

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
FEBRUARY 7, 2006

A Regular Meeting was held by the Board of Trustees on Tuesday, February 7, 2006 at 8:10 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Wm. Lee Kinnally, Jr., Trustee Michael Holdstein (8:30 p.m.), Trustee Bruce Jennings, Trustee Marjorie Apel, Trustee Peter Swiderski, Village Manager Francis A. Fobel, Village Attorney Brian Murphy, and Deputy Village Clerk Linda Knies.

CITIZENS: 11

PRESENTATION – Auditors’ Report

Mayor Kinnally: The first item of business is a presentation of the auditors’ report by our auditors, Bennett Kielson Storch DeSantis, division of O’Connor Davies Munns & Dobbins.

Susan Barossi: We had a team of people here for several days who met with the manager and staff who provided financial statements to us. We finished the field work for the audit on July 8, 2005. The opinion states that the financial statements are the responsibility of the Village’s management; our responsibility is to express opinions on these basic financial statements based on our audit. Our audit was conducted in accordance with generally accepted auditing standards.

The first page after the table of contents is the independent auditors’ report. Pages 3 through 10 are called management’s discussion and analysis. This is management’s overview of the Village’s financial activities through the year. On pages 11 and 12 are the entity-wide statement of activities as required by GASB No. 34. This is the first year that GASB 34 required a full accrual basis for these financial statements.

Matt McCrosson: Beginning on page 39 we discuss the general fund financial statements. Page 39 reflects the balance sheet, including the assets, liabilities, and fund balance. You will see that total assets as of May 31, 2005 were \$2,194,800, made up of approximately \$29,600 in cash and about \$2.2 million of receivables due from other governments and funds.

Total liabilities as of May 31, 2005, were \$1,547,000. Approximately \$630,000 of that is made up of accounts payable and accrued liabilities. The balance reflects amounts due to other funds and due to retirements.

You should note that the total fund balance in the general fund is \$647,000, of which \$57,000 is reserved for encumbrances. The unreserved portion of \$335,000 is designated for subsequent years' expenditures and \$254,000 is undesignated.

Page 40 reflects the statements of revenue expenditures and changes in the fund balance where we compared the original budget that was voter-approved in the first column to changes that were made in the budget reflected as the final budget, and finally we compare those amounts to the actual results of operations ending May 31.

Ms. Barossi: The changes from the original budget and the final budget are modifications to the budget. However, all budget modifications have been approved by the Board.

Mr. McCrosson: The total final budget was \$9,623,000 in revenue which compares quite favorably to your actual revenue of \$10,078,000. So you had a total favorable variance of revenue in excess of what you had anticipated of \$455,000. Most of that is made up of non-property taxes of about \$233,000, and departmental income which exceeded the approved budget by about \$116,000.

Ms. Barossi: When you are budgeting your revenue you have to be very conservative. You are looking for that favorable variance because you realize if you over-budget your revenues and you do not meet them, then it is difficult to find a place to find those revenues.

Mr. McCrosson: On the expenditure side, the final budget totaled \$9,305,000. Your actual expenses were \$9,173,000. So, again, you had a very favorable budget comparison of actual expenses to the approved budget of about \$132,000. The major difference is in the area of public safety; there was a major area of favorable variance is the fire department. The fire department actual expenses of about \$445,000 compared to an approved budget of \$538,000.

So you had an excess of revenue over expenses actual for the year of \$905,000. You did, however, have authorized transfers out of the general funds, principally to a capitol project, of \$1,351,000. So you had a net change in your fund balance of a decrease of \$446,000 from the opening fund balance of \$1,093,000 to the end of year fund balance of \$647,000.

Ms. Barossi: On page 39, of that \$647,000, \$57,000 is reserved for encumbrances, those expenditures for which the purchase orders have been issued, so it is charged to your May 31, 2005 budget, and those items will be received in the future. And once again, \$335,000 is designated for subsequent years' expenditures. Pages 41 through 47 detail all the revenues and expenditures. On page 48, although it looks like assets of \$407,000 and liabilities of \$5 million, creating a fund deficit, of that fund deficit \$4.7 million is because of the bond

anticipation notes payable, which is short-term financing. According to government standards, when those bonds are paid off they turn into revenues. Page 50 details the capital projects. Page 52 shows other funds that the Village has.

Mr. McCrosson: We did comment on the pool fund. Total revenues were \$236,000 and total expenses of \$234,000. But you had a need for a transfer, \$80,000 to fund capital projects, so that you had a net loss or a decrease in your fund balance of \$78,000. That, added to your deficit position of the pool fund of \$44,000 at the beginning of the year, left you a deficiency in the fund balance of about \$123,000. We looked at your activity in the pool fund for the last three years and there seems to be a pattern in how you are budgeting for revenue on expenditures where there is wide variations in those activities; they do not necessarily correspond with historical trends.

Ms. Barossi: I know that charges for the pool had been increased and now those increases are going to try to eliminate the deficit in the future.

The Village is in a very good position at the end of the year. The staff and management worked to arrive at that position because when you adopt a budget you have to stick to that budget. It was a very good audit.

Trustee Apel: Could you explain what you meant by does not correspond to historical trends when you are talking about the pool fund?

Mr. McCrosson: In the pool fund in 2005 you budgeted revenue of \$285,000. Your actual income was \$235,000. Your budgeting for pool income in '04 was \$274,000; your actual was \$233,000. In 2003 you had planned income of \$324,000, and your actual revenue was \$270,000. So there is a consistent trend to over-budget as far as anticipated revenue for pool activity.

Mayor Kinnally: In 2004 the pool opened late. And in 2005, there were weather problems also. It has been a problem, and I must say that the projections were rosier than warranted.

The Manager and the department heads and staff are in the middle of the budget process. I am sure a lot of this will be taken into consideration when projecting both revenues and expenses for 2006-07. But as usual, this is helpful in guidance to us in seeing how we are doing historically. I know the changeover to GASB has been difficult. It is really alien when you start talking about accrual in a municipal context, but it is something you have to do.

Trustee Swiderski: Could you say a word about what that means?

Ms. Barossi: Previously your fund balances did not include infrastructure. But with GASB-34, you converted the funds on the statement to more commercial looking financial statements where you have to account for and depreciate those fixed assets. You also have to put all the debt on the finance statement. You will see this on page 11. If you look at your total assets as compared to the fund level, your assets are much higher. That is because you are reporting your buildings, your land, your machinery, your equipment, your infrastructure. That is something new for municipal government entities. They never had to do that before. It is a big process because it requires a total inventory of infrastructure. The assets and debt were always existing; you just never had to reflect them on the financial statements.

Trustee Swiderski: What does it mean operationally for us? What does this tell that either should scare me or reassure me?

Ms. Barossi: When every government or village finally adopts GASB34, there will be a comparison where you will see where the Village stands compared to other villages. From the full accrual basis you will see what your debt is compared to other villages. You will see your net assets regarding your land and buildings and your machinery and your equipment. You can see how new they are, how old they are depending on the depreciation. In the past you were not able to see all of that information. Regarding financing, right now we do not see that the rating agencies are actually using the financial statements. However, in the future they will be.

Mr. McCrosson: It is not intended to scare anyone. It is a change in financial reporting to reflect what is actually there so you can see a more true picture of your assets and liabilities.

Mayor Kinnally: Operationally it does not change anything.

Ms. Barossi: No, this is more for informational purposes.

Trustee Apel: How often do you have to assess all these things?

Ms. Barossi: The Village now has an inventory; you worked with the appraisal company. Now that has to be maintained, and it is a lot of work.

Mayor Kinnally: How were buildings depreciated?

Ms. Barossi: On page 28, note 3 gives the details.

Trustee Apel: Is it incumbent upon us to make sure that if we buy new machinery and equipment to go back to that appraiser and let them know?

Ms. Barossi: There is an inventory that Rafael is maintaining. There are special codes in the financial system. As capital assets are purchased, at the same time they are reflected in his inventory. Page 24 has additional information. Buildings and improvements range from 20 to 50 years. As part of our audit we see what your capital outlay is and what your expenditures, your capital items, are. We test to make sure that the capitalization is being implemented properly.

Trustee Apel: You are basing this on whatever formulas you have. Is there ever a change?

Ms. Barossi: No, the categories have been looked at closely, and the information came from the Village's appraisers.

Trustee Apel: Is there a possibility the rules will change, and do we need to be aware of that?

Mr. McCrosson: Not on this schedule, no.

Ms. Barossi: On page 11, the important thing is that at the end of the year the Village had a positive \$10 million in assets, after depreciation. There have been villages where they extended their debt so much that they had debt on assets that were of no value. This shows that we have assets and they do have value.

Trustee Apel: And is this important because you want to borrow money?

Ms. Barossi: In the future for governmental entities there will be a focus on this. But right now the focus is on the operational statements.

Trustee Apel: And this would give you a hint if you find that these assets are not in the condition they should be that you are going to have to start thinking about replacement

Mr. McCrosson: That is right..

APPOINTMENTS

Mayor Kinnally: I would like to announce the appointment of Eva Aligood to the Safety Council to fill the unexpired term of Claudia Classon, expiring at the end of March, 2006.

APPROVAL OF MINUTES

On MOTION of Trustee Apel, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Regular Meeting of January 24, 2006 were approved as presented.

APPROVAL OF WARRANTS

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

Multi-Fund No. 49-2005-06	\$1,148.50
Multi-Fund No. 50-2005-06	1,242.14
Multi-Fund No. 51-2005-06	196,502.67

12:06 ADOPTION OF POLICE POLICY MANUAL

Mayor Kinnally: Chief O'Sullivan is here this evening. He gave a presentation at our last meeting, and this is all part of the work that is being done not only on a policy manual but also accreditation. Chief, would you wish to address this?

Chief O'Sullivan: I think I said most of it at the last meeting. If there are any questions, I might answer.

Trustee Holdstein: I want to publicly thank the chief. When we were interviewing and selecting a chief, one of the most important things was that you said that you were dedicated to completing this manual, that it was your belief that this was a very important piece to our ongoing improvement of the police department. I want to publicly acknowledge and commend you and all the people that worked on it for following through on your commitment.

Trustee Jennings: Do you have the option of some interpretive or additional explanatory memoranda or instructions to the department to flesh out the meaning of the terminology contained here? I have a couple of examples where that would be useful.

Chief O'Sullivan: I have already had a sit-down session with all the supervisors and we went over it together. I got a lot of input from them. We clarified a lot of issues. Once this is

put into play we will have to arrange for training programs for each member of the department and make sure that everyone understands what is in it. That is the requirement.

Mayor Kinnally: If there is an ambiguity that surfaces in the course of those training exercises, what ability do you have to clarify or to supplement?

Chief O'Sullivan: I have the ability to change it, depending on what the ambiguity is.

Mayor Kinnally: Do you have to come back to us?

Police Chief O'Sullivan: Most of the sections in here are either supported by law, accepted police practices, or standards that have been set by DCJS to acquire accreditation status. I would need the Board's approval if I wanted to change the rules and regulations. By law, the Board has the right to determine those. But anything else I would be able to change. Anything substantive I would certainly contact the Village Attorney or the Board.

Trustee Jennings: I found a couple of examples. Section 103-1, page 3, item 18: be responsible for the humane treatment, safekeeping of prisoners over which said member has supervision. Another example is item 84, under prohibited conduct: failed to report the discharge of a weapon immediately to the chief. When it comes to basic aspects of police work: the use of force, the discharge of a weapon, the treatment of prisoners, these are areas where we hope that there is never any misconduct in our village. But in other places there have been. Is there more detailed guidance to the officers about these areas? Is there a place for more concrete and specific regulations fleshing this out?

Police Chief O'Sullivan: Yes, there is. I have entire sections in the manual on the use of force that specify when, how, to what extent. We have an entire section on the use of deadly force. They are very definitive and restrictive. They define when and how, what is appropriate. Under the treatment of prisoners we have another section that is only on the search, transport, security, and treatment of prisoners as defined by the state Department of Corrections. There are a lot of definitive statements in here. They are just in other sections.

Village Attorney Murphy: The department regularly receives updates from the New York State Criminal Justice Services and related police agencies about developments in these areas.

Chief O'Sullivan: That is correct. That is why the Board adopts the rules and regulations. Everything else has to be fluid and changeable for changing times; we have to be able to update it according to needs and requirements.

Village Attorney Murphy: I understand that the Village's insurance carrier has also reviewed these and advised with regard to concerns based upon their experience in problem areas such as use of deadly force and prisoner handling.

Chief O'Sullivan: Yes. The Village's insurance agency has been presented with copies of the use of force policy, the use of deadly force policy, the treatment of prisoners policy, vehicle operation, our arrest policies.

Trustee Apel: I want to thank the Chief. I read it in detail, and it is amazing the scope of the rules and regulations and the specific things that are in there. It is quite a remarkable job.

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

RESOLVED: that the Mayor and Board of Trustees adopt the Policy Manual of the Hastings-on-Hudson Police Department: Duties and Responsibilities, Section 102-4; and Rules and Regulations, Section 103-1.

ROLL CALL VOTE:	AYE	NAY
Trustee Michael Holdstein	X	
Trustee Bruce Jennings	X	
Trustee Marjorie Apel	X	
Trustee Peter Swiderski	X	
Mayor Wm. Lee Kinnally, Jr.	X	

13:06 EXTENSION OF CONTRACT PERIOD - POLICE BENEVOLENT ASSOCIATION AGREEMENT

Village Manager Frobel: Several meetings ago the Trustees affirmed the contract that the parties had negotiated between the Village and our police union. At that time it was for a three-year contract. What I did not realize at that time was that during the course of those negotiations there was interest expressed on the part of the employees to go to a four-year contract. I would urge you to consider extending that contract for one more year, expiring in May, 2009. The only adjustment would be a 4% cost of living beginning that fourth year. Nothing changes in any of the benefits or working conditions.

Trustee Jennings: An extension would be in the best interest of the Village, and the police officers feel it would be in their own best interest. It sounds like a win-win.

Trustee Swiderski: Another year seems reasonable.

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

RESOLVED: that the Mayor and Board of Trustees extend the contract ending date in the settlement agreement with the Hastings-on-Hudson Police Benevolent Association approved on January 10, 2006 from to May 31, 2008 to May 31, 2009.

ROLL CALL VOTE:	AYE	NAY
Trustee Michael Holdstein	X	
Trustee Bruce Jennings	X	
Trustee Marjorie Apel	X	
Trustee Peter Swiderski	X	
Mayor Wm. Lee Kinnally, Jr.	X	

14: 06 AWARD OF BID - LAWN MAINTENANCE AND WATERING

Village Manager Frobel: We prepared specifications and were authorized to go out to bid for a three-year contract for outside services on Village property. We attracted two bidders: Mr. Vulpone, who has performed that service for the Village for a number of years, and a relatively new firm, Ryan and Ryan. We are recommending that it be awarded to the low bid, Ryan and Ryan. Although they are new, they have been in business for a number of years. We have checked their references. I interviewed one of the owners myself and have confidence that he has the existing staff and equipment to do a good job. They are very close in bid: \$500 per year separate the two. Both bidders understand the job and the amount of work and effort that we expect. Not an easy recommendation. We have been very satisfied with the performance of the contractor over the past several years but, given the price, we feel that the Trustees should consider our recommendation.

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

RESOLVED: that the Mayor and Board of Trustees award the bid for Lawn Maintenance and Watering to Ryan and Ryan Landscaping, Inc., Dobbs Ferry, New York, for a three (3) year period, 2006-09, in the amount of \$63,000.00 per year, to be paid from the General Fund.

ROLL CALL VOTE:	AYE	NAY
Trustee Michael Holdstein	X	
Trustee Bruce Jennings	X	
Trustee Marjorie Apel	X	
Trustee Peter Swiderski	X	
Mayor Wm. Lee Kinnally, Jr.	X	

15:06 REJECTION OF BID - MT. HOPE WALL RECONSTRUCTION

Village Manager Frobel: We came before the Board several months ago explaining that we had opened these bids and were disappointed in the results. We attracted three bidders. They offered some alternatives to the work. We used an outside consultant to help us draft the specifications. Despite all those efforts, the prices came in in excess of your available monies. We are looking for you to reject those bids so that we can return the bid bonds to the contractors and go back to the drawing board. Let us continue to work with the neighbors. It is a project that we want to see something happen. We are going to have to come up with some alternatives that are affordable.

Sandeep Mehrotra, 338 Mt. Hope Boulevard: I came in front of the Board about four months ago. But I have been working with the Village for about seven years. For seven years I have been told that it will be done next season. It is ironic that after seven years we are told that the Village does not have enough funds to finish this project. It is costing \$221,000 because the Village has neglected this for 25 years. If the same type of wall had collapsed on Villard Avenue or Main Street it would not have been collapsed for 25 years. It is absolutely deplorable that I am hearing this. I have spent a lot of time on this. I volunteered a lot of time on Village projects. I do have some sort of a knowledge. There are safety issues. I have two children, all my neighbors have children, who walk to school. There is no sidewalk because the wall is collapsed at that location. I called all the neighbors today, and the neighbors responded that the Village will only act when there is an accident or a catastrophe and they get sued. That is the impression that we feel on that side of Mt. Hope Boulevard.

Every year the Village does not keep up to its obligations on that site. That is the only piece of Village property in the entire town that still has not had its leaf pickup. The only time the leaf pickup happens is after I make four to five phone calls to Mike Gunther or Ray Gomes. This year I have not made it, and it is February and the leaves are still there.

It is not an excuse that the Village does not have enough funds for this. I worked with Neil on this. We have spent more money on engineers' time. This project was designed in 2002, put on the shelf, and then brought back again. Being an engineer, I know how much it costs to design something and put it on the shelf and then regenerate it.

There are unstable conditions there. There is a severe drainage problem. Again, these are all things that the Village has to take care of. The asphalt curb is broken up with the storms. The Village keeps using maintenance money to redo those things.. Over the last seven years I have made repeated requests with the Village Manager as well as the other individuals involved to at least get all the trees cut down. There are still live trees growing on the foundation and weakening it. I talked to Village Manager Frobel and he said that when the construction contractor comes he will take care of this. Now the construction contractor is not coming. It is going to be spring, and the wall is going to continue to deteriorate.

I am very disappointed with the Board's decision to reject the bids, but I would request, or demand, the Village to at least remove the pieces of the wall from my property. At this point I am giving up. I am not going to spend any more time on this, but I want all the pieces of the wall that are on my property to be removed by the Village so I can develop and use my property. I am paying taxes on that piece of property and I cannot use it. I cannot have my children out there. That should be done immediately, before the spring season, so I can finish my landscaping and use the rest of my property.

The Village is looked at alternative methods of constructing. That is why we went back to the drawing boards in July. This design was done in 2002. We did not have to go back. We spend more time and money in trying to come up with alternatives; in this day of litigation no engineer will certify any alternative methods of construction or I would challenge his credentials. Since I am in the business I do understand what is involved in that wall. You have sidewalk reconstruction almost \$1 million. Why has it been neglected for the last 20 years? Boulanger Plaza had a retaining wall that collapsed. But it was in the center of the town and we spent half a million dollars to get it reconstructed with stone facing.

Mayor Kinnally: We are not walking away from the project. The bids are high. We operate within certain constraints here. If there are issues that can be addressed even before we get a contract, it should be done. I do not understand why the leaves are not being picked up. No

part of the Village gets preferential treatment. I understand what people say, but everyone is supposed to be treated equally. If they are not treated equally, then we want to know about it and it will be addressed with department heads. I want a report that it has been taken care of and why it was not taken care of. If the call was made to the DPW offices and it was not addressed, I want to know why. My apologies if it has not been taken care of.

Susie Mehrotra, 338 Mt. Hope Boulevard: There are many families with kids, and there are people who really want to use that property. Non of my neighbors feel they can use it. They cannot walk their dogs comfortably. As I have observed over the years, the sidewalk is all buckly, shifted. Con Edison has come out so many times because there are gas leaks in the pipes. I am not an engineer, but I really feel like the ground there is shifting. We have had water main trouble. Whatever is under there is not being held up in a stable way. Somebody might say that nothing is happening, nothing is moving, but stuff is happening. The whole down side of the hill, I want it to stay a hill. I do not want it flowing down to the parkway through our house. I am concerned that the neglect is going to cause something very bad to happen. Every neighbor that I talked to said they do not think anything is going to happen unless there is an accident. That makes me feel like our corner of the Village is neglected.

Mr. Mehrotra: What is the basis of saying that the bids came in too high?

Mayor Kinnally: They are higher than what we budgeted.

Mr. Mehrotra: But how were the budgets put together? It is like when you ask the engineer to do a design, we typically give an engineer's estimate. Now, if the bids come double the engineer's estimate I can understand that the bids are higher. But if the engineer's estimate is in the ball park I do not understand what will change. Unless the Village is thinking we are going to push it off for the next two or three years. But what will change from now until the next two or three months that will bring these bids lower?

Mayor Kinnally: Maybe the contractors will revisit their bids.

Mr. Mehrotra: Can you negotiate with the contractors?

Mayor Kinnally: Why do we not ask the Manager to address that. I do not know the mechanism for doing it.

Village Manager Frobel: The specs we wrote, you helped us on that, we understood going in that these prices were going to be beyond our budget. That was always a fear that we had.

Now that we have had a chance to look at it, realizing the amount of money we have available to do it, we need to add more money to the project to even make it work. The original budget was probably put together a number of years ago. There was one item, wall repairs, and it was meant to be Village-wide. Now we are looking at spending in excess of that budget on just one location. That is why we have got to come up with some alternatives. And that is why we tried to work with you to see if there was another way to do it.

Mr. Mehrotra: Are we going to put in more budget? Rejecting the bid does not accomplish that. You reject the bid, and if you do not put it in the budget the job is not going to get done. If the contractor's bid is up to par and it is a valid bid, then if it is an appropriation issue the contract should be awarded and notice to proceed should be delayed until the budget can be put in place. But rejecting the bid and going back and expecting that the contractors will expend more of their time and energy, and the Village will spend more of their time and energy in the selection process, does not make sense. It does not give me any idea of timeline.

Village Manager Frobel: I would be reluctant to recommend that it be awarded knowing we do not have enough money going into it. I am putting the budget together now, and there are so many competing interests I just do not know. But I want to release these bidders and allow the staff to go back and perhaps cut down some of the trees. I talked about putting some of the stones back, trying to reconstruct it, short of having a PE certify work, at least from an aesthetics point of view begin to clean it up. Those were some of the approaches that I would take at this time. Adding to the money may happen during the budget deliberation process, but I would not recommend that tonight.

Mr. Mehrotra: Maybe this should just be tabled. I do not see a future plan of action other than appropriating the funds and putting it in place. You want to release the contractors' money, who have already spent their time and effort. But the residents that you are hoping to serve are still holding the bag.

Village Manager Frobel: You have offered some alternatives. The cutting down of the trees. was something I wanted to do but I wanted to wait to see the disposition of these bids. There may be something we can do short term: shoring up the wall manually, as we have talked about. It is a difficult site to work with. If we can cut back some of the debris and make it more usable, that would be the timetable right now, and that is very short-term.

Mr. Mehrotra: I have no choice if that is the decision the Trustees are going to make. But I want to lodge an official complaint on this, that you are being earnest with us here in making a statement that we will still work with you and we are not going to table it. If it is a question of

funding then that is in your power as to how you will appropriate that. Rejecting the bids does not accomplish that.

Mayor Kinnally: But the Manager is talking about being in a new budget cycle. We do not have the money in the current budget. It is beyond what is in the budget for all wall repairs.

Mr. Mehrotra: So is there a timeline that we would look at a new budget?

Mayor Kinnally: I do not know. We are working on a budget now. Maybe we can go back to the contractors and see if they cannot do better on the pricing. There is a tremendous swing of \$174,000 in the bids. I do not know how much fat is in that. But maybe they will get a little more realistic. It happens.

Mr. Mehrotra: It happens that they might get more realistic. But you have an engineer's estimate. Your engineer is supposed to give you a realistic estimate as to how much the project should cost, and that should be the measure to see the profit and fat in it. The highest contractor might have a lot of jobs lined up. He really does not care. So if he gets the job, he will get it maximizing the profit. But the low bidder might be wanting a job. By rejecting the bid and releasing them you are not moving forward the negotiations. You can reject the top two guys and retain the lower guy. The action is notice of award or notice to proceed. The Village is not obligated to go on with the project if the funding is not there, even after you award the project. Because the notice to proceed is the legal document.

Mayor Kinnally: I do not know if we can do as you are suggesting. Either we reject the bid or we accept the bid. I do not know if there is any mid-ground.

Mr. Mehrotra: No, you accept the bid and then negotiate with him for a best and final offer. That is the mechanism that is a standard engineering practice.

Village Attorney Murphy: In municipalities state law requires it must be bid competitively. What you are suggesting, that you lower a bid and then try to renegotiate, can result in a charge of collusion and may well result with the other bidders suing you as to the process.

Mr. Mehrotra: In the City of New York you can go back to all contractors and ask them to resubmit their best and final offer

Mayor Kinnally: That is a rebidding process. I am not objecting to that. But you cannot leave these bids in limbo. It is not a renegotiation. It is saying, go out and rebid. We do it here for projects all the time. We do not like the numbers that came in and tell the contractors to do a better job. Sometimes it works, sometimes it does not.

Mr. Mehrotra: When might this rebidding take place?

Mayor Kinnally: That is for another night. We would have to authorize the Manager to go out to bid.

On MOTION of Trustee Jennings, SECONDED by Mayor Kinnally the following Resolution was duly adopted upon roll call vote:

WHEREAS, sealed bids for the Mt. Hope Wall Reconstruction were received and opened on Dec. 22, 2005 in the office of the Village Clerk, and

WHEREAS, base bids were submitted as follows:

Coppola Paving & Landscaping, Corp.	\$221,000.00
Structural Contracting Services, Inc.	\$325,000.00
Xavier Contracting	\$395,000.00

now therefore be it

RESOLVED: that the Mayor and Board of Trustees authorize the Village Manager to reject the bids received on Dec. 22, 2005 for the Mt. Hope Wall Reconstruction.

ROLL CALL VOTE:	AYE	NAY
Trustee Michael Holdstein	X	
Trustee Bruce Jennings	X	
Trustee Marjorie Apel	X	
Trustee Peter Swiderski	X	
Mayor Wm. Lee Kinnally, Jr.	X	

16:06 RETURN OF ACCOUNT AND AFFIDAVIT

Village Manager Frobel: This is the first step in the process of collecting back taxes.

Mayor Kinnally: We identify as of a certain date which accounts are delinquent, and then we have the lien sale. But there are always subsequent payments. Our experience over the years has been that our delinquent accounts are a very small percentage of our tax assessments.

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

RESOLVED: that the Mayor and Board of Trustees certify and approve the Return of Account and Affidavit as attached for the Village 2005-06 tax roll.

ROLL CALL VOTE:	AYE	NAY
Trustee Michael Holdstein	X	
Trustee Bruce Jennings	X	
Trustee Marjorie Apel	X	
Trustee Peter Swiderski	X	
Mayor Wm. Lee Kinnally, Jr.	X	

17:06 AUTHORIZATION TO SIGN - LEGISLATIVE INITIATIVE GRANT DOCUMENTS

Village Manager Frobel: This is the grant that the Village received from the state. It was a petition we had sent to the state senator. A portion of this money is to be spent on some ground watering of the property around the community pool as well as the purchasing of some items at the new Community Center. At this time we are looking to start this process. There is some paperwork that the planner is putting together for us. We are asking that we be authorized to submit that necessary documentation.

Trustee Jennings: How much of the \$20,000 would be earmarked for the pool?

Village Manager Frobel: We think about \$5,000; could be less.

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

RESOLVED: that the Mayor and Board of Trustees authorize the Village Manager to sign the application, contract, and other legal documents related to a legislative initiative Special State Grant through the New York State Office of Parks, Recreation and Historic Preservation in the amount of \$20,000.00 to be used for computers, monitors, and other furnishings in the James V. Harmon Community Center.

ROLL CALL VOTE:	AYE	NAY
Trustee Michael Holdstein	X	
Trustee Bruce Jennings	X	
Trustee Marjorie Apel	X	
Trustee Peter Swiderski	X	
Mayor Wm. Lee Kinnally, Jr.	X	

18:06 APPROVAL OF CO-APPLICATION FOR GRANT FOR STORMWATER CATCHBASIN LOCATION AND IDENTIFICATION PROJECT

Village Manager Frobel: This is a continuation of our efforts to join with neighboring communities as we address federal and state regulations regarding stormwater management. This grant will help us locate all catchbasins located throughout the Village. Currently the consultants are working on coming up with a plan. I believe they have located all the outfall locations, and this is building on the work that they have already started for us.

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

WHEREAS, the Village of Hastings-on-Hudson may act as a co-applicant in the submission of an application to the New York State Department of State for a grant under the Shared Municipal Services Incentive Grant Program for the 2005-06 program year for a project entitled “Stormwater Catchbasin Location and Identification;” and

WHEREAS, the maximum amount of money being applied for through this program shall be \$90,000.00; the local share to be provided by consortium members shall be \$10,000.00; and the Village of Hastings-on-Hudson shall provide as its share of the local match a maximum of \$2,000.00 to be paid from the general fund, and

WHEREAS, project co-applicants include the Villages of Sleepy Hollow (lead applicant), Ardsley, Dobbs Ferry, Elmsford, Irvington, Hastings, Mt. Kisco, and the city of Peekskill, and

WHEREAS, the municipal consortium shall be responsible for project development, implementation and completion including securing the services of a professional engineering firm to act as project manager and lead consultant; and shall establish an advisory committee which shall oversee the work of the project manager/lead consultant, now therefore be it

RESOLVED: that the Board of Trustees authorizes the Village to act as a co-applicant in the submission of an application to the New York State Department of State for a grant for the “Stormwater Catchbasin Location and Identification” project, and be it further

RESOLVED: that the Village Manager of Hastings-on-Hudson is hereby authorized to act on behalf of the Village with respect to this grant application.

ROLL CALL VOTE:	AYE	NAY
Trustee Michael Holdstein	X	
Trustee Bruce Jennings	X	
Trustee Marjorie Apel	X	
Trustee Peter Swiderski	X	
Mayor Wm. Lee Kinnally, Jr.	X	

19:06 DESIGNATION OF LEAD AGENCY FOR KINNALLY COVE IMPROVEMENTS

Village Manager Frobel: Somewhat administrative in nature, this is part of the process. Our application has been submitted to the various agencies for their review. We need to be appointed as the lead agency, the point of contact when they begin their environmental consideration of that application, and that is what this does.

Trustee Jennings: What is the rationale for having us play this role in this case rather than the Planning Board?

Village Manager Frobel: I believe under the rules, because you are designated as the owner of the property, we are the point agency; they will bring documents and ask questions of us. We will refer them to the different departments or commissions as necessary. But as has been explained to me, the requirement is because you are viewed as the owner of the property.

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

RESOLVED: that the Mayor and Board of Trustees declare the Board of Trustees as Lead Agency pursuant to the State Environmental Quality Review Act for the permit application to the New York State Department of Environmental Conservation for Kinnally Cove improvements, and be it further

RESOLVED: that circulation of an Environmental Assessment Form (EAF) to interested parties is hereby authorized.

ROLL CALL VOTE:	AYE	NAY
Trustee Michael Holdstein	X	
Trustee Bruce Jennings	X	
Trustee Marjorie Apel	X	
Trustee Peter Swiderski	X	
Mayor Wm. Lee Kinnally, Jr.	X	

VILLAGE MANAGER'S REPORT

1. LWRP

Village Manager Frobel: The director of planning informs me that the LWRP report is nearing completion. We are looking to hold a work session on that later this month with the committee and, hopefully, having a report to the Trustees sometime in early March. The comments have been received from the chairman. A draft of that report is available. Our hope is to get that on our web site very soon.

2. Recycling Bins

As requested, we have surveyed the community to a certain degree on the need for recycling bins. Linda has been tabulating the responses as they come in. We have received upwards of 87 responses. About 50 persons responding say they would be interested in acquiring new recycling bins if offered; 25 said no. Most of their reasons are they still have one that is sufficient. About 11 said maybe, depending upon the price.

3. Spring Village Newsletter

Village Manager Frobel: I have been informed by the staff that our spring newsletter is nearing completion. We hope to have that distributed to the community if not the end of this month, then early March. So we are on schedule for that.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: I had a brief conversation with Dave Kalet of ARCO who is recovering from surgery and restricted on travel. He is closely monitoring the situation with Tappan Tanker and gave me a partial update on where they were with the state. I had asked him how much of that is for public consumption, but I was interrupted and never got back to him, so my apologies that I cannot give a full report. But they are making progress with the state on OU-1 and OU-2.

He said they have made progress on the assessment of the buildings for purposes of future utilization. They are looking at Building 51 and there will be some options, not only for the utilization and possible movement of Building 51, but also the utilization, the salvaging and utilization and reconstruction, at the same or other location, for the water tower. They understand the Village's interest in having that landmark remain on our waterfront. They seem to be committed to trying to dismantle it, to fix it up, and to erect it in another part of the waterfront, if possible. He does not want to commit to that particular site because there may be a better utilization of that property and we may want it in another location. Or a developer may want it in another location.

The comment period has been extended to March 4 on the Tappan Terminal site. Comments will be received by the state up to and including March 4, and those comments can be in writing, e-mail, etc. We will be responding.

In connection with that, I would like to have an executive session for personnel and professional contracts, one of which would be a recommendation by our environmental counsel for the retention of an engineer to help us with the chlorobenzene on the site and to assess the remediation that has been suggested in the PRAP by the DEC. We will also have a discussion of retention of counsel for rezoning on the waterfront.

I urge people to submit comments. Waterfront Watch has drafted a substantial document commenting on and has shared that with the Village environmental counsel. We are working both with Waterfront Watch and with the engineer that we will retain to come up with comprehensive comments to the plans that were suggested by the DEC.

2. Miscellaneous

Trustee Swiderski: Trustee Jennings managed to deeply embarrass me last week as only an ethical man can embarrass somebody who is speaking without a moral compass. This was in regard to the senior program. He pointed out that I indirectly was worrying too much about the budget instead of about what really matters, which is the needs of somebody elderly who could use a subsidy to stay in town. I called Jennifer Murphy this week and apologized for resisting the project for budgetary reasons, and I thank Bruce for putting me on the spot and pointing out to me that ethically I was about as flawed as you could be on this issue. He is completely right, and I support the program and I would like to see it on the agenda next week..

Mayor Kinnally: The village officials committee has been banging its head against the wall, the wall being the Town of Greenburgh. We are awaiting a decision by the Town as to whether or not they are going to perfect the appeal in the Taxter Ridge litigation. Just when you thought it could not get any worse it has gotten worse: the Town board is considering charging sidewalk reconstruction and stabilization to the villages and to the Town. So if there is a stretch of sidewalk in Edgemont, we will have the pleasure of paying for that. There is an opinion from the comptroller saying that it is possible that that could happen. The Town board can structure their budgeting process and their organization such that the entire unincorporated part of the Town can be deemed a sidewalk district, and therefore the people who would be benefitted by that district, i.e. the residents of the unincorporated part, would only pay for the sidewalks. It remains to be seen how amenable the Town is to that structure. I doubt very much that they will do it. As one member of the village officials committee has said, we have to be always vigilant to see that this reallocation of budget is done properly. There are vocal people in the unincorporated part of the Town, pressuring the Town board to take away some of the revenue that goes into our portion of the budget and put it in the other

budget, and reallocate the expenses that were normally to the unincorporated part of the Town to the entire Town proper, which includes the villages.

Every week brings new surprises. Peter has been elected chair of the village officials committee, and I do not remember that he celebrated.

Trustee Jennings: In terms of Trustee Swiderski's comment, I certainly appreciate his candor in sharing with us his further reflections on that issue. But I am very chagrined to think that I might have said something that embarrassed him. That was not my intent.

Trustee Swiderski: Only the way a decent, ethical man embarrasses a man who went astray. You said the right thing, and I was just struck by how right it was.

Trustee Jennings: Let me say that we have to be able to have a full discussion up here. We have to be able to disagree with one another. And there is no personal animosity.

Trustee Swiderski: Not at all.

Trustee Jennings: There is no embarrassment intended.

Trustee Swiderski: Not at all.

Trustee Apel: On the Town and the sidewalks. Does that mean that they would...

Mayor Kinnally: Would that mean that that they would build sidewalks for us? Yes. However, it always comes with a string attached. They would be the ones to decide what would be done. It is dangerous to start to cede your independence to the Town on any capital projects. We know what happened with the affordable housing, and it is a lesson to be learned. This drives home the point that we need to have a broad look at how towns and villages interact in 2006, and approach Albany and say it does not work. You are dealing with an archaic structure, and you better start looking at it all over again. I know students of government rail at duplication of services, and maybe the villages have duplication of services. But where you have the Town and the villages duplicating services, and the duplication being that the villages are paying twice, it is just ridiculous. I am not just talking about a library. I am talking about the villages paying over 50% of the freight of the Town attorney, who does maybe 5% of the his work for the villages, if that, in a given year. The Town is as handcuffed as we are with the structure. But somebody has to say to Albany work with us on this to make this work in the 21st century.

Trustee Holdstein: But short of your plea for Albany to do so, we are embarking on our own task with the Michaelian Institute. Maybe set a benchmark or make a statement stronger to Albany that may compel them to look state-wide at these things. Right now it is our best shot to hammer home your points as to where it shakes out.

Trustee Swiderski: Mike is exactly right. The tactical battle is what we spend much more time fighting. Just trying to represent ourselves before the board and trying to write the letters. Any letter where six mayors and trustees all agree to sign it takes time to create. We spend a lot of time on these tactical efforts to simply present our position to the board or to the newspapers to get our collective voice out. Then there is a strategic battle, which Lee is alluding to. And then what you are talking about is the final tactical move we have left if everything else fails, and we would not consider it in any detail until we are forced there.

Trustee Holdstein: I am not sure if I agree with what you are saying. We have already embarked on the process, so it is not that we are holding off on a tactical. We are looking at having this whole budgetary situation looked at and seeing if it in our best interest not to be a part of it.

Mayor Kinnally: It is a very small part of it, though. Michaelian may give us the information that we can take the next step. But in addition to looking for that information we have to start building some bridges to the people in Albany, saying once we get this information you better be ready because we are coming. Some members of the Town are enamoured with this mediation process, but we do not recognize where that fits into what we are talking about. First things first: deal with the appeal. Work with us on approaching Albany, and let us not have these skirmishes. Today it is the sidewalks, yesterday it was the tree litigation. It does not do anybody any good. I do not want to be at war with the unincorporated part. We try to work together to be vigilant that we are not going to pay twice. Part of it always has to do with a responsive Town board. It is a misnomer to say it is a Town board; it is an unincorporated part of the Town board and that is very disappointing.

On March 15 in the Orr Room in the library at 7:30 p.m. the Hillside Woods Trail workshop is going to be attended by the Westchester County planners, who are going to discuss, or receive input from the community, on the proposal in Hillside Woods.

I received a call from Patty Speranza, the chair of the Planning Board, and she believes that they will be in a position to take the next step on the 9-A proposal and has requested that the Village Board join with them in a public hearing which would be a continuation also of our public hearing on the 9-A site for Thursday, March 2. It will cover basically the same ground, and give us an opportunity to have whatever else in the way of public comments on what they have. I believe the issue with the Zoning Board of Appeals on the parking has been resolved. Mark Chertok told me that he and Marianne are working with the Planning Board to make sure that the information they had to put together from the consultants and from the applicant is being done.

EXECUTIVE SESSION

On MOTION of Trustee Apel, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Board scheduled an Executive Session immediately following the Regular Meeting to discuss personnel and professional contracts.

ADJOURNMENT

On MOTION of Trustee Apel, SECONDED by Trustee Jennings with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 9:45 p.m.