

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
AUGUST 22, 2006**

A Regular Meeting was held by the Board of Trustees on Tuesday, August 22, 2006 at 8:05 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Wm. Lee Kinnally, Jr., Trustee Marjorie Apel, Trustee Peter Swiderski, Trustee Jeremiah Quinlan, Trustee Diggitt McLaughlin, Village Manager Francis A. Fobel, Deputy Village Attorney Marianne Stecich, and Village Clerk Susan Maggiotto.

CITIZENS: Seven (7).

APPOINTMENTS

Mayor Kinnally: We have an appointment of Pam Zahn to the Youth Council. We are in the process of completing outreach to the people who would be on the first comprehensive plan committee. By our next meeting in September we will have that roster completed.

APPROVAL OF MINUTES

On MOTION of Trustee Apel, SECONDED by Trustee McLaughlin with a voice vote of all in favor, the Minutes of the Regular Meeting of June 20, 2006 were approved as presented.

On MOTION of Trustee Apel, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Minutes of the Special Meeting of June 27, 2006 were approved as presented.

On MOTION of Trustee Apel, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Minutes of the Regular Meeting of July 18, 2006 were approved as presented.

On MOTION of Trustee Quinlan, SECONDED by Trustee McLaughlin with a voice vote of all in favor, the Minutes of the Special Meeting of July 24, 2006 were approved as presented.

APPROVAL OF WARRANTS

On MOTION of Trustee Apel, SECONDED by Trustee McLaughlin with a voice vote of all in favor, the following Warrants were approved:

Multi-Fund No. 11-2006-07 \$223,059.70

Multi-Fund No. 14-2006-07 \$ 46,426.81

65:06 Intermunicipal Agreement Re 422 Warburton

66:06 Developer/Municipality Agreement Re 422 Warburton

Village Attorney Stecich: The IMA is necessary for Westchester County to provide Housing Implementation Funds for materials, engineering service or infrastructure work at 422 Warburton Avenue: sidewalks, curbs, a retaining wall, and a public plaza. The county will not give the money directly to the developer. The county will only enter into a contract with the Village, and then the Village has to bid out the work. The IMA controls that situation. It is, unfortunately, a cumbersome process that the Village cannot get out of. The only good news is that the Village will get \$12,000 of the \$315,000 to retain an engineer to look at the contract before it goes out to bid, look at the bid, and do some work. It is going to have to be treated like any municipal contract: when the work is done we tell the county, the county pays the Village, and the Village pays the contractor.

It is a long agreement, and some provisions appear to be scary. If the work costs more than \$315,000 the Village is responsible. They will only give money up to \$315,000. If the work is not completed by a certain date the Village will have to pay back all the money. You deal with that by the Village entering into an agreement with the developer that they are going to be responsible for any costs over \$315,000 or they will be responsible for paying back the funds if the work is not done by a certain date. The DMA passes through all the liability. Fran made a good suggestion: that we require the developer to post a performance bond.

The provisions I had trouble with I bulleted in the memo. Those were the first two. The third one is a provision that the Village will be responsible for maintenance of all the infrastructure improvements. They are going to remain in the county's name until a certain point. Like the bonds that are funding their funds, when those mature the property will be turned over to the Village or the developer. It does say that the Village is responsible for all the maintenance. I have spoken with Susan and Fran, and the Village does not have a problem being responsible for the sidewalk and the water, but we do not want to be responsible for maintaining the public plaza on the property or the retaining wall. So that is another provision that we are going to have to make sure is included in the developer municipal agreement.

We have to get title insurance but that is a cost we could pass on to Urban Green, again through the developer municipal agreement. I do not, however, have the developer municipal agreement because they did not get it back to me. I called today to find out where the DMA was, and the lawyer handling that seems a little confused. He did not think that we had to enter into it until we went out to bid. I explained that we cannot go out to bid until we enter into a DMA because we cannot sign this IMA making us responsible for all this before we have signed the agreement that says if we are responsible, the developer is responsible.

Mayor Kinnally: Should we act on the IMA, or should we roll both of them over until the next meeting?

Village Attorney Stecich: It is a good idea to roll them both over because if we cannot come to agreement on a DMA we do not want to be locked into this IMA, although one of the conditions of the IMA is that it won't become effective until the DMA is in place.

On MOTION of Trustee McLaughlin, SECONDED by Trustee Apel, the Board voted to table Resolutions 65:06 and 66:06 until the September 12, 2006 meeting.

ROLL CALL VOTE	AYE	NAY
Trustee Marjorie Apel	X	
Trustee Peter Swiderski	X	
Trustee Jeremiah Quinlan	X	
Trustee Diggitt McLaughlin	X	
Mayor Wm. Lee Kinnally, Jr.	X	

Village Attorney Stecich: If anybody had any issues that I did not identify, get in touch with me so we can get them changed then before the meeting.

Trustee Apel: Should we have just rolled it over because then we're locked in to the 12th?

Village Attorney Stecich: I have a feeling that is going to take longer because the product I had was very far from acceptable. The 12th may be an optimistic date.

Mayor Kinnally: If not the 12th, it will have to be the 26th.

67:06 Interfund Transfers FY 2005-06

Village Manager Frobel: These year-end transfers are the result of work by the auditors. This occurs every year about this time. We have identified areas that we experienced some over-expenditures and areas when those monies would come from. It looks like the Village ended the year on a very favorable note. Our revenues exceeded our expenditures. We were able to increase our fund balance; it grew by \$283,000, so we are very close to that desirable percentage that lending institutions look for, the 5% in reserve. We are about 4.4%. These are unconfirmed numbers, but on a preliminary basis the auditors are reaching the conclusion in their report, which we will present to you in November.

On MOTION of Trustee Apel, SECONDED by Trustee McLaughlin the following Resolution was duly adopted upon roll call vote:

RESOLVED: that the Mayor and Board of Trustees authorize the Village Treasurer to make the following interfund transfers for FY1 2005-06.

Account Code	Account Name	Subsidiary Ledger	
		TO	FROM
A19904	CONTINGENCY		163,992.00
A5110100	STREET MAINTENANCE - PERSONAL SERVICES		39,806.00
A5110101	STREET MAINTENANCE - SEASONAL EMPLOYEES		30,249.00
A8160100	REFUSE & GARBAGE -PERSONAL SERVICES		29,000.00
A19104	UNALLOCATED INSURANCE		9,300.00
A19504	TAXES VILLAGE OWNED PROPERTY		7,550.00
A19804	PROV ALLOW UNCOLL TAXES		25,000.00
A19825	EMPLOYEE TUITION PROGRAM		5,000.00
A90408	WORKERS COMP		31,740.00
A90158	NYS EMPLOYEE RETIREMENT		21,974.00
A97306	B A N PRINCIPAL		27,030.00
A1440464	ENGINEER		2,500.00
A1620100	MUNICIPAL BUILDING - CUSTODIAN		5,969.00
A1620200	MUNICIPAL BUILDING - EQUIPMENT		4,875.00
A1620300	MUNICIPAL BUILDING - CAPITAL OUTLAY		8,600.00
A1620413	MUNICIPAL BUILDING - FUEL FOR HEAT		6,082.00
A3320100	PARKING ENFORCEMENT OFFICER		5,493.00
A3320101	METER REPAIR		9,100.00
A3412200	FIRE DEPT - EQUIPMENT		5,176.00
A3412300	FIRE DEPT - CAPITAL OUTLAY		5,711.00
A3412455	FIRE DEPT -CLOTHING		10,947.00
A3412453	FIRE DEPT - MAINT AUTO EQUIP.		1,004.00
A1110478	COURT - JURORS FEES	4,250.00	
A1230100	MANAGER	50,873.00	
A1420464	SPECIAL COUNSEL	79,765.00	

A1450100	ELECTIONS - PERSONAL SERVICES	329.00	
A19300	JUDGMENT AND CLAIMS	42,013.00	
A19824	NEWSLETTER	3,059.00	
A3120104	POLICE - PATROLMEN	58,300.00	
A5132414	CENTRAL GARAGE -GAS & OIL	31,359.00	
A5142415	SNOW REMOVAL - SUPPLIES	27,282.00	
A5182100	STREET LIGHTING - PERSONAL SERVICES	15,501.00	
	YOUTH EMPLOYMENT -		
A6326464	CONTRACTUAL	3,528.00	
A7020105	RECREATION - SEASONAL LABORERS	18,435.00	
A7110464	PARKS - OTHER SERVICES	6,797.00	
A7320420	ATHLETICS - RECREATION SUPPLIES	5,213.00	
A8010464	ZONING - OUTSIDE SERVICES	5,146.00	
	SANITARY SEWERS - MAINT OF		
A8120458	SEWERS	37,174.00	
A8140100	STORM SEWERS - PERSONAL SERVICES	3,418.00	
	STREET CLEANING - MAINT AUTO		
A8170453	EQUIPMENT	18,770.00	
A8560452	SHADE TREES - TREE SERVICE	17,806.00	
A90108	NYS POLICE RETIREMENT	5,129.00	
A90608	HEALTH INS.	5,145.00	
A97307	BAN INTEREST	16,806.00	
		456,098.00	456,098.00

ROLL CALL VOTE	AYE	NAY
Trustee Marjorie Apel	X	
Trustee Peter Swiderski	X	
Trustee Jeremiah Quinlan	X	
Trustee Diggitt McLaughlin	X	
Mayor Wm. Lee Kinnally, Jr.	X	

Jim Metzger, 427 Warburton: Regarding the cost of the project and the amount of money being provided by Westchester County, when we were discussing this project over the last five years, the developer kept bringing up that the size of the project was driven by the development costs of the site. While we wanted to make the project smaller to minimize its impact, they wanted to make the project bigger. At an Architectural Review Board meeting they presented a budget that included a huge amount of dollars for the development of the

site, including removing the old building and the rock, and then the cost of putting in the park. That was something that they were giving back to the community as part of the accommodations that we made for 45 Main Street.

I bring all this up in that it was reported in the *Journal News* that the developer received \$705,000 from the county to do remediation on this site: remove the old building, dispose of all of the demolition. Now I understand that there is another approximately \$315,000 from the county going towards the park that I thought A&F was providing. I would like someone to look into the funding that was presented as part of this project from A&F, or from Urban Green now, and do the numbers they presented to justify the size of the project. Now there is more than a million dollars of our tax money going back into this project. I would like to know if their numbers are balancing with what we are seeing as the reality of the project.

Mayor Kinnally: Part of the package that they put together included amounts from the county. I do not know what those amounts are. So the fact that money is coming back in from another source is not a surprise to me.

Mr. Metzger: That is why I said it was a question. I do not know the facts. I am asking someone who has all of that information to review it. Thank you.

VILLAGE MANAGER'S REPORT

Village Manager Frobel: The video on recycling has been completed and has been airing on WHOH-TV and it will soon be on the radio. This is a video that the staff put together to inform homeowners on recycling: how we go about it, what we recycle, what we do not. I would encourage you to see it and give us your feedback. It is eight minutes long, and it is both informative and a little amusing at times.

We had our job meetings today for both the Community Center and the parking plaza. The Community Center is moving along nicely. We suffered a little slippage in our schedule during the hot weather. They found it difficult to work on the roof putting on the metal and doing some of the concrete work during that extremely warm period a few weeks ago. But we are back on target. Soon you will see some scaffolding going up. The brick should be delivered. There will be some masons on the site. In fact, within two weeks you will probably see three or four of the different trades working on the building. Our target is still to be substantially completed by the end of November. All the trades believe we can reach that.

The plaza is moving along nicely. Last week a lot of work was completed. We have done the sidewalk repairs to the eastern side of the parking lot. They are going to begin putting

down the pavers in the alleyway near the hardware store. The drainage has been installed, but there will be some adjustment to that drainage work because of some changes in the field that we need to address. The signs are up indicating that all the stores are open during construction. There are two hours of free parking. There have been some difficult moments perhaps in the parking lot with people in and out, but we do have signage encouraging people to use the Steinschneider parking. I mentioned in my narrative how they are proceeding in the phasing of the work; I should have a schedule to you perhaps by next week.

Trustee McLaughlin: Mr. Frobel, when you say substantially complete, what does that mean? Will we be able to have events in the building?

Village Manager Frobel: No. We are thinking perhaps by mid-December we will take occupancy. Substantially complete means it is 99, 98% complete. There will be a punch list, where we will go through with some fine tuning. Carpeting might not all be down or the vinyl might not be down, but it will be substantially complete. You could move in if you wanted to, but it would be inconvenient.

Trustee McLaughlin: I work in the center of the Village across the street from Boulanger Plaza. Quite a few merchants have asked why this was being built now rather than a couple of months ago. I looked through our minutes to find the meeting when I was assured that the merchants had been consulted, but I do not find minutes of such a meeting. It must have been a work meeting where no minutes are kept. But the merchants are telling me that they were not asked when the most convenient time would be. They are concerned about construction going into October, November, which is responsible for the bulk of a business's sales for the year. I do not know what to tell them because I had been assured that the merchants had been asked.

Village Manager Frobel: The project has been in the works for a good three years or more. It has been very much desired by the Trustees and, I thought, the community as a whole. There is probably no good time to disrupt that parking lot. We thought that the summer months might be the least offensive because things slow down in August. It probably would have been nicer to begin on July 1 rather than July 30, but the timing did not work out. The deadline is November 12-15. We are doing everything we can to minimize inconvenience. The hardware store is taking deliveries at the front of the building. We have gotten a great deal of cooperation on the part of the abutting property owners, but it is going to be tough for people to find parking spaces at times. We are hoping they would use the Steinschneider parking lot; this is a slow time, I know, but there are sometimes 12 or 15 empty spots there during the day and on Saturday. It is a little further to walk but it is pretty close.

Mayor Kinnally: It was always our anticipation that we would start this project in August. We talked about that last year. We were hoping to get it done earlier, but we had problems with the wall and with funding and everything else. A number of merchants talked to me also about this, and I said if there was a breakdown in communication I apologized for it. But I was somewhat surprised when some merchants said that they did not know anything about this, because it has been such a high visibility thing. When you take a look at the calendar, one of the problems is when we finally made the decision. We had any number of meetings: about material, about design, the number of spaces, meetings with the adjacent property owners, many of whom are merchants. That's why I don't understand: it was not a well-kept secret. But given the lead time of coming up with plans and specs, going out to bid, we found ourselves back to where we thought we would be, starting at the end of July or the beginning of August. You cannot start it in January because you run into snow and ice. The window is somewhat small. Although the project is extended out to November, that does not mean that you are not going to be able to use the lot. They are trying to stage this such that a portion of the lot is going to be open for business most of the time.

Trustee Quinlan: I have two suggestions from the merchants and the people that I meet walking on the street. My office is at 535 Warburton. Two suggestions that I thought were interesting, and that I would support, would be to have two-hour free parking in the Steinschneider lot, the same as we have in Boulanger, during the construction. That would help the parking and show our good faith to the merchants, and make it easier for everyone to do what they can do.

My second suggestion would be to extend the free parking during the Christmas holidays. I believe it was two weeks, maybe we could make it three or four weeks. This is the most important time, November and December. A lot of these stores probably do more than 50% of their business during those two months. I would suggest that we make it even easier for them, and have extended Christmas free parking and two-hour free parking in the Steinschneider lot. I think that would help.

Mayor Kinnally: Before we do that let us see what the financial impact of that is going to be, because we budgeted for certain revenues in that area.

Trustee Quinlan: We have to see what the parking meters would bring in for the next three months at Steinschneider. But we also have to figure out what the financial consequences would be if more of our businesses go out of business because people cannot park and cannot get in. It is hard to quantify that, but those far outweigh the benefits that we may get from a little parking revenue. We could figure out other ways to increase our revenue, and we could talk about that on another day.

Speaker: How many spaces are going to be out at any one time?

Village Manager Frobel: Our goal is always to keep one-half of the lot open. Today the whole lot is open except for those that the contractor took. So there are times there could be minus 15, 18 spots.

Mayor Kinnally: On the weekends could they try to vacate that area and give it back to us?

Village Manager Frobel: They could try. They could pull their fence in a little bit, if you like. I could pursue that. That would probably give us six, seven more.

Trustee McLaughlin: Mayor Kinnally, your street is affected as well as mine with commuter parking. After Labor Day those commuters will be back in full force, the ones from out of town who do not have parking permits, in addition to the workmen who are working on the various projects in the Village. We need to have some longer-term fix. I do not mean permanent, but to recognize that parking is going to be even more of a problem for another year and a half, two years. I wonder if we can do something to help the inner Village residents with that.

Trustee Quinlan: It would be interesting to contemplate requiring the workforce for these construction projects to park perhaps in the Zinsser lot and let the workmen walk to their sites. There are a lot of big trucks, there are a lot of cars, and there is a lot of congestion. That would benefit the residents and the taxpayers to have more parking. I walk to work every day to my office, when I am not going into the city. Coming down Main Street, it can be dangerous at times. The construction, the trucks, the big cars, the SUVs that the workers use that are moving in and out, maybe if they could park at Zinsser it would help.

Mayor Kinnally: We can ask. I do not know if we can mandate it. Would you include 422 in that mix?

Trustee McLaughlin: Perhaps not 422, but could we ask the people who are working at 422 to park further down Warburton -- decide that there is a line beyond which local parking is not congested, and ask them to park down there.

Trustee Quinlan: We can ticket them. If we find an out of town person who is working on Main Street in a construction project parking at a meter or someplace else, it is obvious where they are from, we can say you are not supposed to do this and give them a ticket. We can ask them, but we could also demand it. If they do not like, then I do not know what. We have got to protect our citizens.

Village Attorney Stecich: I do not see how you can ticket because you cannot keep non-residents from parking on Village streets. I cannot think of a basis for ticketing.

Trustee McLaughlin: Have we been told in the past that we would have to go to New York State to allow resident parking only?

Village Attorney Stecich: You have to get an act of the legislature and you have to make a really good case. It is not easy. I experienced that in Mount Kisco. Eventually they did it, but they were narrow with the area they could do it. It is not one of those things where you could get your friendly legislator to put a bill in and then it will pass. It is a tough showing you have to make. I suppose what you could do is limit the time: say you can only park at certain places for two hours.

Mayor Kinnally: But that applies to everybody.

Village Attorney Stecich: Right, that is the problem

Mayor Kinnally: You mentioned the parking around me. Not all those cars parked on Villard are from out of town. They are from Hastings. They want to get closer to the station.

Trustee Apel: Could we provide a shuttle bus from Zinsser if we could get the merchants and the workers to park there? That might be helpful. I am trying to do positive things that would encourage people instead of being punitive after the fact. The question I would have with workers, if they are unionized and they must park within a certain number of feet of their construction. But if we can work something out, and encourage them.

Mayor Kinnally: Fran, there are some interesting points raised. Maybe you can raise these in your meetings with the contractors. See if you can get something cooperative with them. We have tried to entice the merchants up to the Zinsser lot. Perhaps we could approach St. Matthew's to use that parking area, which is not being used at the present time, although they are going to utilize the school for this year; there is a contract with Westchester County for handicapped students.

Trustee Apel: Another concept would be to offer the merchants free parking someplace. They each get a sticker which allows them to park for free wherever we decide that is.

Mayor Kinnally: The issue with the merchants is not something that has sprung up with the current construction. We have ongoing problems with the merchants and their employees feeding the meters on a regular basis.

Trustee Apel: If they were given free parking in some designated area and they get a sticker because they are a merchant, then the stickers would be on the car. They would get free parking, and if we find that the same merchant, or whoever has their sticker on, whatever their number is, always parking someplace and taking up space we would know who it is. This way we do not know who it is.

Mayor Kinnally: I think we know who it is. I think Diggitt could tell you who is feeding the meters. But Zinsser is free now. Anybody can use Zinsser.

Trustee Apel: Well, why do we not emphasize that? We could bring it up at the Chamber of Commerce.

Village Manager Frobel: We could do that.

Mayor Kinnally: All right, some good points. And maybe we can start with the contractors and see what we can do.

BOARD DISCUSSION AND COMMENT

1. Update on the Waterfront

Fred Yaeger, ARCO Liaison: The Atlantic Richfield Company is going to be supporting next month, once again, the annual Hudson River Valley Ramble. Also, at the request of the Village and Raf, regarding the waterfront documents in the library, we are financing putting it all on CD. That is almost finished. People can research a particular word. They want to go to Building 52, they just punch in those words and all the information regarding Building 52 would come up very quickly. It is going to be very beneficial to people who want to gather information on what is going on, what happened in the past.

We are very actively engaged in working with NYSDEC on both OU-1 and OU-2. We submitted the 50% remedial design this month. We had a field visit from George Heitzman and members of his NYSDEC team at the site last week, and a technical meeting with George and Dave Kalet and other members of our team to go over some of the OU-2 ideas and remedies. We are submitting additional documents to NYSDEC in the next few weeks to clarify some of the technical concerns that we both have. But the working arrangement that we have with NYSDEC is a very positive, close, professional, and supportive working relationship. We expect a finalization of the OU-2 remedy to be this fall, 2006, then with a public hearing or public communications sometime before the end of the year.

Mayor Kinnally: Has your timetable changed at all?

Mr. Yaeger: I do not believe so. We are on schedule with both. If any members of the Board of Trustees would like to have a field visit, we would be happy to take you on a tour.

Mayor Kinnally: I am trying to set up a meeting with Dave Kalet next week. We want to continue our discussion about the open space and the conveyance of certain parcels of property to the Village under the settlement agreement on the Riverkeeper's suit. The parties had agreed within one year to negotiate these things, but we have an understanding that that has been an ongoing series of discussions. As the DEC moves further down the road on the issue of the development, the design engineering for OU-1, the areas that are in play get more and more clarified.

2. Quarry Development Update

Village Manager Frobel: At our last meeting the Trustees asked me to coordinate a meeting with the DEC to see what steps need to be taken to secure closure of the former dump site. Two employees from the DEC came here and toured the facility. We came away with the conclusion that it may take more effort on our part to close the site than a simple letter from the DEC. They were looking for a "closure investigation study." This is a report performed by the owner doing a history of the site, determining what was disposed of there and some of the quantities, the type of materials, looking at things like methane gas, any leaching, and coming up with a plan as to how it can be closed. I have asked these fellows from Malcolm Pirnie to come here tonight to talk about this process.

Warren Riznychok, Malcolm Pirnie: We have taken a look at information that was provided to us about the historical use of the site. The DEC is looking for some sort of investigation study in order to close this site. The amount of investigation that gets done is based on the future use of the site. That is our question to the Board: is it going to be used as parkland, or a parking garage, or residential housing? They are all different approaches as to how you go about investigating the site. In order for us to go forward, we need to have that question answered for us.

Village Manager Frobel: It has always been our intent to turn it into a passive recreation area. We had a study committee that worked for a good amount of time, looking at the site, coming up with a plan as to how they would like to see it developed. It has always been, and we have informed the DEC to that effect, that it would be a very passive recreational site. Jerry, you concur? You were part of that meeting.

Trustee Quinlan: I was at that meeting with the DEC and Fran, and Fran summarized it perfectly. We had a quarry committee that was formed and did a quite extensive study. We

should share that. It will show you what their recommendations are and some of their ideas of a master plan for passive use. I believe that the majority of the Board would see this as the future use. It is safe to say that you could use those plans in terms of your report and investigation about what needs to be done to make it that type of use. I do not think anyone here wants to put an apartment building or a parking garage there. I could be wrong, but I think this is our contemplated use and we would ask you to base your report on that study. Does anybody disagree?

Trustee Apel: No, we agree.

Mr. Riznychok: That makes it a lot easier for us to give you a budget which we think might be needed to investigate and satisfy the DEC's concerns. Passive use is much easier to deal with. If you are putting residential there it is going to be a whole different issue.

Greg Drubak, Malcolm Pirnie: I work on Pirnie's solid waste group. Passive recreational use is a great idea for putting on top of an old landfill. What the state usually likes to see is a phased approach. They have certain guidelines as a minimum that they would like to see on a site: that it is capped sufficiently and there is no real risk of environmental exposure of some type for its future. These are usually technical requirements. They would typically ask you for a plan in the form of a closure investigation report: their official title for this. We have done a number of landfills in New York State where passive recreation has been the end use for that site, and they have come out quite well. I think it is a great idea. It is something that the state, I am sure, will embrace as terrific for the landfill, and it should go forward fairly easily.

Trustee Quinlan: They must have said at least five times that they were happy that we were coming to them voluntarily, and that they cooperate and work with the engineers and the report. They seemed very positive and receptive to trying to make it safe, but doable.

Trustee McLaughlin: Since it was unmonitored landfill, nobody really knows what is there. I am curious as to how you determine that. For instance, if it filled with old refrigerators, is there coolant pooled underneath there; if it is filled with old wall board, is that going to rot and create a sinkhole. How does that get determined?

Mr. Drubak: You start off with an information-gathering effort. You would look at all the records that exist to try to get an idea of what probably went into the landfill site, to the extent that they are still available. Then it is typical to have some subsurface work done: borings, and then observation of the samples that come up in the borings.

3. Establishment of Fine Arts Committee

Trustee McLaughlin: I am proposing the creation by the Board of Trustees of a Village arts committee to report to the Village Manager. An arts committee would have two main purposes. The first is that the new Community Center will have both performance and exhibition spaces, and no committee currently exists for the direction and management of their use. The second is that as we enter the comprehensive planning process, I believe there is great sentiment among Village residents to encourage the strong presence of the arts in a future Hastings.

The new arts committee would work with the comprehensive planning committee when it is formed, and ultimately with an economic development committee, to encourage arts-related businesses to move to Hastings. When I say the arts, I mean it in the broadest form: the performance arts, the applied arts, as well as sculpture, painting, photography, printmaking, writing, and so on. Economic development could imply gallery or sales space, as well as the creation and management of manufacturing, product development, and educational institutions. The arts committee's five to seven members would include residents with curatorial arts management and marketing skills, as well as artists, and its goals would be strongly economic as well as entertaining and educational.

Mayor Kinnally: The Community Center is under the aegis of Parks and Rec, so I would suggest that we float this by them. They may have some ideas because they coordinate the utilization of that space. Maybe we can revisit this.

Trustee Swiderski: I think it is a great idea.

Trustee Quinlan: Since there is no SEQRA or any big studies that have to be done to do something like this--it is just the will and the majority of the Board--what happens next? How does something like this come into law, or get created?

Mayor Kinnally: We would probably have a resolution creating a Hastings Village arts committee. But first we decide how we would like it structured, the number of people, what the term would be, whether the Board or the Manager would appoint.

Trustee Quinlan: So we basically discuss it, and then we think about it, and then if there is a will a resolution is prepared.

Mayor Kinnally: Sure.

Trustee Apel: I think it is a great idea. We certainly have lots of people in the field, and it would be great if they would come together and do this.

Trustee McLaughlin: Is the Community Center directly under the guidance or sort of ownership of the Parks and Rec? I know that Parks and Rec operated out of the old Community Center, but is it in charge of it? That is why I suggested that the committee report to the Village Manager rather than Parks and Rec.

Mayor Kinnally: No, I am not saying that they would report to Parks and Rec. I am just saying that the coordination of the Community Center in the past has been under the aegis of Parks and Rec.

Trustee Quinlan: If there is going to be performance or exhibition space, who would this arts committee contact to reserve space if they wanted to have an artist?

Trustee McLaughlin: For instance, the Town of Greenburgh has exhibit space at the library and exhibit space at the town hall. The town has an arts coordinator who is responsible for determining who uses the space. People contact her, and she wants to see their work to make a judgment on it. She has a committee and she directs a variety of programs that take place there. It doesn't go to Paul Feiner nor to the town board; it goes to this committee to determine.

Mayor Kinnally: All to be worked out. We have exhibition space here and it goes through your office.

Village Manager Frobel: Or they contact Susan.

Trustee Quinlan: So that would be the same thing, then, for the Community Center. If someone wanted to use the performance space or the exhibition space, they would not go to Recs and Parks. They would come to the Village. No, or yes?

Trustee Apel: Well, someone would be coordinating the space and time.

Mayor Kinnally: Someone would, but I do not know if we have performance space in the Community Center.

Trustee McLaughlin: I do not know where I got the impression we had performance space.

Mayor Kinnally: I do not know either, but it may have grown.

Trustee Apel: They could use the great room as they call them today, they call everything the great room, to do whatever performances they want to do.

Mayor Kinnally: Much to think about But let us chew on it, and we will come back and talk about it on the 12th.

4. Other

Trustee Swiderski: Update on the village officials committee. There are two lawsuits filed by the litigant, Bob Bernstein, against Greenburgh on various interpretations of this Finneran law where he is trying to get the villages to pay for half of the \$8-11 million, depending upon how you cut it, Parks and Rec budget. Greenburgh has been fighting that. One is under appeal, and one has not yet been heard by the court. We filed to join the lawsuit on Greenburgh's side on the second lawsuit. In the last few weeks that request was rejected by the judge in what we think was a mistaken decision. We are asking our attorney have a judge review the decision and have it re-argued. I do not think that request for re-argument has been heard yet, but we feel strongly that whether it is the judge or her assistant, they misunderstood the nature of the request. We hope the re-argument will prove convincing. That was a severe disappointment, because we would really like to join that suit and feel we have merit in doing so.

We have been in mediation with two members from the town board, the litigant, four or five representatives from the unincorporated area, and three of us. We thought the meetings were going fairly well. The village officials committee put a proposal on the table, and that proposal was rejected summarily and without explanation. We will await a counterproposal, but we are not going to negotiate with ourselves. The litigant was quoted in *The Journal News*. He stated that the mediation effort has been a waste of time and that no proposal had been made to him. Both statements are not true. At the very least we felt we had developed some understanding with unincorporated Greenburgh and there was an understanding that both sides in this conflict are not at each other's throats, but rather trying to come to some sort of resolution. So I do not think it was a waste of time. At least some goodwill may have been generated. And secondly, a proposal indeed had been made.

We are waiting for a next step in the mediation process. We are also hoping that our request for another attempt at joining the lawsuit will be granted. So that is where we are. It has been a long month.

Mayor Kinnally: When Bernstein says it was a waste of time it means he has not gotten his way. He was the one that pushed and pushed back in the wintertime to have a showing. A lot of public pressure was brought to bear on us, and public criticism of us by him, saying

that we were not coming to the table. Having come to the table, when the time came to be realistic and cooperative and to reflect the spirit of mediation, Bernstein said it is a waste of time. It is too bad because people put a lot of time into this.

Mayor Kinnally: We have another update on negotiations with the City of Yonkers on Ridge Hill. Efforts have been made to reach out to the various combatants in the lawsuit over Ridge Hill to try to broker some sort of accommodation. There was a flurry of meetings at the beginning of August. Marge and I were on a conference call with residents and other interested parties. There was a meeting that Jerry attended where topics were discussed. I have not heard anything positive since then. I do not know where things stand now.

Trustee Quinlan: Things stand pretty much where they stand in the other lawsuit. We offered some ideas on mitigation of the traffic problems. There was a long list, and they asked us to prioritize that list. There was a general consensus that we do not want to do that. We do not want to negotiate with ourselves. We had given them a proposal and we are waiting for a counterproposal, and that has not been forthcoming.

Mayor Kinnally: So that is where we stand, unfortunately. I will reach out and see what is happening.

Trustee Quinlan: Has there been any movement on the yard waste removal, considering the recent developments, that the county is now charging Yonkers twice as much as it did before for its garbage?

Mayor Kinnally: Nothing reportable.

Trustee Quinlan: Do you think we should reach out to the mayor of Yonkers in any way? Would that be wise, prudent, or forget it?

Mayor Kinnally: Nothing reportable yet.

Trustee Quinlan: Fran, you asked us to articulate our views on one suggestion either to pave the streets that were listed in your memo or to focus our limited dollars on an aggressive pothole program.

Village Manager Frobel: Last year I had mentioned how I saw the price of bituminous asphalt creeping up, and I felt we would be disappointed in future years that you were not getting as many miles of roadway paved for your dollars. You have authorized quite a bit of money to be borrowed for your road surfacing program. The prices are coming in around \$75 a ton for asphalt, which is about three times what it should be. Mike Gunther suggested

that we forego a paving program for this season, or at least until prices stabilized, and have an aggressive program of pothole-filling or paving short stretches of roadway ourselves. Just a thought. You made a policy decision before I arrived to spend about \$200,000 a year on your local roads, which is a great program. I am very familiar with that type of an approach. But it was a word of caution that you might be disappointed to find that we are not going to get near as many miles of road paved as you may have had hoped because of the price fluctuation.

Trustee Apel: What makes you think that the price will go down?

Village Manager Frobel: I do not know, I just cannot believe it can go much higher.

Mayor Kinnally: Unfortunately, I think the price has stabilized.

Village Manager Frobel: I hope not, but you are probably right.

Mayor Kinnally: I do not see the programs as mutually exclusive. We should have an aggressive pothole repair program regardless of whether or not we have a paving program. I do not think the price is going to go down. We cannot allow streets that are in need of repaving to wait for a sunnier day. Yes, we are not getting as much as we had hoped to get, but that is what the market is. We have to deal with this because the roads are not going to get any better. We are going to have to take a look at a number of our major roads soon. I am very distressed at the condition of upper Washington Avenue. I do not think we can gamble on that, thinking the price is going to come down.

Trustee Quinlan: I agree with you. We need a two-pronged approach. We need to do both at the same time, and not only upper Washington but Mt. Hope and School Street around our schools are in terrible repair right now. There is a safety factor and a use factor around our schools, and that is important, too.

Trustee Swiderski: I concur. Whether you are investing in mutual funds or buying any commodity over time, you average down: every year you buy it regardless of price, and if there is a fluctuation down next year, good for you. Unfortunately, I do not think we are in for \$1.50 gasoline anytime soon. When we tack on a quarter of an extra point on a tax increase because of this, it is an explanation that everybody will understand because it is a universal experience that oil has gone up and gas has gone up.

Trustee McLaughlin: If it comes to priorities, I am curious about the priorities accorded to street signs where there are not any stop signs where they are needed, and to repainting crosswalks. Is this an either/or thing, trading those off?

Village Manager Frobel: No, those are separate line items.

Trustee Apel: I agree we should do both. I am particularly interested in the potholes. It has to be done sooner than later, because in the winter it is a different mix and they pop out.

Village Manager Frobel: We will get you a list, and we will be ready to go out to bid.

PUBLIC COMMENT

Speaker (142 Lincoln Avenue): I am here to discuss the flooding situation I have in my home that is related to the failure of the Village storm drain system. I brought some maps and pictures showing the path of the river that develops on Lefurgy that swings around Mt. Hope and comes down Lincoln and ends up in my garage and basement. I have been trying to get this issue addressed by the Village since before 2002. I realize now I have to come before the Board to see if the Board will help me get this problem solved.

I have made this point so many times and I do not understand why people working for the Village have not understood this: the problem only occurs in a flash flood situation. I have been told they have never seen the flash flood. I have seen it, I have traced it. I have a Village police officer's memo who saw the flood. A large river develops, and there is no drainage for this river. If you look at my diagram you can see there are not many storm drains, and they fail during a flash flood. They fill up, they stop functioning. This river goes to the lowest point in this little valley, and the lowest point is my garage.

I bought this house in 2000 from the original owners. The house was built in 1956. The family was the Schwarz family, and there is no way these people could have lived in the house under these conditions. They would have been driven from this home a long time ago. My first flood was in August, 2000. It destroyed our washer, our dryer, the hot water heater, the entire basement. Paneling had to be removed. I had just bought the house, I didn't know anything about flood problems, I did not know what to do. We were going through a renovation at the time. Over the next two years there were at least 10 floods. I kept thinking there has got to be a solution to this. I woke up in the middle of the night fighting floods. There were floods while we were on vacation. It was a nightmare.

I kept thinking it was something wrong with the house. One or two professionals came around and said this a Village problem. This has to do with the storm drain system. I approached the Village in August, 2002 and I met with Michael Gunther. He already knew that there was too much water coming from Mt. Hope to Lincoln. He also said that this problem had something to do with the pitch of the driveway. My driveway is not on a slope,

it is a flat driveway. So I built two little barriers, thinking that that might do something. He inspected and cleaned the drains. A year later there was another major flood during a flash flood. I found this river, I traced it, and I wrote to Neil Hess. I explained the problem very clearly, and I told him that there was going to be major damage. I said we are urging you to engage an engineer to determine how the storm drain problem can be corrected quickly; the risk of extensive property damage is real and immediate. A month later he provided sandbags that we put in front of my garage. He then used remote TV to explore the drainage pipe. There are three drains right in front of my house, which shows what a low point it is. Two of the drains feed into the one that is in my driveway. The water then goes from my driveway underground to Horner. So that is the pipe that he examined with a remote TV.

There was another flood in May, 2004. I met Neil Hess and Mr. Gunther on my property, and he promised to involve an engineer. He found more blockage, and you can see where the repair was done. The repair on the map shows a place where the pipe that drains my area was broken. Apparently, it had been repaired at some time in the past in a very inappropriate way with 4-inch pipe.

In January, 2005 I wrote to Mayor Kinnally because there was no engineer. He also did not follow up on the California grate that he had promised me. Again, I wrote the same thing. It is the same thing over and over and over and over again, asking for attention, warning that there are going to be serious problems if nothing is done. I asked for a consultation with an engineer. I asked for a maintenance protocol.

In July, 2006 there were two major floods. There were 14 inches of water in my garage. One of the pictures that I passed around shows what my garage looked like. It was a disaster area. My wife was trapped in the garage, not knowing what to do as the water poured in. The fire department came and helped out. Mr. Frobel came, and he said it is the worst flooding in the town that he saw from last month's storms. The whole area has to be restored. Now I have sandbags again. I would ask you how you would like to have sandbags in front of your house, and how confident you would be that they will stop the next storm.

So the drains have been cleared again, the same thing that has been done over and over again. No remote TV, as far as I know, has been used. I am going on vacation. Now I can worry the whole vacation about whether my house is going to be flooded again. I am really disappointed in the behavior of the Village on this issue. I am profoundly upset, and have a real loss of faith in Village government.

Mayor Kinnally: I have followed this situation. I have talked to Michael, to Neil, and to Fran about it. I apologize if there has been a failure. I have asked the Manager to coordinate with Michael to see if what we have done now is going to be sufficient, and if it is not

sufficient to take a look at what has to be done. I will ask the Manager to address it.

Village Manager Frobel: As you know, Mike has gone out a couple times. Has he made some suggestions on improvements you can make to the property? Was a landscape firm going to go out and talk to you about some grading around the home that might make a difference? The problem in part is, you did go a couple years without a problem. And since the improvements have been made and the clean-outs occurred we have had rain events and you have not had a recurrence. It makes me think something happened in those two years that caused the problem you had this July to recur. In other words, if we keep out there on routine maintenance it might make the difference.

Speaker: But we have not had any flash floods, and since you do not live in my house you do not know the real difference between a flash flood and rain.

Village Manager Frobel: There are catch basins all around the home. It would appear you are certainly well served. There are about seven of them between where you think the river starts and your home. I do not know what else we can do except look at the entire neighborhood to see if other homes are experiencing the same problem.

Speaker: I already know, because I speak to my neighbors. They said our home looks like Katrina. What needs to be done is the pipe which had damage to it before needs to immediately be visualized with a remote TV. If there is something wrong with it, the whole pipe has to be replaced. I cannot do any grading on my property until we know what the status of the pipe is. If I spend \$20,000 to regrade my property and there is something wrong with this pipe there is going to be a serious problem.

Village Manager Frobel: I do not know if it has been TV'd yet. Mike is out of town, which is why I do not have an answer tonight.

Mayor Kinnally: In the area of Lefurgy, and then coming around to Lincoln, there are a number of drains that appear to be sufficient to capture what is coming down. It may be also a regrading of some of those streets, to pitch that water so it is collected before it gets down to you.

Speaker: What happens in a flash flood is, all these drains fill up and do not drain anymore because the drainage does not function in a flash flood. There is some problem lower down into a more central trunk to this system. All these drains stop working when there is a flash flood. Then when the flash flood is over, all the water disappears. People come by and say, what is the problem, there is no water here.

Village Manager Frobel: The capacity of those pipes probably needs to be looked at.

Mayor Kinnally: Checking to see the condition of the pipe going out to Horner should be first on our agenda.

Trustee Apel: I used to have water up four feet in my driveway and my basement. But I built a dry well right in front of my garage. That has saved me. That is just another suggestion.

Speaker: The only way that we handle this river is to open the cap to our sewage trap. I do not get what people do not understand about this. With the sewer trap open the water goes up four feet in front of my garage. This is a river. Do you see how much water this is? This starts at the school. We have a sump pump, we have a drain. This is an amount of water, you have to see it.

Trustee Apel: I am not disagreeing with you. I am just telling you that I lived through the same thing and building this thing in front of my garage door really helped.

Speaker: We have a drain in front and we have dry wells, but the water could fill up this room. It fills up our garage and basement.

Mayor Kinnally: Is your garage at grade, or is a little below grade?

Speaker: It is below. I am ready to regrade my property because there is no other solution. What needs to be done is, this pipe needs to be immediately inspected and replaced, the whole pipe if it is defective, and then I will regrade my property.

Mayor Kinnally: Subject to meeting with Mike we will at least get in there and get a visual of that pipe, and see what has to be done.

Speaker: The remote TV equipment apparently is difficult to reserve, and Fran already tried to ask for this remote TV several weeks ago. I am not going to be able to do any work this season at the rate that this is going. I do not think this is acceptable. If the TV cannot be obtained from whatever company they use, then they have to find another company to provide this remote TV. I cannot wait until next spring.

Village Manager Frobel: Cleaning it out, which we did a few weeks ago, may give you some period of comfort until we can come up with a more permanent solution. You should not have a recurrence of what you did in early July.

Speaker: When you say that, that particularly disturbs me. Because this is the exact same story I have gone through too many times. I have heard that from Neil, and I do not really want to hear that again because I have already done the cleaning of the drains. The cleaning of the drains does not do anything.

Mayor Kinnally: We will start with the camera. We will reach out and see what we can do to get a camera.

Speaker: Is there only one TV? If this was really being taken seriously it would be done quickly and not push me into one crisis after another. A lot of people have flooding problems and they think, I had a flooding problem, what is his problem, why does he not just leave us alone? I would hate to have to, but what am I supposed to do--go suing the Village if I get flooded again?

Mayor Kinnally: I can assure you we take this seriously. We will see what we can do to get the equipment that we need to do an assessment and then we can see what has to be done.

Speaker: But you will not give me a date by which you will do this.

Mayor Kinnally: We do not have control over the equipment. As soon as we have a date we will pass that along to you.

Speaker: So this could be next spring. When will this all be addressed?

Village Manager Frobel: Give me a couple of days to figure what we can do. If I can get the crew out there sooner to TV it, let us find out.

Speaker: If this is going to go on and on we ought to build up that sandbag wall so that I can have a vacation and not worry. The only thing protecting my house is the sandbag wall. We ought to make it double the strength and size. It went right over the first sandbag wall.

Village Manager Frobel: It went over the sandbags at the rear of your property, correct?

Speaker: Yes, but the first layer of sandbags, and I have the police report, he saw it going right over the top. I would ask that you add another two bags all the way around.

Village Manager Frobel: Let me talk to Mike. Let me see what we can do to get some more bags out there if that is what you would like.

Mayor Kinnally: Maybe we can reach out to some of the other villages or the Town of Greenburgh if they have this equipment. I can assure you that we will take it seriously. But we have to wait for the availability of the equipment. Fran will be in touch with you.

Trustee McLaughlin: Hearing his problems here reminds me of some of the discussion we had about the 9-A development. The boards that were involved in the decision to develop the land on Lincoln and Lefurgy and so on made those decisions a long time ago. But John Cronin, the first Hudson Riverkeeper, has said many times the first law of the environment is the law of gravity: all water flows downhill, and it takes stuff with it as it goes. He says that from that simple statement about three-quarters of all environmental litigation comes. Often the reason that a piece of land remains undeveloped is because it was not good farm land; it was swampy, or whatever. Communities are often faced with the problem of newer houses that flood. I would like to make the comment that a house built in 1956 was a house that followed a considerable settlement in Hastings of houses that deliberately were not built on that property. When we consider the next piece of land that comes before us for development we should consider whether or not it is downhill from solid rock and if it is likely to flood and throw more liability on the community.

Trustee Apel: There was a lot of stuff that was going to be discussed on the 12th. We should look at what we have been talking about over the summer of the things we put over to the 12th to see if this is really doable. I would hope so.

Mayor Kinnally: Fran, if you could e-mail us a draft agenda, that would be great.

I note with sadness the passing of former Trustee David Walrath. David was a member of the Board for either six or eight years, and he was quite active in our trailway and environmental issues in the Village. We also lost Mary Callas, our former Village Clerk, who worked here for many, many years. She died when she was in Greece in July. I also note the passing of Fran's father and Susan's father. I would like to have a moment of silence in their memory, and to adjourn in their memory.

ADJOURNMENT

On MOTION of Trustee Apel, SECONDED by Trustee McLaughlin with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 9:55 p.m.