously to close the Public Hearing.

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

**RESOLUTION OF THE
VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES**

**SECOND MODIFICATION OF THIRD AMENDED AND
RESTATED SPECIAL PERMIT
AND TREE REMOVAL PERMIT
BRIARCLIFF MANOR INVESTORS LLC AND INTEGRATED DEVELOPMENT GROUP LLC**

WHEREAS, on November 6, 2008, the Board of Trustees of the Village of Briarcliff Manor adopted a resolution entitled "Third Amended and Restated Special Permit and Tree Removal Permit, Briarcliff Manor Investors LLC and Integrated Development Group LLC" which was filed in the Office of the Village Clerk of the Village of Briarcliff Manor on November 7, 2008, (the "Third SP Amendment")¹; and

WHEREAS, upon the application of Briarcliff Manor Investors LLC and Integrated Development Group LLC, the current owner and proposed developer respectively of the Project Site and the Project (collectively "BMI") the Board of Trustees, on February 18, 2010, adopted a resolution entitled "First Modification of the Third Amended Special Permit and Tree Removal Permit" relative to the zoning and development density of the Project Site in light of recent re-zoning initiatives in the Village²; and

WHEREAS, by letter dated January 22, 2014, and through subsequent discussions and communications, BMI, requested among other things that the Village Board consider modifying the Project from a CCRC to a Senior Care Community as defined under Section 220-2 of the Village Code, to be operated in accordance with subsection B.4. of such definition in order to permit BMI to broaden its residency offerings to attract a larger senior resident customer base, offering multiple residency agreements to seniors either with or without entrance fee programs and including senior services, all operated as a senior community in accordance with New York State Public Health Law, and limited to residents 55 years of age and older (the "2014 Modifications"); and

WHEREAS, the Third SP Amendment was conditioned on BMI making certain public infrastructure improvements that would serve the Village public at large as well as the Project; and

¹ Capitalized terms that are not otherwise defined in this Resolution shall have the same definition as ascribed to them in the Third Special Permit Amendment.

² A more detailed description of the history of these Resolutions is annexed hereto as Schedule A.

WHEREAS, the existing public infrastructure that was to be replaced by BMI under the Third SP Amendment has deteriorated to such a degree that the Village has heretofore determined (i) that those public infrastructure improvements are required whether or not the Project proceeds, (ii) that the Village can no longer wait for BMI's construction of same, and (iii) that the Village will proceed to make and finance said public infrastructure improvements itself under authority to do so under the State Constitution, Local Finance Law and Village Law. Such improvements, portions of which shall be located on the Project Site, shall be herein referred to collectively as the "Public Purpose Infrastructure Improvements" and which are more particularly described on the spreadsheet annexed hereto and made a part hereof as Schedule B, and include the following categories:

1. Project 1 - Phase 1 Utility Improvements;
2. Project 2 - Water Pump Station and Comfort Station within Club Easement Area,
3. Project 3 - Offsite Sanitary Sewer Including Holbrook Road Lift Station, and
4. Project 4 - 2 Water and Sewer Extensions; and

WHEREAS, the Public Purpose Infrastructure Improvements of Village Project 2, includes: a pumping station and hydro pneumatic tank system designed to serve the residential/domestic water requirements of the Project and the Village's so-called High Zone Water Service Area which is comprised of approximately fifty-two (52) existing private homes and the Trump National Golf Course and Residential Development as presently approved to consist of: eighty-seven (87) dwelling units (i.e., sixteen (16) residential townhouses and seventy-one (71) condominium units), and one (1) clubhouse and six (6) guest suites and provides for the installation of an 8" diameter bypass check valve in a concrete vault at a point to be designated by the Village Engineer in the vicinity of Cypress Lane between the Village's High Zone Water Service Area and Low Zone Water Service Area. Said pumping station and hydropneumatic tank system and check valve are also collectively referred to herein as the Water System Improvement Facilities; and

WHEREAS, the Public Purpose Infrastructure Improvements of Village Project 3, include construction of 800 feet of gravity sewer through private property, a new pump station near Holbrook Road, and 500 feet of force main along Holbrook Road to Scarborough Road to benefit both the Project and the 50-plus surrounding properties (the "Holbrook Road Improvements") and connection of a sewer main in Central Drive in order to eliminate an old section of the public sewer system consisting of 800 feet of 6" and 8" wooden siphon that currently runs through private property between Holbrook Road and Old Briarcliff Road and the Village has acquired or shall acquire all easements and land necessary for same; and

WHEREAS, BMI will grant to the Village such necessary easements for the construction and installation of the Public Purpose Infrastructure

Improvements and entry upon the Project Site by the Village, its contractors, employees, and agents for such purposes; and

WHEREAS, BMI will work closely with the Village and the Village's contractors in coordinating all site construction activities in a manner which will avoid interference with the installation and construction of the Public Purpose Infrastructure Improvements, while enabling BMI to facilitate their own improvements on the private aspects of this Project; and

WHEREAS, BMI has offered to make a voluntary mitigation and contributory payment to the Village in recognition of the Village's completion of the Public Purpose Infrastructure Improvements, the terms of which are set forth herein below; and

WHEREAS, BMI's prior activities in connection with the Project, BMI's current application and the Village's determination to proceed with the Public Purpose Infrastructure Improvements, will result in certain changes to the Third Special Permit; and

WHEREAS, on June 18, 2014, upon application of BMI, the Village of Briarcliff Manor amended Section 220-2 of the Briarcliff Manor Zoning Code and Section 220-6.J. (14) thereof to provide "Senior Care Community" as a newly defined category of use by Special Permit; and

WHEREAS, pursuant to Village Code Section 220-6.J.(14) as so amended, the Board of Trustees is the approving authority for a Senior Care Community and as set forth herein, has conducted this review of the Special Permit in connection therewith; and

WHEREAS, the Board of Trustees duly noticed and held a public hearing on June 18, 2014, in connection with the 2014 Modifications, at which time all those wishing to be heard were given the opportunity to comment; and

WHEREAS, the Board of Trustees referred the application of BMI for this further amendment of the Special Permit for the Project to the Planning Board and the Westchester County Planning Board; and

WHEREAS, by memorandum dated June 11, 2014, the Planning Board responded to the referral recommending approval of same; and

WHEREAS, by letter dated June 16, 2014, the Westchester County Planning Board responded to the referral confirming that there are no County or intermunicipal planning issues of concern to the County Planning Board and that this action is a matter for local determination in accordance with the Village's planning and zoning policies; and

WHEREAS, at the public hearing the Board of Trustees heard statements and presentations from BMI and its representatives; and

WHEREAS, the Board of Trustees wishes to further modify the Third SP Amendment in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The recitals and statements set forth above are adopted and incorporated in these "Resolved" provisions as if fully set forth and resolved herein.
2. The Board of Trustees hereby determines that (i) the proposed modifications to the Third SP Amendment are within the scope of the prior review under the State Environmental Quality Review Act (SEQRA) and they will not have any environmental impact different from those that were previously addressed in the SEQRA review of the Project, and as a result, no further environmental review is required in connection with this further modification of the Third SP Amendment and (ii) this Project, as further amended fully conforms to and complies with all requirements of the Village Code, Section 220-6, Special Permit Use, including Sections 220-6(J)(14)(a) & (b):
3. The special permit approval as set forth in the Third SP Amendment as modified by the First Modification and by this Resolution, and the conditions thereof and herein, in accordance with Village Code Section 220-6, Special Permit Use, runs with the land and binds all current and future owners of the Project Site, their successors, heirs and assigns.
4. Subject to the conditions set forth in this Resolution and otherwise in the approval of the Project and its various components, the Board of Trustees further modifies the Third SP Amendment as follows:
 - a. All references to "CCRC" in the "Resolved" paragraphs of the Third Special Permit Amendment shall be deemed changed to "Village Code 220-2 Senior Care Community – B.4."
 - b. All residents of the Project shall be 55 years of age and older.
 - c. Paragraph 4.d. of the Third Special Permit Amendment is modified to reflect the existing site plan approval of the Planning Board granted on February 14, 2006, as amended by the Planning Board on November 18, 2008.
 - d. Paragraph 4.e. of the Third Special Permit Amendment is modified to add an additional subparagraph iv. to read as follows:
 - iv. Establishing that all residents of the Project shall be age 55 or older.
 - e. Paragraph 4.f.viii. of the Third Special Permit Amendment is modified to: provide that "Provider Antennas" as defined herein, also will be

mounted on the Stealth Monopole; and to note that the Ground Equipment will not be mounted on the Stealth Monopole, but located on the ground nearby.

f. Paragraph 4.n. of the Third Special Permit Amendment is hereby modified to reflect the following, and otherwise to remain in full force and effect:

i. The Village has accepted completion of the Recreation Easement Area referred to in subparagraphs 4.n.i., and 4.n.iv.1.

ii. The Village has accepted completion of the Parking Area referred to in subparagraph 4.n.iv.2 relative to the Parking Area only

iii. Subparagraph 4.n.iv.2 shall be revised such that construction of the Restroom facilities as described therein shall be deemed a part of the Public Purpose Infrastructure Improvements as defined herein, to be constructed by the Village.

g. Paragraph 4.o.iii. of the Third Special Permit Amendment is hereby modified to require that any entity having an interest in Developer be an additional insured on the Village's certificate of insurance.

h. Paragraph 4.q. of the Third Special Permit Amendment entitled "Water System Improvements" is hereby deleted in its entirety and replaced with the following:

"The Old Water Tank. The Developer shall remain responsible at its sole cost and expense for removal of the Old Water Tank from the Project Site."

- i. In Paragraph 4.r., 4.s. and 4.u. of the Third Special Permit Amendment the term “Existing Antennas”, and “Existing Antenna” as used therein shall mean the Provider Antennas and Village Antennas existing on the Old Water Tank as of this date.
- j. Paragraph 4.w. of the Third Special Permit Amendment entitled “Developer’s Additional Requirements regarding Water System Improvement Facilities and the Stealth Monopole Facilities” is hereby modified to acknowledge the satisfaction of subsection i.
- k. Paragraph 4.y. of the Third Special Permit Amendment entitled “Public Water Improvements” is hereby modified to read as follows:

- i. Decommissioning of Dalmeny Road Pump:** That portion of the Public Purpose Infrastructure Improvements designated herein as the Water System Improvement Facilities constructed and installed on the Project Site by the Village will replace the existing Dalmeny Road water pump, and the Village shall disconnect the pumps and pipes. The Developer shall thereupon join the pipes of any main that shall remain in service but has otherwise been severed by disconnection of the pumps. The Developer shall not be responsible for disassembling or disposing of the Dalmeny Road water pump or any related facility, addressing any existing subsurface or other conditions thereat, or otherwise decommissioning the pump.

- ii. Back-up Water Supply for Fire Department:** The Developer shall at its sole cost and expense install as a secondary source of water for fire fighting purposes a reservoir with a minimum capacity of 20,000 gallons in accordance with the Fire Code of the State of New York. In addition, the “Dry Hydrant Detail” indicated on plan drawing C-505 of the Approved Site Plan is to remain as designed and approved.”

- l. Paragraph 4.z.i. of the Third Special Permit is hereby modified to read as follows:

- “Holbrook Road Improvements:** Pursuant to its offer, the Developer has contributed to the Village the sum of \$5,000.00 as reimbursement for the Village obtaining the necessary easements for the Holbrook Road Improvements.”

- m. Paragraph 4.z.iii. of the Third Special Permit is hereby modified to read as follows:

“Restoration of Disturbed Areas: To the extent that the Village disturbs any land area in the course of the work described in this condition of approval, the Village shall reasonably restore any such disturbed area(s) to substantially the condition that existed prior thereto at the Village’s sole cost and expense.”

- n. Paragraph 4.aa. of the Third Special Permit is hereby modified to read as follows:

“Contributory Mitigation Payment for Library and Community Center Improvements: Pursuant to its voluntary offer, BMI shall make a non-refundable mitigation and contribution payment to the Village of Two Million (\$2,000,000.00) Dollars to fund improvements and enhancements of the Village’s library and/or community center including their services, programs and/or facilities, which payment shall be due and payable, prior to and as a condition of the issuance of the First Building Permit.

- o. Paragraph 4.bb. of the Third Special Permit is hereby modified to read as follows:

“Contributory Mitigation Payment for Emergency Equipment: Pursuant to its voluntary offer, BMI shall make a non-refundable mitigation and contribution payment to the Village in the amount of Five Hundred Thousand (\$500,000.00) Dollars to fund the purchase of emergency equipment, which may include, but not be limited to a new fire truck for improved firefighting capability at the Project Site, which sum shall be paid to the Village prior to and as a condition of the issuance of the First Building Permit.”

- p. A new Paragraph 4.oo is hereby incorporated into the Third Special Permit Amendment to read as follows:

“Contributory Mitigation Payment in Recognition of the Village’s Completion of the Public Purpose Infrastructure Improvements: Pursuant to its voluntary offer, BMI shall make a non-refundable mitigation and contribution payment to the Village of Eight Million Seven Hundred Forty Seven Thousand, Eight Hundred Seventy Three and 70/100 (\$8,747,873.70) Dollars in recognition of the Village’s undertaking construction of the Public Purpose Infrastructure

Improvements, as defined in this Second Modification of Third Amended and Restated Special Permit and Tree Removal Permit, and timely completion of same and correspondingly, relief of BMI from the condition that BMI make the Public Purpose Infrastructure Improvements. Said payment shall be made by BMI (i) in a single lump sum or (ii) in thirty (30) semi-annual equal installments of Two Hundred Ninety One Thousand Five Hundred Ninety Five and 79/100 (\$291,595.79) Dollars each, which includes a component for the value of said funds as paid over time, commencing on the date which is ten (10) days from the BMI's receipt of written notice from the Village to commence such payments (the "Commencement Date") but in no event prior to September 1, 2015. Said payments shall be due and payable on the Commencement Date and on each six (6) month anniversary thereof until paid in full. Said payments to the Village shall be utilized and applied by the Village in its sole and absolute discretion."

- q. Paragraph 8. of the Third Special Permit is hereby modified to read as follows:

"Timing for Issuance of Building Permits: This Special Permit shall not permit construction of any improvements on the Project Site except the Public Purpose Infrastructure Improvements by the Village, and any work to be performed by BMI related thereto, and no building permits or approvals for construction of improvements to the Project Site shall be issued, except with regard to the buildings, structures and/or improvements conforming with the Site Plan Approval, or Amended Site Plan Approval, as the case may be, as granted by the Planning Board and conditions thereof."

- r. Paragraph 9. of the Third Special Permit is hereby modified to recognize the completion and delivery to the Village of the Ballfield.
- s. Paragraph 12. of the Third Special Permit is hereby modified to read as follows:

"Term of Special Permit: Based upon the conveyance of the Recreation Easement to the Village, this Special Permit approval shall not expire. However, Developer and BMI shall not assign their respective obligations under this Special Permit approval, nor assign or otherwise convey any of their respective interests in all or part of the Project and/or the Project Site to a third party or parties, without prior written notice to the Village.

For purposes of this Paragraph 12, the term “assignment” shall be deemed to include without limitation the sale or other transfer of a majority of the shares or other equity interests in either Developer or BMI, in one transaction or a series of related transactions, and shall include any event which by operation of law vests either’s interest in any person or entity other than Developer and/or BMI as the case may be.”

- t. Except as otherwise modified hereby, all provisions of the Third SP Amendment as modified by the First Modification shall remain in full force and effect.
 - u. This Resolution modifying the Third Special Permit Amendment as modified by the First Modification shall run with the land and be binding upon and inure to the benefit of all current and future owners of the Project Site, their successors, heirs and assigns.
5. The Village may finance the Public Purpose Infrastructure Improvements under its powers to borrow for such improvements under the State Constitution, Local Finance Law, and Village Law and any such borrowing shall be backed by the full faith and credit of the Village. The payments to be made by BMI as set forth in Paragraph 4.p. above shall be utilized and applied by the Village in its sole and absolute discretion but shall in no way be made in connection with any Village borrowing to finance the Public Purpose Infrastructure Improvements.

SCHEDULE A

SECOND MODIFICATION OF THIRD AMENDED AND RESTATED SPECIAL PERMIT AND TREE REMOVAL PERMIT

BRIARCLIFF MANOR INVESTORS LLC AND INTEGRATED DEVELOPMENT GROUP LLC

BACKGROUND

A. Special Permit Approval

1. By resolution filed in the Office of the Village Clerk of the Village of Briarcliff Manor on June 12, 2003 (the "Special Permit Resolution"),³ the Village of Briarcliff Manor Board of Trustees granted a Special Permit and a Tree Removal Permit to Barrington Venture LLC and The Garlands of Briarcliff Manor, LLC (collectively, "Barrington") for construction and operation of a Continuing Care Retirement Community ("CCRC") comprised of a mix of independent living, assisted living and skilled nursing units to accommodate a maximum of 550 residents (the "Project") to be located on the approximately 58.91 acre parcel of land that was formerly the campus of The Kings College in the Village (the "Project Site"); and

B. Project Site

2. The Project Site, which is identified on the Village's Tax Map as 98.13-1-13, 14, 15, and 19 and 98.09-1-29 and was formerly shown as Section 4.17, Block 11, Lots 4.D, 36 and 50 and Section 4.18, Block 11, Lots 2 and 13 is located in the central portion of the Village of Briarcliff Manor in the west-central portion of Westchester County, New York and is situated north of Scarborough Road with direct access provided from Scarborough Road, Central Drive, and Lodge Road; and

3. The Project Site was originally zoned R-60A, Single Family Residence but since the adoption of the Special Permit Resolution, was re-zoned R-80A, Single Family Residence; and

4. The Village owns a small parcel of land measuring approximately 52 feet by 52 feet located within the Project Site south of the former Main Lodge building (the "Village Parcel"), upon which stands a ±150,000 gallon water tank (the "Old Water Tank") and related facilities which shall be conveyed to BMI pursuant to this Approval; and

5. Several easements that benefit the Village traverse the Project Site (the "Village Easements"), and they include easements: (a) granting access to

³ Capitalized terms that are defined in the Special Permit Resolution and used but not defined in this Resolution have the same definition in this Resolution as they are given in the Special Permit Resolution.

the Village Parcel, (b) permitting the planting of landscaping around the Village Parcel, (c) granting the right to obtain electrical power and telephone service from the existing facilities on the Project Site to serve the Village Parcel, and (d) allowing construction, maintenance, and replacement of a water line connecting to the Village Parcel from property adjoining the subject Project Site to the east; an

6. In addition to the Village Easements, other easements that benefit adjacent properties traverse the Property site, and they include easements (a) for the benefit of property now 100 Lodge Road, that is for sewer service, 10 feet wide, and runs through the Project site and connects to the said property in the northern portion of the Project Site near Lodge Road, the maintenance of which is the responsibility of the owner of 100 Lodge Road and (b) for the benefit of the 100 Lodge Road that is for access and runs through the Project Site from the southerly end of the Lodge Road and connects to a driveway on the 100 Lodge Road; and

C. Village Authority

7. Pursuant to Village Code Section 220-6(J)(14), the Board of Trustees is the approving authority for a CCRC and has conducted the review of the Special Permit issued in connection therewith; and

8. Pursuant to Village Code Section 202-4, the Board of Trustees is the approving authority for the regulation and preservation of trees within the Village of Briarcliff Manor, and governs the issuance of permits for tree cutting and removal, with applications for permits to conduct such regulated activities being regulated in Section 202-3.A(2) thereof; and

9. In this case approval by the Board of Trustees of the Special Permit included action related to the Tree Removal Permit or Tree Protection Plan as provided in said Chapter 202 of the Village Code (the "Tree Removal Permit"), based upon a recommendation from the Planning Board, which Tree Removal Permit constituted an integral part of the Special Permit Resolution; and

D. SEQRA

10. The Project has been subject to a coordinated review under the New York State Environmental Quality Review Act ("SEQRA") by the Village of Briarcliff Manor Planning Board (the "Planning Board") as the Lead Agency, which included the preparation of a Draft Environmental Impact Statement ("DEIS") and a Final Environmental Impact Statement ("FEIS"); and

11. The Planning Board addressed the Project's conformance to the general Special Permit standards of the Village's Zoning Law in the FEIS and found that the Project conforms to and furthers the intent of the requirements of those standards and further that the Project more particularly conforms to the

Special Permit standards of the zoning established for CCRC use under Village Code Section 220-6(J)(14); and

12. The Board of Trustees has participated in the SEQRA review of the Project as an Involved Agency throughout the course of the review; and

13. The Planning Board as Lead Agency adopted a Findings Statement dated April 28, 2003, which concluded that significant adverse impacts identified had been satisfactorily minimized or mitigated to the maximum extent practicable subject to certain project modifications; and

14. As an Involved Agency and in accordance with the requirements of Part 617 of the SEQRA regulations, the Board of Trustees adopted its own Environmental Findings Statement dated May 29, 2003; and

E. First Special Permit Amendment

15. On March 17, 2005 the Board of Trustees formally referred to the Planning Board an application submitted by CC-Briarcliff LLP and/or CC-Briarcliff Inc., as the case may be, and Classic Residence by Hyatt (collectively "Hyatt"), which entities were then contract-vendee(s) and developer(s) of the Project Site and which application sought to amend the Special Permit Resolution with the following modifications collectively referred to herein as "First SP Modifications" to:

- a) Utilize a pumping, hydropneumatic tank, and check valve system to supply water to the Project Site and the area of the Village served by the Old Water Tank (the "Water System Improvement Facilities") and eliminate the need to replace the Old Water Tank with the previously approved New Water Tank, and
- b) Install a stealth monopole, designed to appear as an approximately 160-foot tall evergreen tree (the "Stealth Monopole"), rather than constructing the New Water Tank, as a structure on which to relocate the Briarcliff Manor Police and Fire Department radio communication antennas presently located on the Old Water Tank (the "Village Antennas"), and other telecommunications antennas that may be located on the Old Water Tank ("Provider Antennas"), with appurtenant telecommunications equipment boxes (the "Ground Equipment") being relocated to a structure to be situated near the Stealth Monopole such as Stealth Monopole facilities to include wireless telecommunications facilities that could have been in the future mounted on the Old Water Tank and located on the ground of the Village Parcel, including those of new or additional telecommunications companies and their associated Ground Equipment ("Future Antennas") (collectively the "Stealth Monopole Facilities"); and

16. Upon separate application of Hyatt, the Planning Board on April 12, 2005, approved a temporary sales center for the Project in accordance with the Zoning Law and adopted a Resolution entitled, "CC-Briarcliff LLP - Classic

Residence by Hyatt, Temporary Sales Office - Resolution of Site Plan Approval for a Temporary Facility;" and

17. On August 9, 2005, the Planning Board as Lead Agency relative to the First SP Modifications adopted a Negative Declaration in accordance with SEQRA regarding the proposed amendment to the Special Permit Resolution, and on August 26, 2005, adopted Amended Lead Agency Findings; and

18. In connection with the proposed First SP Modifications, the Board of Trustees opened and held a public hearing on September 8, 2005, at which an Amended Environmental Findings Statement under SEQRA was adopted, which addressed the impacts associated with the First SP Modifications; and

19. On September 15, 2005, the said public hearing was continued , at which time, the Board of Trustees adopted a resolution amending the Special Permit Resolution entitled "Resolution of the Village of Briarcliff Manor Board of Trustees, Amended Special Permit CC-Briarcliff LLP and Classic Residence by Hyatt (formerly Barrington Venture LLC and the Garlands at Briarcliff)" to permit the First SP Modifications (the "First SP Amendment"); and

F. Second Special Permit Amendment

20. In November 2005, Hyatt proposed certain program and design changes, modifications to operational features and technical amendments to the Special Permit Resolution and First SP Amendment, including but not limited to the following (the "Second SP Modifications"):

- a) No surround-sound theater would be required;
- b) Three (3), rather than twenty (20), guest suites;
- c) No Pavilion or Formal Garden Area with formal hedges would be required, but a less formal landscaping scheme would be implemented;
- d) No Reforestation Plan in the area of the ballfields would be required, although supplemental landscaping would be required therein to the extent it would not interfere with the provision of the playing fields;
- e) No Performing Arts Center would be required, although the Lodge Room would be constructed and access to the public would be provided to the assembly rooms as initially provided in the Special Permit Resolution;
- f) Reduced parking and authorization for both valet parking (for up to 90 vehicles) and tandem parking would be implemented;
- g) Parking by the public within the CCRC and beyond the Recreation Easement would not be required;
- h) On-site emergency call system would continue to be required, but not need to be based upon a telephone network;
- i) Any dredging or clearing of Lodge Pool would be subject to review by, and issuance of a permit from New York State Department of Environmental Conservation ("NYSDEC");
- j) Elimination of the requirement that an on-site concrete batch plant be utilized in the construction of the Project;

- k) No dry hydrant at the Dalmeny Pump Station would be required, but a dry fire line would be provided in the vicinity of the intersection of the Project Site and Lodge Road;
- l) The Dalmeny Water Pump would not be replaced; and
- m) The Developer would design the water pump for the Water System Improvement Facilities; and

21. The Board of Trustees held a duly noticed public hearing concerning the Second SP Modifications on December 1, 2005, and continued to December 15, 2005, at which time all those wishing to be heard were provided an opportunity to comment; and

22. On December 13, 2005, the Planning Board adopted a Further Amended Findings Statement under SEQRA which addressed impacts that may arise in connection with the Second SP Modifications; and

23. On December 15, 2005, the Board of Trustees adopted a Resolution further amending the Special Permit Resolution and the First SP Amendment, entitled "Resolution of the Village of Briarcliff Manor Board of Trustees, Second Amended Special Permit, CC-Briarcliff LLP and Classic Residence by Hyatt (formerly Barrington Venture LLC and The Garlands of Briarcliff)", which approved the Second SP Modifications (the "Second SP Amendment"); and

24. On February 14, 2006, the Planning Board adopted a Resolution (the filing date of which was March 3, 2006) entitled, "CC-Briarcliff LLP - Classic Residence by Hyatt: Resolution of Site Plan, Steep Slopes and Wetlands Permit Approval" for the construction of the Project as it had been amended during the previous Special Permit, First SP Amendment and Second SP Amendment reviews conducted by the Board of Trustees (the "Site Plan Resolution"), and as detailed on the various plans submitted to the Planning Board; and

25. In August 2006, Hyatt advised the Board of Trustees that it was withdrawing from pursuing the Project; and

G. Third Special Permit Approval

26. On November 28, 2007, Briarcliff Manor Investors LLC and Integrated Development Group LLC, the owner and proposed developer respectively of the Project Site and the Project (collectively "BMI") submitted an application to the Board of Trustees to amend the Special Permit, First SP Amendment and Second SP Amendment to facilitate the redesign and reconfiguration of the Project to construct, maintain and operate the CCRC in accordance with a new site plan and pursuant to Article 46A of the Public Health Law of the State of New York (the "Third SP Modifications"); and

27. The Third SP Modifications include the following changes to the Project, among other things:

- a) Reducing the size of the Supportive Living Center (formerly designated by Hyatt as the Health Center, or Care Center) from 70 to 60 units and from approximately 71,816 s.f. to approximately 49,635 s.f. (the "Supportive Living Center");
- b) Relocating the Supportive Living Center from the lower portion of the Project Site (the "Lower Village") to the upper portion of the Project Site (the "Upper Village") in order to:
 - i. Provide residents of the Supportive Living Center a home closer and with more convenient accessibility to their spouses and neighbors living in the independent living units in the Upper Village;
 - ii. Allow for greater operating efficiencies for the CCRC staff; and
 - iii. Eliminate the need to construct a connecting pedestrian bridge and elevator structure between the Supportive Living Center and the Main building in the CRbH Site Plan;
- c) Reducing the size of the Main Independent Living buildings (collectively, the "Main Building") from approximately 613,915 s.f. to approximately 501,442 s.f.;
- d) Eliminating the below-building parking to reduce blasting and, instead, constructing a parking structure adjacent to the Main Building in the Upper Village;
- e) Providing a mix of 325 Independent Living Units ("ILUs") that will include 288 ILUs in the Main Buildings and 37 ILUs in Villas in the Lower Village (as compared to only 27 Villas provided in the Hyatt Site Plan);
- f) Eliminating any Guest Suites (where Hyatt had provided 3 Guest Suites);
- g) Providing a new free-standing Pool/Spa building comprising approximately 28,020 s.f. (the "Spa & Wellness Center");
- h) Modifying the size of the multi-purpose community room and common space, while preserving the Lodge Room;
- i) Relocating of Stealth Monopole Facilities slightly southerly within Upper Village;
- j) Providing approximately 602 parking spaces by a combination of self-park, tandem and valet spaces with some overflow reserve valet parking and land-banked parking areas;
- k) Providing two tennis courts in the Lower Village for use by the CCRC residents; and

28. The Third SP Modifications were referred by the Board of Trustees to the Planning Board, which forwarded its recommendations thereon; and

29. Thereafter, certain additional changes to the Project were requested by BMI, including permitting twenty (20) of the ILUs to be constructed to a size greater than the "900 square feet or less" limitation of the Special Permit, provided such units are less than approximately 1,000 square feet in livable area to be more affordable to individuals; and

30. On July 8, 2008, the Planning Board adopted a Further Amended Lead Agency Findings Statement under SEQRA in connection with the Third SP Modifications and the additions thereto noted above; and

31. The Board of Trustees duly noticed and held a public hearing on October 16, 2008, in connection with the Third SP Modifications and the additions thereto noted above, at which time all those wishing to be heard were given the opportunity to comment at which BMI and their representatives submitted additional plans including (i) Overall Site Plan, C-100 drawing of Perkins Eastman dated April 8, 2008, and (ii) Section Comparison, Elevation Comparison, and Cell Tower and Accessory Building drawings of Perkins Eastman dated October 14, 2008 and

32. On November 6, 2008, the Board of Trustees adopted a Resolution of Third Amended and Restated Special Permit and Tree Removal Permit (the "Third SP Amendment"), relative to the Third SP Modifications as detailed therein, in connection with the construction and operation of a CCRC, which Project is comprised of a mix of independent living, assisted living and skilled nursing units to be located on the approximately 58.91 acre Project Site; and

33. On November 18, 2008, the Planning Board adopted a resolution entitled, "Briarcliff Manor Investors LLC and Integrated Development Group LLC: Resolution of Amended Site Plan, Steep Slopes and Wetlands Permit Approval (the "Amended Site Plan Resolution") amending the Site Plan Resolution relative to the Third SP Modifications; and

H. First Modification of Third Special Permit Approval

34. After a comprehensive re-zoning in the Village resulted in the change of the zoning of the Project Site from R60A to R80A, BMI submitted an application to the Board of Trustees, on February 18, 2010, whereupon the Board of Trustees adopted a resolution entitled "First Modification of the Third Amended Special Permit and Tree Removal Permit" (the "First Modification") providing for the following:

- a) During the period commencing January 1, 2010, and ending on December 31, 2015 ("Interim Period"), in connection with any residential development on the Project Site, BMI shall be entitled to a development density calculation on the basis of the Village's R60A Zoning regardless of the classification of the zoning district in which the Project Site is located; and
- b) In calculating the permitted development density during the Interim Period, the Recreation Parcel shall be considered part of the Project Site and counted towards meeting the recreation set-aside required under the Village Code; and

SCHEDULE B

**SECOND MODIFICATION OF THIRD AMENDED AND
RESTATED SPECIAL PERMIT
AND TREE REMOVAL PERMIT**

BRIARCLIFF MANOR INVESTORS LLC AND INTEGRATED DEVELOPMENT GROUP LLC

<u>VILLAGE PUBLIC PURPOSE INFRASTRUCTURE IMPROVEMENTS</u>	
<u>VM 1.0 PHASE 1 UTILITY IMPROVEMENTS</u>	
Item	Description
<u>Design and Construction Phase Services</u>	
1.1A	Prepare Bid Package - Plans, specifications, revisions to DOH approvals due to phasing changes, meetings with Village
1.1A.1	Survey of as-built conditions for parking lot, entrance road, etc.
1.1B	Bid Phase Support
1.1C	Construction Phase Services - Shop Drawings, RFI, project meetings, observe testing, site visits
1.2	Village Construction Services including inspections, as- built and project closeout Reimbursable Cost- Printing, etc.
<u>Construction Phase</u>	
1.3	Water main intake from Scarborough Road to pump station
1.4	Water main intake from Scarborough Road to pump station
1.5	Water pump station to discharge main to existing entrance road
1.6	8" Check valve in pit in Cypress Lane between High Service Zone and Low Service Zone
1.7	Water tank disconnect and miscellaneous piping work at Dalmeny Road pump house
1.8	Scarborough Road to Restroom Building - Sewer
1.9	Water Main from Pump House to Comfort Station
1.10	Allowance for Rock Excavation
1.11	Wet Tap
1.12	Road Patch
1.13	Meter Pit

VILLAGE PUBLIC PURPOSE INFRASTRUCTURE IMPROVEMENTS
VM 2.0 WATER PUMP STATION AND COMFORT STATION

Item	Description
Design and Construction Phase Services	
2.1A	Civil Package - Grading, Sediment control, Paving, Coordination of all other consultants
2.1A.1	Architectural design services, including approvals and bid package preparation, Electrical Design, ConEd Service, Generator, Plans, Specifications, Coordination with ConEd, Architectural/Engineering Design Service during construction including inspections, as-built and project close-out
2.1.B	Bid Phase Support
2.1.C	Engineering/Architectural design service during construction including inspections, as-built and project closeout, Arch/MEP included in 2.1
2.2	Village Engineering design service during construction including inspections, as-built and project closeout
Construction Phase	
2.3	Prepackaged pump station EFI Cost Start-up and Testing
2.4	Architectural/MEP building surround and foundations Comfort Station Pump House, includes generator
2.5	Site Work including connection to water intake mains built by others, grading, sediment control, repaving parking lot. Site Work, final sidewalk, minor landscaping
2.6	Electric Service Scarborough Road to Pump House Pump House to Comfort Station

**VILLAGE PUBLIC PURPOSE INFRASTRUCTURE IMPROVEMENTS
VM 3.0 OFFSITE SANITARY SEWER INCLUDING HOLBROOK ROAD LIFT STATION**

Item	Description
Design and Construction Phase Services	
3.1A	Prepare Bid Package - Plans, specifications, revisions to DOH approvals, meetings with engineers
3.1B	Design of Village Sewer - Survey , Plans, DOH approval specifications, meetings with engineers
3.1C	Design of Village Pump Station - Design, DOH approval, architectural design
3.1D	Bid Phase Support
3.1E	Construction Phase Services - Shop Drawings, RFI, project meetings, observe testing, site visits
3.2	Construction Phase Services - Full time field inspections as directed by the Village
Construction Phase	
3.3	Lift Station construction complete, including site work, walls, etc.
3.4	Force Main from Pump Station
3.5	Replacement of wooden siphon through Irani property with gravity piping
3.6	Replacement of third leg of siphon along Holbrook Road
3.7	Allowance for Rock Excavation

<u>VILLAGE PUBLIC PURPOSE INFRASTRUCTURE IMPROVEMENTS</u> <u>VM 4.0A PHASE 2 WATER AND SEWER EXTENSIONS</u>	
Item	Description
<u>Design and Construction Phase Services</u>	
4.1A	Prepare Bid Package - Plans, specifications, revisions to DOH approvals due to phasing changes, meetings with engineers
4.1B	Bid Phase Support
4.1C	Construction Phase Services - Shop Drawings, RFI, project meetings, observe testing, site visits
4.2	Village Engineering design service during construction including inspections, as-built and project closeout
<u>Construction Phase</u>	
4.3	New water main ("F" Line) The Club lower Village to Central Avenue
4.4	Class 52 water main - dry fire line from Lodge pool to The Club's upper Village
4.5	Sewer from Lodge Road to Central Avenue
4.6	Allowance for Rock
4.7	Wet Tap
4.8	Road Patch

Mr. William Null thanked the Board formally and stated that the Water Main and Sanitary Sewer Facilities Easement Agreement that he delivered to the Village's Attorneys in escrow now were released from the escrow and delivered to the Village.

Public Hearing to Consider the Acquisition of a Temporary Construction Easement and Permanent Use and Maintenance Easement by Eminent Domain and Inform the Public, Review the Public Use and Impact on the Environment and Residents of the Locality, and Receive Public Comment Regarding the Same. The Property on Which the Easements Shall Be Located is Known as 150 Lodge Road, is Identified on the Village's Tax Map as Section 98.13, Block 1, Lots 13, 14, 15, 19 and Section 98.09, Block 1, Lot 29, is Commonly Known As the Former Kings College Campus, and is Currently Owned by Briarcliff Manor Investors LLC.

Mayor Vescio stated to stay in keeping with past practices the Board would open the public hearing but would not pursue it.

Upon motion by Deputy Mayor Sullivan, seconded by Trustee DeRose, the Board voted unanimously to open the Public Hearing.

Mr. William Null, Attorney for Briarcliff Manor Investors LLC, stated that the Water Main and Sanitary Sewer Facilities Agreement that was released from escrow and delivered to the Village in accordance with the prior Resolution for the "Second Modification of the Third Amended and Restated Special Permit and Tree Removal Permit, Briarcliff Manor Investors LLC and Integrated Development Group LLC" voluntarily granted the Village easements and rights corresponding to the easements and rights that were the subject of the eminent domain proceeding.

There were no other public comments.

Upon motion by Trustee Wilson, seconded by Trustee Pohar, the Board voted unanimously to close the Public Hearing.

Village Attorney Smith stated he would prepare a formal resolution abandoning the proceeding.

Adjournment

Upon motion by Trustee Wilson, seconded by Trustee Pohar, the Board voted unanimously to adjourn the special meeting at 7:45pm.

Respectfully Submitted By,

Christine Dennett
Village Clerk

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 3rd of December, 2014 commencing at 7:30 p.m.

Present

William J. Vescio, Mayor
Lori A. Sullivan, Deputy Mayor
Cesare DeRose, Jr.
Mark Pohar, Trustee
Mark L. Wilson, Trustee

Also Present

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

Board of Trustees Announcements by Mayor Vescio

- The Community Center Rebid will be available December 10th.
- The Board will provide updates on the North State Road and Route 9A improvements.
- The third lap of leaf pickup is underway.
- The second half of Village taxes are due in December by the 31st

Mayor Vescio announced that after long deliberation and serving the Village on various Boards and Committees for 28 years, he would not seek another term.

Deputy Mayor Sullivan stated it was her intention to seek the Caucus's support for Mayor.

Village Managers Report by Village Manager Zegarelli

- Potassium Iodide pills are available at Village Hall.
- The PBA Arbitration will be tomorrow.
- The Community Bonfire and Sing-a-long is on December 7th.
- The Letters to Santa program is underway.
- Skiing and Snowboarding trips are being organized through the Recreation Department.
- Please visit the Library's website for information on their upcoming programs.

Public Comments

There were no public comments.

Authorize Village Manager to Execute Agreements

Valet Services with ProPark

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

WHEREAS, the Village of Briarcliff Manor (VBM) issued a Request for Proposals (RFP) to provide valet parking services at the VBM's Scarborough Railroad Station which identified such selection criteria as previous experience, operational viability, and maintenance of the current level of service and interplay with clientele and called for proposals to be submitted by 21 November 2014, and having received three (3) proposals ranging in cost from \$9,000.00 per month to \$21,000.00 per month; and

WHEREAS, the RFP calls for 2 years of fixed pricing calculated at a per month rate and a VBM option to extend the award for a 3rd year not to exceed a 2% per month cost increase together with other requisites such as liability insurance and such other protections for the VBM and its parking permit holders; and

WHEREAS the lowest responsible proposal was by Pro-Park with a monthly charge of \$9,000.00 for calendar years 2015 and 2016 and the option for a 3rd year at \$9,180.00 (an increase of 2% in keeping with the RFP) equating to an annual cost of \$108,000.00 for years 2015 and 2016 and \$9,180.00 for the optional 3rd year (2017); and,

WHEREAS, ProPark is currently providing valet parking service at the Scarborough Station under contract with the VBM and is familiar with the job and facilities, has drawn compliments for its work, and can continue its work without any interruption or disruption in service, at their current charge of \$8,999.00 per month (\$107,988.00 per year);

NOW, THEREFORE, BE IT:

RESOLVED that the proposal for valet parking services at Scarborough Station is hereby awarded to ProPark America as per its proposal of \$9,000.00 per month for a period of two (2) years commencing January 1, 2015, and expiring on December 31, 2016 with an optional 3rd year at VBM's Board of Trustees sole discretion for \$9,180.000 per month for calendar year 2017; and

BE IT FURTHER RESOLVED that the Village Manager is hereby authorized and directed to execute a contractual agreement with ProPark America for valet parking services at the Scarborough Station to cover such period of time with

such terms and conditions in keeping with the revised RFP and the provisions of Pro Park's proposal.

Tri-Community Agreement for Fly Car Services

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

BE IT RESOLVED that the Village Manager is hereby authorized and directed to execute an agreement with the Village of Croton on Hudson, NY and the Ossining Volunteer Ambulance Corps. Inc. (OVAC) for Fly Car Services for June 1, 2014 through May 31, 2015 in the amount of \$106,000 per fiscal year and to negotiate such modifications and revisions to the contract as may be in the Village's interest.

Abandonment of Eminent Domain Proceedings

Village Attorney Smith stated the Board of Trustees set two public hearings in relation to a property owned by Briarcliff Manor Investors, LLC. One was for an amendment to amend a Special Permit and the other was for an eminent domain proceeding to acquire easements for a Public Purpose Improvement Project. The hearings were set on a parallel track. At the meeting the Special Permit was amended and approved and the easements were released from escrow, allowing the Village to proceed with the Public Purpose work. The Village opened the hearing and closed it in accordance with their normal proceedings and abandoned the Eminent Domain proceeding.

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

WHEREAS, by resolution adopted November 5, 2014, the Briarcliff Manor Board of Trustees set a Public Hearing for November 24, 2014, to (i) consider the acquisition by eminent domain of a temporary construction easement and a permanent use and maintenance easement on property owned by Briarcliff Manor Investors LLC ("BMI"), identified on the Village's Tax Map as Section 98.13, Block 1, Lots 13, 14, 15, and 19 and Section 98.09, Block 1, Lot 29, and commonly known as 150 Lodge Road and the former Kings College Campus ("Contemplated ED Acquisition"), for the purpose of implementing the Village's Public Purpose Infrastructure Improvements Project, i.e. construction of public water and sewer improvements ("Village's Public Purpose Infrastructure Improvements Project") and (ii) inform the public, review the public use and impact on the environment and residents of the locality, and receive public comment regarding the Village's Public Purpose Infrastructure Improvements Project and Contemplated ED Acquisition ("November 2014 ED Public Hearing"); and

WHEREAS, BMI delivered to the Village a certain Water Main And Sanitary Sewer Facilities License Agreement and a certain Water Main And Sanitary Sewer Facilities Easement Agreement which convey to the Village a temporary construction easement and a permanent use and maintenance easement corresponding to those which were the subject of the November 2014 ED Public Hearing and give the Village the land and interests in land necessary for the Village to proceed with the Village's Public Purpose Infrastructure Improvements Project ("License & Easement"); and

WHEREAS, on November 24, 2014, the Board of Trustees opened the November 2014 ED Public Hearing as set, at which time all people wanting to be heard could be heard, heard one public comment from counsel to BMI, and closed the November 2014 ED Public Hearing;

NOW, THEREFORE, BE IT:

RESOLVED, that the Board of Trustees determines that the Village's need for the Contemplated ED Acquisition has been obviated by BMI's delivery of the License & Easement; and be it further

RESOLVED that the Board of Trustees hereby abandons the Contemplated ED Acquisition and any proceedings for the Contemplated ED Acquisition.

Minutes

The minutes were tabled to the next meeting.

Adjournment

Mayor Vescio reminded residents to wear reflective vests and/or carry a flashlight and to walk or jog facing traffic when it's dark out.

Upon motion by Trustee Wilson, seconded by Deputy Mayor Sullivan, the Board voted unanimously to adjourn the regular meeting at 7:50pm.

Respectfully Submitted By,

Christine Dennett
Village Clerk