

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
JULY 18, 2006

A Regular Meeting was held by the Board of Trustees on Tuesday, July 18, 2006 at 8:07 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. Frobel, Deputy Village Attorney Marianne Stecich, Special Counsel Mark Chertok, and Village Clerk Susan Maggiotto.

CITIZENS: Twelve (12).

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 6, 2006 were approved as presented.

APPROVAL OF WARRANTS

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

Multi-Fund No. 6-2006-07 \$109,728.72
Multi-Fund No. 7-2006-07 \$193,039.93
Multi-Fund No. 9-2006-07 \$559,825.36

Mayor Kinnally: One resolution deals with the Comprehensive Plan, and Board discussion and comments deals with the quarry. We have special counsel here this evening, Mark Chertok, and he will be addressing both of those issues, not only in public, but he wishes to have a brief session with the Board. I am going to ask for a motion for a session for advice of counsel at this time.

On MOTION of Trustee McLaughlin, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Board recessed to a session for advice of counsel.

[Recess 8:08 - 8:55]

Mayor Kinnally: We are back in session and I thank everyone for their patience. We had a session to get advice of counsel on issues surrounding the Comprehensive Plan and the quarry.

63:06 COMPREHENSIVE PLAN AND STEERING COMMITTEE

Trustee Apel: I feel very strongly about this resolution. Although in the past we have items that have made up, technically, a Comprehensive Plan, we need a single document. We need to spend time looking over those things that we have, and then decide what else we might need to make it into a full one-document type of Comprehensive Plan. We have had things piecemeal and people have worked for years, but this part is over here and this part is over there, and yes, it comes together as a comprehensive plan, but it's not, in my mind, a single Comprehensive Plan.

What I am looking for in adoption of this resolution is an initial committee to do a little research on comprehensive plans, what other communities have done, and to advise the Board where we are going from there, and then decide on our steering committee. It is just for getting started, and it is an important start because there is a lot of information about comprehensive plans and we would like to be further educated on that. And this is a good opportunity for that, so that was where I am going with this.

Trustee Swiderski: I agree with Marge completely. Just a clarification on the scope, how you foresaw this committee working. This resolution deals with looking at other communities and seeing what they did. But in regard to the gathering of information internally, do you see it beginning to review what has been produced to date, or is that the job of the next committee?

Trustee Apel: No, that would be the job of the next committee. I see the first committee as very short term.

Mayor Kinnally: What is the mission?

Trustee Apel: The mission is to be able to come to us and say, these are comprehensive plans, this is how they are done, these are the different types. You might be looking for this type of information or that information so that we can make a clearer decision on what we want the long term steering committee to do. It is just going to give us more information.

Trustee Swiderski: Right, so it is a survey of what other communities have done. Is it also a discussion of typical process?

Trustee Apel: Yes, typical process.

Trustee Swiderski: So what will come back to us will be a memo of several pages describing what other communities have done and a summary of the typical process, how a committee is formed and how it is composed, and what happens in what sequence over the course of the planning process. Defined like that, it is what we need right away.

Trustee McLaughlin: Peter said it all.

Trustee Quinlan: I agree with Marge, but I have a problem with one word, and that is “updated.” I do not believe that we have a Comprehensive Plan now in the Village. This was thoroughly explored in the last election. That is a false and phony word, and one of the reasons why we need a single document as a Comprehensive Plan is so that exceptions to our zoning code that have been made in the past, including the location and the number of affordable housing and residential on the ground floor in our commercial districts, could have some protection with a single-document Comprehensive Plan. I really object to the word “updated.”

Mayor Kinnally: I am in agreement that the Village Board should initiate the process for the development and consideration of the Comprehensive Plan. I think there is a danger in taking out the word “updated,” but we can vote on that.

My problem is in the initial committee. I don’t see the need for it because we have the resources now to give us that information. Marianne and Mark could tell you what the process is. We have a village planner to give us this information. She is a veteran of a number of Comprehensive Plans that she has either participated in or overseen as a planner in her career. I do not want to foreclose anybody from getting involved in the process, but this information is here. It’s also here in the person of the chair of the Planning Board. All that we need could be available to us by the first meeting in September.

Trustee Apel: We need to get the public involved right from the beginning, and that is why I recommended this committee. I know we have personnel that can do this and has some material, but when people in the community show an interest and want to participate I think it is good, and I think it is important that we have the public in.

Trustee Swiderski: I would push for having the Village Planner on the committee and counsel available for requests for information. But Marge hits the point, which is there is a typical process but there are a variety of processes that can arrive at a community plan. Ultimately, it is a public process, and having public involvement in the very early stages of determining that process seems the right thing to do, feels like it is democratic from day one.

Mayor Kinnally: I do not want it to be undemocratic. I want it to be efficient. You can get people involved in the process of designing a paperclip, but there is no reason for it if it is already here. The best way to get from point A to point B is to go directly from point A to point B. And if it is going to take circumnavigating the globe to do that, to make people feel that they are involved in the process, they may be involved in a process that at the end of the day they say, we have wasted our time. I do not want the enthusiasm to wane. I want people to say, here is the information, we can dig into it right now.

Trustee McLaughlin: I understand your reluctance to impose an extra step on the process, but in our executive session one of the things that counsel did, and I think this can be made public, is mention the roles of people on comprehensive planning committees in other communities. They included, for instance, the mayor and a trustee and two members of the planning board and the town planner, and then there were other people. With no disrespect to the Planning Board or to the Board of which I am a part myself, starting out with those five representatives means you are going to have a voice saying, but we have always done it that way. If we start out with a group of people who are not going to say, but we have always done it this way, we will be better off in the long run.

Mayor Kinnally: I am not even talking about the composition of the Board.

Trustee McLaughlin: No, but that is why I am suggesting that we start with this preliminary group of people.

Mayor Kinnally: That is fine. I am just saying that they are going to do something that is already done. All you have to do is ask Angie and Patty and Mark and Marianne for starters, to identify all of the documents that we have because they work with them: the lower case comprehensive plan that we already have, the documents that form the foundation and the bedrock of the zone, with a small Z, in the community.

Trustee Apel: That is for the second committee. That is not for the first committee. You are getting into the details. The first one is to set up the process.

Trustee Quinlan: Our large land tract report which is about to come out, the LWRP which is at least in print, the Vision Plan, our zoning laws: there is a segment of our village that believes that that is a comprehensive plan, with a little c, p, and there is a segment of our village that believes that it is not. If we start with the foundation that these are our resources, then we are going to limit ourselves to those same old ways of. We should be more creative and more expansive in how we lead our village going into the future in terms of our zoning and our Comprehensive Plan. I do not want to limit it to those documents.

Mayor Kinnally: But you cannot ignore those documents. To say that they are created in the past: the LWRP was created in the past few months, the large tract study is going to come down in the next couple of weeks, our downtown zoning was adopted three years ago maybe. Is it in the past? I am not saying that we are limited to these resources, but it is folly to ignore them.

Planning Board Chairperson Speranza: It is important that when you are looking at the first step, and I have done this at the county level for a number of years, the first step has to be what do you want to get out of it. What do you want it to be? That is going to guide the process. The draft Vision Plan for Dobbs Ferry has recommendations for every neighborhood in the community. If that is the kind of thing that the Board wants, that is going to drive the process. Then you are looking at small group meetings, and a huge public outreach process. The Mayor is right that it is not rocket science to gather a wide variety of plans, particularly given the Internet. The county planning department has a file full of comprehensive plans.

The next step has to be what you want it to contain. Is the LWRP part of it? Is it an appendix? Where do all of these things fit together and what is missing? It can all be one document, which is what we keep hearing and that is fine. But you have got to figure out what kind of document you want.

You do want to move forward. You might say it is not going to take three months, but by the time you get people it will. But there is a tremendous amount of resources for the Board, with input from the public, to decide what is it that we want this to be.

Village Planner Witkowski: It is important to have a lot of community involvement, and that is in every plan that I have worked on. Starting in the beginning of the process, you have people look at what goals and objectives have been adopted in the past and revisit what has been done in the past and see what still applies. The first step is getting the public very involved in it, but a lot of that is already put together and then people respond to, and come up with, new ideas. You have a steering committee to help guide the process through and do certain parts of it to help in moving it along.

Special Counsel Chertok: You are looking at two things. One, you are pointing out that there are resources here and you do not need to have a committee spend time researching what is in your back yard and that is readily available.

The other thing you are hearing is that there is a desire for public input at the earliest stage. I am not sure why those two are necessarily incompatible. You could certainly get together a report from a few members of the public and your other resources fairly quickly so that it does not limit what is in that initial document that describes the different types of comprehensive plans and approaches used to achieve those comprehensive plans; the types of committees, the members on the committee, and what was done to achieve those plans so that you all can make the selection, which ultimately you have to do. As Patty just said, what type of plan do you want?

So I am not sure that there is really this conflict that I hear from you all, because you are not going to get a report until your next meeting, and I am not sure there is any reason why you could not combine those assets and do it right away all at once. I am not sure if Marianne agrees, but I think that can be done.

Village Attorney Stecich: It seems to me that the critical question is what Patty said: what kind of comprehensive plan do you want and what is the most efficient way to decide what kind of comprehensive plan you want. Those are the two questions, and then who should be on the steering committee. I am not sure you need a committee to do that, but it would work too, I guess.

Danielle Goodman, 28 Ashley Road: There is a very creative, talented, intelligent group of citizens who have researched the Comprehensive Plan issue for months now, waiting and hoping that the Board would act. People have already researched what is on the Web. So I believe that a committee that is formed of citizens who could make the recommendation would be best. It would save the Village money. And some of the case law is pretty simple to read, even for someone who is not a land use attorney or an environmental attorney. Your citizenry would be grateful to participate. They would do a very good job, like the quarry committee did. You would probably get a better work product for zero cost, because we are not going to charge you for legal memos or anything.

Mayor Kinnally: Who is the we?

Ms. Goodman: Whoever you choose, not myself, but I am saying there are citizens who would volunteer for free, and then you would not have to take your Planning Board chair and your planner away from business that they have to attend to. I will tell you what I do not want: I do not want another Vision Plan, which was a watered-down, meaningless document that does not protect this village in any way, shape, or form. It does not insulate you from lawsuits from the developers the way a Comprehensive Plan would.

It should be a neighborhood by neighborhood document, and Dobbs Ferry is a good example, but I do not think that you start out with a process by immediately launching forward and saying what kind of plan you want. You have to look at the range of plans, and that should be the first step: for free, zero cost

Jim Metzger, 427 Warburton Avenue: We have an opportunity that a number of us have been waiting for since the entire time we have been in the Village to happen. The opportunity that we have here is for a clean slate. To have a group of people who have no prior, I use the term baggage, it is a bad term to use, because I appreciate the amount of work that people put in in this Village. But when you have spent an entire time, whether it is on a Planning Board, or the Zoning Board, or the Trustees moving in a certain direction, it is very hard to think outside that box. I have used that term many times before this Board. We need to start thinking outside the box on this. It does not mean we negate all of the hard work that has been done before but that it needs to be looked at with a fresh set of eyes, and someone who can pick new information out of that and combine new theories, new ideas, and to look at work that has been done. Which process do we want to use? I am not sure, but that is the job of this first committee. Let us look at what is available, figure out what is most appropriate, get people to step up and say, let us take this information now.

Mayor Kinnally: But this is completely different from what has been discussed on the Board here.

Mr. Metzger: I do not believe it is, Mr. Mayor.

Mayor Kinnally: But you just said that there would be recommendations made by this board. That is not what I am hearing. The mission of this board would be research, a typical process, and the sequence.

Mr. Metzger: I envision this group looking at the comprehensive plans done by Croton, by Dobbs Ferry, by Irvington, you could name a dozen communities, and to look at the process they did and which of those processes would most benefit Hastings. We have been looking at a process in this community for many years. Some of us have been coming before this board for six years and arguing about the same items over and over. What is happening on 9-A is not being reflected in the problems that we are having on Warburton Avenue. What is going on in the downtown is not being reflected in the waterfront. And the Comprehensive Plan would address those things. To have the same group of people, and that is why I do not think I should be part of that group because I have a certain way of looking at this based upon what I have been doing for six years, we need a fresh set of people to look at this in the abstract and start to determine how this process moves forward.

Mayor Kinnally: We have a difference here. If we are talking about a group of people determining how the process moves forward, that is a different mission from what was articulated by my colleagues.

Mr. Metzger: Not determining, but presenting the options to the Board is what I meant. I apologize for that.

Mayor Kinnally: But even presenting options, I thought it was just to gather information.

Mr. Metzger: Part of that information is what options are available to form a comprehensive plan. It is not an A, B, C, D sort of thing. It has been my experience from the little research I have done that a comprehensive plan takes many different forms. In some cases the community is what drives the project, in other cases the community is just asked to respond to a certain amount of information. Between those two things we need to figure out what is appropriate for Hastings and what is going to give us the best product.

Mayor Kinnally: So if that is the case as far as presenting options, what is the difference from the initial committee and the Comprehensive Plan steering committee?

Trustee Apel: You get all that information, you come to the Board. We say, okay, they have done the initial homework. And then we can start and say, okay, this is what we want our committee to do. We have gotten all this background and information, and then we have the discussion, and we can then say we can charge our steering committee with what it is that we want them to do. It is the first step; that is all it is.

Mayor Kinnally: We have to articulate what we want them to do. There is a world of difference from researching information to recommending.

Village Attorney Stecich: Could I suggest that the way Marge just described it be incorporated as part of the resolution. The parameters are not quite clear in the resolution.

Trustee Swiderski: I would say let us articulate it, but I do not want to spend six weeks wrestling over the language of the definition of the committee. I think we can come to agreement here.

[Discussion of wording of resolution]

Mayor Kinnally: Jerry, you do not want to put “updated” in there?

Trustee Quinlan: I am not happy with it, and I articulated my reasons. Let us see what everyone else thinks.

Trustee Apel: I think because, in the law, a comprehensive plan can be a vision plan that you have and you can include your zoning, you can include other things that you have voted on to be in a comprehensive plan. Then, in a sense, we had a comprehensive plan. It is just not the comprehensive plan that we are looking for at this time. So it needs to be updated. I think it is fine to leave it in there.

Trustee Swiderski: In the past I adopted the old legal definition of a comprehensive plan, what we call the small c, small p, and understand and believe that it needs an update to the capital C, capital P Comprehensive Plan we are talking about now, but would not want to give the impression that what we have decided to date was unconsidered based on everything we had at our fingertips. So I would keep the word “updated.” There was some thinking that went into planning, zoning, etc. in the past, and we are leaping forward in a big way. But I would keep the word “updated.”

Trustee McLaughlin: I agree with Jerry in the sense that we have not previously had a capital C, capital P Comprehensive Plan, and I do not believe that the planning documents we have had altogether comprise a small c, small p comprehensive plan. But I am not prepared to vote against the resolution on those grounds.

Mayor Kinnally: There are dangers in acknowledging that we do not have a comprehensive plan. First of all, I do not believe that is the case. I do believe that the body of what we have in the Village comports with what the lower-case comprehensive plan anticipates. I do not want to give any evidence to anyone wishing to challenge our zoning code. We do have, under the structure of the law in New York State, a comprehensive plan that may not be what everybody wants, but certainly is recognized in the eyes of both the legislature and the courts as comprising a lower-case comprehensive plan.

Trustee Quinlan: I see that three people like the word “updated.” I do agree with Diggitt that it is not going to cause me to vote against the Comprehensive Plan. I think I have made my point.

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

WHEREAS, The Mayor and Board of Trustees desire to initiate the process necessary for the development and consideration of an updated, stand-along comprehensive plan for the Village of Hastings-on-Hudson, New York, and

WHEREAS, this undertaking should remain under the jurisdiction of the Board of Trustees; now therefore be it

RESOLVED: that the Mayor and Board of Trustees establish an Initial Committee to be appointed by the Board of Trustees to assist the Board of Trustees by researching types and processes of other comprehensive plans and reporting their findings to the Board of Trustees; and be it further

RESOLVED: that both the Initial Committee and the Comprehensive Plan Steering Committee shall remain under the jurisdiction of the Board of Trustees.

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	

BOARD DISCUSSION AND COMMENTS

1. Update on the Quarry

Mayor Kinnally: I am going to move from resolutions to Update on the Quarry. I am going to ask counsel to give an updated report on the quarry situation.

Special Counsel Chertok: We have talked with the state Department of Environmental Conservation. They wrote to the Village in early 2003 indicating that they would have no objection to the use of the property as open space if certain steps were taken, including putting out the final slope on the landfill area and making sure there is adequate cover. Once those steps were taken the DEC would do an inspection. We would have written to them telling them what we wanted to do with the property.

As long as there are no buildings on the property or other types of activities that would cause a concern, and it is just used as open space, they would write a sign-off letter on that type of use and indicate there is no further objection. They have committed to act promptly to come to the site and inspect as warranted.

Mayor Kinnally: And the next step, from the Manager.

Village Manager Frobel: I will contact the DEC and have them go out in the field with me and indicate the boundary of the work that has to be accomplished. From there we will develop some estimates as to what it would take to comply with their request, and report back to you our recommendations.

Mayor Kinnally: Maybe you can have a report by the next meeting August 22?

Village Manager Frobel: I could try.

Kevin Dawkins, 126 Washington Avenue, Chair, Quarry Subcommittee: The quarry subcommittee recently had a walk-through with the Village Manager of the site to inspect areas that we would recommend as part of a cleanup. We have been charged with coming up with recommendations to present to the Parks and Rec Commission as part of our 2008 budget process to take initial steps to clean up the site. We identified several areas where there is solid debris, bricks, blacktop, vehicles, and broken-down fences. The hope is that this will set the stage for the next level of the process, which is not dissimilar to the ones that have been followed for the pool and the recreation center and the cove, which is to develop a request for proposals and invite people with expertise, landscape design firms, landscape architects, to discuss with Parks and Rec and the subcommittee many of the ideas that we have, the visions that people have developed for the quarry site and get some proposals back from them as to what can be done, what might be done and what some things might cost.

We think that clearing the solid debris and inviting folks in at no cost to the Village are good steps to take initially that are appropriate, affordable, and achievable.

Trustee Quinlan: When you say clean up debris, is that something that Parks and Rec or the DPW could do?

Mr. Dawkins: A combination of those resources and people in the Village who would be willing to help out, much like what was done with the Rowley Bridge Trail. People rolled up their sleeves and helped clear out a lot of debris that the DPW then came in with manpower and machines to remove. That kind of approach is what we had in mine.

Trustee Quinlan: Is that going to affect anything with the DEC?

Special Counsel Chertok: I can't tell from the description, but I suggest that you guys get together with Fran and we have a single visit. If there is any debris that is appropriate to be removed, whether it is done through a bid or through the public, we do it all at once so we do not have the DEC revisiting on multiple occasions.

Mr. Dawkins: This type of material, in my estimation, would not affect any of the DEC recommendations and requirements that were in that letter. There is a pile of bricks; there is a pile of broken-up blacktop; there is a vehicle in there. That is all on the surface and would not require any regrading or heavy equipment.

Special Counsel Chertok: There may have been some changes from the earlier DEC letters and reports because I just got a copy of them today. But it would make sense to coordinate it. If the DEC comes out and there are conditions that they are not expecting, that is not going to help us wrap this up quickly.

Mayor Kinnally: None of this debris was added after.

Special Counsel Chertok: But it has been a couple of years and there could have been erosion, and you could have had debris which was covered now exposed.

Trustee Quinlan: Fran, what would you recommend?

Village Manager Frobel: As Mark indicated, a joint effort. We will meet on the site with the DEC, clearly delineate what has to be done, and proceed. But I would not have DPW crews in there before we know what the DEC is requiring, by any means.

Mayor Kinnally: You do it once.

Village Manager Frobel: Absolutely.

Michelle Noe, 20 Marble Terrace: I am very excited that there is movement in the direction of the recommendations of the wonderful report that the quarry committee did. I would like to see that move as quickly as possible, and I speak on behalf of a lot of residents of that community when I say that. I am excited to hear the notion of bringing people in, landscape designers, to look at a master plan for the site and develop some phases that can be implemented where there is funding available.

I have a question about the quarry trail grant because there is a connection between what happens in that site and this potential trail that I hope is still something the Village can realize. I would hope that anybody who looked at the design for that site would look at how those two things could come together. Right where the quarry trail comes in is where a lot of the older debris is submerged, not the evident stuff that Kevin talked about. So that needs to be looked at by not only the DEC but also how we could actually get a trail up there, given all that stuff that is there.

Trustee Quinlan: How are we coming with the quit claim deed and the grant?

Mr. Dawkins: We are in the same section that was identified tonight by Mark as the DEC's concern with that southwest corner of the property. That is where our committee, when we met on-site, would like to start because that is a logical link to that trail.

Village Attorney Stecich: I filed the deed in the division of land records at the county clerk's office two weeks ago.

Trustee Quinlan: And the grant? Is that still operative?

Village Planner Witkowski: It will be very soon. We got the deed up to Parks, Rec, and Historic Preservation. The person I was working with there has drafted the contract and sent it to Albany. So it is making its way through and it will be ready for execution fairly soon.

Mitchell Koch, 20 Marble Terrace: Could some of the quarry trail grant money go to underwrite a master plan by a landscape architect?

Village Planner Witkowski: No, because the quarry trail grant is specific to that particular piece of property.

Mr. Koch: Is this the time and place to discuss how this might be funded?

Village Manager Frobel: We are going to explore all opportunities. There has been talk about private contributions. We would not leave any stone unturned to find money. As Mr. Dawkins indicated, a master plan for the site would be the ideal to plan that entire parcel. Grants? Possibly, but I can't answer whether any are available today.

Mr. Koch: It seems like that master plan and the quarry trail are going to shape some decisions about how much debris is removed on that end of the site. You may find, and I am sure that the DEC will recommend, that you are going to remove debris and then they are going to tell you if you removed enough.

Village Manager Frobel: I am hoping that it is just covering and not having to remove. Once you start to remove, it gets costly. But we will do whatever it takes to satisfy the DEC.

59:06 CHANGE ORDER GC-2 - JAMES HARMON COMMUNITY CENTER

Village Manager Frobel: This resolution is one that we had briefed the Trustees on several months ago. We wanted to wait until we had some additional change orders rather than coming back at every meeting with them. This involved the removal of some trees to the rear of the construction site which were either in the way or their root system was such that they were damaged and they were compromised.

Mayor Kinnally: And the work was done properly?

Village Manager Frobel: Work was done. Very satisfied with that.

Mayor Kinnally: The recommendation of you and Deven is that this is appropriate?

Village Manager Frobel: Yes, sir.

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

RESOLVED: that the Mayor and Board of Trustees approve Change Order GC-2 with an increase of \$9,500.00 for the James Harmon Community Center to remove additional trees along the south property line.

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	

60:06 CHANGE ORDER GC-3 - JAMES HARMON COMMUNITY CENTER

Village Manager Frobel: This also involves a change order that we discussed with the Trustees last December. This involves the contaminated soil encountered on the site. We waited for action by the Board because we were in negotiations with the contractor to agree upon a price. This is work that has been accomplished. We have been satisfied with it, we have a clean bill of health from the DEC, and we are urging adoption of the resolution.

Mayor Kinnally: I assume we are still pursuing the possibility of recovery from third parties for the contamination of the soil?

Village Manager Frobel: We are.

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

RESOLVED: that the Mayor and Board of Trustees approve Change Order GC-3 with an increase of \$118,859 for the James Harmon Community Center as follows:

Contaminated soil removal	\$96,000.00
Replacement fill at southeast building corner	\$16,665.00
Backfill to replace contaminated soil	\$ 6,204.00

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	

61:06 NYSDOT SNOW & ICE AGREEMENT AMENDMENT 2007/08 SEASON

Village Manager Frobel: Simply an amendment to the agreement we have with the county for the removal of snow and ice from their roads by our DPW to reflect increased gas costs.

On MOTION of Trustee Apel, SECONDED by Trustee Swiderski 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 amendment to change the estimated expenditure for the New York State Department of Transportation Snow and Ice Agreement for the 2007/2008 Snow Season from \$7,328,00 to \$10,237.22.

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	

62:06 CERTIORARI SETTLEMENT - 611 WARBURTON AVENUE

Village Manager Frobel: Periodically certiorari matters come before the Board from special counsel who advises you on these. This involves a service station. He has looked at comparable service stations in the area, determined that an adjustment is appropriate and, in an effort to avoid any further litigation, his recommendation is being considered.

Mayor Kinnally: This is Bob's Service Station, at the corner of North Street and Warburton Avenue.

Village Attorney Stecich: The cost of the reduction, which will get frozen for three years, is less than half the cost of what the appraisal would be if you had to go to trial on it.

Mayor Kinnally: I am surprised that we have a 2006 year that we are acting on. Were there prior years that they discontinued?

Village Attorney Stecich: No, it was frozen from 2002 through 2005. But for whatever reason, they settled in 2006 which is good for the Village because it will be frozen for the next three years.

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

WHEREAS, petitions having been filed by the property owner, below challenging real property tax assessments on the Village's assessment roll with respect to the following parcels:

<u>Property Owner</u>	<u>Address Description</u>	<u>Year(s)</u>
JOHN REILLY	611 Warburton Avenue Volume HA, Sheet 12 Section 10, Block 630, Lot 2	2006

WHEREAS, petitioner's court challenge is now pending in Supreme Court Westchester County; and

WHEREAS, the Village and the property owner have reached a mutually agreeable resolution with regard to the assessments at issue in the Court challenges; now therefore be it

RESOLVED, Counsel to the Village Attorney is authorized to execute a settlement on behalf of the Village for assessments for no less than the following:

Year	Current AV	Reduced AV	AV Reduction
2006	\$ 30,000	\$ 23,500	\$ 6,500

The Village of Hastings-on-Hudson's share of the refund is \$1,198.15.

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	

64:06 SCHEDULE PUBLIC HEARING - VERIZON FRANCHISE AGREEMENT

Mayor Kinnally: The next item is to schedule a public hearing for a Verizon franchise agreement. My recommendation is to have it in September. I do not think this is going to be a routine matter.

Trustee Swiderski: Why is that?

Mayor Kinnally: Contentious. This is my understanding from other communities, that it will not be unopposed. Cablevision will be part of the process. The sense of our committee is that August is an inappropriate time because many of the public are away, and our consultant is unavailable.

Village Manager Frobel: We have yet to receive a draft copy of the agreement from Verizon to share with you. You would probably want some time to look it over.

Mayor Kinnally: My recommendation is that we not piggyback this on to a regular Board meeting and that we have it September 19.

John Butler, Director of Community Affairs, Verizon: Verizon has worked hard to get this cable agreement fashioned. Rafael Zaratzian and Bob Perlstein have been instrumental in helping us. Most of the hearings are going to be in August. I understand that you want to have the public here and the consultant is going to be available either the 12th or the 19th so either one of those dates is fine. But we do not want to let it go on any further because this is almost a full month beyond the others and this is a consortium.

As far as Cablevision being a problem, I think that when the agreement is seen by them and they have made comments in the other villages and towns they will have run out of things to show in the agreement to those towns that you should look at. I suggest that they submit things in writing so that your attorney can look at it and inquire to us as to what this means or how it would affect you.

Mayor Kinnally: The first step would be to get a proposed agreement, and we do not have that yet. When will that be available to the Village?

Mr. Butler: That will be my job. I will work to get that as fast as possible. Technically, we have 10 days before a public hearing. But I would like to see it here at least 15 or 20 days prior to a hearing so that you and your attorney can look at it.

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

RESOLVED: that the Mayor and Board of Trustees schedule a Public Hearing for Tuesday, September 19, 2006 at 8:00 p.m. to consider the advisability of approving a franchise agreement with Verizon to provide fiber optic television service (FiOS) in the Village of Hastings-on-Hudson.

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 MANAGER'S REPORT

Village Manager Frobel: The Village-wide tag sale last Saturday was quite a success. We had over 50 homeowners participating. Over 480 residents went to our Website and downloaded the map, which was a further indication of the level of enthusiasm. Ray Gomes wants me to point out that the fishing tournament held at Sugar Pond was a lot of fun. The children there were catching a great deal of fish and it was a fun day for all. Finally, last Sunday we had an event at the pool. Over 90 seniors attended. It was a day of bingo, swimming, and some refreshments, so it was a lot of fun.

I would like to hand out an exhibit we prepared about the Community Center and the status of the project to date. Deven has been my right and left arm during this entire project. Deven has been our owner's representative. He and Ray attend all our meetings. Deven is on the job site numerous times throughout the day, and has done a wonderful job for the Village in making sure that not only the workmanship is there but the cost has been contained, and has really helped manage that site.

I wanted to give you an accounting as to our expenditures and revenues. I have asked Deven to talk about some future change orders, including an elevator modification, additional work regarding the steel fabrication, work for the steps and the walk-out to the rear of the property, additional waterproofing, and a second-floor modification. We wanted to let you know that change orders will be recommended to you at a future meeting.

What I tried to point out is what we are certain in terms of our revenues: bond fund, CDBG money, HUD money, a state special grant, and a special grant from Senator Spano. There is also potential money that we are actively pursuing. One is a credit for the foundation work. There is a dispute as to the degree, but we picked a midpoint as to what we think we could realize. We have challenged the insurance company's denial of a claim. Recently you approved the acceptance of the settlement from Cablevision, and we are looking to have that money dedicated for technology in that building. And finally, we are pursuing through the state an oil spill containment fund, money available to property owners that have suffered costs out of pocket for cleanup of contaminated soil that was not their fault. The \$123,000 is the amount that we submitted in April. We have yet to hear from them. They have recognized that they have received it.

As of now our revenues from what are certain and what we expect the project will come in at are very tight. We knew that. If we do not receive some reimbursement for containment of the soil we would probably have used up most of our contingency. But on balance, we think we are managing the project pretty well. November 24 is the target date for a substantial completion. We expect to be moving into the site soon thereafter.

Building Inspector Sharma: I am happy to announce that we are on time, despite the fact that we had the bad incident of the contaminated soil that set us back cost-wise and time-wise. We expect to be on the timetable that we had set for ourselves, which was about November, December of this year. Even though we took some test borings prior to the start of the design, since most of the site was covered by the existing building, there was no way to determine that there was going to be contaminated soil. But I think we dealt with it very well cost-wise and in a very expeditious and timely manner.

Overall, we are quite content with the progress of the project. And cost-wise, we have been able to set a culture of work ethics. The contractors did try to do a number of things with us which we were able to put a hold on very successfully. One of the change orders that we are projecting is called a change of heart change order. There are some plan changes that we expect to do on the second floor, area rearrangement, which is only about \$15,000 or \$18,000. Most of the other changes happen to be because of errors and omissions on the part of our consultants. But they happen to be within an acceptable range.

From my past experience having been engaged in similar construction design projects, the project is well within the range of timely progress and cost that we incurred on it.

Mr. Metzger: Do we have a current accounting of where the project is at in terms of cost versus the proposed cost?

Village Manager Frobel: We do. I will be happy to give you a copy of what I distributed to the Board. We believe we will be coming in on target. Perhaps if some of these other sources that we are actively seeking happen, that will be a little bit to the good. But we are very tight right now.

Mayor Kinnally: Our hope was that we would be well-served by Deven as the clerk of the works and our eyes and ears on the site and on the project. I think that the developer, the contractor, and the architect know who our representative is and respect that, and things have moved along in large part due to the presence that the Village has and the representation at the various meetings, letting the architect and the developer know where things should be and what we want, and overseeing the change orders and everything else. I thank everybody who has been involved in this.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: I received a note from Dave Kalet telling me where things are with OU-2. They are making progress with the DEC. There is movement in Albany on the resolution of the components internally at the DEC on OU-2. We have been using Warren Riznychok from Malcolm Pirnie, and he has been working closely with the same people he had been dealing with over the years on this site. We have not lost a lot of time because of any change of personnel. I am hoping that we can get a realistic timetable after Labor Day where we can go with the OU-2 process.

Village Manager Frobel: Dave called me today. Thursday there will be eight senior members from the DEC touring the site, both on land and using a boat to view it from the river, as they begin their review and recommendation for the design. I want to remind the Trustees that the staff there would love to give a tour to those of you who have not had an opportunity. I will be happy to coordinate that with you at your convenience.

2. Update on Kinnally Cove

Village Manager Frobel: Several weeks ago I informed you that our consultant had written back to us with the modifications that the DEC was looking for in our application for a permit. Essentially it involved two areas. They said that the 100-foot wave deflector would be two segments of 50 feet each, separated by 10 feet, just touching the bottom of the river at low tide.

Also, they recommended that the kayak/canoe launch be of a more permanent nature, that it be a wooden-type pier leading to a concrete pad that would slope towards the river at that northwest section of the property, which would allow people to launch their boats.

I did not hear back from any of the Trustees when I had asked for your comments, if there was anyone that objected to it. The urgency was that our engineers felt that if they did not get back to the DEC by July 10, with planned modification by the end of July, we could lose our place on the review by the DEC and that would prevent us from doing any kind of construction this fall. We viewed that as moderate modifications to the plan, nothing that changes what we thought was the intent. We thought that the change to a more permanent dock might be better, in fact. It could be less expensive, and it would accomplish the same objective, to allow people to launch their non-motorized water craft into the river.

Mayor Kinnally: We had explored a number of things, textile fabrics and so forth. But they all dealt with problems with the riverbed and with the mud component. The only drawback of what they are suggesting here is ice. But if it is going to be in the northwest corner it will be in the same vicinity as the wave attenuator breakwater, and certainly that would be an impediment to having ice in the area. I think we should give the green light at this point, if for no other reason than to keep our place with the DEC. This is an evolving concept anyway, but I think this is something we should do. I have nods.

Village Manager Frobel: That work is phase three of the project. The key is to get that permit in hand. This gets us right to the point where we would not want to change it too dramatically, but you would have that final opportunity on the specifications if there was something objectionable.

3. Other

Trustee Swiderski: The Village Officials Committee, the quiet committee that will not go away. A couple of developments. Tomorrow we meet with the mediator in private quarters for one-on-one discussions laying out what we are looking for. He has decided the best way forward is to meet with the individual parties separately and try to synthesize, if possible, something out of it. We are skeptical.

Another issue has come up. There is a proposal before the town board of Greenburgh to put a bubble over the tennis courts. The argument now raging between the VOC and the town board is, of course, the funding. An outside developer has said he will do this for free. He will put up the bubble, share the revenues, but he will only do it if it is open to both unincorporated and incorporated Greenburgh.

Therein lies the rub because the litigant has sued the town twice, and wants the revenues and expenses to be shared town-wide. The town has turned to us, not terribly smartly since they are fighting that very issue in court, and asked us if we would mind. We have said of course we are going to mind. If you move a budget item we do not think should be shared into a shared budget, regardless of whether the end objective is good or not, it is a mistake.

Mayor Kinnally: I have reached out to at the County of Westchester to see if they can help accommodate our yard waste because Yonkers has pulled the plug on our contract to take our yard waste. We are also talking to some of our neighboring communities. The Manager has been involved in that, and I will let him continue with that. Maybe we will have a report at our next Board meeting. I have not yet reached out to the mayor in Yonkers. My level of annoyance has gone down somewhat, but not totally dampened.

I received an e-mail recently concerning the lawsuit that we joined which spawned this yard waste war. There is going to be some discussion among counsel and some of the participants dealing with the resolution of the lawsuit against Yonkers. I will note a curious thing. While there was a flurry of activity to get us to sign on to the lawsuit, I have heard nothing from the lawyer since we gave the green light. That is over three months

Trustee Swiderski: There was an e-mail floating around requesting a wish list for traffic changes. Are we responding to that?

Mayor Kinnally: I do not want to respond to it because I want to talk to counsel about it. I am not trying to keep any secrets from people in the community, but I think we should formulate a strategy with counsel and not have it bandied about on the Internet. So that is why I am not doing anything yet. I want to talk to counsel and get his input, and maybe even get his wisdom of advice on this since he is representing us.

EXECUTIVE SESSION

On MOTION of Trustee McLaughlin, SECONDED by Trustee Apel with a voice vote of all in favor, the Board scheduled an Executive Session immediately following the Regular Meeting for advice of counsel and to discuss personnel items.

ADJOURNMENT

On MOTION of Trustee Apel, SECONDED by Trustee Swiderski with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 10:30 p.m.