

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
BOARD OF TRUSTEES  
REGULAR MEETING  
DECEMBER 18, 2007**

A Regular Meeting was held by the Board of Trustees on Tuesday, December 18, 2007 at 8:05 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Deputy Mayor Diggitt McLaughlin, Trustee Peter Swiderski, Trustee Jeremiah Quinlan, Trustee Danielle Goodman, Village Manager Francis A. Frobel, Village Attorney Marianne Stecich, and Village Clerk Susan Maggiotto.

**ABSENT:** Mayor Wm. Lee Kinnally, Jr.

**CITIZENS:** Twelve (12).

**EXECUTIVE SESSION**

**Deputy Mayor McLaughlin:** We need a motion for an executive session.

**Trustee Quinlan:** Before that motion is made, the first one is for advice of counsel?

**Deputy Mayor McLaughlin:** Yes.

**Trustee Quinlan:** I keep asking the same questions. Do we have any idea why this particular advice of counsel has to be held in executive session, which is a meeting that is not transparent and open to the public?

**Deputy Mayor McLaughlin:** It is Mark Chertok, who is not here tonight. Fran, perhaps you can explain it.

**Village Manager Frobel:** I really cannot. It had to do with the company's willingness to participate in cost sharing for some engineering work.

**Trustee Quinlan:** And could someone explain to me why that has to be done in executive session and cannot be done in public?

**Village Attorney Stecich:** I do not know because I have not spoken with Mark about it, but I have to assume because it deals with pending litigation with ARCO.

**Trustee Quinlan:** The pending litigation between who? I am not aware of any threatened or pending litigation between the Village and ARCO.

**Village Attorney Stecich:** There is a pending settlement with ARCO and the Village.

**Trustee Quinlan:** I thought we had a consent decree, already settled.

**Village Attorney Stecich:** And I am assuming that is what this is about. I told you I do not know. I am just taking a guess.

**Deputy Mayor McLaughlin:** In the letter that Susan sent telling us that we should plan on an executive session, she gave Mark's phone number and invited us to call him if we had any questions.

**Trustee Quinlan:** I do not have a question of Mark Chertok. I have a question of whether I should vote in favor of having an executive session, which is basically a private meeting out of the public, for advice of counsel. Which I believe, and I have spoken to this before, has been used historically unnecessarily. So I am asking for some justification for it, but if there is not justification and we do not know then I will vote yes, but it better be important and better involve litigation. That is all I am going to say.

**Deputy Mayor McLaughlin:** Jerry, you have to vote as your conscience tells you, so if you vote against it I understand what your position is.

**Trustee Quinlan:** Diggitt, I really do not need you to tell me how to vote on my conscience. I will vote as I see fit, but I do not need you to lecture me on how to vote. So I would ask you to refrain from doing that in the future, please.

**Deputy Mayor McLaughlin:** I will not lecture you, Jerry.

On MOTION of Trustee Swiderski, SECONDED by Trustee Goodman with a voice vote of all in favor, the Board scheduled an Executive Session immediately following the Regular Meeting for the purpose of advice of Village environmental counsel via telephone, and to discuss personnel matters.

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

**Trustee Goodman:** If we feel, with advice of counsel, that there is information that we can disclose to the public I ask that we do that.

**Deputy Mayor McLaughlin:** I do not see any reason why not.

Some people are here tonight to speak to the leaf blower ordinance. At last week's meeting we were under the impression we would be having a public hearing tonight, but we did not call for the public hearing. We have a resolution on tonight's agenda that calls for a public hearing on January 8. All we are going to vote on is whether or not we have a public hearing on January 8.

**Trustee Goodman:** At prior meetings, when the leaf blower issue was not on the agenda, we permitted individuals to speak under public comments. We should make that same offer.

**Deputy Mayor McLaughlin:** At this point we do have a draft ordinance. What would be the situation if we listen to them, changed our hearts on one thing or another, and decided to redraft the ordinance? When would we do that? We would do that on January 8 instead?

**Trustee Quinlan:** My understanding is we could do that any time. After the public hearing we could still redraft the ordinance.

**Deputy Mayor McLaughlin:** And then have another public hearing on the newly-redrafted ordinance?

**Trustee Swiderski:** It depends on the significance of the changes to the ordinance.

**Trustee Quinlan:** As I said at the last meeting, I am keeping a complete open mind until I hear what the pros and cons are at the public hearing. So that ordinance can be changed, and might be changed, after the public hearing.

**Deputy Mayor McLaughlin:** All right. Since it is not on the agenda in terms of action tonight, discussion of leaf blowers can come under public comments. Also, at the end of Board discussion and comments, if any Trustees have reports from their liaison committees that would be a time to give them.

## **APPOINTMENTS**

**Deputy Mayor McLaughlin:** The Board of Trustees has appointed the Village's Quadricentennial Committee. The appointees are Sheila Benedis, Meryl Marcus, Jeanne Newman, Tom Patrick, Susan Rutman, Patty Speranza, and Jim Stadler. These seven

wonderful souls have offered to manage, coordinate, and otherwise direct the events that will take place in this Village in the year 2009, which is the 400<sup>th</sup> anniversary of Henry Hudson's exploration of the Hudson River and of Champlain's discovery of the lake that bears his name. We thank them very much for the services that they have offered to give the Village.

### **APPROVAL OF MINUTES**

On MOTION of Trustee Goodman, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Minutes of the Executive Session of December 11, 2007 were approved as presented.

### **APPROVAL OF WARRANTS**

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

Multi-Fund No. 36-2007-08	\$ 15,217.71
Multi-Fund No. 39-2007-08	\$1,253,855.64
Multi-Fund No. 40-2007-08	\$ 117,793.69

### **PUBLIC COMMENTS**

**John Gonder, 153 James Street:** At the last meeting it seemed like the Board was all against doing anything about the bus that is parked on the property on James Street. I do not give up easily. I know Mayor Sheldon Wagner. I spent over one year to get James Street parking on one side. It took me a year, every meeting I came to faithfully. And back then you could not talk at 8:15. It used to be 11, 11:30, the last thing on the agenda. So I give this Board a little credit that I can talk a little earlier. But it took me over a year to get parking on one side. You could not get a fire truck down with cars parked on both sides, you could not get a garbage truck down, and it was just terrible. But it took me over a year, so I do not give up easily.

I am still after getting this bus removed. You had it removed once for about five months and then it is back and you have more excuses. I worked with a Marine, I think from the Seabees, and his motto was Can Do. I think the Board is Can't Do. I know if you lived on South Clinton and Ravensdale, and somebody at 11 or 7 South Clinton had a bus parked on their property, something would be done. Or if you lived up on Villard, opposite 11 or 7, or 37, the apartment there, if you had a bus there something would be done about it. But in Uniontown I do not think you are worried about it.

I just want to let you know this fellow did move his bus one time for five months. He lives in Ardsley, he owns the apartment in Hastings. However, they must have flogged him, caned him, or tarred and feathered him out of Ardsley to put it back into Hastings, and he is getting away with it. It is a Florida license plate. It is never inspected because of the law. But I still think you can change an ordinance, and that is in your will if you would just get together and try to get an ordinance that says it is a bus. It has lights like a bus. You tell me that is illegal but you cannot do anything until he moves on the road. Thank you.

**David Skolnik, 47 Hillside Avenue:** I am wondering if you received a letter in your packet.

**Deputy Mayor McLaughlin:** Yes, we did.

**Mr. Skolnik:** It is fairly straightforward, and I am wondering if you are able to address it. The question it raises is whether there is still a way of amending what was prepared to send to Albany, or whether it is necessary to even worry about it at this stage. Whether even if you looked at my submission and approved of it, whether there is some point where that could be incorporated by us into the proposal, or whether it is completely out of our hands.

**Village Manager Frobel:** We did send the information on to the state Department of Transportation. The letter went out as directed. If you have some additional material, when the state begins their engineering study perhaps you could share that with them at that time.

**Deputy Mayor McLaughlin:** You are appearing before the Safety Council Thursday night, are you not?

**Mr. Skolnik:** I am. And what I submitted to you is a part of that larger proposal. But my question to you was not to address the details of this, but to understand the relationship between the fact that the document did go to Albany. It is a question that I think has come up in a few different forms recently.

**Deputy Mayor McLaughlin:** Once something goes to Albany, is that it with that piece of the process? I do not know. Do we know, when we submit a letter to Albany?

**Trustee Goodman:** If the Safety Council wants to refer to Mr. Skolnik's proposal, adopts it in some form, and sends it to us I would think that we could send a supplemental letter to the DOT asking the suggestions about the Olinda traffic be added to our initial request.

**Deputy Mayor McLaughlin:** It would seem to me that we could do that.

**Village Manager Frobel:** I do not see why not.

**Trustee Goodman:** We are going to have another work session on the transportation plan. I would think we could freely amend, and supplement, our initial request. I want to thank you very much for being diligent and providing us with another option.

**Deputy Mayor McLaughlin:** You have provided us at times with information that nobody else has. That is an incredible addition to the discourse. But it seems that our consensus is, and Mr. Froebel agrees, if this comes back to us recommended by the Safety Council, then we can go ahead and make that presentation to the Department of Transportation.

**Mr. Skolnik:** That is fine. I am proposing to the Safety Council something that is maybe not within their purview to deal with, a task force. I will not go there at this point, but I am waiting to see if, based on how they address this issue on Thursday, I would pursue that.

**Sean Ryan, 10 Highland Avenue, Dobbs Ferry:** I have not seen the latest revision of the leaf blower proposal, but my understanding was that for one month in April and in October and November we would be allowed to use leaf blowers.

**Trustee Swiderski:** November and December.

**Mr. Ryan:** I am speaking on behalf of several local landscapers. We are more than willing to work with the proposal with the Village and with the environmental board, but it does not seem feasible for us to complete our work with the time restrictions that you are giving us. The weather conditions obviously dictate our season. This year, leaves did not fall. We are still not done with leaves. I am not even close to being done. I would be working until January if the snow didn't come. Now I have to do it in the spring, where one month is not even remotely close to enough time to do the work. And the cost of this would not be fair to pass on to our customers. To send guys out to rake a lawn could triple the cost. I take care of probably 70 lawns just in Hastings, on top of all the fields and parks in Hastings. It would take me a month just to do the parks and fields if I had to do it all by hand. It is time-consuming, and I would have to hire day laborers that I do not know and do not trust. I do not want to do that. It causes more trouble than it is worth and it would really impair my business if I had to do everything by hand. When we go to a house we are responsible for cleaning the street, the sidewalks, and the driveways. You cannot do it with a rake. It just does not come clean.

It is unfair to us to be exposed to excess liability on sidewalks. If we leave the leaves and everything there we are responsible for it. If someone slips and falls it falls on our shoulders and our insurance. Every other trade makes some sort of pollution. It would be unrealistic to ask a homebuilder not to use cordless drills because the batteries are not good for the

environment. What do you do if there is a hurricane in the middle of the summer? How do we clean up from that? Would we be allowed to use leaf blowers in the case of emergency? I do not know if that has been discussed or not.

**Deputy Mayor McLaughlin:** Yes, we have.

**Mr. Ryan:** A lot more consideration needs to be given to the situation, as it is more complex than what is presented to you from people who are opposed to these machines. I am probably the first one that has talked to you about why we should keep them. I am all for restrictions. But to eliminate them for nine months out of the year is unrealistic and I am sure every other contractor that works in town feels the same way. It is just not fair. You are taking away our livelihood. I have to work two jobs to live around here. I work for a lot of elderly people and people on fixed incomes that could not afford to pay me what I need to stay in business. It would knock out a quarter of my business.

We are sending out fliers to all our customers this morning to get their opinion on this law. I would ask if we could have the public hearing later than January 8, to give them enough time to get their opinions back. It is already December 19. I do not know if they would have enough time to get their opinions out, and I think it would be fair.

**Deputy Mayor McLaughlin:** If we had a hearing on the 15<sup>th</sup> or the 22<sup>nd</sup> that means that you would then have to adjust to the law later on. It seems to me we are hitting your schedule no matter what we do.

**Mr. Ryan:** There is no question I would have to adjust. It is just unfair to our customers that are going to have to pay for that adjustment. I cannot hire 15 guys to come in just for the fall. I could not find 15 guys just to come. Just the fields alone would take me a month to rake. If the leaves do not fall early in October, what am I supposed to do in October? It would cost an obscene amount of money just to take care of the fields and the parks. In the summertime I have to blow off all the baseball fields for the Little League. Draper Park, I blow off all the streets, all the parking lots in town. That stuff has to be in consideration because there is no other way to clean it that I am aware of.

**Trustee Quinlan:** Mr. Ryan, thank you for coming. I am glad you are finally here. I was on the Zoning Board for 10 years. I believed in a philosophy, and I believe the same thing here: I am not going to put my judgment over the people I represent. I listen to both sides and then decide what I think the majority of the people would like, within reason. You are the first person that I recall who has spoken in favor of the industry on this issue. At the last meeting I said I would compromise with spring. I was asking for six weeks in the spring. What would you say would be a reasonable time in the spring?

**Mr. Ryan:** I know Yonkers just banned them for the summertime. When most people are home in the summer they do not want to hear the noise and the dust. I think that was fair, where they gave you the whole spring to catch up with all the work that you had to get done. They banned it from June 1 to September 30.

**Trustee Quinlan:** We have seen other laws that have done that, and that is not something we are considering now. I know it is something that you would like and some other towns do it, there is no doubt about it. But again, let us say that you are getting two months in the fall. As far as I am concerned, what two months in the spring would you consider?

**Mr. Ryan:** April and May are usually the busiest. It all depends on the weather. If we get a snowstorm at the end of March, beginning of April, then what we can do, we do. By the time the snow melts you lose a week, a week and a half, so that is crucial. There is no way you could get it done. If I had to pick two months to get it done, I would say April and May.

**Trustee Quinlan:** And in the fall, if you had to pick two months?

**Mr. Ryan:** I would say the last two weeks of October, November and the first two weeks of December.

**Trustee Swiderski:** Mr. Ryan raised an interesting question about liability if he does not clean the leaves off a sidewalk. What is the story about that?

**Village Attorney Stecich:** I was surprised to hear that the landscapers could be liable. But it is hard to answer that question in the abstract, Peter. You would have to know precisely the questions and whose liability.

**Mr. Ryan:** It falls under the same thing as snow and ice. Whatever I clean up I am responsible for, is my understanding. Leaves get slippery and wet.

**Trustee Swiderski:** I would assume the homeowners.

**Village Attorney Stecich:** Yes, it is the homeowners. I never heard that, but there may be some case out there.

**Mr. Ryan:** I do commercial work, and I am responsible. I have to pay an obscene amount of money in insurance to cover if someone slips and falls. Do I have to carry that through the fall now? You would probably cringe if you knew how much I paid for snowplowing insurance, and now that is going to carry over into the fall.

**Village Attorney Stecich:** Peter, I will look into that if you want. I cannot quite see what the basis for liability is, but I will take a look at it.

**Trustee Goodman:** As someone who practices negligence law, under premises law contractors can be included in lawsuits for ice and storm removal. They have to do the job properly. If he is saying a basis for liability is that they do not get everything up because they do not have the equipment that they ordinarily do, they could be brought in along with the homeowner.

**Mr. Ryan:** Regardless, they are going to try to sue me. Whether I win or lose I am paying the lawyers, and insurance that is obscene.

**Trustee Quinlan:** We have had some discussion about who to make liable for the fines if there is a violation. It has been my position that it should be the property owner, and there has been some debate on whether it should be the operator or the property owner.

**Mr. Ryan:** I have to agree with you because the people are going to ask my guys to do it.

**Trustee Quinlan:** So you think it should be the property owner?

**Mr. Ryan:** Yes, because they are going to come out and ask my guys to do it and I am not going to be there to tell them no, and they are going to try to keep the customers happy.

**Trustee Quinlan:** Mr. Ryan, you know I am a lawyer. And it is always good when a lawyer knows the answers to the questions he is going to ask. I probably guessed that the answer was going to be the property owner. But I just wanted to know because that has been a debate and we have heard it from different people.

**Mr. Ryan:** And homeowners are not going to be happy with that either.

**Trustee Quinlan:** I live on Hillside. My property is about 50 feet wide by 150 long, and the house takes up a good portion of the lot. Let us say you were going to come to my house and do my leaves. How many men would you typically send out to my house?

**Mr. Ryan:** Four.

**Trustee Quinlan:** And they would have leaf blowers, right?

**Mr. Ryan:** Yes.

**Trustee Quinlan:** How long would it take those four men to rake my lawn? It is 50 feet wide and 150 feet deep, and the house probably takes up at least 30% of the lot.

**Mr. Ryan:** To rake it probably 45 minutes. If I did it with blowers we would be done in 15 minutes. I just could not do the volume of work that I need to get done to make a profit to pay my employees and still come out fairly on top.

**Trustee Quinlan:** So you do not think you could make a profit? I am not going to ask you what you charge because that is not a fair question and I am not going to ask it. But to do my yard in 45 minutes, you still could not make a profit by what you were charging.

**Mr. Ryan:** You would have to pay a lot more. My customers do not like paying what they pay now, and I am fairly reasonable. Probably a third of my Hastings customers are senior citizens on fixed incomes and they just would not pay me, so I would lose a third of my business in Hastings. They have already said that they cannot afford any more. I have been doing their lawns for six years and I have not raised it a dollar because they cannot afford it. And how am I going to turn down a senior citizen in town. I will not do that.

**Trustee Goodman:** I have a question about the times you could use the leaf blowers. We are saying 9 to 5, Monday through Friday. I would like your opinion on the timing.

**Mr. Ryan:** Nine o'clock seems a little late. We start work with my guys at 7:30. They get coffee, and they are on the road by 8 o'clock. If we have to wait an hour to use a leaf blower, we are already getting stuck with time restraints. Other contractors can jackhammer the street up at 7:30, but we cannot use a leaf blower? Is that fair to us? The majority of the complaints are from a handful of people in town. I know some of them are the biggest hypocrites that preach the environment but do not practice what they preach. I have gotten complaints in my office from people screaming they work at home, they have to listen to this noise. I agree with them. But if they worked in the city or in an office they have to listen to jackhammers and all the noise. So to pick on me, when somebody can build a house next to you and bang hammers all day, it is not fair. You are picking on one trade and not being fair to everybody else. You are letting everybody else work whenever they want. At 7:30 in the morning you can jackhammer a street up, use a machine, use a backhoe, do whatever you want. But I cannot start a leaf blower that is certainly quieter than a jackhammer? What happens next? Are they going to pick on me for a weed whacker or a lawnmower? And where does this stop? They all run on the same motors. You are picking on one trade, not everyone. Every trade in the world makes some kind of pollution. Cars make pollution. Unfortunately, you are picking on us because the manufacturer is not making the right equipment.

**Deputy Mayor McLaughlin:** Pelham has a restriction on how many can operate at one time. People have complained about that. They say when the landscapers come, there is a team of four or five or six and they are all going at once. It may be that the cumulative effects of a bunch of leaf blowers is a lot worse than six people using leaf blowers on six separate lots. Is there a way that the law could work with you so that you did not have teams of four or five or six using them at once? What would that do to your costs?

**Mr. Ryan:** Typically if I go in a neighborhood, I am doing five or six houses. There are typically not five guys at one house blowing. They are all at separate houses, but they are next to each other. If I was only allowed to have two guys blowing, of course it is going to take a lot longer and it is going to have to raise prices.

**Deputy Mayor McLaughlin:** So the economies work in terms of your working on not just one lawn, but on your being able to cover several lawns in a neighborhood at one time. It sounds like if we put that kind of restriction on it that would be equally damaging to you.

**Mr. Ryan:** Yes, because it would take longer. I give my prices on how long I will be there. If it takes longer, obviously the price goes up because I can do less during the day.

**Deputy Mayor McLaughlin:** The Mayor asked if I would raise the question of electric versus gas-powered.

**Mr. Ryan:** I do not know what the complaint is of electric. They are quieter. Can you do a whole lawn with an electric thing? No, but you can at least blow the sidewalks off and the driveway and you could try to do the street. But I doubt it would have enough power to do it. You could never blow a lawn off with it. You could blow a sidewalk off, but where do you get the power from? That makes us buy generators. But then people are going to have to listen to the generator run for six hours. They are going to complain about that. So there is no win here. I understand that you are in a tough spot, and obviously we are too. Something has to be done. I would just like something that would be helpful to everybody and everybody is happy. We are more than willing to work with whatever we need to do. I would like something that would be more fair than one month in the spring. Two months in the fall is okay, depending on the season. If we have to do it we have to do it.

The problem is, a lot of homeowners that have leaf blowers are out there for eight hours because they do not know what they are doing. So on a Saturday night you have to listen, we are getting blamed, and it probably is a homeowner out at 7 o'clock at night blowing their yard for two hours because they do not know what they are doing. We do not spend more than 10 minutes on each lawn. And we are getting penalized for homeowners on Sunday.

All my friends in the business, we do not work on Sundays. I sit in my house and I have to listen to leaf blowers all day on Sunday, but it is the homeowners. If they knew what they were doing it would take 10 minutes. But they sit there full throttle and go in circles, and never get anything accomplished.

**Trustee Quinlan:** The Village Manager will have emergency powers to extend or create times for you to use leaf blowers. It does not have to be a hurricane; it could be a storm, or perhaps if we had the kind of ice we have now in December, when you would be able to blow leaves, which you cannot because they are frozen under ice fields. That is something that you should keep in mind for late leaves or superstorms, or ice like we have now. You cannot blow leaves this week. And this would be two weeks out of your two months, which is not fair. But the Village Manager would find that reasonable to give you some extra time.

**Marty Gunther, 408 Farragut Avenue:** I am the owner of Gunther Landscape. I want to echo some of Sean's comments. Everything he said is right on target. The industry is working to lower emission standards. Also, every time a new blower comes out the decibel ratings go down because of the efficiency changes and so forth. They lower noise levels. When we are out there doing the neighborhoods, we are cleaning the streets clean as a whistle. When you look at raking, it is not going to be that clean. I can bring you documentation for emission standards, noise levels. I understand the complaint of six blowers in unison making a racket. So you hear that for 15 minutes compared to an hour or a half hour for two blowers. It is kind of a Catch-22 situation.

**Trustee Swiderski:** Do you also second the timing of mid-October to mid-December?

**Mr. Gunther:** Yes. Obviously, weather is a factor. It starts the last two weeks in October, goes through November, and the first two weeks in December. This year it is even later. Within that eight-week period we can clean the yards, depending on whether you get rain.

**Trustee Swiderski:** But you prefer October 15 to December 15.

**Mr. Gunther:** Yes. And the spring, he is right on target with that, too. April, May depending on the weather. Sometimes we get out there the last two weeks in March. Got to get a jump, get it done. Customers want their yards clean. If we add an extra cost factor for five guys to rake a yard for an hour, two hours, I have some pretty big yards. I can spend two days raking five acres of property. I do not think somebody is going to be too happy about that cost.

**Trustee Quinlan:** Does anybody in the industry in Hastings that you know use electric blowers?

**Mr. Gunther:** No. The volume of air is not there. You have to use that two-cycle. Every year they come out with more and more efficient. There was a comment that 35% of the emissions through a two-cycle are raw fuel, which is totally incorrect. They are revving at a higher RPM and you cannot have efficiency out there burning the raw fuel. Some of the smaller engines, Echo makes them, use a lot more fuel because they are not getting the RPMs to get the displacement.

**Mr. Skolnik:** How frequently in the industry do you change equipment? I am asking because if new equipment is coming out regularly, modified and improving, but the equipment that the landscapers are using is three or four years old, then it does not really matter if the technology is there if they are not using it.

**Mr. Gunther:** The life expectancy on a two-cycle blower is four or five years. If you have to change equipment every year it adds to your cost factor. It is as simple as that. They develop new standards every year to lower the emissions and lower the noise levels. Some of the big blowers have changed the impeller sizes and stuff so you do not get that hard pounding noise now; you get smoother and quieter from blowers 10 years ago. Obviously we have to retool every year. That is just cost. And then we just pass it on to our customers.

**Deputy Mayor McLaughlin:** When we first talked about this several months ago we brought up the possibility of standards, and giving the landscapers three years, say, to phase them in; that sounds like that would work for you.

**Mr. Gunther:** To a certain extent. It is the life expectancy. Another point is the fuels. The sulphur content plays with the carburetors so that adds a factor. You are replacing carburetors all the time because they are not putting the additives in the fuel and it is eating the carburetors. It costs you \$90 or \$100 to replace a carburetor on a small two-cycle blower. Some people just have that electric blower, and they are out that eight hours a day. What I would call the weekend warrior, you know, they are out there for eight hours blowing their lawn. Meanwhile, we are there 10 minutes, done and out, and we are gone.

**Jim Metzger, 427 Warburton Avenue:** Why are we not putting some of the onus on the homeowners? Is there a reason to have all the leaves blown off your lawn in December when, for the next six months, it is going to be winter? Is there a benefit to the lawn to remove the leaves? I was always told that it is better to let those leaves decompose over the winter and replenish the soil. You do not have to do as much fertilizing. In the spring you take off whatever is left on the lawn to get a fresh start on the season. If the homeowner says I do not care if I have leaves on my lawn during the winter, that would go a long way towards alleviating this problem without putting the burden strictly on the landscapers.

**Deputy Mayor McLaughlin:** We are winding up with a hearing here anyway. What is the situation about things that are said tonight being part of the hearing? Or does the fact that they are part of the public record before the hearing mean that it counts as not exactly part of the hearing, but in terms of data that we are considering?

**Village Attorney Stecich:** You can consider data that you heard before the public hearing.

**Deputy Mayor McLaughlin:** On the one hand I do not want to have people feeling that they are being gagged, but we are winding up in a situation that we did not announce.

**Trustee Swiderski:** And there is a public hearing where people who will attend are deprived of the back and forth going on here.

**Deputy Mayor McLaughlin:** Right. How do you feel about calling it a day with this subject and picking it up in terms of the people who are not here tonight and could not hear what the landscapers said who will come to the hearing? We have already created a difficult situation for them.

**Trustee Goodman:** I assume the landscapers will be coming back to the hearing, and that the back and forth will continue. There are plenty of people talking to us outside of the earshot of the landscapers. I do not have a problem with what we have done. I think it is fair.

**Deputy Mayor McLaughlin:** No, I did not say that it was not fair. I am just talking about the business of continuing on the subject.

**Trustee Goodman:** If everybody has spoken, then we can go on.

**Mr. Gonder:** I would like to answer this gentleman that talked last. I live next to Pulver's Woods. The leaves came down in the last three or four weeks, the big oaks, and I am adjacent to that property. My leaves were 6 inches thick for maybe 100 feet by 30 feet. With all the rain and stuff they started smelling. That is why you have to get rid of them: they rot, and it gives a terrible odor. But your ordinance should consider one thing: no time limits when you can use them and when you cannot. It is the noise level. When you get four going at once you have a certain decibel, maybe 100 dB. That is the limit, maybe you cannot go over 90. I am not sure where you set it, but that is it and you can use them any time. Make the ordinance simple.

**Jacqueline Lhoumeau, 157 Southside Avenue:** Along with the noise, it is also the air pollution. When you have a bunch of blowers going at once your living space just fills with fumes. It is very intense. That is another part of the issue.

**99:07 DEVELOPER/MUNICIPALITY AGREEMENT BETWEEN VILLAGE AND 422 WARBURTON, LLC TO CONSTRUCT CERTAIN INFRASTRUCTURE IMPROVEMENTS**

**Village Manager Frobel:** I provided you the memorandum I had written in August, 2006, which I tried to put into perspective or historical context. As part of the pro forma for the affordable housing development at 422 Warburton the developer received a grant from the county in the amount of \$315,000 for infrastructure improvements in the public right-of-way. The mechanism was going to be for the Village to be the recipient of the grant and have the developer develop the specifications and spend it according to the terms and conditions under that grant. But the Village would have to receive it. What you see are two action items that need to be considered to allow that to occur. With that very layman's background, if I could turn it over to the Village Attorney.

**Village Attorney Stecich:** I will talk about both resolutions. The second one deals with the IMA, which is the intermunicipal agreement between the county and the Village. As Fran said, for the infrastructure improvements at 422 Warburton, the county will only give it to the Village and the Village goes out to bid on it. So even though it is not work for the Village, it all has to go through the Village. In negotiating the IMA with the county, which was done over more than a year, there was no give. There were a lot of provisions that would be very burdensome for the Village. I pointed them out to you in my memo of August, 2006.

Those provisions that I have problems with dealt with the Developer Municipal Agreement. Whatever responsibility we would have from the IMA are going to get passed through to the developer through the DMA. For example, there is a provision in the agreement with the county that if the work is not done according to a certain schedule you have to give all the money back. I do not know that they would really enforce that, but there are provisions like that. So we have the backstop in our agreement with the DMA if we are liable for anything because of our agreement with the county, or if infrastructure improvements end up costing more than the grant of \$315,000, the developer will be responsible even though the Village is going to have to enter into the contract with the contractor.

I am sure you do not want to know all the specific provisions. The DMA, in the form that you got it, is almost ready. There are a couple of changes I got just this morning, and still another change that I am insisting on with the attorney for Urban Green which he did not get

back to me. But I assure you I will not tell the Manager that it is ready to sign until that provision is in there. I do not think we have any difference in scope. It is just some wording that needs to be fixed.

**Trustee Quinlan:** I reviewed the IMA because it was available for me to review, and your memo, which was very helpful. Thank you. In the IMA, Urban Green is not responsible to provide the money to the Village for the legal fees necessary for your review of the contracts that have to go out to bid for the infrastructure. They are responsible for up to \$12,000 for the Village to employ an engineering consultant to review. I would like to pass the cost of the Village's legal fees for the necessary reviews of the contracts to the developer in the DMA. Have we done that, or have you had discussions with them about that?

**Village Attorney Stecich:** I had that discussion with the county. I would love to pass the costs on to them, but they said we could not. They will pay engineering fees, but not legal fees. The truth is, there is no cost to the Village. It is my time.

**Trustee Quinlan:** I understand the county will not. But my question is, can we pass those expenses on to the developer, and have we tried to? It would be fair for them to pay our costs to review those contracts. Have we discussed that with them?

**Village Attorney Stecich:** No.

**Trustee Quinlan:** I think that would certainly save the Village money, help to decrease our taxes, and be fair. The developer should pay for the infrastructure for 422 Warburton. Just keep that in mind when we come to the final contract.

The second thing is the county. I understand it is take it or leave it with them and I do not have a problem with their contract. But one of the things that I questioned is that the IMA provides that the Village is responsible for maintenance of all infrastructure improvements. The Village is going to maintain responsibility for the maintenance of the public plaza, or retaining wall, and the county would not move on that issue. But it was their position that they do not have a contractual relationship with the developer, and that the Village could pass this obligation to the developer. Have we done that?

**Village Attorney Stecich:** Yes.

**Trustee Quinlan:** For both?

**Village Attorney Stecich:** We had passed it along for the retaining wall, but the retaining wall is not in the picture anymore. I guess there is no retaining wall. But for the public plaza, the maintenance responsibility has been shifted to the developer.

**Trustee Quinlan:** Now there is no retaining wall? This is news to me, which is fine.

**Village Attorney Stecich:** I just heard that on Friday when I asked for a description of the work. The retaining wall was not in there, and they said the retaining wall is not part of the project anymore.

**Trustee Quinlan:** Was it part of the site plan approval? I assume you were there at the Planning Board meetings or someone was from your office. Have we discussed with the Planning Board whether there was a retaining wall and whether it has been taken out? This is what bothers me. It is like, okay, what happened to that retaining wall, or where did it go, or what happened to that fourth story. How did it get there. These are things we have to worry about.

**Village Attorney Stecich:** As I have indicated before, my firm was not the firm on 422 Warburton. As I said, I heard that Friday afternoon about the retaining walls. You are right. If it has been a change from the site plan then it is going to have to be reviewed by the Planning Board again.

**Deputy Mayor McLaughlin:** What puzzles me is that we know there are retaining walls there, unless "retaining wall" has a definition that somehow means those walls are not retaining walls.

**Village Attorney Stecich:** No, it does not mean there are no retaining walls. These are only improvements on a certain piece of the property around the public plaza. There is defined what is called the infrastructure improvements area: sidewalks, curbs, and this public plaza.

**Deputy Mayor McLaughlin:** But there has not been a wall there before because there was a building there.

**Village Attorney Stecich:** That may well be part of the building and not part of the infrastructure. This does not relate to the whole building but just to the infrastructure improvement area, which is the street, curbs, and public plaza.

**Village Manager Frobel:** That is being funded by this grant. It is specific just to that.

**Village Attorney Stecich:** And the only thing we are involved in beyond the site plan approval.

**Trustee Quinlan:** Could you check to make sure what happened to this retaining wall, and whether it is gone, or whether it was never there. If it is not, we could take it out of all the contracts because there will be no reference to a retaining wall.

**Village Attorney Stecich:** Well, the retaining wall is out now.

**Trustee Quinlan:** The public plaza: they are going to be responsible for that maintenance?

**Village Attorney Stecich:** Yes.

**Trustee Quinlan:** We keep calling it a public plaza but the Village does not own it. I am concerned that in the future, since they own it, they may not keep it open to the public.

**Deputy Mayor McLaughlin:** I would be concerned that they would not maintain it. How can we compel them to do that? But this is not what we are talking about right now anyway.

**Trustee Goodman:** If it is part of the site plan then Deven can enforce the CO, right Marianne?

**Village Attorney Stecich:** Absolutely.

**Trustee Goodman:** Just to clarify, here is what I was concerned with. Whatever the developer owns I felt they should maintain. In one of these memos having to do with the retaining wall it seemed as though that was being shifted to us.

**Village Attorney Stecich:** No.

**Trustee Goodman:** But if the retaining wall is out of play, I worry. Retaining walls are expensive. If the developer owns it, then they should maintain it.

**Village Attorney Stecich:** Absolutely. The only improvements we would be responsible for are the sidewalks, curbs, sewer, and water. I did confirm with the Village if, in fact, you even want to assume that responsibility. The Village said it made sense for it to be the Village's responsibility because it becomes part of their public works.

**Trustee Goodman:** I want to thank you. This was a huge amount of work and I know that you have had to birddog it, and I thank you for your diligence.

Responding to Jerry's suggestion about the developer picking up the legal fees that you will have for reviewing the contracts, I thought it sounded akin to what we had the developer do with 422 and all the easements you had to look at. Those were detailed, and I think we passed your legal fees on to the developer with that. Was there not an escrow set up?

**Village Attorney Stecich:** Not for 422.

**Trustee Quinlan:** How about 45?

**Village Attorney Stecich:** Oh, for 45. But we never did it for 422. There is a long history on that. I remember talking to Neil about it. I said, Neil, I am getting killed on this. And the thinking was, this is really for the Village good to provide affordable housing. If it eases anybody's concern—and I hope you do not have any—in my conversation with the attorney for Urban Green today, about the fifth of these conversations, he said to me, I have never had an attorney pick apart a DMA like you have picked this apart.

**Trustee Goodman:** Thank you, Marianne.

**Trustee Quinlan:** We certainly appreciate that, Marianne. But I do want you to look into the possible reimbursement of the Village for the legal fees to review the contracts for the infrastructure. It is true we are getting a lot of affordable housing units at 422 Warburton. But the developer was allowed not to put affordable housing units at 45 Main. That is all history and prior boards did that, and they thought it was fair and that is fine. But this is not like an altruistic, wonderful thing this guy is doing. There was a tradeoff. That is a debate on whether that should have been made or not, but it should be known to the public that there are no affordable housing units at 45 Main and the law requires that 10% of any new development have affordable housing. That is one of the reasons why I think we can, and should, get our legal fees paid. I understand those apartments at 45 Main are going to sell for quite a princely sum.

**Deputy Mayor McLaughlin:** The excuse at the time was that the units that would have gone into 45 Main wound up in 422 instead. That went against the spirit of the Village's affordable housing ordinance, which wanted to see that affordable housing did not, in effect, get ghettoized. That is what 422 has kind of done: concentrated them all in one place. Through years of lobbying, affordable housing advocates tried to keep that from happening. But this deal with Urban Green really went against the spirit of it all.

**Mr. Metzger:** I live right across the street from the project, and there is a huge section of retaining wall that has yet to be built. I understand that is part of the construction of the

building, not part of this. But I have a question. When the project was brought from four buildings down to three, and that piece of property on the corner was left open, we were told it was going to become a park. When questioned what this park was going to look like, nobody had an answer a year and a half ago. Do we have an answer now? Is it going to be 900 square feet of concrete with a wooden bench? Is there going to be any planting? I am curious to know what this \$315,000 is buying. It would be nice if this Board or the Planning Board would get some drawings, some indication from the developer, what they are planning to give us. Because \$315,000 is a lot of money to spend to put in some paving, but it is not a lot of money if they are going to develop this into a park space.

**Village Attorney Stecich:** Let me read the description of the work. The \$315,000 is for a lot more than that. It is removal of existing walks, curbs, aprons, walls, and pavement trenching, and excavation in connection with new stormwater and sewer piping; installation of new stormwater and sewer piping, inlets and manholes; milling, grooving and resurfacing of existing roadway; installation of new roadway; new roadway striping; installation of new concrete sidewalks and curbs and new granite curbing; installation of new pavers, walks, benches, topsoil, landscaping and trees in plaza area; and installation of new landscaping in trees and street. There was no picture of the plots.

**Mr. Metzger:** It would be nice to have a rendering of what they are proposing. We were also told that there were huge costs in the demolition on this property: a lot of rock came out, there were old buildings to remove. The developer got a \$750,000 grant from the county to do all the initial site work. So when we were told this project was going to cost X amount of dollars because it is going to be so fantastically expensive to prepare the site for these buildings, they went out and got three-quarters of a million dollars to do that work. I want to make sure that we do not get shortchanged on our affordable housing because the developer is trying to cut costs. They are being paid for their work and they are making a nice profit, hopefully. We do not know what the housing market is going to be like when they open up 45 Main, but my guess is they have their costs built into that so that we should not have to suffer with something that is not appropriate for our Village.

**Trustee Goodman:** With all the things you read and my reading of this contract, I wondered if \$315,000 was sufficient. Following on Jim's point, you would not want the plaza to be shortchanged. That will probably be the last thing that gets done.

**Village Manager Frobel:** We do have a working budget they submitted, but it is several years old. At that time the project was about \$345,000. But the plaza is 2,000 square feet, they indicate in the plans, with five benches and accompanying sidewalk and granite curbs. We do not have a lot of detail on the plaza itself.

**Deputy Mayor McLaughlin:** How are we protected against getting something that is really cheesy?

**Village Attorney Stecich:** There are specs, and the specs have been reviewed by the Building Inspector and presumably they will be reviewed by an engineer. They have to meet the standards of that. And there is money written into this for engineering.

**Deputy Mayor McLaughlin:** You mean other than that \$315,000.

**Village Attorney Stecich:** I do not know if that is included in the \$315,000. But there is \$12,000 in builder engineering costs. I do not think that is going to be a concern.

**Mr. Metzger:** Who is reviewing the aesthetic component for the Village? Deven Sharma's job is to make sure that the codes are enforced and the building is built in a safe manner. But he certainly is not the person who should be responsible for the aesthetics. Is the Architectural Review Board looking at this? Is that something that the Affordable Housing Committee is looking at? Who has final say? If this is really five benches on 2,000 square feet of concrete with a potted tree, that satisfies the letter of the law. But my guess is that is not what we are looking for here. It would be nice to know if someone is looking at that and having a dialogue with the developer about what is appropriate.

**Deputy Mayor McLaughlin:** Fran, the ARB obviously reviewed the building in the first place.

**Village Manager Frobel:** I really do not know.

**Trustee Swiderski:** I went to a number of those meetings. They did materials.

**Village Manager Frobel:** But I do not think I would know the detail of the plantings.

**Village Attorney Stecich:** I will take a look at the site plan review and see if it is in there. I would be surprised if it is not.

**Deputy Mayor McLaughlin:** What happens if you decide that it does not satisfy what we are talking about?

**Village Attorney Stecich:** You would have to deal with that in some other forum. While it is an important issue, I am not sure it is related to the DMA.

**Michelle Hertz, 62 Euclid Avenue:** Maybe the Parks and Recreation Commission could look at that or talk to the developer about that.

**Deputy Mayor McLaughlin:** Would anyone else like to speak to this? Are we ready to vote?

**Trustee Goodman:** If Marianne has to check site plans, are you giving us permission to vote?

**Village Attorney Stecich:** The site plan would not have anything to do with the DMA. The DMA that was included in your packet on Friday was virtually complete. The couple of changes I asked for are in. If you want me to tell you what they are I can, and I will tell you what the one outstanding change is. My suggestion is that you could go ahead and vote, and the Manager will not sign it until I say it is ready to sign. Plus there are some other conditions that have to be met. We have to get title insurance and some other stuff, so it cannot be signed anyway. But it is really close. Fran will tell you that I would not let it be brought before the Board on many previous times because it was not ready.

The document you got Friday was very close to the final. I will tell you what the two little changes were. If you go to page 5 of the DMA, paragraph L. Right now it reads: "Any and all costs of the infrastructure improvements in excess of the amount of the HIF grant shall be satisfied by the developer, even in the event that the county fails to provide all, or a portion of, the HIF grant." As you might have imagined, that latter language I had inserted. But I had that changed to: "Any and all costs of constructing the infrastructure improvements, including any costs in excess of the amount of the HIF grant." It is just broader protection. And then in 2-A on the same page, where it is saying that the agreement will terminate once the work is done "except the developer's agreement to defend, indemnify, and hold the county and the Village harmless for the design and construction of the infrastructure improvements." I asked to have added the language: "including the indemnification provided in paragraph 1-H and paragraph 6," which is clarification language, not any change.

Those are in the draft I got this morning. But the other language that I am asking them to insert would be on the top of page 5. This continues from 4. It is an indemnification and hold harmless provision. It refers to all the different sections in the IMA, where the responsibility will pass through the Village to the developer. Then there was a big exception: "unless such liability is due to the Village, its employees, agents, contractors, or subcontractors negligence or willful misconduct." My concern there, that the language "contractor or subcontractor" not include the contractor or subcontractor that is going to be hired to do the infrastructure improvements because that could be an exception that swallows up the whole. That is the language that I spoke with him earlier about and that the attorney

gave me. He was difficult about it. I have a feeling that the developer will not be because they understand better what is going on if that language is not included. I told him that if that language is not included I will not give the go-ahead to the Manager to sign. Other than that, it has everything we have asked for. And you really only saw the tip of the iceberg. I spared you. This has been going on for many months.

**Trustee Quinlan:** If we vote on this tonight, is my request to try to get the Village reimbursed for the legal fees for you to review the contract for the infrastructure something we are going to give up on because it is not in the agreement now?

**Village Attorney Stecich:** I will say this again. You did not pay any attorneys' fees for this.

**Village Manager Frobel:** There were not out of pocket expenses for it.

**Village Attorney Stecich:** I do not bill by the hour. I get paid a flat fee, and the fee is the same whether I work 40 hours a week or 70 hours a week.

**Village Manager Frobel:** Or on this assignment or another assignment.

**Village Attorney Stecich:** Right. So there is no extra charge.

**Trustee Quinlan:** So when you review the contracts that come in, because we do have to put it out to a bidding procedure, then you are saying it is not going to cost the Village any more money one way or the other?

**Village Attorney Stecich:** It does not, no. I wish it did, then I would get paid more. But it does not.

**Trustee Quinlan:** Maybe this is not the right forum to discuss this, but you are saying there is no over the cap? Never, no matter what? Okay.

My next question is why we would vote to authorize a contract that is not in final form. Do you not think we should have a contract in final form before we approve it? Is there some time limit we are under until these last few things get ironed out?

**Deputy Mayor McLaughlin:** Thank you for that question because that is why I asked if you were ready to vote. I was not sure where we stand on something if you are not satisfied on the precise wording you see in front of you. Can we wait until January 8?

**Village Manager Frobel:** The only emergency is to get the paperwork to the county moving. They have got to develop the specifications. That will take some time. The developer is still hoping to have the project completed by spring. But as you said, it has waited this long to get to this point.

**Village Attorney Stecich:** The bid documents have been in the Building Department for awhile. That is what prompted this again. Deven asked me if it was okay to go out to bid. I said you cannot let it go out to bid until we get this DMA settled.

**Village Manager Frobel:** Then I suggest we wait until the January meeting. We will have a clean copy for the Board to review.

**Trustee Swiderski:** What about the IMA?

**Trustee Quinlan:** I am prepared to vote on that today.

**Village Attorney Stecich:** You cannot vote for the IMA without the DMA because then you have some responsibilities that you have not passed through yet. You have to do them together.

**Deputy Mayor McLaughlin:** So we are agreed that we will not consider and vote on 99:07 or 100:07, and that they will be presented to us at the January 8 meeting.

**Trustee Quinlan:** So that at the January 8 meeting we can save time, remember that there has been a lengthy discussion about this tonight. We are not trying to delay these things, but these are complicated issues and we want to make sure they are nailed down so a lot of the things that we talked about tonight we do not have to repeat again.

On MOTION of Trustee Quinlan, SECONDED by Trustee Goodman with a voice vote of all in favor, Resolutions 99:07 and 100:07 were tabled for reconsideration in a final form on January 8.

**Village Attorney Stecich:** I am assuming the Board is probably going to vote for it. Then I could order the title insurance because that was going to take some time. Then it will be ready.

**Trustee Swiderski:** That would seem prudent.

**101:07 APPROVAL OF CONTRACT FOR ACTUARIAL SERVICES FOR COMPLIANCE WITH GOVERNMENTAL ACCOUNTING STANDARDS BOARD REGULATION 45**

**Village Manager Frobel:** The Governmental Accounting Standards Board is an independent, private sector, non-profit agency that sets accounting standards for cities, counties, municipalities, the federal government, and state agencies. GASB 45 is designed to make it simpler for an investor, for an elected official, and/or the taxpayers to understand the financial position of a community.

Pensions have been addressed, but the remaining missing element is post retirement benefits. Concern has been expressed over the past several years that this is one of those time bombs. Given the rapidly increasing cost of providing medical care to our existing employees, what about those that have retired that we have promised to continue to provide that benefit. We are obligated to have an actuarial study performed as to what your cost is today and, going forward, the cost to continue to provide that post retirement benefit to our retired employees.

This is a specialized technical service now required as part of our audit, and the most cost-effective way is to join these other 20 communities in a relationship with this actuarial firm which will perform it for us. This will affect us next year, not the current year. But we need to look to the next year at this time. Susan has headed this project up, so Susan, with those comments, a little more background perhaps.

**Village Clerk Maggiotto:** You explained that very well, Fran. This was organized by the comptroller in Peekskill. We are very grateful to him for getting behind this. We went into it with all the municipalities agreeing that we were not obliged to accept any single firm, and one or two of the municipalities did choose to go with another firm. But we knew that if applied as a group we would probably get the best price, and I think we did. The price is very reasonable. It is under \$2,000 for doing this service for us. After interviewing them we agreed that they would do a very good job, and they came highly recommended.

**Trustee Goodman:** So this is for health insurance coverage, or what other benefits?

**Village Manager Frobel:** Any other post retirement benefits: if you provide life insurance or disability insurance, or any benefits other than pensions. We, like everybody else, pay as you go for this. The goal is to begin to develop a reserve fund. You know that you are going to have to pay out this amount in the future. Does it make sense to begin to set up reserves in anticipation of this expense? As of now, under New York law, it is not allowed. But that will come out of this, I suspect.

**Trustee Goodman:** So in other words, this firm will be able to tell us how much we should be setting aside so we do not get hit with a large amount?

**Village Manager Frobel:** That is the goal. And the goal is to show the rating agencies when we go out to borrow, taxpayers, elected officials, your whole financial position. Certainly this is a part of your financial position because it is a liability you promised to pay. Now the question is, how much is it going to cost us, and this will tell us that.

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

- WHEREAS,** all governmental agencies have to comply with regulations of the Governmental Accounting Standards Board (“GASB”), and
- WHEREAS,** GASB has released a regulation (GASB 45) regarding the accounting method for other post-employment benefits requiring that an Actuary be hired to meet the requirements, and
- WHEREAS,** the Village of Hastings-on-Hudson participated in a consortium of over 20 municipalities to produce a Request for Proposals (“RFP”) to create efficiencies and cost savings, and
- WHEREAS,** the consortium received five proposals and all participating municipalities interviewed the two finalists, and
- WHEREAS,** it was the consensus of almost all municipalities to select Danziger & Markhoff LLP, now therefore be it
- RESOLVED:** that the Mayor and Board of Trustees authorize the Village Manager to execute a contract with Danziger & Markhoff LLP for actuarial services to comply with GASB 45.

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

## **102:07 SCHEDULE PUBLIC HEARING FOR LEAF BLOWER LEGISLATION**

**Deputy Mayor McLaughlin:** Mr. Ryan asked us if we could postpone the hearing so that he could get some response from his customers. What shall we do about this?

**Trustee Goodman:** I was concerned when we were drafting the text about the length of the spring cleanup. I thought that six weeks was more fair, and I questioned the reality of the work schedule for just having this for four weeks in April. I could not prevail upon you all, and I was not going to debate the point because I was not prepared, I did not have any data. But I am wrestling with this. While I am devoted to the environment, we have to be practical and realize that the problems did not happen overnight and they are not going to get solved overnight. I was looking for some measure of comfort. What I did is go to the rainfall statistics for April because I am concerned that April is a rainy month. This is the month we are designating for cleanup.

**Deputy Mayor McLaughlin:** Danielle, I do not mean to cut you short, but the question is when we schedule the public hearing if we do not have it on January 8. He asked for extra time, and we have not yet determined whether we will push the second meeting of January back a week, which perhaps we should take into consideration before we vote on this. What you are saying is valuable for the public hearing, but not in terms of rescheduling.

**Trustee Goodman:** But I was struggling with the text. Do you want to proceed with this text? I have some more information. I am not comfortable with the text for the one month.

**Village Manager Frobel:** How about another work session? At our last meeting you had asked Kevin to survey some of the communities. We have that. He has had a conversation with a representative from the board of education. Maybe we should have these people come in and offer some verbal conversation besides us translating for you what has been conveyed to us.

**Deputy Mayor McLaughlin:** We have talked and talked and talked about this, but there are still loose ends and all of us have information or know of people who have information that others do not have. Maybe that is the way to do it.

[Discussion of procedures and dates]

**Trustee Swiderski:** We are saying that on January 8, if we agree to that date, there will be a public hearing and then a discussion item where we discuss the text at that point as a result of what we heard during the public hearing. And out of that discussion item we determine if we

have got significant changes or not to the law which would require yet another public hearing.

**Deputy Mayor McLaughlin:** This does not resolve the issue that the landscapers brought to us tonight, where Mr. Ryan asked for extra time.

**Trustee Swiderski:** I am suggesting that January 8 is probably adequate warning to get plenty of input. I am not inclined to delay it much further.

**Trustee Quinlan:** I would like to give Mr. Ryan extra time to get input from his clients. I do not think it is unreasonable, depending on whether we decide to have the meeting the 15<sup>th</sup> or the 22<sup>nd</sup>.

**Deputy Mayor McLaughlin:** Since he had asked for that time, and they have a mailing planned and it would provide us with information that we have not yet received, it seems to me that we might as well put it off until the second meeting and get the information that Mr. Ryan wants to bring to us.

**Trustee Swiderski:** I do not care enough to put any sort of argument.

**Trustee Goodman:** I think it would be fair to put it off.

**Deputy Mayor McLaughlin:** Then our current thinking is that at the second meeting in January we will have this as a public hearing.

**Trustee Swiderski:** Let us determine when that second meeting is.

### **103:07 CHANGE OF BOARD OF TRUSTEES MEETING DATE**

**Trustee Quinlan:** What is the reason to change the meeting date?

**Deputy Mayor McLaughlin:** Because January has five Tuesdays, and we would have two back-to-back meetings in January and then a gap of three weeks before the first February meeting.

**Trustee Quinlan:** Which we are thinking about changing.

**Deputy Mayor McLaughlin:** Well, I do not know if we are thinking about doing that. The Mayor is very much against it.

**Trustee Quinlan:** No, I know, but we are thinking about changing it. I am not saying whether I agree with it or not, but we are thinking about changing it.

**Deputy Mayor McLaughlin:** We are going to wind up with back-to-back meetings at some point, but the idea is trying to avoid back-to-back meetings in January as well as possibly keeping the Mayor from having to come out an extra night in January, if he is able to attend meetings at all.

**Trustee Quinlan:** I have no trouble with back-to-back meetings. We are supposed to have meetings on the first and third Tuesdays of the month. That is done for a reason, historical or habit or whatever. People can anticipate. We have not really done that. We did not do it in November because of the election, we did not do it in September because of a religious holiday, we are not doing it in January because it falls on the 1<sup>st</sup> which is a national holiday, and we are thinking about not doing it in February because of the presidential primaries. So my inclination is to keep it on the third Tuesday. If there is a good reason that we would like to delay it, because it may give Mayor Kinnally a chance to come to that meeting, then I am all for it. But if that is not the reason, then I do not see why we should do it.

**Trustee Swiderski:** Did he request this?

**Deputy Mayor McLaughlin:** No, he did not. But Danielle made the point.

**Trustee Swiderski:** I am not inclined.

**Trustee Goodman:** I do not feel strongly one way or the other.

On MOTION of Trustee Goodman, SECONDED by Deputy Mayor McLaughlin the following Resolution was duly defeated upon roll call vote:

**RESOLVED:** that the Mayor and Board of Trustees change the date of the Regular Meeting of the Board of Trustees from Jan. 15, 2008 to Jan. 22, 2008.

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

**Deputy Mayor McLaughlin:** Now that we know that our second meeting of January will be on January 15, what are we inclined to do?

**Trustee Swiderski:** Hold that public hearing then. That gives Mr. Ryan another week to gather his forces.

**Trustee Quinlan:** I think we should put in some language that the Village Manager has the authority to expand or change the dates depending on weather conditions or other catastrophes. Would that be a significant change that would cause another public hearing, or should we put it in the text now, because I am going to propose something like that?

**Village Attorney Stecich:** I could put it in the text. But I would not think that would be a significant change because the Manager would have that authority anyway. But we could clarify it by putting it in the law. What would cause me concern is changing the dates. If the Board were disposed to make the spring two months, you might want to do it now and have the public hearing on that law. And changing the winter months to October 15 to December 15: if you were disposed to that, that seems a significant change. The other thing that came up is I did not know whether anybody wanted to change the beginning hour from 9 to 8.

**Deputy Mayor McLaughlin:** The Mayor said he would like us to consider having a downloadable form that would attach to the law that the homeowner could sign and hand to the contractor telling the contractor not to use leaf blowers, thereby making it clear what the homeowner's intentions are. Would we want something like that attached to the law?

**Trustee Swiderski:** But what does that do?

**Deputy Mayor McLaughlin:** It gives the homeowner something ready-made to establish that he or she does not want it. It puts it in writing.

**Trustee Swiderski:** I think the Mayor was seeking a way to avoid nailing the homeowner with the fine, right?

**Deputy Mayor McLaughlin:** Quite possibly. I do not know his intentions.

**Trustee Swiderski:** I think that was the intention. I did not have a long discussion with him, but I know that he wanted to come up with a way to avoid us fining the homeowner. If the idea here is to provide citizens with a mechanism to avoid being fined, operationally I do not know how that would work. The Village would have to be aware of it, and the police would have to have a master list as they go around fining people of those who have signed this form or not. I am confused as to the implementation being offered here.

**Trustee Goodman:** I would see it as an educational tool and insurance of compliance. One of the points I made the last time we discussed it is I would expect the homeowners to be able to download something, the law, to hand to their contractors to help us with enforcement and compliance.

**Trustee Swiderski:** But I do not think that is what he was looking for. I agree.

**Deputy Mayor McLaughlin:** I do not think it matters what the Mayor's intentions are. Regardless of his intentions the form is the form and it serves the purpose it serves. It does educate, and it does supply the information that Danielle is saying.

**Trustee Swiderski:** I understand. But the intentions are key to what the form has to say and what the function of the form is, right? Is the function of the form an educational form, or is it a shifting of responsibility for the behavior on the property to the contractor?

**Trustee Goodman:** If the homeowner is going to be fined, it is going to help educate, prevent the homeowner from being fined, because the homeowner would be able to take a proactive step to say here is the law, I do not want to get fined, you must adhere to these hours, these days. It would help us. From the reading I have done, places like Mamaroneck, which already has this law on the books, a less stringent law than we are proposing, are having real problems with compliance. They are having, a year or two after passing it, another massive education push. If we are smart about how we handle it at the initial stages it might be a pattern of how we can do things in the future. Making it user-friendly, in plain English, what everybody needs to do and what the obligations, are would be helpful.

**Village Manager Frobel:** We said that from the very beginning it will be tough to enforce. I was going to point out, and I assume this would be a substantive change, we went back and surveyed those communities that Kevin had identified and I know Marianne did as well. Although it is a close call, most of them cite the violator, be it a business, the operator on the scene, or the homeowner. Whoever is physically operating at that time will get the summons. That is different than what our ordinance reads. I do not know if that would be a change that might come out of your public hearing or not.

**Mr. Metzger:** If there was a form the homeowner could download and have the contractor sign, then the contractor is aware of the laws of the Village and they retain that form. If a violation is issued for doing work afterwards, and they have hired a contractor, they could say the contractor knows that he is violating the law and that could shift the onus to the contractor.

**Village Manager Frobel:** We have a good handle on the number of contractors. Once the law passes, we could send them a copy of it certified mail, return receipt. Notification will be easy.

**Trustee Quinlan:** Back to the dates, let us try to get this. Discussing leaf blowers is like the Bill of Rights here. They had not had more discussion on the Bill of Rights in the Constitutional Congress than we have had on leaf blowers. We have decided on two months in the fall, right? The industry has asked, and they should know when they when they want to work and when leaves fall. The cleanup period will be October 15 to December 15. Does anybody have objections to changing the time period; the same two months, just a different time period? Good. Marianne, there you go. Marianne said this is significant. Now, again, subject to change, let us go back to the spring. They had asked for two months.

**Trustee Goodman:** If the point of this is to decrease the use of leaf blowers, we were asked to assign one month in April. I took a look at the rainfall statistics in April because on the days it is really rainy the leaf blowers are not out. In April of this year I counted seven days where the rainfall was 0.84, and some days were snowy. April 5, April 6; April 4 it rained 0.84 inches; April 5 and 6 it snowed lightly, but it did snow; April 12, 1.38 inches of rain; April 15, 0.74; April 16, 0.92.

**Deputy Mayor McLaughlin:** If you say that there was over a half an inch, was there enough rain to keep people from working? That is the issue.

**Trustee Goodman:** That is what I am giving you. Almost an inch.

**Deputy Mayor McLaughlin:** How many days were there?

**Trustee Goodman:** A seven day when I figured people could not work, and it could be more because on the days it rained heavily, the day after could be out because of the wetness. So I figured at least seven days in April were out; that is a week. Now you have given people three weeks to do their work. So kicking this into May, even though it seems like a longer amount of time, is it really? It is rainy some days in May also.

**Deputy Mayor McLaughlin:** People who have commented on the health effects have talked about the pollen in May; blowing that around is a real health problem.

**Trustee Goodman:** We have to struggle with that. But I am saying that if our concern is for lessening the use of these, part of April is going to be out always. I started to look at, but I ran out of time, 2006. That could be something you could have Kevin look at if you are inclined, Fran, to see what the last couple of years are.

**Trustee Swiderski:** So are you suggesting two months, six weeks?

**Trustee Goodman:** The conversation should start at six weeks, and then you should consider two months. One month is not fair based on my calculations.

**Deputy Mayor McLaughlin:** I wish we were not using the word “fair,” because I am not sure fairness is the issue.

**Trustee Goodman:** Reasonable.

**Deputy Mayor McLaughlin:** Let us talk about efficacy.

**Trustee Goodman:** Well, it is reasonable. And it is fair to the people that do their own work. They are involved, too.

**Deputy Mayor McLaughlin:** I can understand six weeks. Michelle called me today and explained why six weeks would be a far greater benefit to the community. And that made sense. Hearing the workers here today makes sense, too. But Peter, you realize what this does. This means one way or another we have to deal with a 15<sup>th</sup> of the month.

**Trustee Swiderski:** Well, we have plenty of them already.

**Deputy Mayor McLaughlin:** Do we begin or end on a 15<sup>th</sup>, Danielle?

**Trustee Goodman:** The landscapers mentioned snow in March. I think you have to kick it from April into May 15.

**Deputy Mayor McLaughlin:** So you are suggesting April 1 to May 15? Peter, how do you stand on that?

**Trustee Swiderski:** I am not excited, but I am an easygoing guy. Everybody here is willing to settle for six weeks, and that satisfies real needs. So I will go with six weeks. I just do not want this to creep up any further than that. We are now at three months and two weeks, and there are plenty of people out there who wanted it for all of two months.

**Trustee Quinlan:** At the last meeting I was the one that proposed April 1 to May 15, and then I compromised down because it seemed to be what the Board kind of wanted.

**Deputy Mayor McLaughlin:** Will you compromise back up now, Jerry?

**Trustee Quinlan:** I will compromise right back up because it is about compromise. I do not think everyone is going to be happy, but I hope that everyone is going to be satisfied that we are struggling to come up with a reasonable law.

**Deputy Mayor McLaughlin:** And how about you, Danielle?

**Trustee Goodman:** That is fine.

**Deputy Mayor McLaughlin:** So our next draft will say April 1 to May 15.

**Trustee Swiderski:** We are not going to touch the times or penalties?

**Village Attorney Stecich:** That would be a major thing: who it is enforced against.

**Trustee Quinlan:** So no changes.

**Village Attorney Stecich:** I do not know that that has been resolved. Right now it says that the statute will be enforced against the property owner.

**Trustee Quinlan:** Again, we run into the same problem. You have a custodian at the school, you have a worker at the A&P, you have the superintendent at the condo. Are those the people that are going to pay the fines? No, the people that are going to pay the fines, rightfully so, are not going to be the poor guys blowing leaves out of the A&P parking lot. It is going to be the A&P.

**Village Manager Frobel:** We also have heard from the school. It will have an adverse impact on their operation.

**Trustee Quinlan:** I am glad they did respond because I asked for more time for that. I am not surprised, but I am glad that you provided that information, Fran. But that is the biggest reason I have. It is not so much the collection or the enforcement, but it does not make sense to give people who are out at the behest of their employers doing a job where they are not making a lot of money to pay the fine. Is there any way around that without getting too complicated?

**Deputy Mayor McLaughlin:** I am very interested that the communities that you surveyed, penalized the operator regardless of whether he is the homeowner or the employee.

**Village Manager Frobel:** We found two communities that cited both the owner and the operator.

**Deputy Mayor McLaughlin:** Did you find any communities who cited only the homeowner?

**Village Attorney Stecich:** Pelham. I read all the statutes. The problem is that they do not focus on it. It is not so much that they say the penalty shall be enforced against the operator. What they say is just that you cannot do it. It is part of the bigger statute just like ours is, and it is part of a noise statute and generally enforced against the operator: the person blowing the horn or the person playing the loud music or whatever.

**Deputy Mayor McLaughlin:** The person playing the loud horn or playing music or something like that is, in effect, both the commissioner and the commissionee, whereas with the homeowner and the guy with the leaf blower they are two separate entities.

**Village Attorney Stecich:** Right, it is a different situation. It is the same thing under our code. The person whom it is enforced against is the person who makes the noise or causes to be made the noise, which is pretty much what they all read, which is how it would have read in our code except for this change we put in because the Board thought it should be enforced against the owners. If you do not want it enforced against the owners, we take that provision out altogether.

**Trustee Goodman:** I think the industry is going to be hit hard enough here. I still think the best way to ensure compliance and enforcement is for the property owners.

**Deputy Mayor McLaughlin:** And for them to protect themselves with this form.

**Trustee Swiderski:** But that will not protect them.

**Deputy Mayor McLaughlin:** Why not?

**Trustee Swiderski:** Why will it protect them? They filled out a form. What are they going to do?

**Deputy Mayor McLaughlin:** Because they have given instructions and had the contractor sign it.

**Trustee Goodman:** She meant protection in terms of taking a proactive measure to prevent the fine.

**Trustee Swiderski:** It is not a legal protection.

**Trustee Goodman:** It is not a legal protection, but it is a proactive measure to prevent yourself from being fined by educating your lawn service.

**Deputy Mayor McLaughlin:** Are you suggesting that if you are a homeowner, and you download this form and you have your contractor sign it and he signs, and he then uses a leaf blower against your instructions and against the Village law, and the law is enforced against you and you are fined, that that fine will not stand up in court? Is that what you are saying?

**Trustee Swiderski:** I am not suggesting that at all. I am saying it does not offer that protection. I do not know what the intent of that form is other than education, and I think education of the contractor is going to be performed by Fran in the first 30 minutes of the New Year. They will all know about it instantly.

**Deputy Mayor McLaughlin:** But it will establish that everybody who is party to the transaction knows the law and that everybody knows who the fines are to be enforced against. That is the point if you are determining whose responsibility it is to be fined. Obviously, what we do want is for people not to be fined because we do not want them breaking the law.

**Trustee Swiderski:** Right. But a couple of dozen people at most will download this form, fill it out, and do this. The vast majority of the Village will live in that limbo of ignorance of the law that they are the ones who are going to get fined. What you have gained is those two dozen people. That is nice. They have gained some piece of mind in knowing that they filled out this form and passed it on to their contractor. But the others who do not know about that form being on-line and do not know about the laws punishing them, that form to me is not particularly interesting or important to the discussion. If it is not performing a legal function then it is part of a PR campaign, and beyond that immaterial.

**Ms. Lhoumeau:** There is going to be a bunch of education on this. You can place article in *The Enterprise*. We can do an e-mail list, we can do TV. This is the kind of thing that needs a whole educational campaign. I hope that we will do that, as a town, so it is not just the few people who know about it.

**Trustee Swiderski:** I am not saying it will be a few people. I am saying the amount of people who will bother downloading that form will be limited. The form is just part of the PR campaign. The salient question is, who gets fined. I find something very useful in the analogy of the blower of the horn or the player of the loud music, the operator being the one who is fined. There is something very clean in that. I understand where Jerry is coming from: that the poor worker should not be the sap who is nailed.

**Deputy Mayor McLaughlin:** Let us talk about a precise analogy. You own a bar and you hire a musician, and you instruct him to do something that breaks the Village code. Does he bear the burden for that or does the bar owner? That is a precise analogy.

**Trustee Swiderski:** No, that is not. Because if the bartender is instructing a guy to play loud music late at night that is not an analogy here. That is not entirely applicable.

**Mr. Metzger:** I think a proper analogy would be you hire a professional to install a sink. It is not up to the homeowner to tell the contractor you need a 1-inch diameter drain. You are hiring a professional who is supposed to know the laws under which he is operating. If he installs a half-inch diameter drain because it is the piece of pipe he happens to have on the truck, and the building inspector shows up the next day and says the drain is installed improperly, you do not fine the homeowner. You fine the contractor. A professional is supposed to be aware of the laws under which they operate. The person who is doing the hiring should not be responsible for knowing those laws as well. A notice should go out to the landscapers that says you need to be aware of these laws, and if you break these laws, or the people that work for you break these laws, you will be fined.

**Deputy Mayor McLaughlin:** It sounds to me like maybe we do not have consensus among us, in which case we should all go off and think about this before we come back and commit ourselves to something. Whatever certainty I had last week I am not so sure I am certain about it now because, Jim, I think your point is very compelling.

**Trustee Goodman:** I am not going to change my mind. I think the property owner should be responsible. There are a lot of landscaping firms that are small one- and two-person operations. They are off the radar screen. Fran has not talked to them. He probably does not know how to find them. I do not think it is fair. I think the industry is getting hit hard enough. Their hours are going to be restricted, their time is going to be restricted. The property owners should bear the burden.

**Trustee Quinlan:** I am not going to change my mind either, for the reasons that I gave. I agree with Danielle that the industry has been hit hard. It is a matter of being able to collect and enforce the fines in an easier manner. Even though it may be unpopular, Peter, for me to take that stand, for those three reasons I think it should be the property owner. I am not going to change my mind, so that just leaves you two.

**Deputy Mayor McLaughlin:** The contractors can play a role in this as well because the contractors, when their clients say you have to use a leaf blower, the contractor can hand the client the local law and say I cannot. The burden of informing the client, if the client has not

been informed by the ambient news, it takes a bigger burden off them and leaves them with the small burden of informing a client who may be ignorant.

**Trustee Quinlan:** It makes the law stronger. If we have decided to have a leaf blower regulation restricting their use during certain time periods, then making the property owner responsible will put more teeth in the law because it will be easier to collect the fines and find out who is responsible.

**Mr. Metzger:** I am not a legal expert by any stretch of the imagination, and using words like “fair” and “reasonable” are great, but you have to look at the legality of where the contract lies. Does the homeowner have a contract with the guy who is running the leaf blower, or do they have a contract with the company? There are contractual obligations involved here that determine how the law will be applied. With Trustee Quinlan’s example, the guy on the school grounds, you do not fine the guy running the leaf blower. You fine the school. They are ultimately the employer of that person running the leaf blower. And if the school system does not know the rules and regulations they should be fined.

**Deputy Mayor McLaughlin:** That is a double-edged situation because the school system is both the contractor and the employer.

**Mr. Metzger:** They are like the homeowner in that situation.

**Deputy Mayor McLaughlin:** They are both. So you are suggesting in that case that the burden go onto the homeowner.

**Mr. Metzger:** I am suggesting it goes to the person who determines who goes out and blows the leaves.

**Trustee Goodman:** You cannot write a law that way. The law has to be clear, and it has to be uniform. You are splitting so many hairs here. It is either one thing or the other. And I do not buy the analogies of the noisemaker. This is a totally different situation, which is why I said it should not be part of this noise/nuisance ordinance. It should have been a law unto itself, an environmental law, that laid out all the things we are concerned with. We are bootstrapping onto a law that does not really apply to this. We have other concerns here.

**Trustee Swiderski:** Can we break it into two pieces, and have them voted on separately so we do not end up delaying the discussion on the 15<sup>th</sup>? Can we have the enforcement portion a separate clause so we can move forward on this? It is amazing. God is in the details, and so are the arguments; how what would seem to be a straightforward piece of legislation can become such a discussion.

**Village Attorney Stecich:** The only thing, Peter, about not voting on enforcement is then you have got the enforcement...

**Trustee Swiderski:** Two separate votes just so we can move forward and not have one die because we have not decided on the other. It is two different clauses that are being affected here, right?

**Village Attorney Stecich:** It is not the usual way to do it, but the point is to give the public adequate notice of what we are voting on. I would think in that situation it would be reasonable.

**Trustee Swiderski:** Break the discussion up into two pieces so that if we agree on the first part we do not have to have another public hearing because we are having a second discussion on the second part. I am trying to avoid any more time on this. Have a separate discussion on the implementation of the penalty.

**Deputy Mayor McLaughlin:** Is your suggestion that we would have a hearing on January 8 on Sections 1, 2, and 3?

**Trustee Swiderski:** For both of them, on the 15<sup>th</sup>.

**Deputy Mayor McLaughlin:** On the 15<sup>th</sup> we would have the hearing on all four sections.

**Trustee Swiderski:** One through three as one law, and then the other one would be a separate discussion on that section.

**Village Attorney Stecich:** Or you could have two versions. The same law, two versions, one with enforcement against the owner and one with enforcement against the operator. The point of this is to give adequate notice to the public.

**Trustee Goodman:** If you feel we can do that, let us do it.

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

**RESOLVED:** that the Mayor and Board of Trustees schedule a Public Hearing for Tuesday, Jan. 15, 2008 at 8:00 p.m. to consider the advisability of adopting Proposed Local Law Performance Standards to Limit the Use of Leaf Blowers.

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

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

**Village Manager Frobel:** t I would like to close Village hall on Christmas Eve, Monday, at 12 noon. I have written to the Board today to get your concurrence.

**Deputy Mayor McLaughlin:** Do you need our concurrence?

**Village Manager Frobel:** I do not believe so, but I did want to ask you as a courtesy.

**Deputy Mayor McLaughlin:** Are there any comments on this? Any comments from the floor?

### **BOARD DISCUSSION AND COMMENTS**

#### **1. Update on the Comprehensive Plan Committee**

**Trustee Quinlan:** They have not had a meeting since my last update, but they have a meeting tomorrow night. The agenda is on the Village Website. They are going to have a report on the status on the Village Website, the Hunter studio project, and an update on the communication with other boards. They are going to have a discussion on a preliminary list of topics and the next steps, the election of a permanent chair, and a discussion with a planner from the Hudson River Valley Greenway Compact Community. There are other things on the agenda, but this is an example of how good and hard they are working. Their adjournment will be at 9:45 p.m.

#### **2. Village Arts Commission - Establishment of Non-Profit Corporation**

**Village Manager Frobel:** I was hoping committee members were going to be here this evening to help in this conversation. Since they are not here perhaps we can put it off until January 8 because it is not that timely.

The discussion tonight was going to center around their efforts to form a non-profit corporation much like the Affordable Housing Development Corporation. The committee would like to secure from the Board your consideration for their efforts to form a 501(c)(3). They believe that they could be more successful in fund-raising so they can continue to bring fine programs to the Village. I would suggest we put that off to the next meeting so they could be here and discuss it first-hand with you.

### **3. Transportation Plan - Next Meeting**

**Trustee Swiderski:** This will be the second work session to cover the five remaining proposals in the transportation study so we can bring that to a close. We spoke about that occurring in the first quarter of next year. January and February, I think, is what we threw out in the meeting. It is necessary to conclude the discussion on the transportation study and clear the decks for the discussions we may have in the future on proposals at the Board of Ed and safety commission. But I think what we wanted to do here is pick a date, right?

**Deputy Mayor McLaughlin:** February 12?

**Village Manager Frobel:** That would be fine. That would be between your two meetings.

**Trustee Quinlan:** I want to have another LWRP work session. I feel I need it. We should schedule that before we schedule another work session on the transportation plan. The LWRP has been out there for many years, and the transportation plan is in its infancy compared to them. It is fine, we can schedule them both. But maybe we should go later in February.

**Trustee Swiderski:** I completely hear Jerry. I agree. I like the analogy of infancy versus probably doddering age by this point on the LWRP, and I would swap one for the other in a second.

**Deputy Mayor McLaughlin:** We could schedule it for the last Tuesday in February for an LWRP meeting. February 26 would be the last Tuesday of the month.

**Trustee Quinlan:** But then we have to come back to the transportation plan. Would you be okay to go to March, Peter?

**Trustee Swiderski:** I do not know if it is particularly pressing. The high-value items that we all agree were high-value we picked off, and this is a more formal close to a process than a screaming need like perhaps the LWRP's conclusion.

**Deputy Mayor McLaughlin:** And do you want to set a date for the transportation plan for March? We will not be interrupting with the budget work sessions?

**Village Manager Frobel:** We will work around that.

**Trustee Quinlan:** March 11, the second Tuesday?

**Deputy Mayor McLaughlin:** Do we want to discuss moving the meeting on Feb. 5 tonight, or leave that for the first week in January?

**Trustee Swiderski:** I do not care. I am worn down. I am leaf-blowered out.

**Deputy Mayor McLaughlin:** Why do we not leave that for January 8.

**Trustee Goodman:** Agreed.

**Deputy Mayor McLaughlin:** I want to report on two committees whose liaison I am. The first is the Quadricentennial Committee. We named the members last week and had our first meeting last night. The Quadricentennial Committee got off to a start that is so wonderful I just wish everything that ever happened in Hastings happened like last night's meeting. The committee is considering sponsoring, or overseeing, a First Night celebration for December 31, 2008 to introduce the year 2009. One of the members of the committee spent a great deal of time in St. Johnsbury, Vermont, which is about the size of Hastings. They have had a First Night for about 20 years. The view is, if St. Johnsbury can do it, we can do it.

The next meeting will be in early January to bring on the representatives of the Historical Society, the Economic Development Committee, the Chamber of Commerce, and the Arts Council, who were unable to attend last night's meeting, and get their input.

We had hoped that tonight we would have a discussion about the Village Arts Commission. It calls itself the VAC. The commission was founded at the beginning of 2007. They are sponsoring a holiday art show at the Community Center opening tomorrow night. They are also scheduling a poetry program to be in Poetry Week in 2008, and hoping that that will be an annual event. They are developing a monthly arts flash newsletter, to be distributed by e-mail, to highlight Hastings artists or artists exhibiting in Hastings and to promote local galleries and artists. They are outlining and scheduling a musical festival to occur annually in the early fall in Draper Park, as they did this fall. They are outlining and scheduling an indoor and outdoor sculpture program to occur in the spring. They are researching reuse of the Jacques Lipchitz studio, which is on Aqueduct Lane and has been empty for Lord knows

how long, corresponding with the attorney for the Lipchitz foundation, and considering requesting ARCO money to assist in obtaining the building. For next June 21, which is the summer solstice, they are planning an interactive theatrical music and light event at MacEachron Park, integrating and associating a green environmental theme. They are in discussions with Sustainable Hastings about promoting that. This committee, still in its infancy, has done some wonderful things for the Village already, and they have some great things scheduled.

**Trustee Quinlan:** I want to thank the Beautification Committee for the great job they have done in the downtown. The barrels have beautiful winter ribbons and bows and they look very nice for the holidays. That is a very valuable and hard-working volunteer committee, of which I am the liaison. Thank you, Beautification Committee.

**Trustee Swiderski:** Conservation Commission. There is a major initiative under way regarding the audit of the Municipal Building. The Conservation Commission has been shepherding that along. It is through the New York Power Authority. My understanding is that their lawyer has responded to the redline contract that you submitted.

**Village Manager Frobel:** I have not received it as of yesterday.

**Trustee Swiderski:** At least according to Kerry-Jane, NYPA has reviewed it. If they have not yet sent it back, it is shortly to arrive. That would mean the audit would occur sometime early next year, and that will be a seminal event for quite a bit of work both for the committee and for the Village. The committee also acknowledges that five members probably is not adequate to do the job ahead of them, and will be submitting a formal request for two more members. Given that the meetings I have attended have had three to four people at any given meeting, they clearly need more bodies.

Work continues on the deer committee report, which lingers in not coming to conclusion, and also on a series of lower-level tactical recommendations for the things the Village could be doing to save money from an environmental point of view. But they are busy, and they could clearly use more worker bees helping out.

**Trustee Goodman:** I have news from the Senior Council. The council, as part of the Village calendar that is going to be sent out, prepared a questionnaire. They are looking to survey how many seniors we have in-house now and future seniors who hope to age in place. They are also going to be looking for more volunteers to help us with the Aging In Place initiative in our village. To that end, I want to advise everybody that the Westchester County Department of Senior Programs and Services is very much interested in putting in place livable communities, aging in place communities, in as many municipalities as desire to be

included. They have divided the county into sections. We are in the southwest section. A grant has been awarded and we have a grant coordinator, Judy Fink, who is director of geriatrics of the WJCS. They are setting up a regional council.

So with respect to Aging In Place, both the Village and the county are moving ahead with programs. The Senior Council and the Public Health Board in November held a joint meeting to see where our goals overlap and to see if the Public Health Board can assist in Aging In Place and other senior activities.

My other committee is the Economic Development Committee. On December 11 they held a joint meeting with the Waterfront Preservation Committee to look at economic development on the waterfront and to look for commonalities between those two committees.

Diggitt asked me to try to get us an update on where the negotiations stand for keeping Community Hospital at Dobbs Ferry open. We passed a resolution here urging the state to consider leaving that vital hospital open, and then we have not heard much since. I reached out to one of the members on the Dobbs Ferry hospital board who advised me that there are continued negotiations and some hope that the hospital will remain open in some form. We do not have more information at this point.

**Deputy Mayor McLaughlin:** Are there any last comments from the audience?

**Ms. Lhoumeau:** The reason I came was to talk about snow removal in town and about livable communities. Although our sidewalks and the roads get cleared, getting through our crosswalks becomes a problem. When the road gets cleared you get the mountain of snow that ends up being about three feet wide and one to two feet tall so you can't cross at the crosswalks. Is somebody supposed to check that the crosswalks are passable so that you can get, for example, from Warburton and cross over to start up Main Street?

**Village Manager Frobel:** Crews are out there today beginning to break it up. That is the last part of their responsibility once the streets are open, but I brought to Mike Gunther's attention your concerns and that will become a priority for them. This was a difficult storm to fight. The way it came and the way it stayed and the way it froze solid has made it difficult, but we are sensitive to your observations and we will work on that.

**Trustee Goodman:** Senior Council will resume their regularly scheduled program in January. They are not going to meet tomorrow.

**Deputy Mayor McLaughlin:** We should adjourn in honor of the couple of hundred great volunteers, some of whose names you have heard tonight, who are responsible for some of the really great things that happen in Hastings.

**ADJOURNMENT**

On MOTION of Trustee Goodman, SECONDED by Trustee Swiderski with a voice vote of all in favor, Deputy Mayor McLaughlin adjourned the Regular Meeting at 10:45 p.m.