

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**BOARD OF TRUSTEES**  
**REGULAR MEETING**  
**JUNE 20, 2006**

A Regular Meeting was held by the Board of Trustees on Tuesday, June 20, 2006 at 8:15 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:** 13 (Thirteen).

**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. 4-2006-07 \$444,465.62

**54:06 Settlement Agreement - Local 456**

**Mayor Kinnally:** We are starting with the settlement resolution.

**Village Manager Frobel:** I am pleased to report that the Village and Local 456 have reached agreement on a contract. The union membership ratified the agreement on June 14. This is a five-year contract retroactive to June 1, 2005 and expiring on May 31, 2010.

The major element in the agreement is a 3% wage adjustment in the first year. In the second and third year salaries increase by 3.5%; in the fourth year 3.75%; and the fifth year 3.5%. The other monetary change is that the Village has a program of paying for unused sick leave on retirement. We would have a two-tier system for unused sick days upon retirement: from one to 165 days we would pay \$30 per day, and from 166 days to 215 days, which is the maximum, we would pay \$45 per day. The other changes are largely administrative, involving the establishment of a time recording device, some reporting to work requirements, and the establishment of some work rules regarding sick leave.

I believe it is a fair contract. I think it reflects the high value we place upon the men who work for our Department of Public Works, and I hope the Trustees will authorize me to sign it.

**Mayor Kinnally:** I thank you. This has been a long process, and difficult not in the sense that it was adversarial but that there was a learning curve for everybody involved, with new personnel on both sides of the table. As always, labor peace is something to hope to be attained and it appears that everyone came out well.

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

**RESOLVED:** that the Mayor and Board of Trustees approve the settlement agreement as attached with the Collective Bargaining Contract-Local 456 for the period June 1, 2005 to May 31, 2010 and Authorize the Village Manager to sign the contract.

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

**55:06 Approval of Non-Union Personnel Salaries**

**Mayor Kinnally:** These salaries are the result of the Manager's recommendation and the Board of Trustees' discussion and recommendation.

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 establish the following salaries for non-union personnel effective June 1, 2006:

Police Chief	\$125,580
Superintendent of Public Works	\$ 99,700
Deputy Village Manager/Village Clerk	\$ 87,906
Superintendent of Parks & Recreation	\$ 89,700
Director of Youth Services	\$ 77,532

Planning Director	\$ 76,440
Technology Director	\$ 56,784
Secretary to Village Manager	\$ 54,512
Building Department Office Assistant	\$ 53,118
Payroll/Personnel Clerk	\$ 46,509
Court Clerk	\$ 37,622
Assistant Court Clerk	\$ 25,553
Recreation Supervisor	\$ 51,376
Recreation Assistant	\$ 35,277
Recreation Assistant	\$ 32,432
Youth Advocate	\$ 45,427
Building Inspector	\$ 83,200

**Part-Time Personnel**

Deputy Building Inspector	\$18,756
Fire Inspector	\$16,006
Senior Outreach	\$17,056
Youth Employment	\$16,536
Meter Repair	\$12.00/hr
Parking Enforcement Officer (2)	\$12.00/hr
Intermediate Clerk	\$15.39/hr
Clerk (Village Clerk=s Office)	\$12.27/hr
Bookkeeper (Finance Office)	\$15.60/hr
Village Justice	\$20,000

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

**52:06 ADOPTION OF SEQRA FINDINGS - SAW MILL LOFTS DEVELOPMENT**

**Mayor Kinnally:** This is the culmination of a number of years' review, revision, discussion, determination, analysis, recommendations before the Board of Trustees, the Planning Board,

the Zoning Board of Appeals, public forums, and much discussion, debate, deliberation, rancor, and you-name-it. This comes to us as a result of the SEQRA process before the Planning Board. The Planning Board has forwarded a number of findings to us. Those findings have conditions from the Planning Board, but the Village Board also has recommended certain conditions:

- A. If contamination is discovered on or under the dedication area [that being the 1.75-acre piece of a parcel at the southerly end of the site that is being dedicated, or proposed being dedicated to the Village for municipal purposes] that necessitates remediation, GDC shall be financially responsible for all costs associated with such remediation, including, but not limited to, any further investigation, consulting and engineering costs, and similar expenses typically categorized as response costs pursuant to the Federal Comprehensive Environmental Response Compensation and Liability act as amended.
- B. GDC must participate with the Village in applying for a grant to create a walkable, bikable trail connection between the South County Trailway and the Ravensdale Bridge, and must make a matching contribution of at least 20%. In the event the Village does not obtain the grant, GDC must develop such a trail connection at its own expense. In such event, the paved trail need not be greater than 5 feet in width.
- C. The recreation fees to be paid to the Village upon site plan approval shall not be reduced or set off by the cost of any elements of the proposed action, including constructing the bridge over the Saw Mill River, nor by the cost of compliance with any of the conditions of the concept plan approval, including the connection between the South County Trailway and Ravensdale Bridge.

These conditions are the result of discussions that the Village Board had. But the concept of tying the Ravensdale Bridge grant to the project to benefit not only the project but the adjacent area came from Trustee Quinlan. My understanding is that the applicant is in agreement with that condition.

**Susan Newman, Ginsburg Development Corporation:** We are in basic agreement. I would like to clarify that our pedestrian bridge at the north part on the Saw Mill Lofts projects is part of that contribution. The wording here is a little vague. That bridge serves as a minimum of the 20% local in-kind contribution.

**Mayor Kinnally:** Okay, but that bridge does not minimize or constitute any part of the \$465,000 recreation fee, or it will not be a setoff to the \$465,000 recreation fee.

**Ms. Newman:** We had hoped to defer this matter to the Planning Board. Obviously, you have circumvented that conversation and discussion, so we will accept that.

**Trustee Apel:** I have a statement to read: I want to thank the Planning Board and all the citizens who have come out to discuss this issue over the years. Everyone put a huge amount of hours to researching, analyzing, writing, and offering up opinions and suggestions to get us where we are tonight. This property has presented problems from the very beginning: the narrow site, the location, which is apart from the rest of the Village, the nearness to the river and the parkway, and the possible traffic impacts, to mention a few.

Now we are at the point of deciding if the SEQRA findings should be adopted. While we have gotten lots of information concerning the fiscal benefit to the Village, I still question how we can accept the findings without information about the future of possible tax certiorari proceedings and, in relation to this, a study of the possible budget surplus of \$57,000 mentioned using the per capita method of analysis. Is this realistic? Will it be enough of a cushion against unforeseen costs? Do we not care?

In reference to socially desirable, I have a different take. It is not measurable in my mind. While live/work may have appeal, I question the ability to make sure that it remains that way, and that over time that the concept disappears, resulting in a change in the use of development. I know that you have heard me say it many times, but having people at the other end of the community, somewhere between Hastings and Ardsley on the other side of the parkway, just does not lend itself to having people more integrated into the community; certainly not in the center of town, as recommended by the Vision Plan. Adding bridges and trails is a lovely thing to do. I love to walk, but does this really connect an area that has been referred to as “over there” or “where?” So this leaves me where I can only vote no to the SEQRA findings.

**Trustee Swiderski:** I do not have a statement prepared, but I have done some thinking about this issue over the years. I will cut to the chase and say I am going to vote yes. That may come as a surprise to some people, but it should not if you look at what is before us and what the question is: is this particular proposal reasonable, given the zoning for the site, and does it benefit the Village? In the end, there were a couple of concerns left that I think were

adequately addressed by the applicant. Financially, I do not think it is even close. Whether it is a 30-year analysis formally or whether it is the more ad hoc touchy-feely thing that I did after extensive work, you come out with a benefit that is certainly over a million dollars for the Village, and possibly millions.

A 30-year financial analysis tends to front-load the analysis of the benefits of a project. And the benefits of this project are heavily front-loaded. The Village gets \$450,000 up front in the recreation fee payment. The Village gets various fees associated with planning for this development, which are over \$100,000. The Village gets taxes in terms of real estate, sales, and mortgage over the life of this development. Setting aside theoretic costs, real costs to the Village in the first 10 years of this project are a couple of thousand a year. That is just unacceptable to me to walk away from that and say it is not a financial benefit to this village. That is also equivalent to a 2 to 3% tax increase that we can forgo a year in this village, and I cannot ignore that.

When it comes to the issue of schools, we have heard various numbers for the potential number of students that may be generated by this site. I have used 20 in my analysis but I doubt it is going to come close to that. This is somewhat subjective. But if you ask any parent interested in moving from the city to the suburbs, this is not where they are likely to move. With all due respect to the developer, they have created something that is not remotely child-friendly. There is no back door to open and a park to empty your kids into. There is no sense of privacy within the development. This semi-industrialized setting is not where I imagine most parents will move. I am going to ask anyone who thinks otherwise to ask anybody able to afford a \$600,000 to \$800,000 house, which will get you something nice in Ardsley, not great but something good enough, whether this is a place they would move with their kids from the city. With all due respect to the applicant, it may be perfectly nice for adults, but I would not live there with my children.

Finally, we move to the environmental concerns, and there I had a lingering set of issues. Paraphrasing one of our less than industrious secretaries of defense, there are things we know and there are things we do not know and there are things we do not know that we do not know. I have concerns about what lies under the 1.75 acres of property that the Village will get out of this deal. What lies under the rest is ultimately the issue of the developer. Should they discover something unpleasant they are tasked with remediating that, and that is absolutely their business. I cannot say I worry about that much. I will assume they have tested thoroughly because it is not in their interest to move into something that is contaminated. I would like, however, to make sure we are covered in the off chance that

something unpleasant is found in our 1.75 acres, and I think the findings that have been attached to this adequately address that concern.

In terms of whether this is a good or bad thing for the Village, setting aside what the zoning has to offer, I did not want housing on this site. A perfectly decent and fair process resulted in that, and I accept that. We now have to determine whether this particular housing project is fair for this site. I think it is fair to say that no developer has given us a better deal for housing development in this village. This is not patting the developer on the back; this is a frank analysis of how we are coming out in this particular deal. In my understanding of Village history, a developer has never ceded a third of the property to the Village as an outright gift. A developer has never agreed to build the sorts of amenities in terms of bridges and pathways that we are getting here. And additionally, we now have a law on the books which we have not had the pleasure of enforcing on previous developers which exacts a recreational fee, which is substantial.

With all these combined, we have something in total that makes this development different than what was before us 10 years ago. This is not ShopRite, and this is not 159 units of housing with zero recreational fees, zero parks, zero anything for the Village. This is something far more in scale. It may not be what everybody wants but, certainly fiscally, certainly environmentally assuming that there is nothing in the soil, and certainly in terms of amenities, it is reasonable. As a Trustee I am asked to determine if something is reasonable and fair and decent for this village. Having spent more time looking at this than I would care to tabulate, I can say with a straight and clean conscience that it is worth a yes vote and that is how I am going to vote.

**Trustee Quinlan:** I have a short statement that I would like to make on both resolutions, 52:06 and 53:06. The process of zoning a piece of property in the Village to meet a developer's project is poor village planning and zoning. This application is a prime example of why we need a Comprehensive Plan in this village, and it is a cautionary tale for the development of our waterfront. Having arrived at the 11<sup>th</sup> hour, my responsibility is to apply the facts of this application to the law; i.e. the zoning requirements for this piece of property; the MUPDD. This project fits the zone that was passed into law by the previous Board of duly elected officials. The experts agree, and this SEQRA and concept plan was sent to us by a unanimous vote from the Planning Board. So my vote is yes to these resolutions, with the conditions imposed by this Board that include the connector trail from the South County Railway to Ravensdale Avenue; that include that, in the event the Village does not obtain the grant, GDC must develop such a trail connection at its own expense. In such event, the

paved trail need not be greater than five feet in width. And the requirement that if contamination is discovered under the 1.75 parcel being donated to the Village the applicant will be financially responsible for the cleanup.

**Trustee McLaughlin:** I am going to vote no. Forty years ago a Board of Trustees in this Village decided that the best use for the quarry was an unregulated dump. That was before SEQRA, and the process that we are concluding tonight has been overseen by SEQRA. But I think it is a cautionary thing for us to remember that the decision that we are making tonight is going to last beyond the 30-year tax horizon that the financial people have come up with. It is something that is going to be there for a long, long time and it is going to have a great influence on what happens around it. Looking at Resolution 52:06, the last paragraph says that the MUPDD Saw Mill Lofts constitutes the alternative from among those considered which minimizes or avoids adverse impacts to the maximum extent practicable. Given the terms of the MUPDD, I would have to agree that it does. I disagree with the prior Board's decision to create the MUPDD. I understand that this project was created because a prior Board believed that the thing most worth considering was traffic. I believe that the Ravensdale/Jackson Avenue/9-A intersection is so bad, and going to get worse for so many reasons, that whether or not this project had been a ShopRite or a development of 60 houses there will not be an appreciable change. I also noticed that a few weeks ago in *The Enterprise* the inquiring reporter asked people whether or not Sinatra Funeral Home should be able to build a funeral home at 9-A and Jackson Avenue. Four Hastings residents said that the idea of that blocking traffic did not bother them much. So it seems that if we have been concerned about traffic we have been considering the wrong thing.

As somebody who has been out there knocking on doors looking for votes in the last few months, I know that what people are concerned about is taxes. I do not believe this is going to make a substantial difference to the high taxes that are driving people out of the Village or that it is going to be an appreciable help to the merchants downtown. The people who live in this development are going to use the Village of Ardsley. Their children will go to school there. They will not have to face that traffic light in order to get there. They will have to face a different traffic light, but Ardsley will be their village, not Hastings.

I go back to the third paragraph of this resolution, which says that "to the minimum extent practicable adverse environmental impacts of the MUPDD have been minimized or avoided." I question that for two reasons. The watershed maps used in examining the site are 30 years old; they have not been field tested. In that 30 years there has been a great deal of development upstream. We know that it floods downstream. We know that immeasurable



climate change is upon us and will continue, and that among the things forecast for climate change in the northeast are extremes of weather, including extreme storms which we know are exactly the things that flood this property. In the future Hastings could be seen as being liable for permitting this development to be there in the first place. So even though I feel I must accept the fourth paragraph, although I do not agree with it, I do not agree with the third paragraph. Therefore, when it comes to a vote I will vote against Resolution 52:06.

**Mayor Kinnally:** I am probably the only one on the Board who has lived with this. Marge, I think this was on the drawing board before you came here. But this project and its predecessors have taken up a lot of everyone's time and consideration. We have gone from something which I thought was just completely out of the question, ShopRite, to something that I still have reservations about, the issue of whether or not this development is salable. But the developer seems to think that he has a project that people are going to flock to. This Board did consider at length the issue of whether or not it was appropriate to have residential in that area and that is not what is before us this evening, but it is something that we spent a lot of time on.

A cost benefit analysis is not something required under our code or under SEQRA, but it is something people have focused on in the last six months. It has been interesting seeing how the various iterations of a cost benefit analysis have approached this and what they have come out with. Peter's analysis is interesting. I have not seen one with smiley faces or frowns, but certainly it does the job in highlighting the various components and whether they are good, better, best, or worst. But his analysis, Alex's analysis, and the various financial components that make up the SEQRA documents highlight one consistent thread: that there is a plus on a financial impact basis to this project. We come out ahead because of the hard costs, the soft costs, the benefits. We are getting affordable housing, we are getting 1.75 acres donated to the Village. There are recreation fees. There is the increase in assessables that may not throw off all that we hoped that it would throw off but adds to a declining tax base. Not that it is the primary criteria for approving or disapproving a project such as this, but the impacts financially and otherwise come up with a semi-smiley face, Peter.

The impacts around the parking facilities downtown, at the commuter lots, and at the various intersections throughout the Village are hard to measure. They probably have a slight negative impact to them. The other transportation traffic component, especially at the intersection of 9-A and Ravensdale-Jackson Avenue, is something that everyone has spent a lot of time on. It may be a wake-up call to the DOT to do something and to the people who are pushing Ridge Hill and the people who have already developed the Stew Leonard's

complex. It is ironic that the only time that there is a positive mitigation and an improvement in a dire traffic situation is when a small development in Hastings is on the table. I do not understand why Yonkers and the Town of Greenburgh and the New York State DOT have not addressed that situation, but there will be something done positively in approaching the signal device that will benefit the Village and everybody else who uses that north-south and east-west corridor. It is not going to solve all the problems, but it is not going to make it worse, bringing it from, I think, an F to a D.

**Special Counsel Chertok:** F to an E.

**Mayor Kinnally:** But it is better than it is. It is bad, and it is from bad to not quite as bad. But in the ultimate assessment of this project I do not see the negatives outweighing the positives. I have questions about why anyone would live there but there is a whole population of people who are looking for this type thing. I have had people in the Village tell me they would be happy to sell their homes and move there simply because they are downsizing and it fits their needs at the present time. They are either professional people or artists who have an interest in remaining a part of the Village. The isolation of the site, the distance from the center of the Village, we can measure that. But there is a part of the Village that is just as far from the downtown that has done very well and people in that area consider themselves to be part of the Village. Trustee Gagliardi, who served here for four years, lives just as far from the downtown as this project and considers himself to be part of Hastings. People who are not part of Hastings who live on the other side of 9-A are not in the Village but consider themselves part of Hastings. There are any number of factors that go into why people consider themselves part of one community and not another. While there are concerns about whether people will integrate themselves into the Village, that is a matter of personal choice and of what their situation is. If they have children, maybe their attraction will be more to Ardsley because of the school situation. But if they are commuting, maybe their attraction is going to be to downtown Hastings. If it is to Ardsley, the traffic impacts in Hastings are minimized. If it is to the Village, the positive benefits to our merchants are there. So it is a balance, and ultimately I come down on the side that it probably is more beneficial to the Village than adverse and I am going to vote in favor of this resolution.

**Jim Metzger, 427 Warburton Avenue:** We have come to the end of an excruciatingly long process for the Trustees, the Planning Board, the developer, and the public who have been showing up week after week, month after month, doing our research, trying to present the Board with information to help them make this decision. I do not agree with the resolution as the Board has passed it. A term that was used here earlier was cautionary tale. I look at

this process and the process of several other projects that are going on in Hastings. There is an old Asian term: death by a thousand paper cuts. One small thing will not kill you, but you keep piling them up and they will. I would like to ask everybody, when you feel that first little tingle on your skin when something is coming that does not feel right, that you start acting. I believe that the decision by the Planning Board to enact the MUPDD was done incorrectly. The developer came before these Boards and changed a zoning, and then they said, we have a project that meets that zoning. This was not the way to grow a village.

The financial impacts remain to be seen. Alex's model said we are going to make money as long as we keep increasing taxes in the Village. At 4 or 5 or 6% a year, we are not going to lose any money. I asked why he was assuming that. He answered that historically we raise taxes every year, so he had to factor that into his calculations. I asked what happens if you do not raise taxes, and he said we are going to lose money.

Trustee McLaughlin brought up the issue of flooding. I have been doing a little research on that. The geographic information system running out of Westchester has said since 1973 we have had quite a number of floods running through here. As recently as last year we had to apply for public assistance in Westchester County for flooding on the Saw Mill due to the amount of rain. Hurricane Floyd in 1999 wiped out that whole area. So there are issues in government that we are looking at that have not been made part of these maps that are 35 years old. Our experts should have been looking at that information before they said there is no flooding problem here. No matter what we say in terms of mitigating our responsibility on this project, if this project floods, if there is contaminated soil, we are going to be hiring those lawyers, we are going to be increasing those costs for something that could have been addressed before it became our problem. That being said, it is what it is. We need to move on to the next project.

**Special Counsel Chertok:** I wish to correct myself: the level of service increased overall to a D, not an E at the Ravensdale intersection. And the resolution should be dated today.

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

**RESOLVED:** that the Mayor and Board of Trustees adopt the annexed Findings Statement Pursuant to the State Environmental Quality Review Act (SEQRA) for the Proposed MUPDD Saw Mill Lofts Development Concept Plan, dated June 16, 2006; and be it further

**RESOLVED:** that the Mayor and Board of Trustees determine that the requirements of SEQRA have been met and fully satisfied; and be it further

**RESOLVED:** that the Mayor and Board of Trustees determine that, consistent with social, economic, and other essential considerations, to the maximum extent practicable, adverse environmental effects of the MUPDD Saw Mill Lofts Development have been minimized or avoided; and be it further

**RESOLVED:** that the Mayor and Board of Trustees determine that, consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the MUPDD Saw Mill Lofts Development constitutes the alternative from among those considered which minimizes or avoids adverse impacts to the maximum extent practicable.

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

**53:06 APPROVAL CONCEPT PLAN FOR MUPDD SAW MILL LOFTS DEVELOPMENT WITH CONDITIONS**

**Mayor Kinnally:** I am not going to read this multi-page document. But under the resolution part of it there appears to be one area that is a duplication. Paragraphs 15 and 16 in the resolution part are identical, so we will strike that but keep the numbering because paragraph 24 talks about the conditions listed in paragraphs 15 through 23.

Marge had some questions about paragraph 22. Paragraph 22 talks about no business/work area may be converted to bedroom area.

**Trustee Apel:** There is a problem because it is specific to a bedroom area. The intent was we did not want people converting the space at all so that there would be more people living

there. So I think we need to define maybe it is more than just bedroom.

**Trustee Swiderski:** For residential use?

**Trustee Apel:** For residential. Are we saying it is your live/work, but do you have a sleep couch in there? How specific...

**Village Attorney Stecich:** This 15 through 24 were the conditions that the Zoning Board said should be attached to the concept plan approval because they were trying to get, in determining the number of parking spaces, a fix on how many people would be living there. So that was the intent to the bedroom area. My only concern about saying it cannot be put to residential use is, let us say for example I buy one of these places and decide to use the workspace for my law office, and it doesn't work. People do not want to come there. So I will use it for the music room with my piano and cello. I do not know whether you want to preclude people from using that space the way they would want to. The intent was that it be a work area and that is how it would be marketed and, presumably, people would pay more money because they can have their office there. But it strikes me as hyper-regulation.

**Trustee Apel:** But you could decide that the second bedroom that you were putting your piano in you are going to now move to, and now you have another bedroom. So you can move your space around. It is clear this is work/live, and that is supposed to be work, period. If it is anything else it does not fly.

**Trustee McLaughlin:** I agree with Marge on this. It could free up other rooms for bedrooms, and I do not think that that was the intent. I am coming in on this late, but in the findings and recommendations of the Planning Board I see that in the socially desirable section it talks about the flexibility design of live/work units appeals to a wide variety of artists and professionals who would prefer to work at home, and this type of housing does not exist in Hastings-on-Hudson and the surrounding communities. In the proposed action, under creative in its mixes of uses, it states that the live/work units are entirely new housing stock in the Village and are likely to attract a mix of professional and artists; under the proposed action would minimize traffic impacts. They talk about 54 live/work units would not have 54 people who would supposedly have to travel to a separate place of business, and the Saw Mill Lofts project would result in fewer vehicle trips than the typical multi-family development. It is very important that the workspace remain workspace and not become any type of residential use. I am suggesting that we change the word bedroom to residential.

**Mayor Kinnally:** Jerry what happens if somebody moves in and uses the workspace as a law office and they retire. What do they do with that space?

**Trustee Quinlan:** I could guess a couple things. They could have a home office. A lot of people semi-retire; they switch professions when they retire and work part-time doing other things.

**Mayor Kinnally:** What if are not going to work anymore?

**Trustee Quinlan:** If they are not going to work anymore maybe they are in the wrong development and they should think about selling to someone who plans to work, and get into the type of unit that a retired person could live in. In concept and design and what I read and everything that has been going on for the last couple years, that this is all about work/live, not retirement/live.

**Mayor Kinnally:** I do not know how you can mandate a use for part of what they bought. Everybody is in agreement that you cannot use that space as a bedroom, and you cannot configure any other part of the apartment to get around that.

**Trustee Quinlan:** Let us say you make it into a living room and you make your living room into a bedroom. Very simple, happens all the time.

**Mayor Kinnally:** But that does not change that you have got X number of bedrooms and that is all you can have. You cannot use that room as a bedroom.

**Trustee Apel:** But you could have a bedroom that you have made into your den. And then you decide to take your den stuff, and you are going to stick it in the work place and you are going to turn the den now into a bedroom and have more people in there.

**Mayor Kinnally:** As you could anyway.

**Trustee Apel:** Right, but then you will have more people. The concept of work/live is gone. In the end, everybody in that place could decide not to have any working stuff. They could do all sorts of things with that space, adding more people...

**Mayor Kinnally:** How are you adding more people? You have not changed the number of bedrooms. Let us say it is a three-bedroom apartment.

**Trustee Apel:** Three-bedroom apartment, and you live in one and one of your children live in the other, and the third one is going to be your TV room. You are doing your work stuff, but you change your mind, and you put your TV in the work place and your other kid is coming to live with you in that other room. We have talked about the fact that we are going to have a certain amount of people, we do not have to worry about more kids in the school. Once we start reconfiguring, this it is not what it was purported to be and you are going to have more people.

**Mayor Kinnally:** It is what it is purported to be. The people are just using it a little differently, but you are not changing the number of bedrooms.

**Trustee Apel:** I am not saying you are changing the number of bedrooms. But by taking away the work/live you are enabling whatever you put in that other bedroom, if you did not use it as another bedroom, into that particular space. And now you can take the bedroom and add more people.

**Mayor Kinnally:** God forbid another kid comes to live with you.

**Trustee Apel:** It could be an adult.

**Mayor Kinnally:** I hope it is an adult, then it will not impact the schools. This social engineering, I know what you are trying to do, but you are talking about Big Brother here and I do not see how it is beneficial to anybody to have this super-police saying that you cannot have another adult move in if the same number of bedrooms is there.

**Trustee Apel:** It would only happen if people were able to move whatever they had in the bedroom into that additional workspace.

**Mayor Kinnally:** Why should they not?

**Trustee Apel:** Because the whole project is work/live. We have been sitting here for years discussing that it is going to be work/live and we are going to have all these places to work and we are going to be wonderful, we do not have to travel downtown. You take that away, someone is going to say I am going to travel downtown, I am going to do this. The whole concept of what we have been fed here in all these books is gone, totally gone. The whole project changes.

**Mayor Kinnally:** Marge, what are you going to do? Post a policeman at the driveway and say you have that third adult in there, we are not going to allow you to go to the Village?

**Trustee Apel:** You just voted for SEQRA. Then I think we want it to go back. I think you take out all those workplaces and let us go back and let us see what it really would be if it was not work. Let us go count all those places now. What are we doing here? We are either going to have one thing or another.

**Mayor Kinnally:** But it does not change the impacts. If you cannot use the space as a bedroom, if I want to use that space and I used it as a law office and I retire and I want to put a computer in there or I want to put a TV in there, why can I not do that? I have not changed how I am using that apartment other than I am moving from one room to another.

**Trustee Apel:** If you are circumventing the concept that it cannot be a bedroom, and you are taking stuff from the bedroom and you are putting it in there so you can have more people, then you are changing it.

**Mayor Kinnally:** But you are using the same number of bedrooms in the apartment. That does not change. It is a three-bedroom apartment. I have one bedroom, my wife and I live in the bedroom, nobody else lives in any of the other bedrooms. And I decide I am going to retire, and two of my relatives want to come and live with me. I am not going to use the workspace anymore. I am not going to do anything in the workspace, but I am going to have two more adults come in and live with me.

**Trustee Apel:** Fine. You have those two more people that come live with you who are maybe working and have cars. They were not counted in all these...

**Mayor Kinnally:** Who says they are not? They are in bedrooms. I do not understand. What are we going to do? Have them give us a census every year, tell us exactly who is going to be using what? If they are not using that room as a bedroom, then I do not see how it changes the concept. They can market it as that, and I expect them to market it and I expect people will use it as such. But what are you going to do in 10 years when the population ages, and they say we want to move exercise equipment in there. What are you going to do, put them out on the street?

**Trustee Quinlan:** The concept was work/live, and it should remain that way and this is one way to keep it that way. Say you have a one-bedroom, and you have your workspace and



you have your living room and your dining room, and you make your workspace into a living room and you make your living room into a bedroom. Now you have two bedrooms. They are just rooms with names. Being a foster care lawyer in New York City, I know lots of kids that are living in their living rooms as bedrooms. So how do you stop that? It is just a name. The workplace is now a living room, the living room is now a bedroom; you have a two-bedroom.

**Mayor Kinnally:** How do you stop it now anyway?

**Trustee Quinlan:** Well, you do not stop it. We do not want to get into enforcement because we are opening a can of worms. So it is not so much enforcement. It is that this is the concept, this is what has been approved, and let us just keep it that way.

**Trustee McLaughlin:** Ever since this project has been brought to the Board members of the public have been here every week raising questions about how are you going to ensure that this gets used the way it is being sold to us and there never has been an answer. Now we face the prospect of voting on a concept where this still is not resolved. And people have asked us over and over for an answer to the question of how do you enforce it, how do you ensure that this stays within the range of residence that it has been sold to us as being. No answer ever has come up.

**Mayor Kinnally:** With all due respect, the question has been raised how can we ensure that this space is not going to be used as a bedroom. That was the way it was phrased; not the other way. The developer responded to that, and we responded to that, saying that a C of O will be issued that this area will not be a bedroom. They said that there will be a restrictive covenant in the documents that will be enforced by the homeowner's association.

**Trustee McLaughlin:** Is that not an answer then?

**Mayor Kinnally:** Not the issue that it must be used as work. The issue was how can we ensure that someone is not going to convert this into a bedroom, and we did respond to that. It is a much different approach.

**Village Attorney Stecich:** Just one thing on the impacts, Marge and Jerry. I see what you are saying, but let us say this space was not being used as live/work. Probably the only impact it would affect would be the traffic. But let us say it is not used as live/work and that person is going to the train station, as you said, Marge. So that might be an additional car.

On the other hand, calculated into the traffic counts were that people were going to be coming to the apartment for the business part of it so those people would not be there any more. So it is probably going to be a wash.

**Trustee Apel:** I think to me this is a sham. This whole thing is a sham.

**Village Attorney Stecich:** All I am saying is in terms of traffic counts it is a wash.

**Trustee Apel:** But you also could get more kids. You could have more kids, which are not going to affect us except in our recreation and all those other things, which would be nice. But it is going to affect the Ardsley schools because they are going to get lots more kids that they said they were not going to have. So either we are doing one thing or another. Let us call it what it is.

**Mayor Kinnally:** How are we going to get more kids? The number of bedrooms is not changing.

**Trustee Apel:** You just do not see this, do you? If you follow Jerry's thinking...

**Trustee Swiderski:** Can I suggest that we bring this to a close?

**Trustee Apel:** If the living room becomes a bedroom you are going to have a lot of problems.

**Mayor Kinnally:** Well, you can do that in any house now. But who is going to want to spend six or seven or eight hundred thousand dollars and turn it into a boarding house?

**Trustee Quinlan:** A lot of people are going to be happy and a lot of people are going to be unhappy with the votes we are taking tonight. I suggest we take a vote and some people will be happy and some people will be unhappy.

**Mayor Kinnally:** I raised it if we were going to change any the wording. Another question was raised about 25-C, "there shall be no modification of this declaration without the approval of the Village of Hastings-on-Hudson in writing and filed with the office of the Westchester County clerk division of land records." The question was how is the developer going to police it, and subsequently, the association.

**Ms. Newman:** I respect this discussion, and I would like to shed some light on what we are creating here and how we expect to market it. Although this is a work area, unfortunately the ZBA narrowed the work aspect of this tremendously by restricting the number of employees. In deference to their concerns about traffic, only one employee is allowed. That severely limits its workability, which means that we are going to have to attract people who are largely self-employed or whose work is not necessarily a moneymaking proposition, so work and hobby get blurred.

I have a mother who is in her 70s who has taken up sewing and she is building a new room on her house as her sewing room. Is that a work area? It is to her. Would that be considered a work area here? I do not know. I share the Mayor's concern that when you start social engineering people's lives it may be impossible for us to market this to anyone who asks what happens when I turn 70, can I use this as my sewing room? I used to use it as my law office, I used to use it to write my books. Now I am tired of writing, I want to do sewing. I do not know the answer to that. We will make every effort to market this as live/work. But I would beg you not to tie our hands any more than has already been tied and squishing us into this very tight little narrow use/non-use in a desire to not have any traffic.

As another comment in terms of traffic, the Planning Board looked at this both if there were a work aspect and how much that would reduce traffic, but also on the worst case if none of the live/work really was a productive live/work and you also had that traffic. From a traffic point of view there was an insignificant difference from whether it was pure residential or pure live/work. This community will not be desirable unless it has unique appeal. We believe the live/work aspect to it gives it that unique appeal. But if you put us in such a tight place we will not have buyers for this project and it will not be successful. And it will be in the Village's best interests to have this succeed.

We will figure out how not to allow this to be converted to a bedroom. But if somebody wants to convert a law office to a sewing room, God bless them, let them have a sewing room.

**Trustee Quinlan:** If someone wants to dedicate this area to sewing, with machines and rocking chairs and whatever, I do not think that is going to be a problem for you. Sewing is work or it is a hobby, but it is not living area, it is not residential use.

**Ms. Newman:** But you are trying to draw such a fine distinction between the two. What if, for example, my mother's partner is a writer and he goes in there to read. He makes it his

reading room. Is it now a family room or is it a reading room? If it is a reading room, then it is work. But if it is a family room and also has a television, then it is a living area. I think we are splitting hairs over something that has no impact whatsoever in terms of the Village and it has tremendous impacts to our future owners who are going to be terrified that somebody from the Village is going to knock on their door and say, I want to see how you are using your work area, I want to make sure it is a sewing room and not a sitting room. Because if it is a sitting room, and it has a television and you are doing your embroidery, that is not really sewing, that is living. I just think it is unfair. We have been so accommodating on so many issues, but on this issue you are asking us to split hairs on an issue that will impact our ability to market it.

**Trustee Quinlan:** As a resident of Hastings, you know as well as I do that no one is going to knock on anybody's door to check the rooms. The only way that most of our zoning laws are enforced is by someone making a complaint. No one walks around being a Big Brother here. I was on the Zoning Board for 10 years, the only problem is when you go to sell your house and someone has converted a room into something they have not been allowed. In this case, the sale is going to come about, the room is going to be empty, and they are going to say this is the work space. It is not going to be a problem. But by changing it, the integrity of the concept remains intact just as a practical matter.

**Trustee Apel:** I want it to be live/work; that is the point. You can sell these all off and then you are gone. Down the road, where are we with the new people that are there? One time it was brought up as a possibility having the head of the condo association certify once a year that they are not being used as bedrooms.

**Ms. Newman:** It has never been discussed.

**Trustee Quinlan:** It has not been discussed. It has just been discussed like on the street between individual Trustees. But the way to resolve this is simply I will make a resolution that 22 be amended to read that no business/work area may be converted to a residential area.

**Mayor Kinnally:** Before we vote on anything, can we have a brief discussion with counsel?

[Recess for advice of counsel 9:25 p.m.]  
[Reconvene 9:40 p.m.]

**Mayor Kinnally:** I would like to read the final resolution section in 53:06.

[Conditions in resolution 54:06 read]

**Mayor Kinnally:** Any amendments to this?

**Trustee Quinlan:** I would like to make a motion to amend number 22 to change the word from “bedroom” to “residential” so it would read: “No business/work area may be converted to a residential area.”

**Trustee McLaughlin:** I second the amendment.

**David Skolnik, 57 Rose Street:** Could you define more clearly what would constitute residential? If you put a chair or a sofa, at what point it becomes residential as opposed to a stove? I am not clear that there is a defined line by changing the wording to residential.

**Trustee Swiderski:** I think it is a little like pornography: that you know it when you see it.

**Mr. Skolnik:** Kind of like Village character. I can’t describe it, but I know it when I see it.

**Trustee Swiderski:** That is right. I think an egregious abuse will be clear, while the settee and TV set in the context of a work environment will clearly not be residential. It is ultimately a judgment call, and ultimately it is soft. You just have to accept that.

**Kevin Healey, Attorney, Bryan Cave:** I am here representing the applicant. We were thinking about ways to accommodate the issues that were raised and suggest the following language: No business work area may be converted to bedroom use or uses other than home office, hobbies, or similar activities.

**Trustee Quinlan:** I am not inclined to make any changes to my motion.

**Trustee Swiderski:** There is no support for that.

**Mr. Metzger:** If we are simplifying this down to residential or non-residential, do we have something in place that would prevent somebody in this building from doing a high-hazard occupation by themselves that would endanger other people? Can we simplify this to residential or work? Do we need a stronger definition?

**Village Attorney Stecich:** The uses that are allowed are only the uses that are otherwise allowed in the zoning code. The Board went through what accessory uses you could have in any residential house, and crossed some out. So anybody in here still has to abide by the regulations for accessory offices or home occupations. And those exclude things; you cannot use equipment other than typical household equipment.

**Mr. Metzger:** The uses are the same that you would find in any home occupation, so we are not providing anything special for people who want to live/work. You could do these same uses buying a private home and converting a bedroom into your home office. So the notion of creating a project that would enable a special use as a new building type for Hastings really is not a correct description. It is the same use you can provide in any private home.

**Village Attorney Stecich:** That is right, but there is some retail allowed on the ground floor.

On MOTION of Trustee Quinlan, SECONDED by Trustee McLaughlin the following Amendment to Resolution 53:06 was duly adopted upon roll call vote: “(22) No business/work area may be converted to [bedroom] *a residential area*”

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

**Mayor Kinnally:** On the entire resolution, does anyone have any comments?

**Trustee Quinlan:** No.

**Trustee Apel:** No.

**Trustee Swiderski:** No.

**Trustee McLaughlin:** The resolution says that the Saw Mill Lofts proposal is socially desirable, and I disagree with that. The discussion we have had tonight about what a live/work unit is indicates the ambiguity of that concept. I spoke recently with the director of planning of a nearby municipality who said that live/work units, and this may be one person's opinion enjoyed a kind of vogue for downtowns like Ossining or Peekskill, which had crumbling downtowns and wanted to bring people in. We have had trouble finding equivalent developments. It would seem that that might be why. The idea of having a live/work project on a road on the edge of a community is not where the idea originated and it is not the way it has been used. That is why this kind of housing does not exist in Hastings-on-Hudson and the surrounding communities.

Another comment about the social desirability relates to the land across the street, which is not in Hastings and over which we have no control. A few years ago Purdue Pharma totally remodeled those buildings and made that into up-to-the-minute lab space. I have been assured that that space cannot be retrofitted for apartments or for any other use. It is absolutely lab space. The Town of Greenburgh is looking to bring biotech into Greenburgh. It is currently entertaining someone who wants to use 360,000 square feet of it. They looked at this and it is too small. If Purdue Pharma cannot peddle those buildings to somebody they will continue to stand empty, as they do. Purdue Pharma may decide to take a beating and sell that property as tear-downs to a developer. If a developer buys that for anything other than a tear-down, whatever that developer chooses to put on that site is going to be something from which that developer is going to want to realize lots of money, which either means hundreds and hundreds of housing units or lots of retail.

It has been mentioned to me that our breaking open the area by putting residential over there is going to encourage some developer to consider such a thing. By possibly bringing in a few students in 60 units, we could be on the edge of dumping a huge housing development on Ardsley if we, in effect, break open this neighborhood and that land across the street goes that way. The land north of the project is a former battery factory which is currently being used by an Ardsley company to store cars, and they are using the land across the street for the same kind of storage. There is nobody in all that square footage in a couple of those buildings. What we are doing tonight, if we accept this proposal, is creating a use that could create far more problems than we have envisioned in the SEQRA process.

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

**WHEREAS:** on October 4, 2005, the Zoning Code amendments creating the new Mixed Use Planned Development District (MUPDD) zoning district, and rezoning to the MUPDD a 7.45 acre parcel of property owned by Ginsburg Development, LLC (GDC), and located on Saw Mill River Road, immediately north of County-owned open space in the Village, became effective; and

**WHEREAS:** GDC submitted an application for concept plan approval under the newly acted MUPDD regulations for a mixed use residential building with 60 residential units, 54 of which would be live-work units, and six of which would be affordable units, on 5.7 acres of the 7.45 acre parcel, with the remaining 1.75 acres of open space to be dedicated to the Village; and

**WHEREAS:** on October 6, 2005, the Village Building Inspector determined the application to be complete and forwarded it to the Mayor and Board of Trustees, as required by the MUPDD regulations; and

**WHEREAS:** on October 11, 2005, the Board of Trustees conducted a preliminary review of the concept plan application and resolved both: (a) to schedule a public hearing on the concept plan; and (b) to refer the concept plan to the Planning Board for its review and recommendation; and

**WHEREAS:** the Board of Trustees held a public hearing on the concept plan on November 15, 2005 and left the public hearing open; and

**WHEREAS:** the Planning Board, as lead agency, was in the process of conducting its review under the State Environmental Quality Review Act (SEQRA) of a proposed Supplemental Final Environmental Impact Statement (SFEIS) on a development previously proposed by GDC for the 7.45 acre parcel on Saw Mill River Road, known as Riverwalk Village; and

**WHEREAS:** after the MUPDD amendment became effective, the 60-unit Saw Mill Lofts proposal that was the subject of the concept plan



application became the Proposed Action in the SFEIS under the Planning Board's SEQRA review; and

**WHEREAS:** the Planning Board retained, on behalf of the Village, STV Inc. to review the traffic and transportation analysis contained in the SFEIS, and Carpenter Environmental Associates to review the stormwater impacts discussed in the SFEIS; and

**WHEREAS:** the Planning Board subsequently asked STV to review and analyze the fiscal impacts of the Proposed Action; and

**WHEREAS:** the Planning Board and the Board of Trustees held a joint public hearing on March 2, 2006, both to continue the Board of Trustees' review of the concept plan and to continue the Planning Board's SEQRA review; and

**WHEREAS:** the Planning Board completed its comprehensive SEQRA review and, on April 20, 2006, issued its SEQRA findings in a document entitled "Recommendation of the Village of Hastings-on-Hudson Planning Board and Findings Statement Pursuant to the State Environmental Quality Review Act for the Proposed MUPDD Saw Mill Lofts Development" ("Recommendation and Findings"); and

**WHEREAS:** the Planning Board, as lead agency, determined that the proposed Saw Mill Lofts development, with the implementation of identified mitigation measures, would not have any significant adverse effects on the environment; and

**WHEREAS:** the Planning Board, in its April 20, 2006 Recommendation and Findings, considered the factors detailed in the MUPDD regulations and recommended that the Board of Trustees adopt the concept plan for Saw Mill Lofts, subject to a number of conditions; and

**WHEREAS:** the Zoning Board of Appeals also considered the Saw Mill Lofts proposal for the purpose of determining the number of parking

spaces that would be required for the development and, on January 26, 2006, made its determination subject to a number of conditions; and

**WHEREAS:** on May 23, 2006, the Board of Trustees continued its public hearing on the Saw Mill Lofts concept plan and closed it that evening, except permitted written submissions until May 30, 2006, which date was extended to June 6, 2006; and

**WHEREAS:** the Board of Trustees, on June 20, 2006, adopted its own SEQRA Findings, which adopted the Planning Board's Findings, subject to several amplifications; and

**WHEREAS:** the Board of Trustees determined that the proposed Saw Mill Lofts development would not have any significant adverse impacts on the environment, provided that all conditions of the concept plan approval are met; and

**WHEREAS:** the Board of Trustees carefully considered the SFEIS, the reports of the Village's consultants, the Findings and Recommendation of the Planning Board, the ZBA's January 26, 2006 determination, the testimony at the several sessions of the public hearing, the extensive written submissions made by residents of the Village and neighboring municipalities, including two trustees of the Ardsley School District, the costs/benefits analysis prepared by Trustee Peter Swiderski, the costs/benefits analysis prepared by Alex Navarrete; and

**WHEREAS:** the Board of Trustees has considered the factors detailed in the MUPDD regulations, at § 295-72.3.G(2)(c); now therefore be it

**RESOLVED:** that the Board of Trustees finds that the Saw Mill Lofts application implements the legislative purposes and intent of the MUPDD for the following reasons:

a. The Saw Mill Lofts proposal is environmentally sensitive. First, it will result in a decrease in impervious surface on the

site, compared to the parking lots now located there. Second, in addition to the 1.75 acres of open space that will be donated to the Village, 3.65 acres of open space will be provided on the site. Third, the buildings will be arranged in a north-south orientation, so as to maximize the setbacks from Saw Mill River Road and the Saw Mill River; and they will be separated by wide spaces, to maintain east-west corridors through the site. Fourth, existing trees on the site will be preserved to the greatest extent feasible, and, in particular, three Norway spruces will not be removed (unless required because of disease). Fifth, the application includes landscaping along the Saw Mill River to stabilize the stream bank; these measures will include the installation of plants and shrubs that will provide food, cover, and nests for songbirds and small mammals. Sixth, the applicant has developed a stormwater management plan with treatment devices that are capable of fully treating the stormwater runoff from the site. Seventh, no aquatic or terrestrial resources will be affected by the project. Eighth, the project will not result in any impacts on air quality and noise. Finally, no blasting will be required.

b. The Saw Mill Lofts proposal is economically beneficial. The Saw Mill Lofts development will increase the Village's tax base. Currently, the real estate taxes the Village realizes from the Site are approximately \$11,000 (total taxes are \$61,000). With the development of Saw Mill Lofts, it is estimated that the Village's share of the approximately \$530,846 in annual taxes will be \$127,394.

In addition, the Saw Mill Lofts project will result in a one-time recreation fee to the Village of approximately \$465,000, the donation of 1.75 acres of open space to the Village, and the creation of a trail connection between the South County Trailway and the Ravensdale Bridge.

c. The Saw Mill Lofts proposal is socially desirable. First, the development will increase the population of Hastings-on-

Hudson by approximately 118 persons, a 1.5% increase. Second, the flexibly designed live-work units should appeal to a wide variety of artists and professionals who would prefer to work at home. This type of housing does not exist in Hastings-on-Hudson and the surrounding communities. Third, the project includes six affordable two-bedroom apartments. Fourth, the proposed action includes the donation to the Village of 1.75 acres of open area at the southern end of the site, adjacent to County-owned parkland. This area is large enough and configured appropriately for recreational uses, such as a ball field. Fifth, the proposed action includes the construction of a pedestrian bridge from the open space area on the site to the South County Trailway. The availability of parking on the site would allow the site to function as a trail head. Sixth, as a condition of this approval, GDC will fund (by either making a matching contribution to a state grant or by paying itself, if the grant is not received) the creation of a trail connection between the South County Trailway and the Ravensdale overpass.

d. The Saw Mill Lofts proposal is creative in its mix of uses. The live/work units are an entirely new housing stock for the Village. Given that the “work” portions of the units are not large, they are likely to attract a mix of professionals and artists.

e. The Saw Mill Lofts proposal will minimize traffic impacts. A multifamily residential development is a relatively low traffic generating use and would result in far less traffic during the rush hours than an office or laboratory use. In addition, since the residents (or at least one of them) of the 54 live/work units will not have to travel to a separate place of business, the Saw Mill Lofts project will result in fewer vehicle trips than a typical multifamily development.

As discussed in the SEQRA Findings, the Saw Mill Lofts proposal will generate very little vehicular traffic and not impact the level of service at nearby intersections. Nonetheless, the proposal includes a signal controller upgrade and modified

signal phasing operations at the intersection of Route 9A, Jackson Avenue, and Ravensdale Road to reduce the unacceptable delay times that currently exist on westbound Jackson Avenue.

f. The Saw Mill Lofts proposal will protect the central business district. The proposed action does not include businesses serving the day-to-day needs of the residents, such as dry cleaners, grocery stores, pharmacies, banks, video stores. The residents, therefore, like other Hastings-on-Hudson residents, will use the downtown business district for those services. The types of uses conducted in the work areas of the units, such as studios and professional offices, are not likely to compete with downtown businesses.

g. The Saw Mill Lofts proposal will protect the character of neighboring properties. Saw Mill Lofts will be architecturally designed to look like an adaptive reuse of a former commercial/industrial building, which type of building lines Route 9A in the area neighboring the site. Along Saw Mill River Road, a landscaped berm and low stone walls will be constructed. New shade and ornamental trees and shrubs will be planted in greater quantity than now exist. Lighting on the site will be directed downward and will be at levels that will not result in off-site light spillage.

In addition, the proposed mixed-use development will provide a transition between the industrial uses along Route 9A and the single-family neighborhoods to the west. With its large open space areas, it is also an appropriate transition from the industrial uses to the north and the County parkland at the southern border of the Site and the cemetery across Route 9A.

h. The Saw Mill Lofts proposal respects environmentally significant resources. The Saw Mill Lofts project will not adversely affect stormwater runoff from the site to the Saw Mill River; such runoff would, unlike at present, be treated and

would also be reduced to some extent due to the reduction in paved or other impervious areas on the site. The buildings will not be constructed in proximity to the County parkland. The 1.75 acres of the applicant's property closest to the County park will be donated to the Village. The proposed action will preserve the three Norway spruces on the site, and will include both a bridge to the South County Trailway and a connection from the Trailway to the Ravensdale Bridge. Landscaping will be installed along the Saw Mill River to stabilize the stream bank and to provide food and shelter for birds and small mammals.

i. The Proposed Action will provide access to the County Trailway. As mentioned several times above, the Saw Mill Lofts project includes the construction of a pedestrian bridge from the Site to the South County Trailway, along with a parking area, which will result in the Site's functioning as a trail head. It will also include the creation of a pedestrian and bike trail to connect the South County Trailway and the Ravensdale overpass; and be it further

**RESOLVED:**

that the Board of Trustees finds that the proposed mix of land uses and their design and arrangement on the site is compatible both with site conditions and with neighboring streets and uses; and be it further

**RESOLVED:**

that the Board of Trustees finds that the potential impacts of the proposed development are largely positive. As detailed in the SEQRA findings, the few potential negative impacts of the proposed Saw Mill Lofts have been mitigated. More importantly, the project will result in a number of positive impacts, including the creation of a new form of housing stock, the addition of 118 residents to the Village, an increase in the Village's tax base, the donation of open space to the Village, the construction of a pedestrian bridge to the South County Trailway, the creation of a trail connection between the South County Trailway and the Ravensdale Bridge, the addition of six

affordable housing units, recreation fees of approximately \$465,000, and the creation of an attractive site on the west side of the 9A corridor; and be it further

**RESOLVED:**

that the Board of Trustees, therefore, approves the Saw Mill Lofts concept plan, subject to the following conditions:

1. Vegetation along the eastern Saw Mill River embankment shall be preserved and stabilized, and additional native shrubs and herbaceous species planted, in accordance with a detail plantings plan to be developed by the applicant.
2. Subject to the approval of NYSDOT, a vegetated berm parallel to Route 9A shall be constructed and planted, in accordance with a detailed plan (which shall include plantings) to be developed by the applicant.
3. The detailed StormWater Pollution Prevention Plan (SWPPP) to be prepared for construction shall be consistent with the conceptual SWPPP prepared for the SFEIS (unless otherwise approved by the Planning Board). The SWPPP shall be subject to review by the Village engineer and must comply with all applicable state and local standards.
4. During the installation of the stormwater system, the applicant shall ascertain integrity of the existing culverts and, if in the opinion of the Village engineer, the culverts warrant repair or replacement, the applicant shall make those improvements to the satisfaction of the Village engineer.
5. The applicant shall confirm the Federal Emergency Management Agency 100-year floodplain elevation prior to final site plan approval and must revise the design, if necessary, to comply with any revisions to the floodplain.
6. The applicant shall remove the asphalt pavement from the property to be donated to the Village. Following removal of the

pavement, the applicant will be responsible for vegetating the area from which the pavement is removed, in accordance with New York State Standards and Specifications for Erosion and Sediment Control.

7. The applicant shall seek the approval of the NYSDOT to install an upgraded signal controller upgrade and modified signal phasing operations at the Saw Mill River Road/Jackson Avenue/Ravensdale Road intersection to reduce the westbound (Jackson Avenue) delays at this intersection.

8. The applicant shall undertake sight distance improvements at the Saw Mill River Road/Lawrence Street intersection and signal timing modifications at the Lawrence Street/Saw Mill River Parkway intersection.

9. The applicant shall conduct a signal warrant analysis at the intersection of Lawrence Street and Route 9A six months after the project has been opened for occupancy. The applicant would contribute its fair share to the cost of installing a signal at that intersection in the event that NYSDOT determines that a signal is warranted.

10. All construction-related staging and parking shall be on-site.

11. All vehicles and equipment during the construction process for the project, except for the pedestrian bridge, shall access the site from and exit the site to Saw Mill River Road.

12. The applicant and, subsequently, the Condominium Association shall be responsible for maintenance, repair and upkeep of the stormwater management system. If the Village engineer finds that the applicant or Condominium Association, as applicable, has not fulfilled this obligation, the Village, after notice reasonable in the circumstances, shall undertake such maintenance, repairs and/or upkeep and backcharge the



applicant or Condominium Association, as appropriate, for the reasonable costs of such work.

13. The design and average size of the affordable units should be comparable to the design and size of the residential portions of the market rate units.

14. The applicant shall submit the site plans to Westchester County for review and approval in regard to the Westchester County sewer easement and sewer trunk line on the site, and shall comply with any requirements imposed by the County.

15. The work/business establishment in the live/work units must be operated by a legal resident of the unit.

16. PURPOSELY OMITTED

17. The work/business establishment in the live/work units may have not more than one employee other than the legal residents of the unit.

18. The following uses are not permitted in live/work units: barbershops, hair salons, nail salons, health clubs, day spas, building construction offices, offices for building cleaning and maintenance services, diaper services, dry-cleaning pick-up and delivery depots including on-site clothes pressing.

19. No individual business/work area may be larger than 800 square feet.

20. No business/work area can be sold or rented for use by anyone other than a legal resident of the live/work unit.

21. Artist studios, offices, and personal service establishments in the live/work units shall be limited to no more than three visitors per hour.

22. No business/work area may be converted to a residential area.

23. Any permissible retail use in a live/work unit must meet the established parking requirement in the Zoning Code (one space per 200 square feet).

24. The conditions listed in paragraph 15-23 above shall be included as restrictive covenants in a declaration of covenants and restrictions binding on the condominium and included in the offering plan for the Saw Mill Lofts development.

25. The declaration of covenants and restrictions shall also contain the following provisions:

a. The provisions of this Declaration shall inure to the benefit of and may be enforceable by each dwelling unit owner and by the Condominium Association.

b. The Village of Hastings on Hudson is and shall be a third party beneficiary of the covenants set forth in this Declaration for enforcement purposes so that it can timely act to prohibit the extinguishment of the covenants.

c. There shall be no modification of this Declaration without the approval of the Village of Hastings on Hudson, in writing, and filed in the Office of the Westchester County Clerk, Division of Land Records."

26. Individual certificates of occupancy shall be issued for each live/work unit in the Saw Mill Lofts development rather than for the buildings as a whole.

27. If contamination is discovered on or under the 1.75 acre Parcel to be donated to the Village that necessitates remediation, GDC shall be financially responsible for all costs associated

with such remediation (including, but not limited to, any further investigation, consulting and engineering costs, and similar expenses typically categorized as “response costs” pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act, as amended).

28. GDC must participate with the Village in applying for a grant to create a walkable, bike-able trail connection between the South County Trailway and the Ravensdale Bridge and must make a matching contribution of at least 20%. In the event the Village does not obtain the grant, GDC must develop such a trail connection described in the Board of Trustees SEQRA findings at its own expense.

29. The Recreation fees to be paid to the Village upon site plan approval shall not be reduced or set off by the cost of any elements of the Proposed Action, including constructing the bridge over the Saw Mill River, nor by the cost of compliance with any of the conditions of the concept plan approval, including the connection between the South County Trailway and Ravensdale Bridge.

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

**Mayor Kinnally:** This has been an unprecedented process for us. The entire MUPDD concept was new. We groped our way through it. What should do in a couple of months is to take a look at how it operated, whether or not we want to make any changes on a procedural standpoint, especially with the coordination between the Planning Board and the Village Board. I would like to thank everyone who has participated in the process.

**Trustee McLaughlin:** Although I did not vote for this, I would like to thank the applicant for section 13, which is that the design and average size of the affordable units will be comparable to the design and size of the residential portions of the market rate units. Many

developers would take this opportunity to ghettoize the affordable units, and I am glad to see that that is not happening here.

**Trustee Quinlan:** It is important to remember that we are getting the affordable units. It is a big benefit and plus to the community to add six affordable units to our housing stock.

**Michael Curtis, 328 Warburton Avenue:** I question the executive session that you called. I do not think you were discussing a contract, personnel matter, or pending litigation, and I would hope that you conduct all the business in public and not retire to executive session.

**Mayor Kinnally:** The purpose of that session was to get advice of counsel.

**Mr. Curtis:** Is that a proper use of executive session under Village law?

**Mayor Kinnally:** We would not do it if it was not proper.

**Mr. Curtis:** I thought it was for personnel matters, contract matters, and pending litigation.

**Village Attorney Stecich:** That is what executive sessions are for. More precisely, it would have been called a session for advice of counsel, and the Board is always entitled to meet with their counsel.

**Mr. Curtis:** I question that. I think the business of the Village should be conducted in public except for those narrow exceptions, and I would hope that that is how you conduct your business in the future.

**Village Attorney Stecich:** If you leave me your name I will send you the authority for it.

### **VILLAGE MANAGER'S REPORT**

**Village Manager Frobel:** The Village is the recipient of a grant from the state of New York, division of criminal justice services. Senator Spano was very helpful in acquiring this grant of \$34,000 to purchase a rather sophisticated fingerprinting mechanism. It is something that will probably be required under the law soon. The total purchase will be in the neighborhood of \$45,000.

### **BOARD DISCUSSION AND COMMENTS**

**Trustee Apel:** We had decided that we were going to discuss the Comprehensive Plan. We said something like July, and have we made a date?

**Mayor Kinnally:** We have not made a date. I would like to get input from counsel on that. I had a brief discussion with the chair of the Planning Board, who would also like to have some input. We can take it up on July 18.

**Trustee Apel:** I question the necessity for having a meeting with the attorney on this. Can we not just say that we want to go forward on a Comprehensive Plan, and then if we need counsel we can do that?

**Mayor Kinnally:** I think we need counsel first because of SEQRA considerations.

**Trustee Apel:** I want to get the ball rolling formally, and I do not want this to be something that we do not address and keep postponing.

**Mayor Kinnally:** I do not disagree with you. But counsel thinks it is advisable that we discuss this before we embark on the marathon.

**Mr. Curtis:** I would like some clarification why it is necessary for counsel to be involved in a Board decision and process until the Board requests counsel's input. I do not think it is a necessary precondition to the Board conducting this business, the planning.

**Mayor Kinnally:** Without putting words in counsel's mouth, the entire concept of a Comprehensive Plan has SEQRA overtones to it, and I would rather have advice of counsel in going in, in structuring what we would like to do, before rather than in the midst of the process.

**Mr. Curtis:** And I think each individual Trustee should decide what their preference is in that respect; whether they would like advice of counsel or whether they would rather proceed with the knowledge that they can accumulate in their own right and their own political convictions. I do not think there is anything in law that makes that a necessary precondition to the process unfolding, and I think the process should commence post haste with any Trustee who feels that they are prepared to undertake the process.

**Mayor Kinnally:** Each Trustee is free to do what he or she would like to do. I think it is advisable that we get advice of counsel before we undertake this, that is all.

**Mr. Curtis:** Just so that it is clear that that is a personal conviction and not some necessity in law that it proceed that way.

**Mayor Kinnally:** I think it is just common sense, and a good approach to things.

**Danielle Goodman, 28 Ashley Road:** What SEQRA overtones does the Comprehensive Plan have?

**Special Counsel Chertok:** The Comprehensive Plan is subject to SEQRA. If you look at the SEQRA regulations, it indicates that a new Comprehensive Plan is frequently the subject of a generic environmental impact statement. So there is a basic procedure that you need to look at in terms of compliance with SEQRA. There are also provisions of the Village law that direct certain steps to be taken. I think the Mayor was suggesting that before you embark you make sure there is a full understanding of the process in front of you so you do it right from the commencement and not try to make a midstream correction.

**Ms. Goodman:** Will your meeting be with counsel, or will it be open to the public?

**Mayor Kinnally:** I do not know.

**Ms. Goodman:** I think that a Comprehensive Plan should include the community from the get-go. We should be able to listen. If you have us not speak at the session that would be fine, but it is the wrong way to start the Comprehensive Plan.

**Special Counsel Chertok:** I do not develop comprehensive plans. That is not counsel's role. The role is to give the advice on the legal parameters and procedure, and then the Board will determine how to proceed, what they want to adopt, and what elements of that procedure they want to follow. The advice of counsel basically is to set forth the legal procedures that govern, not to tell them what to put in a plan. If there is a meeting in executive session to give that advice of counsel, then there will be, I am sure, a meeting in the public arena to describe how this is going to unfold and what the role of the public is.

**Ms. Goodman:** Since the Mayor has been very concerned about the cost of the Comprehensive Plan I think it would be very nice to have a public meeting where we all hear the advice. And then you do not have to come back a second time and we do not have to pay another set of fees.

**Trustee Quinlan:** Since it is only involving procedure, I do not see why it cannot be open. If there comes a point in time during the public meeting where we cross a line into litigation or advice of counsel we can always go back into...

**Mayor Kinnally:** It is always going to be advice of counsel, Jerry. That is why he is here. Why do we not defer decision on this at this point. I think it is advisable that we take advice of counsel as we always have.

**Ms. Goodman:** I want to state for the record that I am concerned that the Comprehensive Plan process not be something that is behind closed doors and that there be as much public input from the get-go with a minimal expense of legal counsel.

**Mr. Curtis:** I have just heard that phrase “advice of counsel” again on a very public process: master planning, comprehensive planning. Now I am doubly concerned that I have an answer to that. I have served on a town board, and we conducted all of our business with counsel in an open forum, but for those three criteria that I mentioned. This is the first time I have heard this exception that advice of counsel is a sufficient reason to call executive session.

**Mayor Kinnally:** Where was that town?

**Mr. Curtis:** Town of Lewiston, Niagara County. You just recommended that you get advice of counsel, which may not be a public process, on the master planning process. So my earlier request that we be clear on advice of counsel as being an appropriate vehicle for executive session gives me greater concern now because we are about to embark on a master planning process.

**Village Attorney Stecich:** It is not executive session. It is advice of counsel. The law that sets up the executive session says that except where otherwise allowed by law, all meetings shall be open to the public. In the attorney general’s opinions, in two appellate decisions, that other law is the attorney-client privilege, and any board is always allowed to meet with...

**Mr. Curtis:** I will be looking at the law when you provide the authority because I want this process to be open and public from the get-go, and it should be used sparingly.

**Trustee Swiderski:** On the village officials committee, we are looking for a mutually agreeable time slot next week to meet with the judge/mediator for a two-hour period to put forward our position in private to him. He understands the dynamic of the group and that maybe we will get further if he meets with individual groups privately before he tries to come up with a coherent position that finds a medium for everybody.

Secondly, I had a long conversation earlier this week with an employee of the New York Power Authority and will be forwarding contacts and information to the Village Manager regarding the ability to get free energy audits for all municipal buildings and municipal properties as well as grants towards vehicles. For example, if we replace a bus they will pay the difference between a regularly powered bus and the upgrade to a hybrid. It is a series of programs available to municipalities and it sounds like a great idea.

**Trustee McLaughlin:** I am curious to know if we have any news about Ridge Hill.

**Mayor Kinnally:** No, but I did get a call over the weekend from Tom Abinanti. The City of Yonkers had something on their agenda dealing with getting a home rule message from the Westchester County board of legislators to use part of Sprain Park as a connector between the site and the Sprain Parkway. I do not know what happened and I have not heard from Tom on it.

**Trustee McLaughlin:** That is a county park, so the county has to permit them to do it.

**Mayor Kinnally:** They were not looking for permission from the county to do it because they could not get permission from the county to do it at this point. All they wanted was a home rule message to take it to Albany, and then it would have to come back. That is as much as I could understand in a cell phone conversation with Tom.

### **PUBLIC COMMENT**

**Kevin Dawkins, 126 Washington Avenue:** I happened to catch the rebroadcast of the Trustees meeting from June 6<sup>th</sup>. Lee, you had spoken about a communication from Mr. Chertok about the DEC and the quarry. As a member of the quarry subcommittee of Parks and Rec I wonder if you could expand on that. I am particularly interested in the implications on the work of the subcommittee.

**Mayor Kinnally:** There is an open file at the DEC on this. The final determination has not been made. Counsel recommends getting the closure on this site by the DEC before we move to the issue of dedication of the parkland because it makes a cleaner process to have those issues resolved and not have the state DEC to be part of our SEQRA process on the dedication. Mark is going to be approaching the DEC to conclude the process. Possibly sometime in the fall we can get this resolved, assuming we can contact the right people, because someone has moved on in the state.

**Mr. Dawkins:** What would the recommendation be from the Board in terms of the work of the subcommittee? Do we continue as if things were going to work out well for us?

**Mayor Kinnally:** I would say continue. The issue of the dedication will have to abide. But just to move forward, that is the sense of the Board.

**Trustee Quinlan:** I am a little surprised at that because this is the first I have heard about that. Maybe I have heard about it and I forgot about it.



**Mayor Kinnally:** No, I had said that we were going to get input from Mark the last time. And I had said that it may be that going to the formal dedication should await dealing with the DEC and, in fact, that was Mark's recommendation.

**Trustee Quinlan:** The problem I have is the timing. We are talking about the fall, and then the fall turns into winter. It seems to me that if someone has moved on in the state then I assume someone has taken his job. Mark, have you spoken to this person?

**Special Counsel Chertok:** No, this occurred recently, but I am not suggesting it will take until the fall to resolve it.

**Trustee Quinlan:** Call tomorrow.

**Special Counsel Chertok:** Perhaps by the fall, as opposed to in the fall, which is in the next month or two. It really depends on what the DEC believes needs to be done and whether that entails work by the Village to wrap it up, or whether we can wrap it up with something with no further active work in the area. That is really the issue.

**Trustee Quinlan:** Here is what I do not understand, Mark. If anybody polluted the site, would it have not been the Village when they made it into a dump?

**Special Counsel Chertok:** That is probably true.

**Trustee Quinlan:** So why do we wait? It is our responsibility anyway.

**Special Counsel Chertok:** Because if you can get the DEC which, apparently, has indicated that it does not believe the problem is severe, if we can get them to sign off, that will take care of that issue. Rather than basically having you, the Village itself, review it and have the DEC become a participant in your SEQRA process. Because if that happens, it will be longer and more complicated. The idea is to simplify it and make it quicker. If it turns out that the agency is not terribly cooperative you can always start. I am not suggesting that we are going to have to wait until the fall to know the answer to that question.

**Trustee Quinlan:** If you think it is going to speed up the procedure, that is fine.

**Special Counsel Chertok:** Yes, I think it will.

**Trustee Quinlan:** I just want you to keep us posted whether they are being responsive. Because a lot of times they can just ignore you forever.

**Special Counsel Chertok:** Not forever, but for awhile. But I think we will be able to deal with that.

**Trustee Quinlan:** Well, for too long, as far as I am concerned. I respect your opinion, but I think, as I say, call them tomorrow. Let us find out what is going on.

**Special Counsel Chertok:** I will find out probably not tomorrow because I am out of town, but why do we not put this on the agenda for the 18<sup>th</sup> and I will give you a report then.

**Mr. Skolnik:** Would it require a resolution on the part of the Board to address the squeaking air conditioner? I have been coming to the meetings recently and it is a very integral part and will probably be missed, but it makes it hard to hear.

#### **ANNOUNCEMENTS**

**Mayor Kinnally:** On a sad note, we were advised today that a 14-year employee of the Village, Darren Mikelic, passed away today. Our condolences are sent to his family.

#### **EXECUTIVE SESSION**

On MOTION of Trustee Apel, SECONDED by Trustee Quinlan with a voice vote of all in favor, the Board scheduled an Executive Session for Tuesday, June 27 to discuss personnel.

#### **ADJOURNMENT**

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