

THREE THOUSAND TWO HUNDRED SIXTY-FIFTH

REGULAR MEETING

Rutherford Hall
Village Hall
October 25, 2016

A Regular Meeting of the Board of Trustees of the Village of Scarsdale was held in Rutherford Hall in Village Hall on Tuesday, October 25, 2016, at 8:00 P.M.

Present were Mayor Mark, Trustees Callaghan, Finger, Pekarek, Samwick, Stern, and Veron. Also present were Village Manager Pappalardo, Deputy Village Manager Cole, Assistant Village Manager Richards, Village Attorney Esannason, Deputy Village Attorney Garrison, Village Treasurer McClure, and Assistant to the Village Manager Ringel.

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The minutes of the Board of Trustees Regular Meeting of Thursday, October 13, 2016 were approved on a motion entered by Trustee Pekarek, seconded by Trustee Veron, and carried unanimously.

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Bills & Payroll

Trustee Finger reported that he had audited the Abstract of Claims dated October 25, 2016 in the amount of \$2,098,200.72 which includes \$56,911.42 in Library Claims previously audited by a Trustee of the Library Board which were found to be in order and he moved that such payment be ratified.

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

RESOLVED, that the Abstract of Claims dated October 25, 2016 in the amount of \$2,098,200.72 is hereby approved.

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Mayor's Comments

Mayor Mark gave the following comments:

“On the 2016 Revaluation Related Matters and Update:

On October 14, 2016, we received two emails from Mayra Kirkendall-Rodriguez prompted by the Committee of the Whole meeting on October 13, 2016, which was held to consider whether or not to take steps to phase in certain assessment increases resulting from the 2016 revaluation for a limited number of certain eligible residents. That question was taken under advisement and will be considered further this evening.

In summary, the emails received asked the following questions:

1. What precedents and statutes prohibit the Board of Trustees from invalidating the 2016 revaluation?
2. Have any of you spoken to any counsel other than the Village Attorney?
3. Why was Tyler not given a chance to do the 2016 revaluation? Were Trustees aware that Tyler sent a proposal to the Assessor?
4. Can State Assemblywoman Amy Paulin be asked to introduce emergency legislation to invalidate the 2016 revaluation?
5. Who at the New York State Office of Real Property Tax Services (ORPTS) did we speak with on this subject?
6. When will an ad hoc committee on revaluation be convened? How will its members be selected? Will it be up to residents to volunteer?

I responded to the emails noting that I would address the questions in my comments tonight. Here is my response.

1. The legal framework in which the Board is operating was summarized in a 1972 opinion of counsel of the State Board of Equalization Assessment (SBEA) issued March 13, 1972 (Volume 1 – Opinions of Counsel SBEA No. 75). The SBEA was the predecessor to the ORPTS. The question presented was “whether a town board has the authority to prohibit the assessor from using a reappraisal the board considers unsatisfactory and to direct the assessor to use a prior roll as the basis for the current assessment roll to be completed.” The Opinion reviews relevant statutory provisions. It cites Section 2 of Article 16 of the Constitution of the State of New York noting that it provides, in part, that the Legislature shall provide for the supervision, review and equalization of assessments for purposes of taxation. The opinion then states that the State Legislature has delegated the exclusive authority to assess real property for the purposes of local real property taxation to local assessors (citing, Town Law, section 33 and Real Property Tax Law, section 500 et. seq.). The opinion concludes that: “The town board, therefore, has no authority to substitute its judgment for that of the assessor and the exclusive remedy available to a property owner, who considers himself aggrieved by reason of any assessment made by the assessor, is that which is provided by Article 5 and Article 7 of the Real Property Tax Law.” Article 5 is the provision that establishes the Board of Assessment review grievance process. Article 7 establishes the process for judicial review of assessments through SCAR filings and certiorari petitions. The counsel to the SBEA issued an

opinion stating the same conclusion on July 3, 1975 and again by way of update on February 10, 2012 (Volume 2 – Opinions of Counsel SBEA No. 29).

2. No subsequent interpretation, regulation or case that asserts a contrary view has been brought to our attention and therefore these opinions appear to state a definitive view of the law.
3. Last month we had a telephone call on this subject with Assemblywoman Amy Paulin and members of the ORPTS Staff. Included in that call was Amanda Hiller, the Deputy Commissioner and Counsel of ORPTS. She confirmed our understanding of the legal limits on this Board's authority as set forth in the SBEA (the predecessor to ORPTS) opinions. So in terms of speaking with counsel other than the Village Attorney, the answer is yes, we have spoken with other counsel who is conversant with the relevant regulatory scheme and so is an authoritative source for the purpose of confirming what our own research has shown.
4. In terms of whether or not the Board knew of Tyler's interest in doing the follow-up revaluation, I have not seen evidence that it did. However, given the level of resident criticism of the work Tyler did in 2014 it would have been an unlikely choice at the time to do a follow-up revaluation. By analogy, that would have been tantamount to asking J. F. Ryan to do the next revaluation. However, whether the prior Board knew of Tyler's interest or not, it is reasonably clear that at least a part of the answer to the question on why J.F. Ryan was chosen to do a revaluation in the manner it was done seems to have been based on budgetary considerations and the goal sought to be achieved by the 2016 revaluation. As we all now know, the 2016 revaluation was prompted in large part by the criticism of some residents of flaws they perceived and analyzed in the Tyler revaluation. It was hoped that a further revaluation would improve on what Tyler had done. In seeking to do so, budget concerns played a part in seeking a means for achieving that objective at a lower cost than the just under \$1 million spent on the Tyler revaluation. It was believed that could be accomplished because the subsequent revaluation would utilize – and did utilize -- all of the property data collected by interior inspections made by Tyler of virtually all properties located in the Village. Having had an unprecedented 95% participation rate by residents in granting access to their homes to collect that data, it was believed that by using that current data, a subsequent revaluation would not have to involve access to residents homes and substantial savings could be achieved. In fact, ORPTS, in accordance with its Cyclical Reassessment Aid Program, requires all parcels to be "physically inspected" once every six years. This type of physical inspection does not necessarily require the kind of comprehensive Village-wide interior data collection completed by Tyler for the 2014 revaluation. The generally accepted industry standard for completing such a comprehensive interior inspection is no less than once every 10 years but certainly not two years after such an effort was accomplished.

5. As far as asking Assemblywoman Paulin to introduce legislation providing authority to invalidate the 2016 revaluation, whether or not such a request should be made is a matter with which members of this Board have wrestled. The issue is not whether we can make that request or not – any request can be made and Assemblywoman Paulin has always been supportive of Scarsdale. We have confirmed this point with her.

I have also had a similar conversation with State Senator Andrea Stewart-Cousins who also said that she would do what she could to be supportive of the Village.

However, the threshold question before us is not whether we can make such a request, but rather if we did and even if it were granted would that be the best result for the Village as a whole. It is on this threshold question that I have a different view from those residents who have urged us to make such a request. I believe that even if the final 2015 assessment roll could be reinstated, that would not be the best result, have stated so previously and will repeat some of what I have said before on this subject.

For members of this Board who were on the Board at the time of the Tyler revaluation the similarity of the circumstances we face today with respect to the 2016 revaluation are several in important respects. There is a strong dissatisfaction with the results of the 2016 revaluation. The same was true in the case of the 2014 Tyler revaluation. There is a call to do another revaluation as soon as possible. The same was true in 2014. The two scenarios differ in those who are voicing these sorts of concerns, but the calls to action are essentially the same: the product is flawed, let's throw it out and redo it.

As I have said before, in my view replacing the 2016 revaluation which has been criticized for its flaws, with the results of the 2014 revaluation that were subject to similarly vehement criticism, does not address the issue at hand. This not a question of the Board being afraid to anger some residents. This Board has shown in the past year and a half that it does not shrink from exercising what it believes to be a reasonable judgment just because it might make some residents angry. So too in this situation, as the Board considers the issues before it one thing is clear, that probably any decision made by the Board will make some folks unhappy. That is simply the nature of the circumstances in which we find ourselves. As I have said previously, reinstating the prior assessment roll, with the flaws inherent in it, will undoubtedly precipitate a host of issues – some that might be anticipated and some unforeseen. Several sorts of legal and practical issues may arise.

- A legal issue that re-instatement would trigger is that those who may be grieved by the reinstatement of the 2015 roll would be denied an opportunity to file grievances. That inability must be seriously considered. A course of action that fails to afford residents their due process grievance rights would

be an egregious result -- not simply a matter of angry residents. In contrast, those homeowners aggrieved by the 2016 roll were afforded the opportunity for – and did pursue administrative and judicial relief from the assessments through the statutory grievance process.

- During the period such legislation was working its way through the legislative process a period of months of uncertainty over assessed values in the Village would continue, with no promise of what the resolution would be. The legislative process would require action by each of the State Assembly and the State Senate and then action by the Governor. The formal legislative process could not start until January 2017 when the legislators go back in session. We have also heard that it is sometimes the case that individual legislators from one locality will withhold voting on legislation focused on another locality until the end of the legislative term in June. They use their vote as a negotiating tool for getting votes on measures they are sponsoring. What this means is that just because our representatives may support legislation we might request, passage could involve a very prolonged period during which the process plays out with little certainty as to the result. This sort of extended period of uncertainty would do little to ease the angst some have experienced as a result of the 2016 revaluation and if the legislation did not get adopted, would not address it at all.
- As a practical matter, if authorizing legislation was passed, implementation would likely not be feasible until deep into 2017 either concurrent with the time for issuance of initial tax bills – or even after initial tax bills went out based on the 2016 valuations still in place. This would create a chaotic scenario in the administration of taxes on the County and local level increasing the possibility of incorrect billings, the need to issue refunds and additional tax bills. Such a scenario would be another source of distress for residents that cannot be dismissed.
- Lastly, reinstating the 2015 roll does not squarely address the problem now confronting us, making pursuing this course undesirable in my view.

The framework provided by statute for dealing with the effects of a Village-wide revaluation are in process. 1,103 of our homeowners availed themselves of the administrative appeal to the Board of Assessment Review and based on data provided to me today, of those, 584 have filed for further review of their grievances either by way of SCAR proceedings (463) or Cert petitions (121). Any assessment reductions granted these property owners will automatically cause a redistribution of property taxes to the other property owners who did not grieve.

The point is that to address the present concerns of the residents who have spoken up, the path forward is to do another Village-wide revaluation – and do it in a well

thought-out, well publicized and inclusive manner that is adequately documented and understood – even if there are some that may disagree with whatever its outcome may be.

Moving forward: process for considering future revaluation: So when and how do we go about doing another re-valuation. Once we carefully map out the “how” process, the “when” can be determined. In terms of the “how” we have asked the Village staff to draft an outline of a revaluation process that reflects what we have all learned from the 2014 and 2016 processes. The high points are fairly straight forward: locating a pool of qualified and available vendors and selecting a vendor through a suitable vetting process; drafting a clear and manageable professional services agreement including a detailed scope of work, achievable milestones and the necessary deliverables; oversight of the process in a manner that assures what has been contracted for is actually performed and delivered; allowance of a period in which residents can informally ask questions about preliminary assessment results and in which appropriate corrections can be made prior to the tentative assessment roll statutory filing date; and budgetary considerations.

We have commented that the process for considering a future revaluation should be a thoughtful one that included, among other things, resident input. In that regard, we had spoken generally about forming an ad hoc advisory committee of residents, with Village staff representation, for that purpose.

To that end, we are considering what the make-up of the Committee should be, taking into account the suggestions we have received from residents in that regard.

We will need to flesh out the mandate for the ad hoc committee but in general terms, it would be a vehicle for making recommendations to the Village Board and the Village staff on the process for the next revaluation; for providing input on the selection of a firm to do the work; and providing some level of oversight of the process, consistent with any legal or conflict of interest limitations. The scope of these roles will have to be thought out further, but it is not contemplated that the ad hoc committee would do the work or otherwise be involved in the conduct of the revaluation itself. It would be important for all residents to know that the execution of the revaluation will be, and was, in the hands of whatever vendor was engaged for the purpose and Village staff – and was not subject to the control of a select – albeit well-meaning – group of residents. The process of appointing this sort of ad hoc committee will be advanced in the coming months and we will let residents know when we are ready to start accepting applications.

Consideration of Phase-In Legislation: A special meeting of the Town Board has been noticed for this evening. The sole purpose of that meeting will be to continue consideration of a resolution which if adopted, would request that our representatives in Albany start the State legislative process for enacting a law that would then permit the Village to adopt a Code provision that would phase-in certain levels of reassessed values over a period of time, likely three years. This evening’s Special Town Meeting is the second such meeting on this

topic. A prior Special Town Meeting to consider this proposal was held on September 27, 2016. On September 27th, this Board heard an overview presentation on the phase-in mechanism from Deputy Village Manager Rob Cole. The Board also heard public comments on the subject, substantially all of which were in opposition to it for a variety of reasons. Following the procedure we used on September 27th, even though the matter is a Town Board matter, if residents in attendance wish to comment on this subject during the public comment section of this meeting they should feel free to do so.

Hyatt Field: This Board is aware of community opposition to a proposal to create a parking lot at Hyatt Field as part of an overall plan to mitigate traffic and parking issues in and around Hyatt Park. We have received a number of emails from residents on the subject, a report dated October 14, 2016 from the Friends of Scarsdale Parks in opposition to creating the parking lot, a statement by the Bramlee Heights Neighborhood Association reporting on an October 17th meeting with Parks Superintendent Brian Gray in which opposition to a parking lot was one topic discussed, and are aware of the meeting held on October 19, 2016 of the Advisory Council on Parks and Recreation (PRC) at which further resident opposition comments were made. Trustees Callaghan, Pekarek and Veron attended the PRC meeting. Suffice it to say, the point has been made and has been heard.

The PRC is scheduling a follow-up meeting for Wednesday, November 2, 2016 at 8:00 p.m. in Village Hall to discuss further the plan and to provide recommendations to the Village Board on the various plan components. In the interim, Village Staff will continue to engage with neighborhood residents on this issue arising from the popularity and use of Hyatt Park. As such, under the circumstances, the construction of a parking lot of the sort initially proposed at Hyatt Field is not imminent.

Solar Panel Guidance: The Board was pleased to receive this week an October 2016 report titled "Scarsdale Solar Policy and Permitting Guidance" from the Conservation Advisory Council (CAC). The Board had made a request last spring that the Council research best practices for regulating solar energy systems that homeowners might wish to install. That research has now been done and the Council's thoughtful report reflects the hard work put into studying the issue and in coming up with some recommendations with respect to it. We have scheduled a public meeting for 6:30 pm, December 13, 2016 which will be a joint meeting of the Land Use and Sustainability Committees of this Board to go over the report and to consider next steps. In the meantime, we thank the CAC, chaired by Lee Fishman, for their hard work on this important subject.

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Manager's Comments

Village Manager Pappalardo reported on the Annual Fall Leaf Collection Program of the Village which commenced this week and will continue until December 16th, which is the last day to place leaves at the curb for collection. For many years, the program consisted of

DPW Highway Department personnel supplemented by temporary laborers collecting leaf piles loose at the curb line with vacuum trucks. The leaves are hauled to the recycling center where they are removed by Westchester County contractors and disposed of at leaf composting facilities located outside of Scarsdale. Collections are performed three to four times at each residence during the season. Alternately, leaves may be placed in biodegradable paper bags and placed at the curb for weekly collections by separate public works crews. Residents and contractors are reminded that all leaf piles placed loose at curbside for collection must be free of any other organic matter which includes twigs, branches, grass clippings. These so called 'contaminated piles' can damage Village equipment and will not be collected. In these cases, Village personnel will leave a warning notice at the home notifying residents of this requirement.

Additionally, loose leaves placed in the roadway are a traffic safety hazard in violation of the Village Code. They can also create localized flooding situations when they wash away and block Village storm drains from functioning properly. Homeowners are again reminded to refrain from this practice and to inform their landscapers to place the leaves no closer to the street than the curb line. Warning notices, as well as violation notices if this practice is witnessed will be issued. The Village asks for the residents' adherence to maintaining traffic safety and proper flood mitigation during the leaf collection season.

Residents and landscapers working at Scarsdale homes are encouraged to bring their leaves loose or in paper bags to the recycling center at 110 Secor Road where they can dump them for free. Contractors must obtain a permit from the public works department and provide proof of client residency. Residents may also purchase 40 gallon biodegradable bags at the recycling center at a cost of \$4.00 for five bags. There are no restrictions to the number of bags the residents can purchase. Please contact the Public Works Department at 722-1150 for further information.

Village Manager Pappalardo stated that finally, residents are encouraged to mulch mow their leaves on site. Leaf mulching provides environmental health benefits to your lawn while reducing phosphate run off into water bodies as well as localized flooding and traffic hazards concerns previously mentioned. Additional information regarding leaf mulching is available on the Village website at www.scarsdale.com. He also mentioned to any residents or local landscapers interested that the City of New Rochelle is hosting a mulch mowing workshop on Saturday, November 5th at 3:00 P.M. at Twin Lake Park, which is the grass area located on North Avenue in front of New Rochelle High School. The event will involve a live demonstration by a professional landscaper and opportunities to have questions answered by the experts from the Greenburgh Nature Center.

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Public Comment

Howard Weitz, Lawrence Road, spoke regarding the questions as to whether or not the 2016 Revaluation can be invalidated. Now, after much time and discussion, the residents are just finding out through the Assemblywoman's emails that under the Home Rule Law, and Westchester County being one of the Charter counties, that there was this path. He pointed out that his criticism is that if the Board could have given this straight to the residents at the beginning, that yes it could be done but that they didn't want to do it, then a lot of time and effort would have been saved.

Philip Mehler, 54 Birchall Drive, longtime Scarsdale resident, stated that he had asked a few questions some months ago about the budget. He stated that he had asked why the Board is hoarding the taxpayers' money which he believes is in the range of \$11 million and is collecting no interest. Why isn't the Board using some of that money? A couple of million dollars could be used to stabilize the taxes which the Board arbitrarily raises 3-4% every year. Another couple of million dollars could be used to improve the roads which are currently the worst in Westchester. Why is the money just sitting there year after year?

Mayor Mark replied that the Board does not arbitrarily raise tax rates. There is a budget process which is very detailed. The Village does use some of the money that is in the General Fund balance both for roads and to provide cash for a variety of capital projects and for capital needs. In past years, it has been used to help purchase fire engines and to use to provide funding for some of the other capital work that has been done in the Village rather than borrow money. The Village has used it, not to the extent some residents would like, in past years to reduce tax burden and the Board will continue to look at that each budget season. The Village receives a lot of credit in its credit rating for having that balance there and has a Triple A credit rating.

Mr. Mehler argued that the Village did not need a Triple A credit rating and that there are only two Fortune 500 companies that have a Triple A rating – Proctor and Gamble and Microsoft. The money just sits there collecting no interest.

Mayor Mark responded that interest rates today are sufficiently low that if interest were being collected it would be virtually negligible. The fact that it is not collecting interest for the last nine years when we have been in historically low interest rates is almost a moot point. The Board understands the criticism and the question.

Mr. Mehler then asked why the Village Assessor hasn't yet been fired.

Mayor Mark stated that the Board has stated repeatedly that they are looking at the situation in the Village Assessor's office about the Village Assessor and about how that office is run. There are laws that govern such things and the Board is looking at all of that.

Mr. Mehler stated that there is no excuse for the Village Assessor – he stated that she is incompetent and that he didn't think anyone would refute that. Secondly, she should have never been hired in the first place. The Village Manager did not review or vet her credentials properly. Third, she accepted gifts from the vendor and then assigned him the job of the revaluation without competitive bids. Fourth, she bloated the Village payroll; she had four people on her staff. Fifth, the revaluation is an unmitigated disaster and \$2 million has gone down the drain with the consultants and all the costs for the extra people hired by the Assessor. In his opinion, the Board failed in their fiduciary responsibilities to monitor what the Assessor was doing. She has nothing but contempt for the taxpayers of Scarsdale; she has a 'soak the rich' philosophy; she is rude to everyone and that alone is enough to have fired her long ago. Mr. Mehler stated that all of the tax increases have totally destroyed the market for house of \$3 million and up.

Trustee Stern stated that Mr. Mehler made a lot of accusations and he stated that the Board has its hands tied when it considers these types of negotiations for legal reasons. He added that not all residents are dissatisfied with the Assessor. To make a blanket statement like he did is not supported by other evidence. Trustee Stern stated that some people were very satisfied with this recent revaluation, although a lot are unsatisfied. Accusations have been made that are unsupported by facts and he suggested that the facts be looked at. He added that if the area is overbuilt, the homes will not sell.

Trustee Finger stated that the Board approved over \$800,000 in invoices for roadwork that has been done. He stated that the Board and staff are focused on getting the paving work done. He informed Mr. Mehler that if he went over the numbers mentioned before with the assistance of the Village Treasurer, he might see that the numbers are a little different from what he stated.

Steven Rakoff, 64 Morris Lane, stated that what concerns him is that the Board wants the same players running the same proposed reval system with an ad hoc committee that the Board will select and they will only have input. He stated that the Mayor's answer is disappointing although it is full of facts. A revaluation should not be done for a third time in a row with the same oversight.

Mr. Rakoff stated that FOILs have been filed that have been delayed since July. The citizens have a right to know under State law.

Mr. Rakoff stated that homes are not being purchased here because consumer confidence has been shaken.

Mayor Mark stated that there are legal reasons why he cannot comment further and it is his most sincere hope and to the extent he can make a commitment because he may not be in the Mayor's chair at the time, that whenever the next revaluation is done it is not going to be done the same way. It will be done along the lines that he outlined and by

people who are able to attend to it properly. To protect the Village, he cannot say any more about it at this time.

Mr. Rakoff asked if there were any reason the FOILs have not moved forward; assuming they are not censored he assumed that they flow as they are filed.

Mayor Mark stated that as a general matter, that is correct – there are certain things that are permitted to be done in the process of those and certain review procedures that the law allows, as a general matter it is his impression that they are being processed as best the staff can, given the volume of the FOILs.

Village Manager Pappalardo stated that the FOIL requests that have been received on the revaluation total 44. Thirty of them have been completed to this point in full, ten have been partially complete and there are four that are still pending. Staff has spent an enormous amount of staff time trying to complete the FOILs, understating the urgency of the situation and concerns of the residents. It is a team effort involving five to six staff members on a daily basis.

Village Attorney Esannason stated that under the Freedom of Information Law, the municipality has the right to exclude certain communications, particularly those communications that are deemed to be intra agency. Intra agency would be a document that flows from one department to the next and is not a statistical tabulation, does not constitute a final agency policy determination, and is not a matter that generally affects the public. Those emails are generally excluded. Since June 1st, there has been inordinate number of requests – we have never seen in as many years as he has been here, as many requests that have been received. He noted a spreadsheet listing of all the FOIL requests and stated that there was one resident's FOIL request that was enormous. On July 18th of this year, the Village turned over 14,834 emails. In addition to that, the same resident filed another FOIL request, and on October 13th, the Village turned over 15,496 emails. There are still approximately 3,500 emails left for that particular resident. That is just one person and just one subject matter. FOILs are not just limited to revaluation; they come in for the Police Department, Police Reports, land use matters – the Village receives the whole gamut of FOIL requests. Generally those requests are taken in the order that they are received; however, if there is a FOIL request that can be processed expeditiously, then that is done and that request is taken out of order. It is time consuming – there are no additional resources and staff works within the confines of the resources they have with the understanding that there are still jobs to do – there is still a Village to run. Staff is doing the best we can under the circumstances.

Mr. Rakoff questioned Village Attorney Esannason why he would feel he even needs to review all the emails if the email is between a vendor and an employee.

Village Attorney Esannason stated that he never said he goes through all of the emails. He does skim through some of them because the Village needs to be aware of what

is actually being sent to a FOIL applicant so that the Village is informed. The 15,496 emails that were provided to a resident were totally from outside agencies. He stated that the Village doesn't see or read everyone's emails, so from a management perspective, the Village should be aware of what is being said and what emails go out. There are some FOIL requests that are intra agency that are being reviewed, and unfortunately it is going to take time.

Mr. Rakoff told the Mayor that this is what creates the angst; however, he wanted the Village Attorney to state for the record that he does not represent any employee.

Village Attorney Esannason stated that he does not represent the employee; he represents the Village. However, he does represent an employee in their capacity as a representative of the Village.

Mr. Rakoff stated that they have called for transparency over the last three years and people would like to know that they can just get the emails in a timely fashion before this process begins to linger and affect the real estate market with what they believe is bad leadership within the Assessor's office.

Ron Parlato, 1 Sherbrooke Road, asked if there was a timeline when Ms. Kirkendall-Rodriguez's FOILs which she filed sometime in July will be answered.

Mayor Mark stated that Deputy Village Manager Cole has responded to her a number of times by email; not with a timeline but describing the process that the staff is going through.

Mr. Parlato asked if there was a better program that could be found that certain key words could be put into to bring the requested emails forward.

Village Manager Pappalardo responded that the Village just purchased some software that allows the Village to do that and sort the emails more quickly. This has helped the Village answer a handful of these FOILs. As the Village Attorney Esannason has explained, however, there are some FOILs that are so broad that cover thousands of emails and some of them may be protected in the interest of the Village. The Village Attorney has the responsibility to do some sort of random sampling of those emails to make sure that those that are protected are not released. This is where the difficulty comes in as to what reasonable people would think is a timely fashion to answer a FOIL request. There were 44 FOIL requests relative to the reval. He stated that he has a spreadsheet of the FOIL requests available for anyone who wants to see the nature of the requests. FOIL requests come in many varieties; there can be a simple request for a document you can put your hands on and send it right away. Most of them are difficult and time consuming; an inordinate amount of staff time is spent on the FOILs. It is a lot of staff time and is taking away from a lot of other things that need to be done. The Village is doing the best that it can; there is no way to farm this out. It is a question of handling it in house, keeping it

organized. We receive new FOIL requests every day; it is not just the reval. We have had another approximately 225 FOIL requests that have come in over the last 11-12 months on different issues that also has to be managed. There is not a date certain for the balance of Ms. Rodriguez's emails at this point. The Village Attorney is doing the best he can to get through them. He stated that he has asked the Village Attorney to release some emails once he has gone through them and that has been done in batches which is not normally done. The usual procedure is to wait until the FOIL request is completely filled before releasing any information. This is all being done through electronic mail so that no one has to spend any money because the law allows for the Village to charge 25 cents for each hard copy page of this information. The Village is trying to work with the residents and working very hard to get them done.

Mr. Parlato asked Village Manager Pappalardo if he were shocked at the emails coming from the Assessor's office in relation to the Deputy Village Manager.

Village Manager Pappalardo stated that this was an isolated email. He is concerned when he sees emails that he does not think are professional and the staff has been coached on this type of thing. However, it is the most popular mode of communication these days and there are thousands of them that go out all the time. It is a difficult question for him to answer but he stated that the staff understands the proper use of email.

Mr. Parlato stated that the Assessor can't stay in Scarsdale; she has been inept and not done her proper job. The taxpayers have had enough and it is time for her to leave. The residents are hoping the Board of Trustees and the Village government will do this for them and hire an assessor who has respect for them.

Mayor Mark responded that the Board understands and has internalized that point.

Mr. Parlato thanked the Board for the new website and stated that it is a better communication system.

Linda Killian, 1 Forest Lane, stated that she has been a resident for 32 years. She stated that she has never seen the Village in such a crisis of confidence with its governance and also a crisis of uncertainty with the tax structure of the real estate. She stated that the Board is on a course of making one bad decision after another, starting with the 2016 reval. She took issue with the Mayor's remark of likening the 2016 reval to the 2014 reval – she stated that was not true. The 2014 reval was thought through in a very thoughtful way. It was done in a very open way; the entire process had a lot of support from the community. During the revaluation process, Tyler Technology, unlike Mr. Ryan, is a national professional organization. Some people may have not liked the outcome but it was professionally conducted.

Ms. Killian addressed the issue before the Board this evening about requesting Assemblywoman Amy Paulin to ask the New York State Legislature to phase in the tax assessments over three years. She stated that this is another ill-considered decision which is not going to do anything to bring closure to this. Of the options the Village has, it is not a good one. She would advocate a request of the State Legislators to void the 2016 revaluation which everyone knows was incompetently done and revert to the revaluation done in 2014, which she urged the Board to do. She stated that Westchester County tax is going to be a 0% tax increase for this year and she hoped that the Board would keep this in mind as a way of governance for the Village.

Robert Berg, 32 Tisdale Road, stated that he wanted to talk about the phase-in very briefly and stated 'don't do it'.

Robert Harrison, 65 Fox Meadow Road, noted that the Board had a Traffic Study meeting this evening at 6:00 P.M. He said that the meeting was not videotaped and the Scarsdale Inquirer and Scarsdale 10583 were not at the meeting. He insisted that the Board videotape these meetings as it is not fair to the community to not be able to watch them.

Mr. Harrison thanked the Mayor for his detailed remarks made earlier in the meeting. He stated that contrary to the Mayor's remark about the similarity between the 2014 and 2016 reval controversies, there is no comparison. Some people were unhappy with the 2014 reval but the 2016 reval had an impact on many senior citizens who have lived in Scarsdale for many years. This was not the same as the 2014 revaluation.

Mr. Harrison stated that Bill Mehler made comments about the Assessor, as he also has – she can be rude and arrogant and she says doesn't have good math skills. She should retire or be forced to do so. He asked if a copy of her contract with the Village could be requested through FOIL.

Mayor Mark stated that the Assessor's term is governed by New York State law.

Village Manager Pappalardo stated that the Assessor has an employment letter, not a contract.

Mr. Harrison stated that he spoke to the Assistant Director Christin O'Neill at the Committee on Open Government to discuss the FOIL process this afternoon. She stated that within 5 business days, the municipality is supposed to respond to the FOIL application and at that time can state that more time is needed to fulfill the request. Twenty business days later, the municipality should give a date certain as to when the FOIL request will be satisfied. She did mention that there are certain intra agency items that are not FOIL-able.

Village Attorney Esannason stated that with respect to the 20 days, there is also a provision that states 'or otherwise'. It takes into consideration other circumstances

surrounding the FOIL request that makes it impossible to provide a response with the 20 days as stated in the statute.

Mr. Harrison mentioned that he had submitted a FOIL request for a listing of FOILs that have been filed and their status and he looked forward to receiving it shortly.

Mr. Harrison noted that the unfunded reserve balance as of May 31st is approximately \$8.1 million and equals about 15.4% of the budget. The Board could easily look at using some of that fund balance prudently to keep the tax rate increase below 3-4% next year.

Concerning the phase-in legislation, Mr. Harrison stated that there is no time for the public to speak before the Board votes on it tonight.

Mayor Mark stated that the public could comment on it now, but they can also comment on it at the time the resolution is discussed at the Town Board meeting following this meeting.

Mr. Harrison stated that the resolution the Board is considering at the Town Board meeting regarding phase-in legislation, the number discussed previously of 128 homes that would be helped by this legislation does not appear in the resolution. He asked Deputy Village Manager Cole for a comment on this.

Deputy Village Manager Cole stated that although the resolution does not specify the number, the backup for the resolution still has the same analysis.

Mayor Mark stated that it is the same back up material as discussed previously at the September 27th meeting. The number of 128 is largely driven by the STAR eligibility requirement which is the model that Greenburgh and Ossining used. There was some discussion at the last public meeting that the number might be lower than that; it may be a lesser number.

Howard Weitz, Lawrence Road, questioned the timing of the phase in legislation versus invalidation of the 2016 revaluation.

Ron Parlato, 1 Sherbrooke Road, asked Village Attorney Esannason if he could receive the legislation he discussed with him concerning his meetings with other assessors during the grievance process.

Village Attorney Esannason stated that once the grievance process has commenced, the assessor no longer has jurisdiction over matters. She cannot unilaterally make changes to the assessment roll. The tentative assessment roll is filed on June 1st and Grievance Day is June 21st.

Mr. Parlato stated that he is notified of a change in assessment in the month of March. He stated that he has sat with other assessors on other properties that he owns and has gone to them with a CMA report from MLS and voice his concerns about being over assessed.

Village Attorney Esannason suggested that he meet with Mr. Parlato and they can discuss this rather than take up the Board's time with this individual question.

Robert Harrison, 65 Fox Meadow Road, stated that it is his understanding that once all the SCAR filings are in, that one could contact the Assessor and ask to sit down and meet with her to look over the filings and negotiate before going before a hearing judge. He asked the Village Attorney to confirm that the Assessor would be willing to meet.

Village Attorney Esannason stated that once the Assessor receives the list from the Court, she will then commence preparing her files and cases and will then notify residents prior to the actual hearing date and appearing in Court. Those residents can then come in and have a conversation about resolving the matter before it goes to Court. It is his understanding that a lot of these are resolved before the actual trial takes place.

There being no further comments, Mayor Mark closed the public comments portion of the meeting.

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Finance Committee

Trustee Samwick reported on the statements of expense and revenue for the various funds of the Village for the first four months of fiscal year 2016-17.

General fund appropriations were 41.76% spent as of September 2016. The Village refunded the balance of the 2009 debt issue which added a book expense of \$7.1 million to expenditures. Exclusive of this, expenditures were 29.3% spent, a 1.27% increase from the 28.08% in 2015-2016.

General Fund Revenues other than property taxes are \$12,918,491 through September 2016, including the revenue of \$6,295,000 related to the bond refunding. Exclusive of the bond revenue, other revenue is up \$523,926 through September 2016 from the 2015-2016 figure of \$6,066,566. Building Permit revenue (included in License and Permit revenue) is \$44,900 less than last year. Recreation Department revenue decreased \$129,200 due to decreased enrollment in some programs. The Recreation Department expects to make up some of the reduction going forward. Rental income dropped \$35,000. The drop is partially offset by the increases in Department Fees of \$25,100. Tax penalties and delinquent tax collections increased \$354,100 offsetting decreases of \$45,000 in Mortgage Tax and contributing to the year to year improvement. The increase in delinquent

tax collections is non-recurring with the result that revenue from tax penalties will decline as the balance of delinquent taxes has been reduced.

The actual collection of Village taxes through September 30, 2016 is at 99.03%. This is an increase of 39 basis points from last year's collection rate.

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Fire Commissioner

Upon motion entered by Trustee Callaghan , and seconded by Trustee Pekarek, the following resolution regarding a Uniformed Firefighters Association Fundraiser for the Muscular Dystrophy Association was approved by a unanimous vote:

WHEREAS, Through a combination of volunteerism and philanthropy, both directly and through the organizations to which they belong, Village employees demonstrate support for Scarsdale community values, including participating in a variety of local and non-local activities and fundraisers benefitting worthwhile causes near and far; and

WHEREAS, the Scarsdale Uniformed Firefighters Association (UFFA) has requested that the Village Board authorize a "Fill the Boot" fundraising effort in support of the Muscular Dystrophy Association, to be held on public property in the vicinity of Fenimore Road and Greenacres Avenue, to seek donations from pedestrians, many of who commute from the nearby Hartsdale Train Station; now, therefore, be it

RESOLVED, that the Village Board herein approves and supports the UFFA's efforts for a "Fill the Boot" fundraiser on public property, in the vicinity of Fenimore Road and Greenacres Avenue, on October 28, 2016, from 6:00 am – 9:00 am, for the benefit of the Muscular Dystrophy Association.

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Land Use Committee

Upon motion entered by Trustee Samwick, and seconded by Trustee Veron, the following resolution regarding an Extension of Building Permit #143351 for a Residence at 44 Murray Hill Road was approved by a unanimous vote:

WHEREAS, Building Permit #143351 was originally issued on October 8, 2014 with an estimated cost construction cost of \$500,000 for partial

interior and exterior demolition and construction of an addition, renovations, and alterations at 44 Murray Hill Road, identified on the Village Tax Map as Section 17 Block 01 Lot 6L, expired on October 7, 2016; and

- WHEREAS,** subsequent to the issuance of the building permit and start of construction, the applicant submitted an amendment to the Building Inspector to increase the size of the second floor exterior addition and to construct a swimming pool house. Due to the exterior design changes, the amendment was referred by the Inspector to the Board of Architectural Review who reviewed and approved the scope change on December 1, 2014, said amendment further resulting in an increase in the estimated cost of construction to \$750,000; and
- WHEREAS,** the owner of the property has since been unable to complete the construction within the allowable time due to cost overruns during the partial demolition work, the discovery of unknown conditions revealed during said demolition, the subsequent structural redesign as a result of the unknown conditions, and the owner opting to generally redesign several interior alterations after demolition was complete; and
- WHEREAS,** the architect requested a building permit extension for an additional twenty-four month period, expiring October 7, 2018; and
- WHEREAS,** the Building Inspector has reviewed the extension request, visited the site, and has determined that the renewal request is warranted and that the remainder of the work will take twenty-four months to complete; and
- WHEREAS,** the Village will incur additional costs to inspect the home and process this request for a building permit extension; and
- WHEREAS,** there have been no complaints or violations in conjunction with this permit; and
- WHEREAS,** §132-25.C of the Village Code stipulates that the Village Board may extend building permits by resolution; now, therefore, be it
- RESOLVED,** that Building Permit #143351 for the construction of an addition, renovation and alteration at 44 Murray Hill Road be extended to October 7, 2018; and be it further

RESOLVED, that the owner pay to the Village of Scarsdale, as compensation for the increased administrative costs associated with additional review and inspection services, an additional fee of \$10,855.92 in accordance with the pro rata fee listed in the 2016-17 Fees & Charges Schedule, calculated at a rate of 1/24th of the original building permit fee multiplied by the number of additional months estimated to complete construction.

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Police Commissioner

Upon motion entered by Trustee Stern, and seconded by Trustee Veron, the following resolution regarding Acceptance of a Gift from the Bowman Family Foundation for the Scarsdale Police Department was approved by a unanimous vote:

WHEREAS, The Bowman Family Foundation, on behalf of Matthias B. Bowman, wishes to make a restricted gift in the form of a \$2,000 grant to the Village of Scarsdale for the sole purpose of providing funding for police department needs identified by the Police Chief and approved by the Village Manager, as stipulated in the attached gift letter and associated Grant Terms and Conditions dated October 11, 2016; and

WHEREAS, Village staff has reviewed the Grant Terms and Conditions associated with accepting the gift and believes it is in the best interest of the Village to accept the gift; and

WHEREAS, pursuant to Policy #106: “*Gifts to the Village of Scarsdale*” of the Village of Scarsdale Administrative Policies & Procedures Manual, acceptance of all gifts valued at \$500 or greater must be approved by the Village Board of Trustees; now, therefore, be it

RESOLVED, that the Village Board of Trustees accepts a gift of \$2,000 from the Bowman Family Foundation, pursuant to the Grant Terms and Conditions accompanying the Bowman Family Foundation letter attached hereto, and made a part hereof, to be used exclusively toward police department needs as identified by the Police Chief and approved by the Village Manager, and additionally extends its thanks and appreciation to The Bowman Family Foundation and Matthias B. Bowman for this generous gift to the community; and be it further

RESOLVED, that the Village Treasurer is herein directed to deposit said gift of \$2,000 in the Scarsdale Police Department Gifts budget account, TE-93-.08 – “Employ- Grat-Gifts-Police.”

Before the vote on the above resolution, Trustee Stern commented that he spoke to Police Chief Matturro who pointed out that this gift, plus another \$20,000 received in the past will enable the Police Department to purchase another license plate reader which is sorely needed. The Department has a license plate reader which is used almost exclusively on Post Road. Post Road is a major artery between northern Westchester and the Bronx. There is a lot of traffic that traverses this road and there are people with violations that shouldn't be driving vehicles. The license plate readers are very helpful in finding those vehicles that are in violation.

Trustee Stern noted as a point of interest that the first policeman hired by the Village in the early 1900's used a motorcycle. The sole purpose was to catch speeders on Post Road.

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Other Committee Reports

None.

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Liaison Reports

Trustee Callaghan reported as Fire Commissioner, noting the very successful Fire Fair manned by both the Volunteer and paid Firemen. The Fire Fair was held this past weekend with approximately 500-600 young people and their families in attendance. The Fire Chief has decided to make fire drills more education and try to enhance that experience in the Scarsdale public schools during the next year. He will share those ideas with the Board at a future meeting.

Trustee Veron reported that Deputy Village Manager Cole, along with IT Director Chris Obrien have worked very hard on the new website. Residents can now view it at www.scarsdale.com. They are working alongside the Ad Hoc Committee on Communications to ensure that there is ease of use, appropriate functionality and content. She stated that they are seeking comments from the public to relay their experience with the website. She noted that in the near future there will be a place for the residents on the website to provide those comments. They are seeking all input from the community in terms of how the website meets the residents' needs, as well as any other comments they might have. The entire committee is collecting comments in order to enhance communication between the Village government and residents. She announced that they have already had their first meeting of the Ad Hoc Committee on Communications and it was a very well attended meeting and an active discussion was held. She thanked those that have continued to apply to the committee. She stated that they will hold those applications;

right now the committee is full. If and when there is need for additional members, those that have applied will be notified.

Trustee Stern commented on the report received by the Board from the Conservation Advisory Council on its recommendations for revising the policy for solar panels on houses. The Board will have to consider these recommendations. This paves the way for expanding for solar power generation in Scarsdale. He relayed his own experience, stating that he has had a 6 kilowatt system since 2012. Con Edison has, in effect, paid him over that time through today \$11,085 for selling electricity to them. Today he watched his meter going backwards and selling electrical energy to Con Edison. Everyone in Scarsdale has that opportunity. Not only does he benefit financially, but with this system he has saved omitting 27 tons of CO2 into the atmosphere, which is equivalent to driving 54,000 miles in a typical vehicle. This is the best return on investment that one can get, with banks paying 0-less than 1% interest. The interest rate of return on this is incredible. He further stated that the Federal Government has just extended the 30% tax credit which was going to expire at the end of this year, for the next couple of years. So the community has the opportunity to take 30% off their taxes owed (not gross income) on any expense related to installing solar panels which would include a new roof if necessary. The cost of the panels have gone down 50% since he installed them in 2012. He encouraged residents to look into this.

Trustee Pekarek reported that DPW, the Village Arborist, the Superintendent of Parks and Recreation, the Village Engineer, and members of the Friends of the Parks today went out to Potter Road to look at the idea widening Potter Road by a small margin. The trees were one of the concerns that may be impinged upon if the road is widened. The Friends of the Parks identified at least one tree; DPW will make sure that this tree is protected. There is another tree that looks like it might be compromised so it is being further investigated by the Arborist and once that report is received a determination on that tree will be made. The Advisory Committee on Parks and Recreation responded quickly on reviewing this matter.

Trustee Finger announced that the Teen Center, the Scarsdale Library, and the Scarsdale-Edgemont Family Counseling Service are sponsoring two screenings of the documentary "Screenagers" on November 2nd and November 3rd with discussion following the screenings. He encouraged residents to attend.

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Written Communications

Village Treasurer McClure reported on behalf of Village Clerk Conkling stating, that all communications received that are written to the Mayor and Board of Trustees can be viewed on the Village's website, www.scarsdale.com under the Board of Trustees or Village Clerk section.

She reported that twelve (12) communications have been received since the last regular Board of Trustees meeting held on October 13, 2016.

Five (5) communications regarding the 2016 Reval were received from the following:

- Barbara Wabeck
- Mayra Kirkendall-Rodriguez, Fox Meadow Road (two communications)
- Michelle Braun & Norman Bernstein, 14 Wakefield Road
- Michael Seymour, 85 Greenacres Avenue

The remaining seven (7) communications were received from the following from the following:

- Conservation Advisory Council regarding Scarsdale Solar Policy Permitting Guidelines
- Bramlee Heights Neighborhood Association Statement regarding the Hyatt Field Park Parking Situation and Rest Stations
- Ron Schulhof & Michelle Sterling regarding a proposed food scrap drop-off site at the Secor Recycling Facility
- Terri Simon, Library Board President, with an update to the Library Information Binder
- Lika Levi, 21 Lockwood Road (two communications) regarding the new web site and construction activity in the Village
- Donald Nawi, regarding an article in the Scarsdale Inquirer concerning the state of businesses in the Village Center

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There being no further business to come before the Board, on a motion entered by Trustee Pekarek, and seconded by Trustee Finger, the meeting was adjourned at 9:50 P.M.

Donna M. Conkling
Village Clerk