

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
SEPTEMBER 26, 2006

A Regular Meeting was held by the Board of Trustees on Tuesday, September 26, 2006 at 8:05 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

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

CITIZENS: Sixteen (16).

DISCUSSION - LWRP Next Steps

Philip Karmel, Chair, LWRP Steering Committee : I want to make a few points this evening. The first is that waterfront planning in the Village is very important and we need to make sure that it continues. This is not the right time to put it on hold. The waterfront presents many challenges to this village. There are three major parcels that are the focal point of our planning effort and they are privately owned, but our plans call for substantial public access: we want roads, we want a very large park that would be more than half the acreage, and we want public access. The development that does occur there, other than a park, we would like to be of a public character consistent with the rest of the Village. We do not want a walled-off community. But the Village does not own any of the property. That is a very significant challenge.

The second is, there are two bridges to the waterfront. One of them is in such bad condition that it has been taken out of service. That is a very significant challenge.

The third is the properties are contaminated, some more than others, but all of them are listed as state Superfund sites. It is very important that when the properties are being cleaned up, since much of the contamination is going to be left in place, that the cap be compatible with future development. To the extent we can accelerate the planning process and tie that into the cap over the contamination, we will be much better off in getting a waterfront that has a park and other public amenities as well as other types of development that will be put into place sooner rather than many, many years from now. But the contamination is a challenge.

The fourth is that, even though we have been working at his waterfront planning effort for 10 years, there is still so much left to do. We have a draft plan, but we have not even started to draft the zoning text. The plan envisions design guidelines which would impose architectural constraints that would, hopefully, improve the quality of any buildings that are built there. We need a coastal consistency law put into place before the LWRP is approved, and we need

substantial public review. We have had a number of public hearings, but we need additional public review.

There is much left to do. We are not really close to the finish line, we are only part of the way there. I am concerned that if we do not move forward we might never complete it in a timely fashion.

I understand that there is substantial sentiment by some members of the Board that a comprehensive plan be prepared for the Village of Hastings-on-Hudson. I believe that any such planning effort can be done concurrently with the LWRP. I do not see the two as alternatives or in tension with each other. The waterfront planning is an important element of the planning for the Village, and a comprehensive plan, if that is going to be undertaken, can be undertaken concurrently.

The Board has a number of options at this time. One option is an informational session on the LWRP and input could be received from the public. At the conclusion of that, changes could be made, or not. At that point, the draft LWRP could be submitted to the Department of State for a 60-day review, which is a determination on their part not so much that the substance of it is something they agree with, because most of the policies are supposed to be established by the Village, but that the LWRP meets their various regulatory requirements and has all the elements of an LWRP, and is consistent, in general, with state policies.

Another option would be to get going with this 60-day review before the Department of State, and hold that, and still have an informational session. But you would not necessarily have to do one before the other. You could hold the informational session this winter or early in the spring, either concurrently with the Department of State review or after the review. Merely submitting it to the DOS for review is not an approval of the plan. The plan cannot be approved by this Board anytime soon. It is a long way off because we need zoning and we need a number of other things that do not exist at this time.

Another thing that could be done, either in conjunction with the first two options or not, is to ask the Planning Board, which is the principal planning body in the Village, for a report and recommendation. This Board has declared itself the lead agency under SEQRA, but one option is to ask the Planning Board for a report and recommendation to get additional information from that body in addition to the public, either concurrently or sequentially.

Under any of these options, the draft that has been submitted to the Board, and it is on the web site, needs to be revised to reflect comments that have been informally submitted to our Village Planner by Department of State staff and Village counsel.

In conclusion, we have done a lot of work. But there is a lot left to do, and we need to continue with the effort.

Trustee Quinlan: Phil, before the LWRP is submitted to the state, is it necessary for the property to be rezoned, and would that be by the Board of Trustees?

Mr. Karmel: It is not necessary for the 60-day review. It is necessary, ultimately, in the sense that this Board cannot approve the LWRP as the LWRP without rezoning the property in a manner that is consistent with the LWRP. So the two go hand-in-hand, but that does not have to be done before the procedural review, the 60-day review.

Trustee Quinlan: Is the 60-day review like a preliminary approval by the state?

Mr. Karmel: I do not think it is an approval. It is a determination by the Department of State that the plan meets the formal requirements for an LWRP. No approval can take place before SEQRA is complied with. In addition to a zoning code amendment you also need a SEQRA finding statement. It would be premature for the Department of State to approve it before SEQRA is complied with. It is merely a determination that it is in a position where if it was submitted it would meet the formal requirements for approval.

Trustee Quinlan: You mentioned that there has to be rezoning in compliance with the LWRP. So that would mean that the Board would have to agree on what the LWRP is going to be and then, after that, create the zoning.

Mr. Karmel: Absolutely.

Trustee Quinlan: So when we are approving the LWRP we have to be very careful on what we are approving because our zoning has to comply with what we approve in the LWRP. We can fool around with it later, or is that a misunderstanding?

Mr. Karmel: After it is submitted to the Department of State it could still be changed by the Board. You do not make any commitments until the zoning law is enacted and SEQRA is complied with. You would be merely getting input from the Department of State that the plan would meet the requirements. If, subsequently, the plan is changed because members of the Board would like to see it changed, then it will be resubmitted. This is an important policy document for the Village. It cannot be approved without the Board of Trustees as the legislative body in the Village. Only the Board of Trustees can enact the zoning that would be consistent with it. The Board has to approve this at some point. Right now it is just a piece of paper. It does not have any official status at this point.

Trustee Quinlan: So the answer to my question is, before we send it up to the state for the final approval, we have to rezone the waterfront.

Mr. Karmel: Yes, that is true.

Trustee Quinlan: You mention that the LWRP can move concurrently with the comprehensive plan. At the last meeting I said that I like 90% of the LWRP. It is a great document; you guys did a great job. I can see the LWRP as a chapter of the comprehensive plan. Do you think that they could ultimately merge? Is that a pipe dream, or is that something that could happen or something you would like to see happen?

Mr. Karmel: I think that is something that could happen. It is up to the Board. Certainly I think a lot of it is going to depend on practicality. The waterfront has been very static for a number of years. It has been owned by the same people for a number of years. Nothing much has happened there. That cannot be assumed to continue indefinitely. The properties are grossly underutilized and, at some point, there will be development proposals. The point of this planning exercise is to get ahead of the curve and make sure that whatever goes on there is something that the Village wants, and has received thorough review, and has public support and support from the Board of Trustees. If everything remained static for a long period of time you might be able to mesh the processes together, but I do not know if that is going to be possible. You could seek to achieve that goal, but whether it is practical will depend on future events that none of us can predict.

Trustee Quinlan: You have done a lot of work on this; you know the Village, you know about the laws and comprehensive planning. Assume that we had a comprehensive plan that did not include the waterfront, that we had a separate document called the LWRP. And then we had another document called the comprehensive plan that did not include the waterfront because they happened at two different times. Would we really have a comprehensive plan without the waterfront? The word is “comprehensive.”

Mr. Karmel: The comprehensive plan, as I understand it, considers what all the uses should be in the Village and what the density and open space should be in different areas of the Village. This document answers those questions with respect to the waterfront. So that would be a component of a comprehensive plan. If it was the sense of the Board at some future time that there was something in the LWRP which it had approved that it does not like because it is not consistent with other planning efforts, if that occurs before the comprehensive plan is completed, then this document can be changed. The Ten Commandments cannot be changed; they are set for all time. That is not what this document is about. This is a law, it could be changed like any other law this Board passes, and it can be amended just like any other planning document can be changed.

Trustee Apel: Are there are any time constraints on any of this? I understand you send it up to state for the 60-day review and then it comes back. After that, there are not mandates of what time it has to go on?

Mr. Karmel: No, there are no mandates. If you look on the Department of State web site that shows the progress the various communities have made, or in some cases the lack of progress, you will see that there are widely varying times under which communities have made milestones. In some cases years go by. There are no statutory, regulatory time limits.

Trustee Apel: When they were doing the study you had made a point of saying that it was only the waterfront. But were there any discussions at that time in saying, we do this, but in relation to the rest of the Village we would have this number, that number, and therefore you did look at the rest of the Village?

Mr. Karmel: We looked at the rest of the Village in two respects. First of all, there are 13 policies in the document, and the policies apply to the entire Village. Many of the policies require steps to improve water quality and things like that. One of the policies is very specific in terms of the development that should occur with parks and other types of development west of the tracks. We do not have that degree of specificity east because we relied on the Village's zoning for that. The second respect in which the rest of the Village was considered was to have a waterfront which worked well with the rest of the Village in the sense that we tried to locate density near the train station, which is near the downtown of the Village. We took into account the transportation constraints. We have a traffic study as part of the EIS. We have a study of the capacity of our school system with the current school buildings. So we have looked at the rest of the Village, and we are interested in the substantive input of the Board as to whether you think we did it in a good way.

Planning Boardmember Hutson: I am the Planning Board representative on the LWRP. A couple of things in regard to the relationship between the LWRP and the comprehensive planning and strategic action plan, which the Trustees adopted in 1999. The LWRP has been on the agenda for a long time, but there were two things that really got it going. One was the master plan committee formed in 1990, and the second was Wendy Mesnikoff, who is deceased now. She is the one who pressed us all hard, and who made the point many times, that an LWRP was important to the Village not only because it had a lot of content related to the waterfront which is so important to us, but that it provided a structure for ongoing review; that it goes beyond the Village, with regulatory, state, and even national implications so far as coastal reviews and consistency is concerned. So it is very important to us as a construct, as well as what the specific zoning is here and there, because it provides us with a way of work that has merit and is accepted outside of our community.

It is important to recognize that as we were working on the LWRP, some of the central principles were drawn out of our existing comprehensive plan as expressed in the vision plan in the sense that we looked always at what those guidelines were. When we talked about trailways, the connection to the waterfront was important. We looked at all of the Village trailways. When we talked about open space we looked at the other open spaces and what role they played, the kind of activities there, what kind of activities therefore would be appropriate at the waterfront. Storm water runoff is very important in an LWRP. So the connection to the rest of the Village, and as you read in the document, the initial LWRP boundary was 1,500 feet west of the eastern boundary of the Village. Our recommendation is that that be expanded to include the whole Village. It left out the Saw Mill River, which didn't make any sense because that flows into the Hudson River.

So all of these things are very connected in regard to substance, but also in regard to how this would all be meshed. A comprehensive plan as structured in New York State would have to include the waterfront activity. It would not be able to be two separate documents, because the thrust of it has to do with comprehensive planning as opposed to some addition to a specific document that can never be changed. That is what is looked at when you have a court case, and it was so instructive to me when we dealt with ShopRite: what mattered in that court decision was that we were considered to have taken an appropriate position largely because we had done a comprehensive review looking at the issues that are reflected in our comprehensive plan and in our zoning. But also the way we went about it was considered to be appropriate, and therefore helped to uphold the position that we put forward.

I want to make one other point on this question of stopping the LWRP process or putting it on hold. One of the things that we all push for is participation from Village. This process has gone on with many, many events over the last 10 years and literally hundreds of people who have had input, have invested their heart and soul. This LWRP process is probably the most thorough and significant planning process that involved many Village people over the years. We want to make sure that we let people know that what they have done so far is not the final word, but it certainly is important and we are going to continue that process. That would be very important.

Peter Wolf, 1 Scenic Drive: I have been a long-time proponent of a master plan comprehensive plan. But I am strongly against delaying the implementation of the LWRP. I remember when we on the Conservation Commission were spawning the idea of the waterfront festival. People were coming up to us and saying, it has been 20 years since Anaconda abandoned, is this thing really going to be built in our lifetime? The message I wanted to get across most of all is that we are Hastings-*on*-Hudson, not Hastings *near* Hudson.

One of the reasons that we were so much in favor of the LWRP is that it is the ticket to the show. By that I mean grants; so many of the grants came because we are a member of it. I remember Greenway, when we applied it was asked if we had an LWRP. I have been to over half of the LWRP meetings and Phil has done a great job. And yet, even with Phil at the helm and with the support of Angie and others, and I mean active support in trying to get this moved forward, we are nine years down the road. We are now 30 years after Anaconda abandoned the site. Any delay would really be detrimental to the Village.

Based on this nine year delay and the time it takes to go back and forth with Albany and the time to do the comprehensive plan, I think they are going to dovetail because they are part and parcel of the same thing. They should not be viewed as something different, but as something in concert with one another. I would beseech the Board not to delay and to get this process moved forward. I agree with what Mayor Kinnally said last time that all we are asking for as the next step is to have an open hearing. There are not going to be any major decisions made, but it would be a big mistake to delay the proceeding.

Planning Board Chairperson Speranza: When I had heard that it was being considered to put the LWRP on hold, I was very surprised, given the participation that had taken place during the process. Now that there is a comprehensive document, I was very surprised with the thought that it would not be put out for public discussion. I know it is on the web, but if there would be a public informational hearing that would be great. It has got to keep moving, there is so much in there that is going to require next steps: the view shed analysis, the consistency of a lot of the zoning for the waterfront. To stop it is just to stop it, and what do we do? We pick it up again in five years when the comprehensive plan is done? Trustee Quinlan, you asked if you have a comprehensive plan without an LWRP, or as separate? You absolutely could never do that, especially in our community. The LWRP has to be part of the comprehensive plan. And, in fact, so much of the Village has already been included within the document itself.

One other thing I think is important for the Board to keep in mind, and I am not sure how many of you were here when Metro-North first starting to talk about the need to rebuild the pedestrian overpass. When they first presented the plans, probably in 2000-2001, they were going to locate that overpass further south because it was going to be a cheaper construction cost. But we had just come off the waterfront redevelopment forums. Metro-North was watching what we were doing, and they came to us and said, maybe we should move this here because if we put this overpass where we are planning to, it is going to be right in the middle of what you have said should be the connection and the view shed. If we were not going through this process, Metro-North could have come in and done whatever they wanted. The LWRP gives protection against that kind of thing. The comprehensive plan is something

adopted by the Village; the LWRP is something that must be respected by state and federal agencies. That is something that becomes more and more critical when you are dealing with the kinds of entities down there now.

So it has already helped us in terms of what is going on at the railroad station. I do not think you can stop it. You should not stop it. Just keep going. It will feed in; the comprehensive plan, the LWRP they will feed in because they have to. You cannot have a Hastings-on-Hudson comprehensive plan without a waterfront component.

Jim Metzger, 427 Warburton Avenue: I agree the LWRP needs to move forward. But I also think we need to make sure that decisions that are made on the LWRP, and this is in no way demeaning the incredible amount of work that was done by the committee, should not conflict with what is being looked at in the bigger picture incorporating those areas east of the railroad tracks. We need to make sure that whatever decisions are made with the LWRP do not hamstring access to the waterfront, development in the rest of the Village, how our downtown develops, connections, additional people coming in, ridership on the trains. The only vehicular connections to the waterfront proposed in the LWRP are the existing bridge by the railroad station and the one at the south end of the site. The problem is that all the cars still end up outside this building to try and get through the downtown. With a comprehensive plan, we may be able to find another spot that could move traffic off the waterfront that is not being investigated at this point, and alleviate the fact that, let us say, there are 250 units of housing, that all of those cars will not be coming up Spring Street onto Warburton Avenue. I want to make sure that as we move forward we keep in mind that the comprehensive plan is looking at a bigger picture, and the two need to dovetail. I do not want to make any decisions now that we are going to regret when we are looking at the comprehensive plan.

Mayor Kinnally: It takes us to the question what is next. We are in receipt of comments from the state and from Mark Chertok. I do not know if any members of the Board have submitted any comments. That is probably the next thing that should be done. If anyone from the public has any written comments they want to submit, that is fine. We can start talking about timing at our meeting on October 17. I would invite written comment by October 13 so we can all start to amass this and get a better sense of where we are and what has to be done, and can get a basic document that we can start having a public discussion on.

Trustee McLaughlin: Some people find the document on the web site difficult to read and print. Would it be possible to have a couple more copies of the document at the library, and can they circulate?

Mayor Kinnally: We will do that.

Trustee Quinlan: There seem to be a couple things we have to do. We have to have a public hearing, or many public hearings. We have to go through Mr. Chertok's comments to see whether we agree or disagree, do we not?

Mayor Kinnally: We do not. They are his comments. The same with the state. The draft still belongs to the LWRP committee, so comments go back to them.

Trustee Quinlan: The state has already looked at this document?

Mayor Kinnally: The Department of State has looked at it. They have given a *preliminary* preliminary review.

Trustee Quinlan: Then we have to decide on whether we are going to send it to the Planning Board and the Zoning Board for their comments, correct?

Mayor Kinnally: Right. They will take all of the comments into consideration and revise the document. Then it will come back to us.

Trustee Quinlan: Then we have to see whether we approve it. That is what I am trying to figure out. It seems from this chart that we are going to submit this for the 60-day review without the Board of Trustees taking a vote on it. Is that correct?

Village Planner Witkowski: Yes.

Mayor Kinnally: But with our input.

Trustee Quinlan: I have a problem with that, but that is another story. I will follow the chart down. So when do you expect to have the public hearing?

Mayor Kinnally: That depends on the state of the comments by October 17. I would think we could probably have a public informational session in November or December. Patty, what do you think?

Planning Board Chairperson Speranza: Maybe I can help here on two things. The document needs the comments of the Board members, not approval of the actions. If there is an area that you have a major concern with, you would write "major concern, we need to discuss." At this point that is the kind of input that is being sought from the Board. With respect to sending it to the state without your approval, the idea is that the Board of Trustees would be cognizant of the fact that it is going to the state for the 60-day review, not that you

are approving the submittal of it to the state as opposed to adopting zoning in the SEQRA findings, etc. because that does not happen yet.

Trustee Quinlan: So we should give our comments to the LWRP committee?

Village Planner Witkowski: Submit them to me, and I can send them to all the committee members. I have to incorporate all those comments into this draft, and then there is a second completeness review. That is the October date. At that point, Cashin Associates' work will be over, and we can close out this LWRP grant.

Trustee Apel: You need the comments by October 17.

Mayor Kinnally: I would like the comments by October 13 so they can be disseminated to everyone. It is over two weeks; we have had the document since May.

Trustee Quinlan: I think, not before the 60-day review because we seem to be moving that along, but as part of the continuing process, it would be very important to have a joint meeting with the board of education. That is going to be crucial as part of the process.

Mayor Kinnally: Well, send a copy over to the board.

Trustee Quinlan: We can send a copy over to the board, but sooner or later I would like to have a joint meeting with the board just on the LWRP to get their comments in person.

Mayor Kinnally: I do not know how productive that is going to be.

Trustee Quinlan: We can vote on it like everything else when we get there. I am just throwing that out at this time.

Mayor Kinnally: Why do we not send it to them, and we will be in touch with them and see if they think it will be productive. There may be components they would be interested in.

Trustee McLaughlin: We have heard from the head of the Planning Board and a member of the Planning Board and the head of the LWRP committee and our counsel that we are not taking a step that commits us to the next step. As Peter put it at the last meeting, we are not getting into the chair of the roller coaster and having the bar slam down. That is what those of us who have been hesitant have been concerned about. We have received at least four assurances that that is not what will happen if we take the next step. Do the rest of you agree with me that that is what we have heard?

Mayor Kinnally: That is what I heard. We are in the amusement park but not on the ride. I invite everyone in the community to take a look at the document and come up with comments so we can get the best possible draft to continue the public participation process. This is exactly what the argument was when people urged us to release it in May. But there has not been a lot of feedback, so let us see if we can hasten that. It will benefit the comprehensive plan process, because it will be one more resource to be used in the process.

Trustee Quinlan: To save me some time between now and October 13 and maybe start generating some interesting public discussion, I can tell you what my concerns are now. One is the 250 residential units, way too high in my opinion. And I am very concerned about the height requirements. So those are my comments to pass on.

Village Planner Witkowski: I just spent the last 18 months to two years updating a lot of the information. When the LWRP was sent to the state in 2002, not all of the census data was in there. So all of that data has been updated, along with other things that have occurred since that submittal. This is about as current a document as we could be submitting. There are still things that have happened since May that need to be updated. So the longer you wait, the more updating you have to do.

Mr. Metzger: Perhaps on HoH-TV you may want to state that you are seeking comments from the Village on the LWRP for people that will not watch this entire meeting.

APPROVAL OF MINUTES

Trustee McLaughlin: Page 18, the first paragraph of Mayor Kinnally, there is a pronoun missing in the last sentence. It is either “we” or “they.” Whomever you are talking about should be inserted there.

On MOTION of Trustee McLaughlin, SECONDED by Trustee Apel with a voice vote of all in favor, the Minutes of the Regular Meeting of September 12, 2006 were approved as amended.

APPROVAL OF WARRANTS

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

Multi-Fund No. 19-2006-07 \$235,734.30
Multi-Fund No. 21-2006-07 \$ 60,412.11

74:06 GRANT APPLICATION AUTHORIZATION – COMPREHENSIVE PLAN

Village Manager Frobel: Because of the action you took in joining the Greenway Compact we are eligible to apply for various grants. This is what I hope is the first of several grants that the Village will take advantage of. We are looking for a \$25,000 grant, which will be matched with \$25,000 of our money, or in-kind services, to begin the process of developing and drafting a comprehensive plan. We expect the Greenway Board will take this up at their October meeting, and we are somewhat optimistic that we will receive the money.

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

RESOLVED: that the Mayor and Board of Trustees authorize the Village Manager to submit an application for a grant in the amount of \$25,000 to the Hudson River Valley Greenway for development of an updated Comprehensive Plan for 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	

75:06 DESIGNATION OF LEAD AGENCY FOR QUARRY TRAIL DEVELOPMENT

Village Manager Frobel: This is part of the process of securing final funding for the quarry trail development. This is a grant of \$70,000 the community received several years ago.

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 designate the Board of Trustees as Lead Agency for environmental review pursuant to the State Environmental Quality Review Act (SEQRA) involving trail development of the property known as Quarry Road, and be it further
RESOLVED: that circulation of a full Environmental Assessment Form (EAF) to interested parties is hereby authorized.

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	

76:06 FREE PARKING STEINSCHNEIDER LOT

Village Manager Frobel: The project is moving forward, perhaps not as quickly as we might like. The contractor has suggested that in order to make up for some lost time the Trustees consider closing the lot to the public for a two-week period. We took that matter to the business community at a meeting on Monday. This would allow the contractor to freely move about the site, demolishing the center island, replacing it with granite stones, completing his drainage work, and doing the final pavers at the entrance to the buildings. The businessmen that were in attendance were receptive to that. In fact, comments were made to begin immediately. We could not begin this Monday without your concurrence. But the crews were geared up to complete the drainage, so they had plenty of work to accomplish this week.

I would ask your permission for and your support to close the lot for the two-week period, with the understanding and the hope that the weather holds and that we make great progress that two weeks, and that we begin to make the final push. The goal is to have it completed before Thanksgiving. We have made it very clear to the contractor that it would be totally unacceptable to have any kind of restricted parking before Thanksgiving. The contractor believes that with this two-week period great headway can be made. In light of that, we also would recommend offering free two-hour parking to customers at the Steinschneider lot during this two-week period.

Mayor Kinnally: I attended the weekly contractors' meeting last Thursday, and they gave a preliminary timeline. What caught my eye immediately was that the demolition and paving of the parking lot was to run from November 20 to 22, the three days before Thanksgiving. I said there is no way that can happen. The alternative that they suggested was to put off the demolition and repaving until the Monday after Thanksgiving. But after I left the meeting they reconsidered. If they could get consensus among the various stakeholders it would move the project along considerably if they could close the lot completely for two weeks. If they can commit that they can get it done, and it is not going to slow things up, it probably is best to bite the bullet.

Fran indicated that he had a meeting with the merchants and some of the stakeholders on Monday. I cannot say that there was unanimity. Of course, some people think that there are major problems here, and that closing it is going to cause more headache. But how much of a headache and how long a duration. I would trade two weeks. I will not say with certainty, but certainly with the great possibility, that we are going to get this over with sooner rather than later and have a much better project. If you see the brickwork that has been laid in the alleyways next to Center Restaurant and Hastings Electric you will get an indication of what is in store for us. This is going to be a centerpiece for the Village.

On the issue of the free parking, I do not want to deal with the holiday season. If, for that period of time, we can have free two-hour parking in Steinschneider it will help out and it will also ensure that we have turnover of the spaces because it is going to be monitored.

Trustee Apel: Are there alternatives if it happens to rain during that week? Are they going to tent the area and keep working?

Mayor Kinnally: No.

Village Manager Frobel: That was discussed, too. It would be too difficult to try to anticipate bad weather. There would be equipment, curbing, materials in the way that would be too cumbersome for them to move in anticipation of rain. We are going to have to go with the odds that for the next two weeks we are going to have some good weather and make great headway. They seem confident they can do it. Typically, you can have a nice October.

Mayor Kinnally: How did they do this week?

Village Manager Frobel: Good progress. We have been up there a couple of times during the day. Susan goes up first thing in the morning, I go up around noon, late afternoon, and we have been pleased. It has only been one crew. During this two-week period they will have multiple crews on the site working. The Chamber offered a list of other suggestions, some more severe in terms of ticketing and more aggressive in terms of enforcing the two-hour, and we will take up all their considerations. We have developed a map to distribute to customers to let them know where some of the other parking spaces or lots are.

Trustee Quinlan: I am still advocating free two-hour parking in the Steinschneider Lot starting tomorrow morning through the completion of the entire project. The merchants and our residents need that kind of relief for the parking problems that this very important and needed renovation will do for the Village. I am fully in support of the Boulanger renovation, it is going to be beautiful, but our residents need a break. I would like to see free two-hour

parking in Steinschneider starting tomorrow. Also, additional signage is important and that is something that can be done right away. I do not think we can wait on the holiday parking since the holidays are not on us yet but we are talking about the Christmas holidays, probably from December 1 to either December 25 or December 31. We can bring that up later, but I want everyone to know that that is not forgotten.

Trustee Apel: Although I want to give everyone relief I am very concerned about the financial losses.

Village Manager Frobel: Susan did a memo for you. It is about \$890 a week if every spot is filled.

Trustee Apel: And how would we make that money up?

Mayor Kinnally: We do not.

Trustee Quinlan: I have some good ideas, but I do not think we should bring them up tonight. There are ways to make up some money and we can talk about those as time goes on.

Mayor Kinnally: Not just the \$8,000, but there is also corresponding loss of revenue through compliance. People do not feed the meter, they get a ticket.

Trustee McLaughlin: I do not mean to sound ungracious, but I was at work at the bookstore until 9 p.m. Friday. When I went in to the bookstore Saturday morning, lo and behold, the announcement of Monday morning's meeting had arrived. I heard that from other merchants. One person did not work on Saturday, and so he did not know that there was a Monday morning meeting until Monday morning.

A problem that has been talked about so much, I would like to have thought we could have given people a little more notice. Nobody from our store attended because with that brief amount of notice we could not. The man who did not go to his office until 9:30 Monday morning could not do it. He, however, has asked me, what about the workmen and the other merchants? Where are they going to park? We know they should not be parking in the metered parking anyway and feeding the meters because every place a merchant or a workman parks is a place where our customer cannot park. We have been talking a lot about that, but we have not resolved that. Marge, you brought up the idea of would there be union problems if we attempted to get the workmen to park elsewhere and walk to their work sites, and we have not resolved that.

Village Manager Frobel: We posed that question to the contractor, and his crews come in utility trucks, three or four to a pickup. That truck stays on-site and is used as part of the job. They are not coming in privately-owned vehicles.

Trustee McLaughlin: How about the workmen on the other buildings?

Village Manager Frobel: I can talk about the Community Center. I have made arrangements for them to park elsewhere. I do not know about 45 Main, but from what I can see, most of their vehicles are inside that fenced area because I have walked the site and there are pickup trucks parked in there. But I do not know how many come in private vehicles.

Village Clerk Maggiotto: I want to add something on the timing. We had our meeting Thursday morning and gave the contractors the go-ahead to see if closing for two weeks would work. They had to see if they could mobilize in time. They let us know they could first thing Friday morning, and then Friday we distributed the fliers as best we could. So it was, unfortunately, a very short time frame but it really was the soonest that we could do it after this was proposed to us. We also got an e-mail from the Chamber asking for a meeting as soon as possible, and suggesting Monday morning for the meeting. So that is how it came to be a Monday morning meeting.

Trustee Swiderski: I join Marge in concern about revenue. A two-week shutdown sounds sensible rather than the Chinese water torture of trying to do everything while keeping it open.

Mayor Kinnally: Jerry, we can do both if you want to. We will do it from Oct. 2 to Oct. 14. Jerry, depending on this we will go to yours.

Trustee Quinlan: No, not depending on it. I want to go on mine, too. I want to make a record, by the Board, who is in favor and who is opposed. Or if I cannot get a second, then we will know everyone is opposed to free parking in Steinschneider starting tomorrow through the end of the construction of Boulanger Plaza.

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 free two-hour parking in the Steinschneider Parking Lot for the period October 2-14, 2006.

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	

Mayor Kinnally: Resolved: that the Mayor and Board of Trustees authorize free parking in the Steinschneider Parking Lot for the period starting, when, Jerry?

Trustee Quinlan: Starting tomorrow, which is September 27, 2006 through completion of the project.

Trustee Swiderski: When is that expected?

Village Manager Frobel: Before Thanksgiving.

Trustee McLaughlin: And when does Christmas free parking begin?

Mayor Kinnally: We will have to decide that, but usually it is the month of December. We usually do this sometime in late October or November. But through the completion of the Boulanger construction project. Do I have a motion?

Trustee Quinlan: Yes, so moved.

Mayor Kinnally: Do I have a second? There being no second, there is no resolution before us.

77:06 SALARY - VILLAGE MANAGER

Mayor Kinnally: As part of our annual review of salaries, recommendations were made by the Manager and considered by the Board of Trustees in a series of our executive sessions that follow these meetings. We had voted previously on increases for non-union personnel in the Village. What was not done was consideration of an increase of the Manager's salary. July 17, 2006 is his anniversary date of his starting in the Village. The percentage applied to his increase is the same percentage that was applied to other non-union personnel.

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

RESOLVED: that the Mayor and Board of Trustees establish the annual salary of the Village Manager at \$145,600 effective July 17, 2006.

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	

78:06 DESIGNATION OF LEAD AGENCY - ZONING CODE AMENDMENT AND REZONING OF PROPERTY

Mayor Kinnally: We have a brief presentation on behalf of the applicant. We have Robert Davis, who is counsel to Mr. and Mrs. Tarricone.

Robert Davis, Counsel for Applicant: Yes, and their company. I am Robert Davis. I am a member of the firm of Shamberg Marwell Davis & Hollis, 55 Smith Avenue, Mount Kisco. I am here tonight with Anthony Tarricone of 15 Holly Place in the Village. Our firm represents the Tarricones and one of their companies, JAC, Inc. They are the owners of three of the 10 properties whose owners have petitioned you this evening. Anthony Tarricone has resided in the Village for 20 years. His wife has been a lifelong resident. The Tarricone family has operated businesses on their adjoining commercial property at Saw Mill River Road for over 60 years. Mr. Tarricone lives in the house where his father used to live.

The petition before you seeks the rezoning of all, or in your wisdom a portion, of a small neighborhood of about four acres on the far easterly boundary of the Village. It is separated from the rest of the Village by the Saw Mill River Parkway. It is located between the parkway and state route 9-A, s Saw Mill River Road, and it adjoins various commercial and industrial areas in the Town of Greenburgh and also the City of Yonkers. The nature of the petition is set forth in the loose leaf binders which we have provided, and Mr. Tarricone will take you through a couple of the graphic submissions that are included.

The owners of the 10 properties are seeking to change the zoning designation for this neighborhood from a 2-R designation, which is a two-family district, to an MR-C designation, which is a multi-family district with a very limited business component. There is only currently one MR-C zone in the Village, located not far from Village Hall on Warburton and Washington. The basis for this request is that the current 2-R zoning does

not reflect much of the actual development in that neighborhood and around the neighborhood, and almost every lot in the neighborhood in the district is nonconforming as a result. This is an area along Saw Mill River Road which is largely commercial and industrial in nature. In the Hastings portion in the 2-R district, which appears to be fully developed, you have the Hastings self-storage facility on Saw Mill River Road, Mr. Tarricone's business, which he has operated for about six years. That facility represented a substantial improvement to the neighborhood of the fuel businesses that had operated there for many years with their fuel trucks. At one point it was a school bus facility. Next to that in Hastings, on property that used to be owned by the Tarricones, is the Borrelli plumbing business and Nextel. Somewhat behind those businesses on Holly Place, backing up to the Saw Mill, is what we would call a junk yard that has been a nonconforming use for many years. Directly across 9-A in Greenburgh, that area is zoned light industrial. In terms of the current uses, directly across are two stone material and construction material businesses, a contractor's yard with heavy vehicles and equipment, and an auto repair garage. To the north along Route 9-A is county-owned property. A bit further north is a light industrial zone in the Village of Hastings, which is where the former Ciba-Geigy offices were located. Other offices are there now. Just south of the 2-R zone is the City of Yonkers, which has a lot of mixed-uses, including two-family and heavy industrial and commercial uses.

Many of the dwellings in the Hastings 2-R district are two-family. Some are nonconforming three-family, many rentals, and un-owner occupied buildings. And interestingly, almost every one except for Mr. Tarricone's property appears to be nonconforming, including significantly with respect to lot area. The 2-R district requires 7,500 square feet as a minimum lot area, and none of the properties except Mr. Tarricone's and approximately three others meet that requirement; whereas the MR-C zone requires a lot size of 2,500 square feet. So most, if not all, of these undersize lots would become conforming as a result of the proposed amendment, at least with respect to lot size.

The petitioners also seek one text change for the MR-C, which would allow Mr. Tarricone's existing property to become conforming as well because it would permit a self-storage facility in the MR-C as one of the listed uses, subject to some very stringent requirements which we have provided, which would include access directly on a state or county road, which his existing facility has, and a lot size of at least 12,500 square feet, which his existing facility also has. His property would become conforming, and this would also enable him, subject to Planning Board and Architectural Review Board approval, to seek an expansion of that facility along the corner of Saw Mill River Road and Holly Place. His business is one that the residents of the Village and other people in the area have staunchly supported because he is now filled to capacity in a relatively short period of time, over 400 units, and has a substantial waiting list. It has proven to be a very quiet, clean, and reasonably attractive use for the neighborhood, with no known complaints, that provides an important

public service to the community. Importantly, according to our analysis, because of the requirements that we have added to the text amendment, no other property that we know of in the MR-C zone, including the one existing zone, would qualify for self-storage use because of the lot size limitations and the frontage access requirements.

The permitted uses in the MR-C zone include, and would include, single- and two-family houses, as is currently permitted, but also dwellings for three or more families; very limited retail sales of specialty items, which are listed as antiques, books, arts, gifts, or similar items; restaurants with gross floor areas of 2,500 square feet or less; artist's studios; health or fitness clubs; business and professional offices; mixed use buildings, which would be a mix of those uses; and self-storage would be added to those uses. I would suggest, however, that since this is a pretty fully developed neighborhood, probably the new use you would most likely see, and maybe it would make some existing such uses conforming, would be a multiple dwelling, or perhaps a dwelling mixed with office. All of these uses, other than single-family and two-family houses, would still require approval of the Planning Board, and the Architectural Board if there were exterior elements.

So in addition to making many of the now nonconforming uses conforming, the rezoning would encourage the improvement of some of the properties in the district and also prevent a deterioration of some; would encourage more rental apartments, and there is always a shortage of those in the area in the county; and importantly, add to the tax base in terms of revenues for the Village, which you will find that Mr. Tarricone's existing storage facility has done to a great degree. We believe that the MR-C zone would be an appropriate transitional zone for this area. This proceeding is in accordance with the amendment provisions in your zoning ordinance and technically, it is important to note as I have discussed with Village counsel, the ordinance permits us only to petition for the rezoning of those properties owned by the people who are petitioning. But your board has the right, also, to rezone the area or part of the area on your own motion. You can choose to rezone less than the entire area. You can look at that issue, as well. So in accordance with the requirements of your ordinance, we would ask you tonight, to declare the Board lead agency under SEQRA, to set a public hearing date and to forward this matter, as the ordinance requires, to the Planning Board and the Zoning Board for their advisory report; also to the county planning board. We have to give public notice to everyone within 300 feet of the neighborhood, which would include the properties within the neighborhood and the City of Yonkers and the Town of Greenburgh.

We had discussed this matter in some detail with the Village Manager and the Planner. We have heard their thoughts. Mr. Tarricone has met with most, if not all, of the people in the neighborhood. Many have signed the petition. Some have not signed the petition, but have expressed being in favor of the proposal or at least lack of opposition. I am sure there are

some people tonight who would like to question what is going on and are interested in hearing about it. But given the nature of this neighborhood and the current development, it is hard for us to fathom how the amendment would not enhance everyone's property values in the district. We are here tonight to start the process rolling with you. Mr. Tarricone would like to show you blowups of some of the submissions.

Anthony Tarricone, 15 Holly Place: Before going into detail on the books that I presented, I would like to give an overview of the project at hand.

This is the zoning map for the Village of Hastings. This is an MR-C zone, which comes down off Washington Street, a similar zone to the zone we are proposing. The subject property is here, on the most southern eastern portion of Hastings. It abuts Yonkers.

I have another board that shows what Saw Mill River Road looks like in the area in question. These pictures can be found in section 2 of the book submitted to you. The top half of the board represents Hastings' zone 2-R. The lower portion of the board represents Greenburgh, which is zoned light industrial. The 2-R is two-family houses on 10,000 square foot lots or larger, or single-family homes on 7,500 square foot lots.

The next board shows the southern border of Hastings where it abuts Yonkers. Hastings is zoned 2-R, with minimal lot sizes of 7,500 square foot for single-family homes and 10,000 square foot for two-family homes. There are only three properties that comply with the existing zone. The Yonkers zone, located less than 200 feet down Edison Avenue, is zoned T, which is two-family/5,000 square foot lots. Along Saw Mill River Road the zone is CM, which is commercial. This is an intensive use which includes industrial parks, cash-checking stores, automotive storage and repair, to name a few. The complete list can be found in section 5 of the books.

Mr. Davis: That two-family zone in Yonkers is characterized by nonconforming uses. There is a restaurant and other commercial uses. Also, with respect to some of those conforming lots in Hastings, a couple of them have two-family houses that would meet the 7,500, but may not meet the 10,000.

Mr. Tarricone: That is true. And the last portion of the zone in Yonkers is S-50, which means single-family homes on 50-foot lots.

The last thing that I have to share with you is a blowup of the Hastings tax map for the area in question. The area shaded in yellow represents all the neighbors that have signed the petition in favor of the zone change. Currently all but three of the existing properties in this area are illegal, nonconforming. As a result, the property owners would need a variance to

make any improvements, including an expansion of any kind. This makes the process of investing in your own property risky and costly. Not only do they have to go through the cost of making the improvements, they have to go get a variance, hope that it gets approved, then go back to the Planning Board and get the plans approved. The reality of the requested zone change is that all of the existing homes would be in conformity, with the exception of the junk yard located at the end of Holly Place. This would never become conforming.

Mr. Davis: But it could be encouraged because of a greater flexibility of use perhaps to change itself to a multi-family building, three- or four-family, or something that would be more consistent with the neighborhood and which the neighbors would be more amenable to.

Mayor Kinnally: I understand your argument that now, because of the lot sizes, these homes are nonconforming and if they want to do anything they have to get a variance. But under the new code, would they still need a variance because of setbacks?

Mr. Davis: They probably would not. You would have to look at each lot, but the setbacks are somewhat more liberal, the lot coverage is more liberal. And a smaller lot size is required, 2,500 square feet. So if not conforming, they would certainly become more conforming. If they did need a variance, it would be a lesser variance.

Mr. Tarricone: We believe the zone request is in keeping with the surrounding area and would be an enhancement to the Village as well as the property owners. These are the people that have agreed. As I said, we do not have to change everyone. I just think it would be beneficial for them.

Mr. Davis: There is one additional owner on Holly Place whose petition is not yet in your submission. But it was advised us by telephone that they have sent it in.

Mayor Kinnally: This is very comprehensive. We do not ordinarily get a binder with all the information in one place. I would like to get guidance from counsel as to how to proceed because it is somewhat of a hybrid. You are coming in for a petition but it is not the entire area, so we would have to be, I think, the petitioning body.

Mr. Davis: We had a request for a full Environmental Assessment Form, which we have tonight. I wanted to make sure you are aware of that.

Village Attorney Stecich: This situation is unusual, where somebody coming in for a zoning request does not own all the property they are making the request about. If Anthony were coming in for rezoning of just his own property you could consider that petition and set it up for a public hearing. But because rezoning is being sought for an entire district and not

all of the property owners in the district have requested the rezoning, it is not the applicant's petition. The public hearing would be held on the rezoning application if either the Board of Trustees or the Planning Board or the Zoning Board of Appeals recommends the change. If this Board thought you want to make this your amendment, not that you have to adopt it, but it would have to be your amendment that you would be holding the public hearing on.

Mayor Kinnally: We would have to take the initiative.

Village Attorney Stecich: Right. Or you could ask the Planning Board to take a look at it and decide whether they think it is a good idea. You have three choices right now. One is to say go home, we are not assuming this as our own. Or we think this is a good idea, we are going to call for a public hearing. Or you could ask the Planning Board to take a look at it and decide whether they want to make a recommendation and a public hearing be held on it.

Trustee Swiderski: If they asked for it just for their properties, would that be considered spot zoning?

Village Attorney Stecich: On a single property owner, yes, it could be an issue of spot zoning. You would have to look at a lot of things. I am not going to say it would be spot zoning, but it would be more susceptible to a spot zoning claim than when you make a request for an entire district.

Mr. Davis: May I respond to assist with the legal aspect of it because I want to make this very clear. Spot zoning, in zoning parlance, is a term that is used a lot but you seldom see it in the cases. It has to be fairly arbitrary to be spot zoning. But one option, and it is perfectly fine with the petitioners, is that the Board can simply rezone all or a portion of those properties of the people who have petitioned.

Trustee Apel: We are embarking upon a comprehensive plan. After we go through the comprehensive plan, then we can decide on rezoning. I cannot make any decision on changing any zoning at this time until we have our comprehensive plan completed. Anybody who came before me who wants to change the zone, I am sorry, it is the wrong time. I would not entertain this at all. I do not want to change any zones until we have our reports.

Trustee McLaughlin: I agree with Marge. But I also have some micro problems with this. Of the people who submitted petitions, it looks like there are 12 dwelling places that did not sign on. If we assume two people per dwelling place, that is 24 people who have not asked to be part of this. For a zoning change that could change the value of your property, it is rather presumptuous of the petitioner. Although I think it is great, the idea of coming in and asking for your neighbor's property to be rezoned in a way that could affect its value, I am

not happy with that. This corner of Hastings has gotten dumped on throughout the years. When I first moved to town it was redlined by mortgage brokers because it was Zip 10710 and considered part of Yonkers. The people there did not get mailings from the Village, and finally the Post Office agreed to make it 10706. But it has always gotten the short end of the stick and I cannot help feeling that this proposal is another way of seeing that it gets the short end of the stick. But overall, I agree with Marge on her point and simply would not accept it on the principle of our going into the comprehensive planning process.

Trustee Quinlan: What is the primary reason that your client would like this zoning change?

Mr. Davis: Our client would like the zoning change because he would like to render his property conforming and, as I indicated, he would like to have the opportunity to expand that along Saw Mill River Road. I want to make it clear that we are not asking the Board, although our petition was originally styled for people to sign, to rezone anyone's property that does not want to be rezoned or any property other than the petitioner's own. We do not have any right to do that. With respect to their properties, we do have the right under the law at least to have a public hearing under your zoning code, having petitioned you properly.

Trustee Quinlan: I like that speech, but I would like you to answer my question.

Mr. Davis: Okay, I did.

Trustee Quinlan: Well, I do not think you did. Your client owns the self-storage, correct?

Mr. Davis: Yes, correct.

Trustee Quinlan: And he wants to expand the self-storage under the new zone, correct?

Mr. Davis: He would like to be able to apply to expand it, yes.

Trustee Quinlan: Right. And he cannot do that without the zoning change, right?

Mr. Davis: Or without a variance.

Trustee Quinlan: So would it be fair to say that the primary reason he wants this zoning change is to increase and make bigger his self-storage?

Mr. Davis: I think that is a question that is a little, if I may respectfully, a little misleading because it does not take into account the reasons that the other seven or eight people would

like to see it rezoned. His particular personal reason, yes, is that he would like to increase his self-storage. And he also sees in his neighborhood, at least in his portion of the area with the people that have signed the petition, the properties tending to deteriorate because they are rental and no longer owner-occupied. Yes, of course he has his own personal reasons, and so do all of the other people who have signed the petition have their own personal reasons.

Trustee Quinlan: Would it be fair to say that he went around to the other people and asked them to sign the petition, or did they come forth voluntarily and he kind of jumped on board afterwards?

Mr. Davis: It would be fair to say that he initiated speaking to them about it. It would also be fair to say that all those who signed the petition, in addition to the rezoning, also signed it in favor of the ability to add self-storage as a permitted use and with full knowledge of his plans to augment the self-storage building.

Trustee Quinlan: You said that the MR-C would allow three or more units per building. How many more? What could he build there? What could these people build? If you bundled the properties together under the new zone, what kind, how high, how big, how many units could you put in an apartment building there?

Mr. Davis: It depends on the size of the property.

Trustee Quinlan: No, I am just saying if you bundled them what is permitted?

Mr. Davis: The zoning ordinance does not specifically say. It does have various setback requirements, building height requirements, building coverage requirements, it has many limitations.

Trustee Quinlan: How many units?

Mr. Davis: There is not a specification on the number of units.

Trustee Quinlan: So it is unlimited, if they could meet the setbacks and the height.

Mr. Davis: It is not unlimited, it is unspecified. To say it is unlimited assumes that there are no requirements as to the size of the building or lot coverage or setbacks. So you have to look at each individual lot, but it is far from unlimited. You cannot build a high-rise apartment building there.

Trustee Quinlan: You cannot build a high-rise because of the height requirements. Besides the fact of the comprehensive plan, I am opposed to an individual developer coming forth and proposing a zoning change like Mr. Anderson did at 10 West Main Street. I was opposed to that, I made that a matter of public record. This seems like the same thing. Zoning changes should come from the public as a whole, the Board of Trustees, committees, plans and not private developers. So I am against this plan.

Mr. Davis: I respectfully say that, if that is the case, then you might want to amend your zoning ordinance, because the zoning ordinance specifically provides for any property owner to come in, as a constitutional right, to petition his government for this or any other relief. The people who have petitioned in this instance are citizens and taxpayers, and they have made a good faith petition to your board with, you may not agree with it, certainly some arguable reasons for why the relief would make sense. In terms of the comprehensive plan, I do respect that. I am well familiar with the concerns of comprehensive plans, and it is not to dump upon this area. It is with the firm intent of those people who reside and own property there to improve it as opposed to degrade it. They want to stop it from being dumped upon and stop it from being deteriorated. In terms of a comprehensive plan, it is difficult to understand how whatever takes place in this area, and we want only positive changes, would impact on the rest of the Village. With respect to self-storage, the amendment was specifically drawn to make sure that not be the case by eliminating any other property. So there is no way that the rest of the Village would be affected by this amendment or it would interfere with the comprehensive plan process.

Trustee Swiderski: Until we have a moratorium on zoning requests or development, the fact that we are embarking on a process without start, middle, or finish yet defined to me does not mean we automatically reject anything that comes before us because we have not yet issued a moratorium. So I disagree with Marge, though I understand the intent. Until we have that moratorium in place, it strikes me as effectively issuing a moratorium by rejecting the proposal out of hand simply because it has been submitted to us.

Secondly, if it was a request only from a developer I would feel one way. But a number of contiguous property owners have made a request to the Village; there is a right for property owners to request a change. And they have a right for that request to be reviewed and treated seriously whether or not it was initiated by "a developer" who happens to be a resident and homeowner. If Eric Anderson on West Main Street had gotten everybody in his neighborhood to sign a petition saying what he wanted made sense that request might have had a bit more force in the sense of having some public support. But in this case, that is so. I agree that it might be presumptuous to want a change in zoning for the parts of the parcel that have not signed on. However, since a number of homeowners contiguous to one another have made this request, and the request is on its surface not outrageous with the uses around

it, until we have a moratorium we are obliged to take a look at it. Whether that is the Board of Trustees or the Planning Board, it should be remanded to whatever controlling authority we agree on and have it looked at. It is a request from taxpayers; not one taxpayer, but multiple taxpayers. It is their right to request that, and it is our obligation not to reject it out of hand. So I would move to take a look at it.

Mayor Kinnally: I do not ascribe any evil motives or bad faith to the applicant or the applicants. Someone would like to do something with their property and, at this point, seems to be following through in the procedures that are prescribed in our zoning code. I know the property, I know Mr. Tarricone's house, I have been at it a couple of times because there have been parties there for the kindergarten class. My wife taught the kids.

Without giving anyone any false hope, without blessing it or endorsing it, we should have the Planning Board take a look at it and give us a report and a recommendation. They have more of the tools that are necessary to look at this and to work with the people in the community. I understand the concerns. I do not for a moment discount the concerns about the comprehensive zoning. But we have had this discussion before, both in executive session and here, and I do not see our going down the road on the comprehensive plan as embracing or endorsing a moratorium. Unless and until that happens we have to let the process go forward. I do not think anybody on this board is endorsing what would happen. Just like any other time something comes before us, we refer it to the appropriate board or commission to take a look at it. So I would have somebody have a more critical look-see at it and give us their report and recommendation before we go any further.

Trustee McLaughlin: Where would that leave us if we asked the Planning Board for an opinion?

Mayor Kinnally: It would be a report and recommendation.

Trustee McLaughlin: But we would be back then to resolution 78:06?

Village Attorney Stecich: If the Planning Board liked the idea the Planning Board could ask the Board of Trustees to consider this amendment and then you just have to have a public hearing. There is no judgment on your part because they ask you and you have to set the public hearing. But if the Planning Board comes back without a recommendation, then you still have the option to make it your amendment.

Trustee Quinlan: I thought you said that an individual cannot bring a petition for a zoning change when it includes more than just his property.

Village Attorney Stecich: Correct.

Trustee Quinlan: So before we do anything, we have to make ourselves the petitioners, correct? Is that not a step one?

Village Attorney Stecich: That is a possible step one. There are three step ones. You could make it yours.

Trustee Quinlan: Or not make it ours.

Village Attorney Stecich: Okay, then it would not be step one.

Trustee Quinlan: Well, that is step one, but then it would go away.

Village Attorney Stecich: Okay, step one, it could be your proposed amendment. Another way to do it is for every property owner in the district to embrace it, and then it is there by petition. They come to you, you have to put it on. Let me get back to a modification of that. After the Planning Board looks at it and the Planning Board decides it is a good idea, the Planning Board then could recommend that the Board of Trustees call for a public hearing on this zoning amendment.

Trustee Quinlan: But the only board that could change it would be the Zoning Board.

Village Attorney Stecich: No, the Board of Trustees.

Trustee Quinlan: No, the Board of Trustees. The Planning Board could not do it.

Mayor Kinnally: The Planning Board would report and recommend. Only the Board of Trustees can change the zoning..

Trustee Quinlan: I have a problem with sending it to the Planning Board. This goes back to the discussions we have had about many things in terms of term limits and everything. We are the elected officials. I know you are very concerned with democracy and populism. It should be our decision and let us live with it. It delays it, it sends it down to a body who I respect and I would certainly like their advice, but they are appointed officials. I am ready to take responsibility for these things without too much ado about sending it down the Planning Board and have it come back to us. I think we should take responsibility for our elected responsibilities.

Mayor Kinnally: We are not ceding that responsibility. What some of us are saying is let us get some more information on it. If you think you have enough information right now and you do not want to move on it, that is your prerogative. I do not see how it takes away from us, our ability to pass on it. If anything it will enhance the information available to us on it. But it is up to the five of us. If you do not want to move on it, then...

Trustee Quinlan: It is important to make the point that the applicant could request a variance. I am very familiar with this property because when I was on the Zoning Board I voted for the variance so that he could have his self-storage property. I listened to the arguments and I voted in favor of that, and I think it is a great facility. Whether it should be expanded or not is another story and a whole zone change.

We have the same argument that we had, and I made, in the 10 West Main application over and over again: we do not have to rezone an entire neighborhood for the applicant to get what he wants. There are other methods to do it. Why should we change a whole zone when they could ask for a variance? I keep saying that, and no one ever listens.

Mayor Kinnally: I do not think anybody on this Board has endorsed changing the whole thing. We are just saying we do not know. I am not asking anybody to vote on it tonight. I think it is premature. But Jerry, as you said, it is the essence of democracy. Let us go forward and see what the Board wants. I do not know if I have a consensus from the Board.

Mr. Davis: Your counsel will advise you on the law, but my reading of the amendment process and the zoning ordinance 295-157 is that if any one of three entities petitions the Board--the Board on its own motion, a property owner or property owners, or the Planning Board, upon a recommendation--under any of those scenarios, or a combination of them, the Board is required to hold a public hearing and to refer it to the Planning Board for a report. You are not ceding any responsibility in any way, shape, or form. But your ordinance does have a procedure that is not optional, as I read it, and it should be followed. It leaves the Board with complete discretion ultimately what to do, and we are just asking that the procedure be followed.

Trustee Apel: I am going back to the comprehensive plan. This has nothing to do with you or your petition. Anybody else could have come in front of us. I am wondering how this is undermining the comprehensive plan. We are having it because we want to look at the whole Village and then decide on our rezoning, and not rezone pieces at a time. We are going backwards, we are undermining the process, and it is the wrong way to go. I do not want to be pushed into a position where we follow what you are saying, and then we have to vote it up or down. It may be that after it goes through the comprehensive planning that the zone would have been changed anyway, but I do not want to zone each parcel or each area

individually. That is why we decided to have a comprehensive plan; we wanted to look at the Village in its entirety. Although the lawyer thinks that it will not affect the Village, we believe that that area belongs to Hastings and we should look at it as a community. Not the individuals, but the whole community, should be able to say this is what we think would be great over there, or we should leave it way it is, we want changes, whatever it is that the community wants. Your plan may be fine but just not at this particular time because we think that the process of the comprehensive plan should go through. That is very important to me. And I do not know what the lawyer has to say about this.

Mayor Kinnally: Any further advice other than what the procedural outlines are we should get from her in advice of counsel in private because we have the applicant here. What is the sense of the Board here this evening?

Trustee Quinlan: Would you mind if we heard from the public on this? I have made some strong statements here, but I am always open to suggestions and I know there are people in the audience. I do not know if they are here for this application. Would that be improper to ask them?

Mayor Kinnally: No, it is not improper. I just want to get a further sense from the Board. Then, always, we open it up to the public.

Trustee Quinlan: I would just ask we do that now.

Mayor Kinnally: Diggitt, what is your sense here?

Trustee McLaughlin: I am torn. I agree with Marge that to follow up on this undermines the process that we have waited so long to begin. I am not happy with the idea that what happens over there does not matter to the rest of the Village, which the petitioner suggested. What happens over there is in the Village and we are Village Trustees, and it is our responsibility to approach what happens there with the same concern as if it were the house next door to us. But on the other hand, the neighbors may not have all the information that could be available to them. Yet on the other hand, I am reluctant to put the neighbors who have not petitioned in the position of perhaps having to hire counsel and so on and so forth. I think my view is that I would want to fall back onto Marge's position that this undermines something we have worked so long to get to the beginning of.

Trustee Swiderski: That is effectively a moratorium. We have not agreed to a moratorium. Property owners and taxpayers have requested something. We represent property owners who have rights. While the comprehensive planning process is important, until the process has got to the point that a moratorium has taken away those rights we are obligated to move

forward and remand this to the Planning Board. We are a nation and a government and a Village of rules and laws. The comprehensive planning process has not started. While it is politically true that this process is greatly desired by a lot of people, we are a village of rules and property owners and I have to respect that and follow those rules. This should go to the Planning Board, as is required, and I am ready to vote that way.

Martin Merchant, 35 Marion Avenue: I am going to beg your indulgence because the neighbors that came with me, we got word of this meeting about 7:30. So we are not very well prepared.

I have been a resident of Hastings for 30 years. I lived 25 years in the residence at 35 Marion Avenue. Except for one other member of our group, I have probably lived in the neighborhood the longest. Hastings is a village of pockets, tiny little communities within the bigger community. Although it is isolated in terms of geography and the main roads, this is also another little pocket. There are about 18 different properties. Many of the houses have more than one family living in them. The neighborhood is full of children. I am a little bewildered by some of the representations by the petitioner. I am hearing that it is a family-oriented residential area, and yet I hear that there are deteriorated properties. I hear that the petitioner wants to make things advantageous for the property owners, yet I am hearing that one of the primary concerns is commercial development.

In the last 25 years, and certainly in the last 10, upgrading has really accelerated. Many deteriorating homes have been built up, refurbished, and renewed. Right across from Debbie and Anthony's front door, a house on the corner that had gone to seed was completely renovated in the last 12 months. I do not detect a lot of deterioration going on, but it does about these commercial areas that have traditionally been commercial uses. Of course the biggest commercial use in the area is Mr. Tarricone's property.

One of the items that was left at my house was the packet of information that was given to, I am assuming, the people in the neighborhood that Mr. Tarricone approached. I would assume that the people who signed the petition got similar material. I never received anything in the mail or anything officially. There are some Xeroxed parts of the Village code, and there is a letter from Debbie and Tony that speaks of advantageous conditions if the zoning is changed for residences, but then also talks about the fact that they need to change their commercial property. If the Trustees would tour the area they would see this is a family community, a community of residential homes. This pocket of Hastings is thriving, it is well-kept and well-tended, children playing in the streets. I hope that the process which we are looking forward to is going to take those kinds of things into account, and I would hope that the Board of Trustees realizes that many of us, petition-signers and not, are at the very beginning of understanding the motives and the process that is involved.

Carolyn Caruso Brink, 45 Marion Avenue: Of the petitions that were signed, how many are owner-occupied as opposed to people that live there?

Mr. Davis: Eight out of the 10 are owner-occupied.

Ms. Caruso Brink: I live on the corner adjacent to what they have called the junk yard, which is the biggest concern in our neighborhood. My concern is, if this change goes through, what will become of that area. The bike trail has a paper street access there, and on the weekends we have people come and park on our street to access the bike trail. I am afraid any commercial or multi-family would just be more of a problem. I would rather he do his change for himself and not for the rest of us in the neighborhood.

Linda Merchant, 35 Marion Avenue: We have lived in this house since the early 80s. We did not get a letter about this meeting tonight because I live more than 300 feet away from the Tarricone property. But I am on that map, so I think we should have gotten a letter about this meeting. I am wondering about requesting a copy of the binder. We know nothing about this proposal. The community over there should have a copy of the information.

Mayor Kinnally: Mr. Davis, could you furnish a couple of copies for the neighbors?

Mr. Davis: Sure.

Ms. Merchant: I am hoping in the binder that I find an answer to a lot of my questions. You have answered a lot of them tonight. I am curious as to how many houses in Hastings conform to the 7,500. It seems like you are always having variances for decks, etc. Are we so unusual over there with this problem? I would also like to find out which of the properties are conforming.

Ioannis Stylianou, 48 Marion Avenue: Of the people who signed the petition, does that include the storage facility and the business next door and the business next door?

Mr. Davis: Yes.

Mayor Kinnally: What is the sense of the Board? We have two resolutions on this evening, one having to do with the designation of lead agency and the other having to do with the scheduling of the public hearing and a referral of this matter to the Planning Board.

Trustee Quinlan: Peter seemed to indicate that if we do not send it to the Planning Board then somehow we are not following the proper procedure, and I am confused about that.

Correct me if that is not what you said, but my understanding is that there is a procedure. A proper procedure would be that we do not have to send it to the Planning Board.

Trustee Swiderski: Absolutely. Proper procedure is to grant it the courtesy of a review, but not to reject it out of hand.

Trustee Quinlan: But it still would be proper procedure to reject it out of hand. No, or yes?

Village Attorney Stecich: That would be proper procedure.

Mayor Kinnally: It is an available option to us.

Trustee Quinlan: I wanted to make it clear because it seemed, from your comments, Peter, that if we do not send it to the Planning Board that we are not following proper procedure, but that is not necessarily true.

Village Attorney Stecich: It would be legal. By proper, I am not making any value judgment on it. Just that it would be legal.

Mr. Davis: Mr. Tarricone bent over backwards to let people know about this procedure and the meeting. As you know, it is not a public hearing. I do not want there to be an inference that anything was done to pull the wool over anyone's eyes. Quite the contrary.

Secondly, the only thing I would say, again, to Mr. Quinlan's question in regard to the law which is in Section 295-157 of your code, my reading of the law is that having received a petition from one of the entities we mentioned, it says, "the Board of Trustees shall fix a reasonable time for a public hearing and give people an opportunity to be heard. Upon fixing the public hearing, the Board of Trustees shall also refer the proposed amendment to the Planning Board and Board of Appeals for advisory reports." Of course, at the end of the day the Board has complete discretion to reject or deny the amendment or to enact any part of it. Again, we would emphasize that we are perfectly content, and the meaning of our process here tonight is to apply only for the properties who have signed the petition.

Village Attorney Stecich: Bob, just to correct that, right now the petition reads to rezone the entire 2-R parcel, and not all of the property owners signed on. Then it has to be a different petition than what is before the Board. The petition before the Board is to rezone the entire property 2-R, and there is also the MR-C change.

Mr. Davis: But it is construed in light of your law that we can only ask with respect to our property, and I have made it clear tonight that is all we are asking to do. So I do not know

why one would want to put us through the charade of having to simply say rezone our property.

Village Attorney Stecich: Then you have to say what your request is. Is the request then to rezone only the yellow properties?

Mr. Davis: Our request, to clarify it in light of the law which you have correctly stated, is a request based on our petition to rezone the properties of the people who own then and who have signed the petition. Anything beyond that is within the Board's own discretion.

Mayor Kinnally: But that is not what your formal application is, is it?

Village Attorney Stecich: It is not what it says. In addition, Bob, I think you might want to think about that. Would you actually want to make such a saw-toothed zoning recommendation?

Mr. Davis: I understand what you are saying, and that is why I said we have people who have petitioned. It happens that a couple of them are in the so-called sawtooth configuration. But the Board can choose to reject that or grant that as it sees fit. Most of the area is not in the sawtooth configuration. It is primarily in the area closest to the Saw Mill Road and the existing commercial development. If the Board would choose not to rezone a piece of property that is separated and is not contiguous to the others, that would obviously make sense. But it would not be unusual, for example, to rezone this area right in here.

Mayor Kinnally: You are mixing two things, I think. It may not be unusual to do it, but it seems to me your application should be sharpened. Your application was for everything.

Mr. Davis: Yes, originally the petition...

Mayor Kinnally: No, not originally. The application as it stands before us is for everything. It might be advisable to come back with the application that you want because we can only act on what we have in front of us. It seems to me that, like the football quarterbacks, you are doing an audible here. We cannot work on an audible. We are having a meeting next month, so you may want to rethink it, come back with what you want, and then we will deal with it.

Mr. Davis: I understand. My thought was not to call an audible, but only to construe the petition in light of the law. It was only my suggestion.

Mayor Kinnally: But you are changing it on the fly. You are asking for a lot, and then you are saying no, maybe I am going to ask for a little less. Your petition was for everything and now you are saying maybe I will only ask for the yellow highlighted areas.

Mr. Davis: The petition was set up that way because of the mechanics of trying to see if everyone in the neighborhood wanted to join into it.

Mayor Kinnally: I am not describing any motives here. Obviously it is not working out that way, and I am saying you have got a fallback position. Maybe you just want to put something in writing to us that we can consider and send it out as a whole packet. That is all.

Trustee Quinlan: When you say the petition, the petition in my binder is signed only by Anthony.

Mr. Davis: There are multiple copies. There are counterparts that are signed.

Trustee Quinlan: But did all these people sign the petition?

Mr. Davis: Yes.

Mayor Kinnally: We only have one. We do not have the multiples.

Village Attorney Stecich: They are after Anthony's. The Trustees do not have them, but they are in my copy.

Mayor Kinnally: But even so, you are modifying it. It is cleaner, it is going to be easier to focus on, if what you are asking us to act upon is in writing.

Mr. Davis: Okay.

Trustee Swiderski: I completely concur.

Mr. Tarricone: The petitions are in Section 1.

Mayor Kinnally: I understand, but everything is not here. But it would not change my approach.

Mr. Davis: We will make sure to check the copies with the clerk to make sure that they are all in there. My copy has them all in.

Mayor Kinnally: If you could sharpen it and then come back. I am not looking to put this off, but we should not act on something where it has been modified a little bit.

Trustee Swiderski: As strongly as I feel you have a right to petition us, I agree with Lee. It needs to be sharply defined. Petition us, but make sure you know what you are petitioning about and I will feel as strongly about your right to petition.

Trustee Quinlan: Are you withdrawing this petition?

Mayor Kinnally: I do not think it is appropriate to act on it because it is not what he is looking for.

Trustee Quinlan: But I did not say that we should act on it. I asked him if he is withdrawing his petition. He can do that voluntarily. If he is now changing his application from the entire zone to only the zone that is now in yellow, then it would be proper to withdraw this petition and start with a new one.

Mr. Davis: I would prefer to take that under advisement. And if the Board takes no action tonight, it takes no action and we will advise the Board how we wish to proceed rather than to try to decide everything on the spot.

Village Attorney Stecich: My read on that would be it is not a petition for the entire district because it was not signed that way in any district. So whether they withdraw it or not, it is not a functional petition so do not worry about it.

Trustee Quinlan: I am not worried about it, but the question is whether it is still pending before us.

Village Attorney Stecich: It is not a petition.

Mr. Davis: I think your position is, it does not comply with the law at present.

Trustee Quinlan: It does not comply with your request at present.

Trustee Swiderski: That is right.

Mayor Kinnally: All right, so you will come back.

Mr. Davis: Yes. Thank you for your time.

Trustee McLaughlin: I hope you will make every effort to reach out: if you intend to include the neighbors in any way, that you will see that they understand exactly what is being done in their name.

Mr. Davis: There has been some in-depth discussions about that, for sure.

Mayor Kinnally: And in the interim he is going to make available at least two copies of the binder.

Mr. Davis: Yes, and you can be assured that the petition will be only from those people. And many people would have come out tonight, by the way, in favor of this if this were a public hearing. So when and if there is a public hearing you will hear people in support of it and you will hear the people who have signed the petition.

VILLAGE MANAGER'S REPORT

Village Manager Frobel: Since my last report on the Community Center we have made some good progress. On the second floor, most of the sheet metal ductwork for heating and cooling has been installed. The building has scaffolding throughout. Masons have begun working to the rear and the basement area of the building. Most of the roof structures are in place. They will be doing their final touches, hopefully, within the next several days. We have got carpenters on site. The drainage has been complete except for a little work that remains to be accomplished in the front of the building. There has been some slippage in our scheduling, but we have no official notice from the contractor that we will not be able to make the substantially complete deadline as previously stated.

You heard from a homeowner at 142 Lincoln a couple of meetings ago, Dr. Dorsky. He has submitted some plans for some improvements to his property. This evening the superintendent of public works met with the doctor and the family to go over what the Village is prepared to do for him. We are moving quickly towards reaching a solution that is going to satisfy him and help him with his drainage problems.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: I have received another call from BP/Amoco asking us to address the siting of the roads and some of the infrastructure. I am hoping that we can have a work session on this so we will be ready to address this at the meeting on Oct. 17. On the 17th I had hoped that we could discuss the Hutton Associates assessment on the existing buildings.

Dave Kalet has asked if he can come then. It might be a good opportunity to deal with a number of outstanding things.

My understanding also is that in October the DEC may be ready to issue a PRAP that will have with it the public comment and the public hearing on the PRAP. The message that I am getting is that the process is proceeding, and it is time for us to start reacting to some of the things they have been put in front of us. Instead of our regular meeting on Oct. 3 as the agenda is very light, my suggestion is that we have a work session to deal with the siting of some of these improvements and have a discussion without BP about the building report. Is the sense that it would be time well spent? All right, so we will have a work session.

Trustee Swiderski: But then the output of the work session, just to be explicit, is to provide some guidance to BP about where roads would likely be so they incorporate that into their planning?

Mayor Kinnally: Yes, they are at that place in the design phase now. And also to discuss the Hutton report, without taking any action.

On MOTION of Trustee Apel, SECONDED by Trustee McLaughlin with a voice vote of all in favor, the Board of Trustees voted to canceled the October 3 Regular Meeting of the Board of Trustees, and to substitute in its place a work session.

Planning Board Chairperson Speranza: If you are looking for another agenda item for your work session, I would be more than happy to go through the large tracts study.

2. Proposed Fine Arts Commission

Trustee McLaughlin: I have a resolution for you to consider:

“Resolved: that the Mayor and Board of Trustees establish a Village Arts Commission with seven members serving five year terms, to be appointed by the Mayor with concurrence of the Trustees. The Village Arts Commission would report to the Village Manager, be funded by the Village, and would be responsible for getting grants for the support of its work. It would promote and stimulate interest and participation Village-wide in arts events in public venues. It would work not only with the Village, but with the schools, private corporations, and individuals and other community groups.”

I had a talk with the cultural commissioner of the Town of Greenburgh, which is a position that has existed for 49 years. She gave me many pieces of advice about how such a

commission might work and the kind of people who should be on it. But it seemed to me that her advice should not be in the text of the resolution, that the text should be as simple as possible. It seems to me that the wording here gives such a commission the greatest possible latitude. It is creating its own responsibilities and finding funding and partnership for them.

Mayor Kinnally: I do not think we should say it will be funded by the Village because whatever funding is necessary would not be necessarily for the Village arts commission; it would be for any programs that the Village arts commission might come up with. And I do not see that the Village arts commission would be responsible for getting grants. The application would go through the Manager or the Village itself. So I would say that they would be involved in...

Trustee McLaughlin: Assist the Manager in obtaining grants.

Trustee Swiderski: In fund-raising.

Mayor Kinnally: Yes, in fund-raising. The applicant would have to be the Village and, generally, the applicant is the Manager. He signs off on it, or the Mayor. It is in the same vein as with the quarry committee, operating under an umbrella, but the funding aspect and the getting the grants aspect should remain with the Village. But I have no problem with changing that to saying that they would work to obtain grants.

Trustee Swiderski: Assist the Village Manager in fund-raising. My one-word addition would be the word "staggered" before five-year terms.

Trustee McLaughlin: Yes, staggered five-year terms. Would report to the Village Manager and would assist the Manager in fund-raising for the support of its work.

Trustee Quinlan: Instead of concurrence of the Trustees, the word that has been used in the law in the past is the consent.

Trustee Swiderski: Could this be a resolution at our next meeting rather than another reading of this?

Mayor Kinnally: I would say let us put it on for the next time. It does not require a hearing, does it?

Village Attorney Stecich: No, it does not.

Trustee McLaughlin: Would this be a point to ask people in our TV audience who might be interested in serving on such a commission to begin sending resumés?

Mayor Kinnally: Sure.

Trustee McLaughlin: Such a committee will need a publicity person, somebody who can provide financial oversight, an all-round organizer, a person who knows about grants and fund-raising, as well as hands-on arts people, people interested in the arts. But with seven members, we can cover those responsibilities.

Mr. Metzger: The way the board might operate has not been fleshed out yet, but I was curious. Let us say that the Board recommended that a certain artist display their photographs at the Community Center, but somebody on the Board of Trustees had a problem with the photographs that were being displayed. Who would have final say in whether those photographs would be shown or not? Most of us are aware that there have been exhibits, for example in Brooklyn, where certain people were outraged. I am a firm believer that art is not something that should be decided on by everybody. I know that sounds a little undemocratic. There will tend to be some art that is going to be offensive to some people but other people feel it is great art. What I would like to see not happen here is to have everything beyond a certain level that everybody says, well, it is kind of nice. I would like to have some edgy artwork in the Village. Has anybody thought about that?

Mayor Kinnally: No, I have not. It is not just the type of art, but it is the placement of the art. If it was cutting edge, the Community Center may not be the place for. So it is not just content, but it is location.

3. Steep Slopes

Trustee Quinlan: I asked this to be put on for discussion because it has come to my attention in various meetings and from things that have been happening in the Village in terms of building on our steep slopes that the current Steep Slopes Law is somewhat ambiguous and does not meet the purposes and intent of protecting our steep slopes from environmental interference and adjacent property owners' rights.

I am only asking for adding a few words. The purpose of my proposal is to have the Steep Slopes Law applied not only to subdivisions but to lots. The way the law currently reads is that there is a certain set of restrictions for subdivisions that do not apply to lots. It is a little ambiguous in terms of the applicability. I agree with Marianne's interpretation of this law that she has given in front of the Planning Board that there is a difference between what applies to steep slopes and what applies to lots. My question is, why should there be?

A subdivision is a large piece of property that has been divided into buildable lots; no more, no less. If the steep slopes apply to a subdivision, which is just a large piece of property, whether it be two or six or eight lots, that has been divided into buildable lots, why should it not apply to lots themselves? We do have some rather large lots that are on some rather steep slopes. I would like everyone to think about it, look at it, talk to your constituents, drive around the Village and look at some steep slopes. I would like to send this to the Planning Board briefly, despite my comments earlier about the process, because they had a large hand in writing the Steep Slopes Law many years ago. But that can be voted up or down if you do not think it is necessary. I would also like to set it down for a public hearing. It would appear that this needs a public hearing, in changing the law.

Mayor Kinnally: Absolutely. And there is SEQRA involved, too.

Trustee Quinlan: Was there SEQRA involved in the original?

Mayor Kinnally: Yes.

Village Attorney Stecich: The original one was so long ago, but you definitely need SEQRA on this.

Trustee McLaughlin: Marianne, or Mayor Kinnally, would either of you have any idea why it was drafted that way in the first place?

Village Attorney Stecich: I do, very much. The Planning Board was very torn at the time and finally came down on this compromise. The thinking was, and this is something you should bear in mind, if you apply it to every lot in the Village, it puts a huge limitation on anybody's doing anything on their lot.

Trustee Quinlan: Doing anything on an undeveloped lot.

Village Attorney Stecich: No, it would apply also to any lot that has a house on it. That was the concern, because there are so many hilly lots in Hastings it would make it impossible for a large number of property owners to do anything with their lots because they would already be nonconforming.

Trustee Quinlan: But let us say we are not talking about a knock-down and a rebuild, although it would apply, but we are talking about additions: a porch, a great room.

Village Attorney Stecich: The vegetation is a real problem, with any kind of regrading or repaving. I am not making the argument for or against it. Diggitt was just asking me what the concern was.

Trustee Quinlan: But there are special hardship exceptions. So it would be like going for a variance.

Village Attorney Stecich: Yes.

Trustee Quinlan: Exactly. So it does not say you cannot build. Everybody on my street has a nonconforming lot, and if we want to do anything we need a variance. There are certain things that we could do without variances, but almost everything needs a variance. Before you would build on a steep slope that might be environmentally harmful or not in the best interest of an adjoining neighbor, you could apply. And if you could not do it, you could apply for the special hardship exemption.

Village Attorney Stecich: Correct, but you should bear in mind that the way it is written now, which is what you would have to live with if all you did was add the word lot, it is more than just building. It is regrading, or let us say you decide to pull up all your ivy or something. You could not do that.

Trustee Quinlan: Where does that say that you could not pull up all your ivy?

Village Attorney Stecich: Strip the vegetation, 249-5, without appropriate measures to prevent erosion.

Trustee Quinlan: Exactly. So if you wanted to rip up your ivy and hurt the environment you would have to get an exemption.

Village Attorney Stecich: No, you could not unless you were going to put something else there. I guess you could come for an exemption.

Trustee Quinlan: It is not that you cannot do it, it is just that you cannot do it if it is going to cause erosion difficulties. We are not going to argue about it now.

Mayor Kinnally: We are not. You are.

Trustee Quinlan: I take exception to that.

Mayor Kinnally: What we should do is two things. We should take a look at this; this is the first time we have seen it. But we should get advice from counsel on this.

Trustee Quinlan: I do not know why we need advice of counsel.

Mayor Kinnally: Let me modify that. I would like advice of counsel on this because it does have impact on certain other things in it. It may help us in our deliberations or what we want to do. You may not need it, but I need to have it.

Trustee Quinlan: Okay, fine.

Mayor Kinnally: And I do not want her to talk just to me about it. Everybody else should have the benefit of her wisdom. After this meeting, or we can do it at another time.

Trustee Quinlan: Let us go back to the SEQRA process. When this was originally passed in 1993, was it neg dec or pos dec?

Village Attorney Stecich: I do not remember. This is the sort of thing that probably could be neg dec'd because it is almost inconceivable that it would have negative impacts on the environment. But you have to go through SEQRA and do the EAF. It will be a little tricky because it affects the entire Village. You are going to have to do the long-form EAF, and it is going to ask a lot of questions like how many properties are going to be affected. It is not just filling out a form.

Trustee Quinlan: Do we have the old forms from 1993 that we could take a look at?

Village Attorney Stecich: I doubt it. Also I think it could have been before 1993.

Mayor Kinnally: No, it was adopted Local Law Number 1 of 1993.

Village Attorney Stecich: People were not as careful about SEQRA as they have been since. So whether it was done or not, I do not know. Although I drafted the law, it was Mr. Ponzini who was the attorney at the time.

Trustee Quinlan: I would like to see if the majority of the Board would like to move forward on this, so what would be the proper procedure for that? If the majority of the Board is satisfied with the Steep Slopes Law as it applies now to subdivision and not lots, then that is the initial question we have to answer. How would we do that?

Mayor Kinnally: Generally with something like this, we would not do it in a vacuum. We would get advice of counsel and we would get the reaction of the Planning Board. They have lived with it and they have wrestled with it. Like everything else, these laws evolved. I would want to get their input on how they wrestled with it, whether it works as it exists now, and whether this is the right way to go or if there are other directions.

Trustee Quinlan: I agree with you. I think this would definitely be something to go to the Planning Board. The only question I have, and it will be my responsibility to watch it, is that it does not die there.

Planning Board Chairperson Speranza: This is not a bad thing. We have reviewed the steep slopes several times in the past, and there was no majority sense to change the Steep Slopes Law. You have received some different language amending the existing steep slopes ordinance. We have excerpts from other Steep Slopes Laws throughout the county which counsel and other individuals have compiled. We would like to go back to them. It is one thing to say if you want to put on a rear deck and your property is on a slope, go through the hardship exception. That is not a good way to legislate. You do not want to do everything by exception. We now have tools in the Village, particularly in the form of GIS, where it should not be that hard. I am not a technical person, but we will figure it out. There should be a way to look at where all the steep slopes are and exactly how many would be impacted by something so dramatic. That helps in the evaluation for SEQRA.

Trustee Quinlan: Would you be willing to do that at the Planning Board?

Planning Board Chairperson Speranza: Not Thursday, but yes, because this has come up several times over the years, both with respect to the differential between the subdivision and the lots, as well as what are the impacts that we should be looking at. Is it really just water and erosion control, which has always been the interpretation by many of the Board members, that other things did not count as much?

Trustee Apel: I do not know when you got the laws of different communities, but you might want to see if they were changed because they were not happy with it, or tweaked it, or did something else. Everyone's experience is helpful for us.

Village Planner Witkowski: Another thing that would be useful in this study would be the fact that the county will be providing us with some detailed contours. The topo maps we have now do not have enough detail to get a good reading on where the steep slopes are. But within the next few months or so we will be getting another layer for our GIS that will show more detail on the slopes and the topography.

Trustee Quinlan: So can we send this to the Planning Board tonight, or do we do that later?

Mayor Kinnally: I do not know. Let us get guidance from Marianne, let her think about it.

Trustee Quinlan: So we can put this on for October 17 if it is not too crowded, or the next one. We are deciding whether we are going to send it to the Planning Board. That is a big decision, but it is not a difficult one.

Mayor Kinnally: Let us put it on for October 17.

Trustee Swiderski: A petitioner came before the Board to ask for a modification to the Steep Slopes Law and we are following the process by sending it to the Planning Board. Without being self-righteous about it, I want to point out I like that process. It is a good thing.

4. Other

Mayor Kinnally: Anything else on Board discussion and comments?

Trustee Apel: Ridge Hill?

Mayor Kinnally: I am not so sure I want to publicly air my comments on Ridge Hill. I received an e-mail this afternoon, that I did not read or print out, having to do with Ridge Hill. There is going to be another settlement conference before the court on October 12. Our counsel is soliciting our reactions and thoughts well before then. I believe everyone has the letter. If not, maybe we can get it and everybody can take a look at it. It outlines what happened at the meeting. Without giving away any secrets, very little progress has been made and there is recalcitrance on the part of the developer.

Trustee Swiderski: Village Officials Committee: We have asked the court to reconsider their decision, where we were rejected in our request to intervene on the side of Greenburgh. That has gone before the judge, and the documents for an appeal, should our request be rejected, have been prepared as well. Meanwhile, the litigant continues his divisive, pernicious course of action before the Town of Greenburgh Board and continually is pushing for items to be pushed onto our budget. Every week there is something new. It is an ongoing effort to try to burden the villages with extra costs, and it is without end.

Mayor Kinnally: Without going as far as saying we told you so, our reluctance when we went into this process was that not everybody had the same goal or the same commitment to the mediation process. Events have borne that out, and Peter has spent a lot of time on this.

We were perceived in the beginning as being one of the parties that was blocking this, but I think events have shown that the basis for our skepticism was well founded. It is quite clear who is behind it and it is just incredible.

Trustee Swiderski: If you are not at these Town Board meetings, you do not have the representation in front of the Board necessary to contest these claims that we should all be paying for things. They get worn down, and it is terrible, it is amazing. Never discount one person being able to do an incredible amount of damage if they set their mind to it, especially if they have a legal degree.

Trustee McLaughlin: What is the status of the Pace study?

Mayor Kinnally: Yes, that question was asked by a few other members of the VOC, and we are awaiting a response.

Trustee Swiderski: We may be meeting next week if everybody can come to agreement on a day, which is always tricky with village schedules. Six communities have to coordinate their efforts to meet to contest the singular efforts of one individual. It is amazing. You think of the manhours, it is a travesty.

Trustee McLaughlin: Do you want to talk about this? People in my neighborhood might be interested. Or just announce that it has happened.

Mayor Kinnally: A cease and desist order went out to the owner of 495 Warburton Avenue, which is next to the burnt out building, declaring the building unsafe and hazardous by the fire department and the Building Inspector, with direction to remove all belongings and combustible material from the property and secure all access to the building no later than September 29, 2006. We will be putting up a sign: the structure is unsafe and its occupancy has been prohibited by the Village of Hastings-on-Hudson Building Inspector and the fire department. We will prevent the utilization of the building. It says "be further advised that unless an action satisfactory to the Inspector and the fire department is taken to remedy the violations by October 30 the Village may start proceedings to condemn the building and exercise eminent domain and any other options available to the Village under law."

Mr. Metzger: Mr. Mayor, Trustees, and especially Marianne, I am sorry the hour is so late. I want to offer an apology to you for statements that I made at the last meeting challenging your interpretation of a state law regarding term limits in the Zoning Board of Appeals. I had opportunity to go back. I had misinterpreted that law when I read it originally. I came before you making statements that were untrue, and I apologize for those. I hope I did not cause you any undue concern. At some point in the future I would like to discuss those items

with you. I have some questions about the way the law is written and interpreted. I think there is some gray area, but I would love to discuss that with you at some point. Again, my apologies. I hope I did not cause you any distress.

Village Attorney Stecich: Thank you.

Mayor Kinnally: Thank you. That is very kind of you.

Trustee Swiderski: Have we ever gotten an admission of that sort in our history?

Mr. Metzger: It may not be the last.

Mayor Kinnally: It is very generous of you, thank you.

I received notification that there will be a meeting with Alfreda Williams at the Town Hall this Thursday of the consortium dealing with cable television. The e-mail wishes to extend the invitation to one or two members of the Board of Trustees who would like to attend. Bob Perlstein will be there. The purpose of this is to compare notes, now that the public hearings have occurred, to see where everybody is in the process, where things stand in the individual negotiations, and to have a more unified effort in coming up with a franchise agreement that makes sense and protects us.

I do not need a motion for an executive session, but I would like to announce a meeting with counsel for advice of counsel immediately following this meeting.

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 11:10 p.m.