

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
OCTOBER 30, 2007**

A Regular Meeting was held by the Board of Trustees on Tuesday, October 30, 2007 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

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

CITIZENS: Seventeen (17).

APPOINTMENTS

Mayor Kinnally: We have appointments to the Youth Council: Jennifer Altman, to fill an unexpired term expiring in April, 2008; and Jeanne Newman, for a term expiring in April, 2010. I thank them for agreeing to work on behalf of our village.

APPROVAL OF MINUTES

Trustee McLaughlin: On page 14, third line up from the bottom, I think that sentence should be "Holland has put 'bulwarks' around the sea." The word there is "brick," and that does not make sense.

On MOTION of Trustee McLaughlin, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Minutes of the of the Regular Meeting of October 16, 2007 were approved as amended.

APPROVAL OF WARRANTS

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

Multi-Fund No. 26-2007-08 \$120,456.16

PUBLIC COMMENTS

Mayor Kinnally: Any public comments on items that are not otherwise on our agenda this evening? Please come up, name and address for the record.

Deanne Cartwright, 45 Hillside Avenue: I know the Conservation Commission had submitted to you the proposal for the leaf blower ban, and I was wondering where it stands.

Mayor Kinnally: Kevin Hay is getting information as far as other municipalities' approaches, things of that nature, and when that is finished it will be put back on our agenda.

Ms. Cartwright: We have collected well over 100 signatures without having to do anything, so can I submit these to you tonight?

Mayor Kinnally: Sure, you can submit them to Susan and they will be transmitted to us.

Trustee Quinlan: Do we have any timeline on that?

Village Manager Frobel: We have reached out to all the landscape firms that do business in the Village. I met with them last week. They were very optimistic that we could reach an agreement, they recognize the need for some regulation governing, and I expect to have a report to you on Friday. I am hoping for your next meeting perhaps a work session and be ready to consider the construction of an ordinance.

83:07 BID ACCEPTANCE – GARBAGE TRUCK

Village Manager Frobel: We have had several work sessions and conversations about the need to replace the garbage truck. We did our specifications, went out to bid. We received two bids. You have in your packet comments from me about the recommendation and a note from Mike Gunther. The second bid was less, but it was for a vehicle that did not meet the specifications as designed by the department.

Trustee Goodman: I know we had a discussion about the smaller truck versus the larger truck, and this one is in line with what we wanted?

Village Manager Frobel: Yes. This truck will be able to be maneuvered around the Village, although it can hold up to 31 cubic yards of trash. It meets that need, and we believe with some slight modifications, perhaps, on the routes it will fit the bill very nicely.

Trustee Goodman: And the senior driver also was on board with it and happy?

Village Manager Frobel: I did speak with the senior driver and he is comfortable with this truck, yes.

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

RESOLVED: that the Mayor and Board of Trustees accept the bid of Gabrielli Truck Sales, LTD for one (1) 29 cubic yard garbage truck in the amount of \$169,685.00 to be paid from bond proceeds.

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

84:07 BID ACCEPTANCE - KINNALLY COVE IMPROVEMENTS

Village Manager Frobel: I am pleased to report that it is my recommendation that we award a contract to the low bid for improvements at Kinnally Cove. We received two bidders. A third one did arrive, but he arrived too late. He was caught in traffic. We never had the opportunity to see what his price was, but we attracted two very good bids. They were close in price, which leads me to believe they understood the project, and the specs were written properly.

We are recommending that the project be awarded with the deducts. We are recommending at this time we do not do the landscaping and the creation of a tidal marsh, or the permanent boat launch. With that, we would not be required to construct a wake deflector, or the wave fence, that we talked about.

This is a basic program. We are looking to build a boardwalk with an overlook, along with some shoreline stabilization, beach restoration, putting in a gravel path around that area, filling in a portion of the old submerged hull, and removing some of the wooden boat that was buried in the cove. There will be a guardrail between the paved area and the beginning of the park. We are hoping to add some landscaping in the spring. That would be an extra.

I met with the contractor and went over in some detail the specifications and the program. He is very comfortable with it, and looking forward to beginning the work as soon as he gets the go-ahead. I have three references for him. The City of Yonkers has been very pleased with his work. I have a recommendation from the City of New York Parks and Recreation. He has done work there as well, and some work for the New York City Housing Authority.

All of his references check out. The resolution had to be modified slightly because we need final approval from the state. We are using funding sources from a variety of grants, some of which had expired and have been extended, some that are due to expire very shortly. We are look forward to moving forward. Ray Gomes will be our management representative on the scene each day, working the with the contractor.

Mayor Kinnally: It seems that it reflects the concerns and caution expressed by the Board and members of the public as to the scope of the project and the need to spend all of the money on some components that were less than enthusiastically received by the Board and by the public. That includes the type of boat launch they wanted to put in, the wave deflector, and the tidal marsh, all off which could be considered at a later date, but should not preclude our moving forward now to clean this up and make it accessible to the public.

Village Manager Frobel: The boardwalk is 136 by six feet, with an overlook of 12 feet by 15. Between the boardwalk and the gravel path there will be a way that people using a canoe or kayak can access the beach and launch their vessels easily into the cove at a high tide. It has been suggested that one of the members of that committee be with us when we begin to fashion that area in the field to be certain that there will be a clear path to the water.

Mayor Kinnally: We cannot decide how we are going to do that until the riprap is laid down.

Trustee Goodman: I want to make certain that citizens who kayak while this is being laid out take some various size kayaks and walk the path. I would be very disturbed if, after this was done, citizens came back and said that we fashioned a path that was too narrow or for whatever reason not usable. Also, the pavement in front of the path should be marked off as a loading/unloading boat launch zone so that parked cars do not obstruct the way.

Trustee Quinlan: Fran, if you could go over your excellent report on the amount and the type of grants, and what they add up to, and what we anticipate accessing from the Hudson River trust fund. It is a small amount of the fund, and we will still have that fund preserved.

Village Manager Frobel: We have a grant from the New York State DEC entitled the Hudson River Estuary Grant; the New York State Office of Parks, Recreation, and Historic Preservation grant which the lion's share, \$100,000; and another DEC grant, water quality program. These are matching grants. We believe that by accessing the Hudson River trust fund we will be able to put this program together and make it all work. We are asking for up to \$210,000. As recently as today there were some e-mails from our environmental counsel in receiving a tentative go-ahead in writing from the Riverkeeper and ARCO to use the money.

Trustee Quinlan: The balance of the fund is at approximately...

Village Manager Frobel: About \$1.6 million.

Trustee McLaughlin: At some point in the future will we have a discussion about all the other things: how this is used, the parking, the access?

Mayor Kinnally: Yes. This is just authorizing construction to begin.

Trustee McLaughlin: Right. And when you say this is going to start soon, are we talking soon like March or soon like next week?

Village Manager Frobel: It could be within 10 days. As of Friday the contractor wanted to make sure he had the lineup of the proper wood for the decking. It is either Douglas fir or a Southern pine. He wants to pick the one that is best for our climate.

Jacque Lemeaux, 157 Southside: How long is it expected to take?

Village Manager Frobel: It could be upwards of three weeks. It will be very quick.

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

RESOLVED: that the Mayor and Board of Trustees accept the bid of Xavier Construction Co., Inc., Scarsdale, New York, for improvements to Kinnally Cove in the amount of \$320,500, to be paid from grant awards from the New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP), pending review and approval of the bid by NYSOPRHP; the New York State Department of Environmental Conservation Hudson River Estuary Program and Water Quality Program; and the Hudson River Environmental Trust Fund.

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

85:07 AUTHORIZATION TO SIGN - ENERGY SERVICES PROGRAM AGREEMENT

Village Manager Frobel: Several weeks ago the Board heard from residents with the suggestion that the Village look into this matter. The staff met with representatives from the New York Power Authority. We were very impressed with this Energy Services Program. It is designed to seek out ways to reduce our energy costs or to realize significant environmental benefits. Once this is executed, the staff of the Power Authority will conduct an audit of all our facilities. They will present those findings in a feasibility report with recommendations and cost estimates. At all times we will have the authority to pick and choose from that feasibility report. There will be no obligation to implement their suggestions. Some of them could be costly, some may be at no cost or very low cost. But that flexibility will always be in our control. We think it is a good idea. Anything to help us save on our energy bills or to be more environmentally sensitive is time well spent.

Trustee Swiderski: This is the first serious outcome of the revitalized conservation committee and it is great. It is very promising.

Mayor Kinnally: I am reassured that they are focusing on the good things. It really could help us out here, to be a guide to look at how we do things and what we can do to save us some money and be better citizens.

Trustee Quinlan: I would just like to thank the Sustainable Hastings group, which has talked to me in depth about their support for their program. And also a valuable Village resident who works for the Power Authority, Kerry-Jane King, who brought this to us.

Ms. Cartwright: I would like to recognize, too, the Conservation Commission. For moving and shaking lately, I wanted to recognize them. Was anybody from the Conservation Commission asked to come to that landscaper meeting about the leaf blower ban?

Village Manager Frobel: No. My directive was to meet with the landscape firms, to explain to them the ordinance, and to receive their input. That was considered part of the fact-finding mission.

I realize the contract looks somewhat overwhelming and a little overkill perhaps. I have gone through it. There is enough language in here that gives flexibility and the Village's right to reject, or not to adhere to, all the suggestions.

I also had a conversation today with Christopher Copeland, who has been our account executive for quite a while. I indicated to him the concern about this one-size-fits-all contract. He apologized for that. In a letter that we could send with the resolution we could highlight the fact that it is our understanding that we clearly have the right to not implement all the suggestions that come out of that feasibility report. They realize that. Without knowing the cost it would be impossible to guarantee we will implement all suggestions.

Village Attorney Stecich: I am glad to hear that, Fran. I went through it and certainly their intent was that the Village could get out of it if it did not want to go forward. But it should be clarified. There is one other provision that I am sure they will agree to. The indemnity language is broader than is probably intended, and the insertion of a couple of words would do it. I can draft a letter for you that would cover those issues. If that goes along with the signed contract all the loopholes should be closed.

Village Manager Frobel: That would be helpful.

Mayor Kinnally: Let me revise the resolution to reflect that input.

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 authorize the Village Manager to sign the Energy Services Program Agreement between the Village of Hastings-on-Hudson and the Power Authority of the State of New York to participate in an Energy Audit and Feasibility Report for Village facilities, at no cost to the Village, subject to the input of the Village Manager and Village Attorney.

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

VILLAGE MANAGER'S REPORT

Village Manager Frobel: Thee name and lettering is now in the front of the James V. Harmon Community Center. I think it looks very nice. There is still some remaining

masonry work and illumination that need to be installed, but we are reaching very close to completion of that project. The punch list items are down to just a handful of items.

Trustee Goodman: I wanted to point out Fran's good work on FEMA. I think some more money is coming our way. Do you want to describe that, Fran? I know you and Mr. Gunther worked very hard to find locations that had storm damage, and that has borne fruit again.

Village Manager Frobel: We have received money from the federal government and the state as a result of that storm last April. We have had conversations with our landscape firm to make some repairs to the Hillside Woods trails that were washed out, very minor in nature. I indicate in my weekly report that we have done some additional work on Villard and Stratford. So the neighborhood repairs are coming about. We still have the stairs to replace leading from Warburton up to the Aqueduct. Those have to be removed and replaced, and some additional work needs to be done on Southside. But Mike has taken care of some of the major aspects of the program that needed to be taken care of.

BOARD DISCUSSION AND COMMENTS

1. Verizon Negotiations

Mayor Kinnally: I was remiss at the last meeting. I had received a telephone call and subsequent e-mail confirmation from Verizon indicating that Verizon had made a business decision to withdraw for the time being its application for a franchise to provide cable services in the Village. It was withdrawn by Verizon for business reasons because they were farther along in negotiations with other municipalities. They had a November 14 deadline to conclude those and felt that it was a better utilization of Verizon's corporate assets to pursue those that were closer to finalization than to continue discussions with us. They indicated that they would be reapplying in the new year.

Our cable committee is still working to bring to resolution the negotiations with Cablevision, and we are poised to respond to the application if and when it is resubmitted by Verizon in the beginning of the year. We believe that we were fairly close and had exhibited some flexibility on a number of the points. Verizon, for whatever reason, never responded to those overtures by the Village and instead made a decision. I understand the decision was made a number of months ago, but was only transmitted to me right before our last meeting.

To go back to my comments at the last meeting that it takes two to tango on these negotiations, it was obvious that Verizon was not willing to go to the dance floor, and told us explicitly what was implicitly clear for awhile, that they were not pursuing this. Unfortunately they have the infrastructure in place in the Village and we cannot do anything

until there is an active application pending before us. So we await the resubmission of an application and the designation of a negotiating team to continue our negotiations with Verizon.

Trustee Goodman: I have a comment and a request: if perhaps our committee will come and give us an update on Verizon.

Mayor Kinnally: There is nothing to update on Verizon because there is no application.

Trustee Goodman: I know, but it was left off at a certain point and I do not feel that I have a grasp on what the stumbling points are. Because so many community members are approaching us, I feel that I have taken a pretty passive role in this and I do not understand the issues. I would like to be more educated, and I think my fellow Board members would appreciate that.

Mayor Kinnally: Sure, absolutely. I am not so sure they can explain what the stumbling blocks are because I am not sure that Verizon has ever articulated what all the stumbling blocks are. But we will talk to Bob Perlstein and see if, and when, they can come before us. Or maybe there is something in writing they can give us.

2. Update on the Waterfront

Mayor Kinnally: A number of months ago ARCO asked the Board for input as to where the Village would like to have the siting of certain infrastructure, for instance, sewers, conduit for power, and things of that nature on the waterfront, which would be helpful to ARCO in coming up with a design plan for the remediation. They are working with the DEC, they are working with the Village, they are working to try to see how they are going to go forward and clean up the site.

We indicated that we would be willing to do that, but the Village Board needed professional guidance and advice, in particular from our engineering firm, Malcolm Pirnie, which costs money. We did not feel that it was our responsibility to pay out of Village funds something that would be benefiting not only the developer, but also the owner of the property. To that end, discussions ensued between Mark Chertok and ARCO. Under the consent decree there is an amount of money that ARCO has pledged for our engineering services in connection with the cleanup. We had told them that we did not feel that we should use any of that money in connection with these engineering services. I will read a proposal that was submitted to the Village:

“That BP and the Village would set up a monitoring trust similar to what is in the consent order. BP Amoco/ARCO would place \$200,000 in that trust. The Village could use the trust fund to fund six out of seven of the various engineering tasks that had been identified by Malcolm Pirnie and Mark Chertok in trying to answer the questions that ARCO had posed.”

I cannot tell you what those tasks are, unfortunately.

When the Village has spent \$125,000 from that fund on six of the seven tasks, BP would replenish the \$125,000 to the trust. The Village may also use any of that fund to deal with the separate task that wasn't included in the prior items. But funds spent for that purpose would not be replenished.

I believe that the task that was separate and apart was the monitoring compliance with the consent order. That is what was in the consent decree: those funds would not be replenished. In other words, they would go against the money that was in the consent decree. But certainly we are getting at least \$125,000 to do these engineering services. Neither Mark Chertok nor I have spoken to Warren Riznychok from Malcolm Pirnie subsequent to receiving this to see if that is sufficient, although I believe it probably is. I just throw it out there for the Board, for informational purposes, and for the public that there has been an offer from BP/Amoco to fund this. I will be speaking with Mark, and if the Board would like to have any further conversations with Mark he will make himself available. But it appears that we will therefore be able to proceed to move this forward without expense to the Village.

Trustee Goodman: Will we be able to look at the list of tasks?

Mayor Kinnally: Yes, you will. I believe we already have a copy of the letter that was sent.

Trustee Goodman: We made some decisions that at least one of the tasks, which included review of the LWRP, which is not an accepted document, that we would not, at this time, spend money on that task. I have my notes from a prior conference, so it is not clear to me that the task you are excluding coincides with my understanding.

Mayor Kinnally: No, I did not exclude any task. It was BP/Amoco that excluded the task. They said that you could not use the replenishing \$125,000 for that task. It would go against the fund that was set up under the consent decree.

Trustee Goodman: Why would we spend money on task number four, which seems to be a review of the LWRP, when we are going forward with a work session and things are unsettled?

Mayor Kinnally: I do not know if we are.

Trustee Goodman: That was listed as task number four.

Mayor Kinnally: No, I understand. I am not asking the Board for approval of using the money. I am simply reporting that ARCO said they will fund it if the Village wishes to use the money.

Trustee Goodman: So then the terms of the money's use will be settled down the road.

Mayor Kinnally: Yes, the decision as to what to spend the money on will be determined down the road.

Trustee Goodman: Will we have input with the engineers? My concerns are this. Some of these decisions were made before I was a Board member, but will some day someone come to us and say that form of development or that use is precluded because of the way we designed the infrastructure?

Mayor Kinnally: You are asking will we have input to the engineer. I am hoping that we will have input from the engineer first, and then we can react to it.

Trustee Goodman: Can we be forward-looking in our infrastructure? Like set up a graywater pipeline from the river so that our plants at the riverfront can be watered with graywater instead of using the clean water? If we are looking at water turbines to run the power can all those sorts of things be set up?

Mayor Kinnally: Sure.

Trustee Swiderski: Well, do not say sure. Those are engineering...

Mayor Kinnally: No, I am sure we can talk to the engineer about it. I do not know how feasible any of it is.

Trustee Goodman: But I would hope that we plan to do that.

Mayor Kinnally: We should probably get some information from the engineer and then we can react to that. The purpose of the engineer at this point is to give us his advice so we can make recommendations or decisions to answer the question that ARCO came to us with.

Trustee Goodman: Getting back to the LWRP document, policy 1, at 3.3, talks about fostering patterns of development that make efficient use of the infrastructure. Although we do not have an accepted document we should be forward-looking with the infrastructure and sustainability and we should have all of these things put in place. Or at least to the extent we can know or provide for it we should try to do that.

Trustee Swiderski: I agree, but that is the rub. What I see here is the unfortunate mis-overlap of calendars, in that it is not likely we will know what is down there on the waterfront by the time the engineering studies need to be completed. There are going to have to be some sort of parameters. I am sure it will come down to something basic like a trunk of some sort down the center, and beyond that it may be difficult to design for every possibility. We are in a collision of calendars. We will not know what is on that site for years.

Mayor Kinnally: This is macro. You are right. You are talking about a trunk for sewer, a trunk for water, a raceway for electricity, and orientation of spine roads. Those are probably the four items that they are looking for. All of the other stuff is pretty much micro that feeds off of that and feeds into it.

Trustee McLaughlin: Do I not recall a Board of Trustees meeting about 25 or 26 months ago, slightly more than two years ago, where this subject or something very like it was discussed? As I recall, there was a lot of public concern at that point that the Trustees were doing things like laying out roads which, as I understand it, since I was not a Trustee then, is not the purpose of this. But they are offering us the opportunity to put this broad-brush infrastructure in and save the ultimate owner of the property that expense and time. Is that not what this is about?

Mayor Kinnally: Yes, and no. They also want to do the cleanup once.

Trustee Swiderski: And minimize the piercings to the cap.

Mayor Kinnally: Not just piercing the cap, but it also has to do with where you have got to put the big fill. They can move things around and come up with a design plan for the remediation that will be, probably, quicker.

Trustee Swiderski: And that did not happen before your tenure. Trustee Jerry brought up this set of issues around infrastructure and not determining what follows. I remember there being a discussion about that, that you might not want what was laid there. If we plan for a maximum of 800 units of housing's worth of sewage pipe diameter, it would not predestine us to have it. I remember that discussion occurring while you were on the Board.

Mayor Kinnally: It was within the year; that was one of the things that was driving the one year for Stuart Cadenhead's committee. But they are coming to us, and the state has said the same thing: it makes sense for the Village to have input into this at this time.

Trustee McLaughlin: But I want to be clear about this. If there is, say, a central north-south running trunk, and spine roads running off that, that does not mean therefore that whatever happens there in the future will be on eight blocks, with those as the roads. This is simply what will be under the surface. We are agreed on that, right, that if we are putting in a central line and four lines off that, we are not laying out four roadways.

Mayor Kinnally: They are still talking about having a spine road. I do not know about the offshoots, but certainly they are looking for a spine road.

Trustee McLaughlin: Right. But what we do in terms of laying out the infrastructure does not determine what follows.

Mayor Kinnally: No, other than we have already determined the location of where things cannot be. Obviously, the trunks have to run north-south.

Trustee Swiderski: It does not predetermine, but this all awaits the engineer. And that does not predetermine the location of the road necessarily. You do not lock yourself into...

Mayor Kinnally: It may, and that is one of the things that they were looking at. It may, and remember, the location of the road, in part, is already determined because of the offsets in the consent decree. So we have a setback, and there has to be a buffer between the railroad and the property. It is not the deepest property in the world so it may be 40 yards one way or the other. I do not know, but they are looking for something that would help them orient not only the road but some of the buried utilities and things of that nature.

Trustee Quinlan: I do remember it was a work session, and I was the only member of the Board at that time who had severe reservations about what I called, and I still believe is, putting the horse before the cart. Despite all the assurances that putting the infrastructure in will not drive the zoning and the projects to go down there, I still firmly believe it does. You do not plan backwards. You decide what you want there, and no one really knows what that is yet including myself or future Trustees, and then put the infrastructure in before that.

That is a grave mistake that we are making only because of planning principles. And I would ask, and I will ask in the future, that the Planning Board review these engineering reports. We have a board of experts, planners, and they can guide us on what really are the planning principles. What I know about planning you could put in a shot glass. I would ask that we

ask them to help us and guide us so that we do not do the wrong thing, which is possible if we build the infrastructure before we decide what we want down there.

Mayor Kinnally: Point well-made and taken, but for tonight I am just reporting that there is a fund of money there to have the engineer go forward. I am going to ask Mark, and maybe I can call Warren also, to get a timetable from him as to what he can accomplish in a certain period of time, how long it will take him and what he intends to accomplish, and which of those tasks he is going to be going forward with. It may not have anything to do with the LWRP, but we can check that out.

I am still awaiting a formal report from ARCO and from the DEC on the testing that has been going forward in the water and on land. I have heard rumors. I would rather not discuss them, but I want to get a formal report from both the agency and the owner to see where they are and I hope to have that for our next meeting.

3. Update on the Comprehensive Plan Committee

Mayor Kinnally: Has there been a meeting since our last meeting?

Village Manager Frobel: There has been a meeting. I can only report that we have provided each member of the committee with a complete copy of the LWRP and the Vision Plan. I did not attend their last meeting.

Trustee Goodman: I was told that things are moving along, and that everybody left with a homework assignment. I have a waterfront question. There was a to-do schedule for the LWRP, and November 15 was marked as a date when there was going to be planning and zoning and that there was going to be authorization to Mr. Chertok to begin work on the LDC and zoning. I just wanted to make sure that this is just a projection and that work is not going ahead on the zoning yet.

Mayor Kinnally: I can tell you work is not going ahead on the zoning, and it will not go ahead on the zoning until it is authorized by the Board of Trustees.

4. Traffic Improvements on Broadway

Mayor Kinnally: We are in receipt of recommendations from our Safety Council. We have recommendations re traffic and safe routes to school from the facilities committee of the school, and we have input from a number of people in the neighborhood as far as Broadway.

Village Manager Frobel: I have invited the members of the Safety Council to be here this evening. As the Mayor indicated, you have their report. They met with Mr. Corrigan and his neighbors at their September 20 meeting to discuss in some detail the proposals that would result in improvements to Broadway. Mr. Rodriguez would like to talk about their recommendations and things that we can do short-term on Broadway to make it safer.

Joe Rodriguez, Chair, Safety Council: We based our recommendations not only on our September 20 meeting, but also meetings we have had with other residents of the community over the last several years regarding their concerns of safety on Broadway. We also are cognizant of the information contained in the report by BFJ Planners for reducing the number of lanes on Broadway through the Village. We did not embrace all of the recommendations that they made and, after discussion, we did come up with some recommendations that we felt could be carried out. But these things have to go before you, and we hope that you will involve other members of the community and the state DOT, which has final say over that roadway. Chief O'Sullivan has spoken with some people from other communities who have had success in carrying out work on Broadway, and he can bring this information to you.

Police Chief O'Sullivan: As Chairman Rodriguez said, the catalyst for this recommendation was a Safety Council meeting a few months ago, together with previously voiced concerns over the years and also BFJ's recommendations. The recommendation that was forwarded to you is just a basis to get this thing started. We specifically tried not to get too detailed, leaving room for the Board to work it after a lot of public input.

This map is a sketch of Broadway, southbound at the Yonkers line. The council is suggesting that Broadway be reduced. We will go north, and then work south, to one lane of traffic at a point just slightly north of Warren Street. The reason we chose that spot was, number one, as you come into Hastings you have a left exit into the Andrus Memorial Home, a right turn onto Tompkins. Further up on the one-way you have an exit from the Andrus Memorial on the right that happens to be opposite a bus stop, which is on the right side right near Warren Street.

So we would be trying to reduce the traffic to one lane slightly north of Warren Street as you go down the hill. As we proceed north from Warren Street, Broadway will reduce to one lane moving to the left and thereby provide wider sight lines and a safety margin for the vehicles exiting the side streets along Broadway on the northbound side. We suggest that Broadway spread again to two lanes at a point slightly north of Olinda Avenue, and continue two lanes through the four traffic lights at Five Corners past Villard, Warburton, and Edgars Lane. At a point slightly north of Edgars Lane it would reduce again to one lane up to the Dobbs Ferry line. Coming south from Dobbs Ferry, we suggest that Broadway reduce to one lane from the Dobbs Ferry line to a point just south of Riverview Place, which is just slightly

north of Warburton. It will again spread out to two lanes there, going again through the lights of Warburton, Edgars Lane, Villard, and Five Corners. After it gets through Five Corners it would reduce again to one lane for the duration of the southbound until it hits the Yonkers line.

There was a suggestion of inquiring into the feasibility of a flashing yellow light. I believe when I spoke to Mike he said the expense of one of those is in the area of \$15 to \$10 thousand. If reducing the number of lanes will accomplish the goal of slowing traffic down, that might not be necessary. Mr. Frobels said he had been in touch with a gentleman from the DOT and they had done similar work on Broadway in the village of Briarcliff Manor. I called the chief of police of Briarcliff Manor and he said that the Department of Transportation worked out a transportation hub in Hawthorne and sent out study crews. They were very receptive, very helpful. They videotaped traffic and made helpful suggestions.

The purpose of all of this is to slow traffic, try to create a safer roadway. Although a lot of the fear and apprehension there is based on possibilities, because our accident data does not show a great many accidents in those areas, potentially it can be very dangerous.

Trustee Swiderski: From the Yonkers border headed north toward Five Corners, what are your thoughts on parking?

Police Chief O'Sullivan: We did not consider it. I do not think, off the top of my head, we opposed it. But that would defeat the purpose if the Village was going to be considering bike lanes and pedestrian paths.

Mayor Kinnally: I certainly would be reluctant to do parking in the island area.

Trustee Swiderski: I am curious as to the thinking. There was some talk about parking south of Dobbs Ferry, and I was wondering if that was echoed here. I agree. I just wanted to hear what the Chief had to say.

Mayor Kinnally: I certainly would endorse one lane in the island area. But I would extend the four-lane concept that we have now, both northbound and southbound, to Washington Avenue. I think it might be a mistake to narrow the traffic to one lane in each direction in the area right around Olinda because you want to have enough room for people and foster the flow of traffic for people to make that turn off of Broadway to go up to Olinda, and the same thing southbound. I would think that the area of most concern is from Washington up to Riverview Place past Zinsser Field, and keep that all four-lane. It is not much of a modification, and maybe the Safety Council considered that.

Police Chief O'Sullivan: I do not think we were strongly locked on that. Those were just our thoughts at the time.

Mr. Rodriguez: One of the things that we have not touched on here, and we seem to be going away from it by looking at lane usage, is sidewalks. That is one of the things that has been brought to us over and over, that we need to have sidewalks. Parking, I do not know if that is going to be considered if you want to put in sidewalks. There was a proposal from Mr. Corrigan that we have virtual sidewalks. The Safety Council does not view virtual sidewalks as something we want to put forward. We do not trust them, we do not think that they are safe, so we will not recommend that. If, when you are able to get the DOT involved, they can come up with a plan for sidewalks, bike lanes, or whatever, that would be more important to have in that additional space than parking. Also we have, in the past, addressed the fact that when and if sidewalks are installed they have to be maintained by the homeowner.

Mayor Kinnally: The Board has to make a policy decision as to whether or not the payment for the sidewalks is the responsibility of the property owner. We have had discussions with the school board about this, and the school board said that they were not the least bit interested in putting in sidewalks in the area abutting the Burke Estate.

So much to think about here, but a good first step is to consider the narrowing of that. We have had discussions in the past about striping part of Broadway, especially the southbound area around the island at South Broadway. If we can get the DOT on board I think it is very important. The DOT has ultimate jurisdiction here, and we have this evening Mary Jane Shimsky representing Assemblyman Brodsky and Chris Johnson representing Senator Andrea Stewart-Cousins. We would ask you to ask Richard and Andrea if they would lend their support to getting the DOT engaged in this. Many of the problems that not only the Village deals with, but also Ardsley, Dobbs Ferry, and the other river towns primarily involve the DOT. It would have been an easy thing for us if it was a road within our jurisdiction. But there is the overlay of the DOT here. It may also be a blessing because if they can bring to bear some of their expertise and resources in helping us to assess this and come up with a good way of striping this and re-lining it, it would benefit all of us.

Trustee McLaughlin: A couple of questions about the DOT. One of them is consistency. Mr. Corrigan pointed out, and having only lived in Hastings 21 years I never noticed this myself, that both Dobbs Ferry and Yonkers restrict through truck traffic on Broadway but we do not. So presumably that is our option, not the state's. I cannot believe the state picks on our Village to allow through truck traffic.

Mayor Kinnally: I find it hard to believe that Dobbs Ferry restricts through truck traffic. How is the traffic getting...

Steven Corrigan ,286 Old Broadway: Actually, it is not Dobbs. It is just Yonkers.

Mayor Kinnally: But the traffic that is coming north on Broadway through our Village is coming through Yonkers. They may have a sign up there, but I do not know what they do to restrict through traffic. And especially with traffic coming over Executive Boulevard, there is a tremendous amount of truck traffic that comes over off of Saw Mill River Road across Executive Boulevard and makes a right.

Mr. Corrigan: They are allowed. The sign specifies southbound trucks, so southbound on Broadway trucks crossing from Hastings into Yonkers are specified that they have to exit Broadway at Executive. Northbound trucks I assume start on Saw Mill River Road, cross over, come up Executive, and then cut through Hastings.

Trustee McLaughlin: My other comment was that on the Grand Concourse there are huge striped areas. The parts I am thinking of are flat areas. There are no curbs, no islands, but they do create virtual islands with striping. I do not know if that is the DOT on the Grand Concourse or if that is New York City.

Mayor Kinnally: Probably New York City. But it is the same thing. You can always create these things. This is what we talked about awhile ago.

Trustee McLaughlin: But I was wondering if they are safe.

Mayor Kinnally: It is the same thing as putting up stop signs. It is a false sense of security. That is the problem. Can it be done? I am sure it can be done. Whether it is prudent to do it, this is what we can get from the DOT. We were talking about a separate lane for biking and for walking on Broadway, I cannot tell you how many years ago, and there were serious reservations about doing it in lieu of having sidewalks. One of the things that we did northbound around the island was to pave, put blacktop down, in certain areas and to put a yellow stripe along the edge of the paving, edge of the road. Some of it is still there. We were saying to the parents, the kids can walk there. I do not know how many want to because it may not be the safest in the world.

Trustee Goodman: IN response to where the road might be widened, Olinda is a troubled intersection. The sight line when you are trying to make a left, because of the wall at the corner bowing out, I was hoping we would do something with that intersection. It begs for something to be done. I thought that a quick fix would be to have the traffic restricted there

because you would get a better sight line. Also to the Safety Council, thank you for including North Broadway as well because residents that live on Minturn have expressed to us their concern about their inability to see to get out of their street onto Broadway. Also, someone sent me something that Governor Spitzer is starting a sidewalk initiative, and there is going to be money for sidewalks. I am sorry I did not bring it here with me tonight, but I think the state is looking to help with sidewalks. If we could get sidewalks along Broadway to encourage children to walk to school you would go a long way to alleviating the congestion in front of the middle school and the high school. It has been talked about for years, and it would be good to look at funding sources. And thank you to Mary Jane Shimsky and Andrea Stewart-Cousin's representative for coming tonight. We are very fortunate to have a resident who is in Mr. Brodsky's office.

Trustee McLaughlin: Talking about parking along Broadway, John Spiciarich, who has come tonight, did mention at the Board meeting a couple of weeks ago the idea of parking on North Broadway on the west side. North Broadway has good sidewalks there. You do not really need to widen the sidewalks; they are quite usable already. People park right up to the Village line coming south from Dobbs. John, I believe your suggestion was thinking of parking along that part of Broadway as a calming thing. But we also need parking, and I do not know if people would use it, if train people from out of town would use it, if it were there.

Mayor Kinnally: I am sure they would.

Trustee McLaughlin: Well yes, exactly.

Mayor Kinnally: But are you talking about on the east side?

Trustee McLaughlin: I am talking the west side. I am not sure we want people parking on the east side just because there is no sidewalk. How would they cross the street? I do not know what we would do over there, but the west side seems like a good place.

Mayor Kinnally: The sight lines would be compromised on the west side if you had it with people coming out of Minturn. You would solve it with one lane, but you are taking it away with a lane of parking. But it is an interesting point. Calming, I do not know if the traffic on the stretch of Broadway from our Village line into the traffic light on Broadway is any slower because there is one lane of traffic. But I do not think it will be any faster which, in today's world, may be an improvement.

Trustee Quinlan: I am in favor of the Safety Council's recommendations. I do have problems with the parking. I think that would maybe negate some of the safety we would get

from reducing a lane, because people have a tendency to open their door when they get out, and walk between parked cars and all kinds of things. Without any sidewalks I think you are making it worse and not better. Also, Steve and I talked about the virtual sidewalk. I do not see that as helping because I am afraid people will just pull over in the lane and start plowing people down. Virtual is not a good word for me: I like a sidewalk or not a sidewalk, not a virtual sidewalk.

Police Chief O’Sullivan: In my conversations with the fire chiefs, I wanted to speak with them before we presented this to make sure they had no opposition. We were happy to have that space empty. In case of an accident our emergency vehicles will still be able to get through and the road wouldn’t be blocked. I believe that is why we would have been opposed to the parking.

Mr. Corrigan: A couple of points that I would like to re-stress from the last time I stood at this microphone. One is, in my opinion this is an urgent issue. I know it is one that has been talked about for years and years, but it is a dangerous roadway. In 2006, as I presented to the Safety Council, there were three extremely violent accidents. Three days before the last time we were here together there was another violent accident on Broadway at Olinda. The time is now to act, and it is important to talk about all the different ideas. We are getting pretty close to consensus.

To discuss the idea of virtual sidewalks, what I have in mind is lane reduction through painting with hash marks from four lanes to two. We all have a good understanding of human nature. I do not think there will be armies of pedestrians and bikers the day we paint these things. The idea here, primarily, is to get control of this stretch of roadway, slow these cars down. I stood out there another hour and a half this morning. Broadway, at four lanes, is not even close to capacity. If we move it into two lanes there is plenty of room for everybody. Yet the way the current road is designed people are driving 10 miles over the speed limit and people are passing them. That is what needs to end quickly.

I could not agree with you more: I would love to have real sidewalks. If we are worried that people that are walking will have a false sense of security, perhaps we could get some concrete planters or something. We can figure this out. Let us slow the traffic down first. That is my opinion. I agree with Trustee Goodman’s comments about Olinda. There needs to be better sight line coming out of Olinda. I also proposed a 20 mile an hour school zone, at the Burke Estate which, I believe, is school property.

Mayor Kinnally: It may not qualify as a school zone because it is not part of the school. My understanding is that it has to be contiguous to the school. Perhaps because an athletic field is there it is considered a school zone, but we will look at it.

Village Manager Frobel: We have a work session scheduled on November 13 to discuss the transportation plan. We have invited the board of education, the Planning Board, the Trustees of course will be there, and staff. We thought that night we could continue this discussion and move to the next level. I had a lengthy conversation with Richard Dillman at the New York DOT, who was extremely helpful in explaining to me the process that a community would go through to recommend modification to a state road. I can report on that at the work session as well.

Trustee Swiderski: Could you summarize now so we have an idea of the timeline?

Village Manager Frobel: Sure. What would happen is a letter from the Board to the DOT indicating your interest in seeing some modification of the traffic pattern. That would generate their sending staff here to do a field visit and interview staff members. From there they would do an engineering report, a study, and probably some traffic counts with some recommendations. And then from there they would consider changing the striping patterns. So it could move quickly.

Trustee Swiderski: That sounds quickly?

Village Manager Frobel: I do not know their workload, but it could move relatively quickly. They would do a study and make some recommendations to you. What they do not want to do is anything to cause traffic problems in neighboring communities. They do not want to see an adverse impact on Yonkers or Dobbs Ferry. They also do not want to do anything inconsistent with our transportation plan. I think that is why we need to do this in steps, and having that meeting on the 13th to have a full discussion on the transportation plan may help you in your decisions.

Trustee Swiderski: And the letter from the Board needs to specify an outline of the remedy, or simply a description of the problem?

Village Manager Frobel: Both. They would look to you for your recommendations because that would be at least a basis to begin as to what your perceived concerns are. And then they would test that with their engineering study. They would look to see the data that we have already collected in terms of accidents, etc. They would be open to what we have already done, and build from there.

Mr. Corrigan: What are the outputs from tonight between now and the 13th?

Mayor Kinnally: We have got two weeks. We have reached out to the school board. We will get ready for the meeting, crystallize some of the items that we have talked about tonight. I do not see making any overtures to the state until that meeting because it would be somewhat premature. We want to get input from the school. We want to answer some of the questions, I would think, that we raised here tonight.

Mr. Corrigan: Input from the school...

Mayor Kinnally: We talked about the school zone, and they are part of the whole transportation program that we have outlined. If you are going to talk about any intersection surrounding the school or affecting the school I do not want to do it without having input from them. We are talking about having that input at the work session on the 13th at the Community Center.

Village Manager Frobel: The Community Center, to allow a roundtable discussion. The Trustees have not yet met with the Planning Board to discuss the transportation plan, and they need to fully understand what is entailed in that part.

Mr. Corrigan: Again, I reiterate my feelings of urgency on this. This needs to be successful, and changes need to be made either in conjunction with the transportation plan or in spite of the transportation plan before the next situation happens.

Tim Hayes, 59 Stratford Lane: I would like to thank Chairman Rodriguez and Chief O'Sullivan for their diligent work on this project. And my neighbor, Steve Corrigan, is no Pollyanna in this. There is a clear and present danger for any of us who live in the neighborhood, in Shadow Lawn and adjacent. With the increase in traffic in the eleven and a half years I have lived here it is obvious something will happen. In 2004, in the city of Rialto, California, which was a small city that expanded, a school district owned a piece of property not dissimilar to the Burke Estate, and there was no sidewalk. A child was walking to school, was hit by a car and killed. There was an \$18 million judgment against the school district. That is an urgent situation, no matter how good your insurer is. First of all, the life of the child is gone, but secondly the indemnification is pretty serious.

I wanted to validate what Steve Corrigan said. I have known him and his family since they have lived there on Broadway. In the last two years the traffic has increased. I hope you have more uniforms put on the street, and I hope you give Chief O'Sullivan a bigger budget. There is no reason to drive more than 30 or 35 miles an hour in our Village. You can get through Hastings in four or five minutes if people are patient and courteous and drive within the limit, but some people do not know how to slow down. They may be careless, they may not be aware of their traffic habits.

Trustee Swiderski: Just a clarification for what happens on the 1313th. I am confused about what comes out of this meeting we just had, and does it influence the plan that has been proposed in any way. Or is the plan that is being discussed on the 13th the one that we have talked about tonight?

Village Manager Frobel: The transportation plan has more long-term structural changes to Broadway as opposed to what you heard tonight. Some of the things you heard tonight we could do much sooner; we can look an island in the road, dividing of lanes, and doing some of that major work. That is what I see coming out of it.

Trustee Swiderski: No, let me rephrase that. A particular proposal regarding Broadway was presented tonight. My question is, did the discussion that we had tonight affect the proposal, or is that the proposal that will be presented as part of the discussion on the 13th? Is the proposal intact, or has it been modified? For example, Lee had a comment about adding lanes, and there were other comments made. Has that had a material effect on the proposal, or is the proposal as it stands what is being discussed on the 13th?

Village Manager Frobel: You mean Mr. Corrigan's original?

Trustee Swiderski: The Safety Council proposal, as it stands.

Mayor Kinnally: I do not know if the Board has bought into my comments. I think they could be reiterated. The Safety Council's recommendation is the starting point for the discussion. And certainly we could report on what our discussions have been, some modifications of it.

Trustee Swiderski: That is what I would prefer, but I wanted to be clear on that.

Mayor Kinnally: We really want to get more input from the school board, and then, depending upon the hour, open it up to discussion. We have a lot of raw material here to chew on. The meeting is not going to be to the exclusion of the other items in the transportation plan. But we already know that some of those items are not going to be at the top of our list. We have to focus, to get things done, on those which are more practical, doable, and can be done in a shorter period of time. I hope between now and then we can get more information on a timeline from the state.

Trustee McLaughlin: One of the good things about Mr. Corrigan's proposal which the Safety Council brought to us is that it seemed so simple. I realize when you are dealing with New York State nothing is ever simple, but his did not rely on false issues of human

behavior. They were common sense ideas that could be implemented sooner without big capital investments, or so it seemed.

Mayor Kinnally: Can I throw a little cold water on this? I am not saying you are wrong, but I am not so sure there is a cause and effect here. I do not guarantee, by making it one lane instead of two lanes, that traffic is going to slow down.

Mr. Corrigan: Let us take the risk.

Mayor Kinnally: I know. I am not saying it should not be pursued, and certainly in your area it should be pursued. But I do not think one necessarily follows from the other, especially on that area where you live, which is downhill from Andrus. You do not have to be speeding; if you come to a dead stop at the crest of the hill there and leave the car in drive or neutral and roll down that hill you will be doing at least 45 miles an hour when you come to the bottom. That is one of the problems there, that people do not pay attention. They may not be speeding, but gravity takes over, unfortunately.

Planning Board Chairperson Speranza: In my paying job, I am director of planning for the Westchester County Department of Transportation. Very involved with the work that was done up in Briarcliff, which was also supposed to have extended into Ossining further than the improvements extend now.

Mayor Kinnally: Was that state road, or was that Broadway?

Planning Board Chairperson Speranza: It is state road, Route 9.

Mayor Kinnally: No, there is a state road that goes east-west in Briarcliff. It is *the* state road.

Planning Board Chairperson Speranza: This is Route 9 from 117. The improvements started from 117 were supposed to go past the Arcadian shopping center. The county was involved in it for a number of reasons, buses being one of them and Indian Point another. The state DOT did work with the communities. I am not sure if it was their engineering or if the community had to bring an engineer in and came up with a configuration that is now one lane in each direction with turning lanes, and I think this is a great idea. The state DOT knows that we have been thinking about this for quite a while now. The idea of where does it go to two lanes or four lanes, because this is a DOT road, they will have to buy into wherever the lane configurations make sense.

With respect to the process, one thing you cannot forget. The cause for a big public meeting with Briarcliff and the town of Ossining is the SEQRA process. The state DOT does have to do SEQRA under this. So they do have to have information with respect to the traffic, with respect to whether or not there are going to be air quality implications. But it was done, and there were seemingly no problems and no issues. Again, it is the DOT's process. They are not averse to doing these kinds of projects anymore. It never hurts to send them a letter and say we would like to consider this, please let us know what the steps are to proceed.

Mayor Kinnally: Patty, is there any professional assessment of time on this, having been through the process?

Planning Board Chairperson Speranza: It has probably been three or four years. Ossining was not done. Again, it goes to the political will. In Ossining, further to the north on Route 9-A, there was supposed to be some narrowing of the roadway as well, some build-outs of the sidewalks. That was not so important to the community. So it fell off the table and the improvements did not proceed north. Again, it is not something that the DOT cannot do, and they are not going to say absolutely not, unless there is an engineering reason why.

Mayor Kinnally: Is it possible that this could be done within a matter of months?

Planning Board Chairperson Speranza: If you are willing to hire an engineer and get it done. If you have got to get it into their work program, I would say it is going to take awhile. But state assembly people can do things, and state legislative people can do things, quickly.

Remember, there is design work involved, there is environmental review work. The one thing that is really good is that nobody over these past few years has said, no, that is silly, we will not even consider. When the re-striping was done, the state was wondering whether or not we were going to be requesting that we do a trial down to one lane. But things were very much in flux here in the Village with respect to the grants, etc. that we were applying for.

One other thing that I want to mention. The no truck traffic in Yonkers on Route 9: that is not state jurisdiction. Once that road hits the city of Yonkers it is maintained and under the jurisdiction of Yonkers. So Yonkers can impose whatever rules they want. Whether or not those things are enforced, we see trucks on 9 in Yonkers all the time. And if the Village wanted to consider doing that, I am sure that the state would be more than happy to consider giving away responsibility for it.

Mayor Kinnally: You mean maintaining?

Planning Board Chairperson Speranza: Everything, yes.

Mayor Kinnally: You have said too much, thank you.

Trustee Goodman: Because there are county buses, do we need to contact the county?

Planning Board Chairperson Speranza: That would be done as the result of any improvements. When the state DOT did the structure of Rt. 9 in Briarcliff that is one of the reasons I was involved, because there were bus stops along that roadway that were very hazardous. We worked with them in relocating the bus stops and putting in shelters.

Trustee Goodman: So the DOT would trigger the county as opposed to us needing to write a letter to you at the county?

Planning Board Chairperson Speranza: It could be either way. If something like that happens here the county DOT would be involved.

Mr. Corrigan: The Safety Council did not recommend the prohibition of commercial through traffic. That was an idea I had because Yonkers enjoys it, so I thought why do we not. If it is going to gum this up let us take it off the table and let us move.

BFJ, the people who we contracted to do this study: apparently they have done a lot of this work, I would assume. They list different people they have gotten studies from, departments of transportation. There must be engineers involved in this plan. Is their obligation to us finished now? The mayor asked the question of Patty, and her answer was that if we get our own engineer we could get through in a matter of months; if we put it through the state it will be three or four years.

Village Manager Frobel: A lot of the data has been collected, in answer to your question. I agree with you. We have a lot of the bases that would serve for a handoff now to the state DOT to build from that report, and that is what we need at our next work session from the planners.

Mr. Corrigan: And do we still have access to any of the engineers that may have been involved?

Village Manager Frobel: On a fee basis. They finished their work.

Mayor Kinnally: We have access to the data.

Planning Board Chairperson Speranza: Regarding bike lanes and parking and sidewalks, in New York City on 9th Avenue, they now have sidewalks and bike lanes that are going to be protected by a row of parked cars. So you do not lose the parking, you just move it out and you use some of the space that has been saved by taking a lane. That is something else, an engineer could take a look at refining some of these ideas, that could be a benefit in certain areas.

Mayor Kinnally: Mr. Skolnik, we have your report.

David Skolnik, 47 Hillside Avenue: The speed limit question on Broadway that Steve was bringing up, is there anything that would preclude reducing the speed limit on the stretch of Broadway contained within the proposal.

Mayor Kinnally: Well, the stretch of Broadway contained within the proposal is from Yonkers to Dobbs Ferry.

Mr. Skolnik: There are, in fact, a few different speed postings. I was thinking specifically of the area of South Broadway heading north, extending from Warren or from Tompkins, towards Olinda.

Village Manager Frobel: There are principles of traffic engineering. It has to do with alignment, conditions, site: there is a whole host of things that go into determining a speed limit. But I would defer to the engineers to respond to your question as to whether we could suddenly reduce the speed limit on that stretch of road you are talking about. There has to be a basis in fact as to why you have reduced to such a level.

Mayor Kinnally: What is the limit there, Chief?

Police Chief O'Sullivan: Thirty.

Mr. Skolnik: Which means, of course, that the average speed is going to be higher than that. I am asking if there is some...

Mayor Kinnally: Criteria.

Village Manager Frobel: Otherwise you create a hazard. By having a speed too low for certain conditions you actually create a hazard for other motorists.

Mr. Skolnik: Is Farragut also a state road?

Mayor Kinnally: County.

Mr. Skolnik: So if we were addressing any concerns about Farragut, the DOT is not involved, right?

Village Manager Frobel: Not the state DOT. I assume the county would be involved in any changes.

Planning Board Chairperson Speranza: The county Department of Public Works handles the roads in the county. It is a much more expeditious process than the state. There would be a process, but it would not be as huge.

Mr. Skolnik: I was not clear as to the scope and the restrictions that you are placing on what you are dealing with at the work session. I understand you are dealing with the transportation plan?

Mayor Kinnally: And this proposal.

Mr. Skolnik: My question then is self-serving. I appreciate that you may have had a chance to look at what I submitted. What is the procedure to get some of the material that I presented in front of you or in front of the Safety Council? Again, I do not want to overstep.

Mayor Kinnally: We have your written material. We got it in our packet last week. Will we be discussing it: Is that the question?

Mr. Skolnik: Yes, whether you would discuss it.

Mayor Kinnally: It depends how much overlap there is with the transportation plan and how far we get that evening. But I would think that we would talk about the proposal we have discussed this evening and a number of the higher-priority things in the transportation plan. Some of what you discuss has simply a school bent to it, but there really is nothing exclusive. It all overlaps, so it would be part and parcel of what is discussed.

Mr. Skolnik: If it were only the school addressing the specific area and the concept that had been in the proposal that Steve brought this evening about that particular stretch, that would be one thing. But if the school is there, then it seems as though it is opening it up to an area I have been trying to address. And specifically the concept of a task force.

Mayor Kinnally: I do not know what the rest of the Board feels, but it is hard to say yes, we are going to have a task force without saying who is going to be on the task force and what we are going to ask them to do, and if a task force is necessary. We have a report. I do not know.

Mr. Skolnik: If it does not come up at the work session, is there some way that I can then still have you consider it?

Mayor Kinnally: You have already talked about it in your proposal. Yes, I am sure there will come a time when we will talk about it. I do not know if it is going to be a significant feature of that meeting. It depends on what the participants want to do.

Mr. Skolnik: I am just asking procedurally. Would it be something that I need to resubmit to you so that it comes up on your agenda?

Mayor Kinnally: I do not think you have to submit anything else to us. There will be follow-up things. This is not going to be the last time we will discuss traffic. Do my colleagues agree?

Mayor Kinnally: Jerry just flew in from London. He saw the Giants play this weekend and he is on London time. And it is what, 2 o'clock in the morning Big Ben time?

Trustee Goodman: I request that we have a plan of action. I think that is what the residents might like to hear. There has already been one traffic proposal prior to this for Broadway, and residents were here maybe two or four years ago. That got shelved. I would hope that we could structure the meeting. Peter did that very well for our comprehensive planning meeting. We should go in with an agenda, and we should promise ourselves that at the end of that work session we have a timetable or some sort of plan of action that can serve as a diary, and that we can keep track of this.

Mayor Kinnally: I agree. And part of it is just to get the other components on board.

Trustee Goodman: We have to set some goals, and one of them should be a timetable and a plan of action and who is going to do what. That is the only way we are going to be able to keep track of this.

Trustee McLaughlin: I wonder if we could ask Peter to do the kind of agenda that he did for the CPC meeting.

Trustee Swiderski: Absolutely. I agree, and I think it is something we can all agree on, especially in front of our legislative representatives here. It is a priority, not just Broadway but traffic issues overall. To a great degree I am embarrassed that it takes an accident to push things to the forefront. Sometimes we lose sight of bread-and-butter issues like safety because of these big-ticket items like the comprehensive planning committee or the waterfront that absorb our energy, when painted stripes on the street are at least as important. That has been a realization for all us. I think we are all committed to having this be something front and center for us until it is done. And that is something that I would appreciate if it was taken back to Andrea and Mr. Brodsky.

Mayor Kinnally: Are we going to ask somebody from the DOT to be at that meeting?

Village Manager Frobel: We are going to try.

Mayor Kinnally: If you can go back to your respective offices and urge pressure to be brought, or request to be made, to the DOT that they have somebody there, that helps speed the process up because we do not have to educate them. They will hear and see what the concerns of the community are and, possibly, come down and look at the site. This is not a difficult area to assess the problems. All you have to do is drive down the roads, and it does not take you more than 10 minutes to do it.

Michelle Hamon, 276 Old Broadway: I live directly across from the large grassy area where many of the accidents have happened, and I have been the one who, at 11, 12, 1, 2 in the morning, unfortunately, had to make the phone calls to rescue the people. As many calls as I have made where police have responded, there have been other traffic incidents that occur on a regular basis where the people, fortunately, do not run into things but go off the road because they have come over the crest of the hill and off the road too fast; whether it be a tractor trailer that gets stuck in the mud, or a motorcyclist that skids out and bumps into the wall and then picks himself up and takes off. So although we may not have a record of as many accidents as may be required for action to be taken, there are many more. I have lived there for 10 years. I have seen at least a half-dozen people go the wrong way up Broadway. I am wholeheartedly in favor of shoveling the sidewalk should it be put in front of my property.

Mayor Kinnally: I think we are all committed to having a profitable meeting on the 13th. Peter, have we established our priorities on the transportation plan?

Trustee Swiderski: Jerry was the only good boy up here who submitted a prioritized list.

Trustee McLaughlin: Should we submit a prioritized list to you?

Trustee Swiderski: I will put it together.

Mayor Kinnally: Maybe we can ask the school board to do that also. That way, that helps establish our agenda.

Planning Board Chairperson Speranza: Can you touch base with Angie? She has the priorities for the Planning Board.

Mayor Kinnally: Will do. If there are any other submissions that people have in connection with this proposal or anything else that you think may be grist for the mill please send it to Fran or any of us and we will have it circulated.

4. Attorney Advice and Open Meetings

[Exit of Trustee Quinlan]

Mayor Kinnally: Peter, you wanted to discuss this.

Trustee Swiderski: I am going to read something:

“I asked that the Attorney Advice and Open Meetings item be put on the agenda because I wanted to review an action taken last meeting and my woeful reaction to it, as well as propose two ideas to further improve our compliance with the spirit and letter of the Open Meetings Law. I tend to ration my words up here, so I am hoping you will bear me a few minutes on topics that I think are of some importance to the way we run our affairs here. Last meeting there was an item on our agenda that covered the discussion about payment of recreation fees to the Village by a developer. That item had been put there on request of a Boardmember. Prior to the meeting, Marianne Stecich, our Village Attorney, asked that she provide advice of counsel on this topic before we took any action. This offer of advice by the Village Attorney was made before the exact course of action was clear or, for that matter, before it was clear that a resolution was to be decided upon and passed. A majority of the Board decided not to adjourn to hear our Village Attorney’s advice. I voted against that motion.

“I have always depended upon listening to the good counsel of others, and deciding only after understanding an issue as best I can. Especially when my Village Attorney has something to say, I listen. In this regard, I had no idea what our attorney was

going to say, but I certainly wanted to hear it in case any action we might take would put us in any sort of legal jeopardy. I understand that when it comes to payment of relatively large sums of money there can always be sensitive legal points to consider, including issues that can lead to legal jeopardy. Furthermore, given that everything spoken at a Village meeting is read into a public record available to anyone, including the developer in question, it would never occur to me to have a potentially sensitive discussion with my attorney with, effectively, the other party in the room with me. I would no sooner do that in my private affairs, and I certainly would not do it in my function as a Trustee of this village.

“Shortly after this motion, another motion was raised to ask the Village Manager to reach out to the developer and ask for the funding. Lacking proffered advice from the Village Attorney, I voted no. It was there that I made a serious mistake. I failed in my role as Trustee by voting on a resolution without full counsel, even if that was a negative vote. I should have never been bound by the original vote rejecting adjournment to hear Village counsel’s advice. I should have ignored the vote, turned to counsel, and asked for a private word at that time and heard what she had to say. Once so advised, I would have been prepared to vote on the next resolution with the information I felt I needed. For the record, having heard that advice later in the evening, I would have voted in favor of that resolution.

“I promise that this will not happen again. If the Village Attorney asks to offer advice behind a closed door, I will stand up, excuse myself, and take it. Such moments are relatively rare. I can count them on less than two hands in six years of service. I see no pattern of excessive advice of counsel, and I will take that advice when it is offered.

“This speaks to the larger question of the Open Meetings Law and how it has been applied in this Village. In six years I have never once heard an inappropriate discussion thread in one of the closed-door sessions ever proceed for more than a few minutes before being abruptly, even rudely, shut down, typically by the Mayor, because it was outside the scope of the session called. However, there is always room for improvement.

“As the first of two ideas I would like to propose tonight, I would like to suggest that minutes be kept at future executive committee meetings. These minutes would capture the date, who was in attendance, and the general subject matter of the discussion, for example personnel, and any resolution passed that would be in the public domain in subsequent meetings. Trustee McLaughlin informs me that this

complies with the letter of the law regarding open meetings and so it should be implemented immediately.

“My second proposal addresses the spirit of the law. Both Trustees Diggitt and Danielle have discussed in the recent past the idea of taping and broadcasting the work sessions of the Board of Trustees, the Planning Board, and Zoning Board of Appeals. These are not currently recorded or broadcast. We have also discussed having the comprehensive planning committee and any remaining LWRP meetings taped and broadcast. Alas, volunteers for this work are in short supply, even though Trustee Diggitt recently manned a camera at a comprehensive planning committee meeting to set an example. So part of the spirit of the Open Meetings Law remains unfulfilled: that of offering the most important meetings the widest possible audience. I would propose that we stop wishing for volunteers to appear and pay for help. I propose posting, via the Youth Employment Service or through the Community Center a schedule of the meetings to be taped, and offer to pay an amount in the range of \$10 an hour, which would perhaps be sufficient to draw those who may find that episodic evening work appealing, and payment nice pocket money. Given that there are no more than 30 meetings a year that fall into the categories just discussed, and these meetings typically last three hours, this should not cost the Village more than \$1,000 to \$1,300 to execute. It should not take long to accumulate a list of locals who would be happy to do this for the payment, and reliably, too.”

“With this proposal on minutes and proposal on paying for the videotaping assistants, we could put to bed two holes in our procedures and continue to set the bar among the villages in being the most consistently dedicated to the letter and spirit of open meetings.”

I would like to turn the floor over to my colleagues for discussion and comment.

Mayor Kinnally: Peter, I thank you for your saying that I abruptly and brutally shut things down. That is what we have been doing, but I try to do it politely. The occasions in which we have executive sessions or advice of counsel are always announced, and any decisions made announced or acted upon in public. To the extent that action is taken, minutes certainly are appropriate. But they are not public documents.

Trustee Swiderski: If all they discuss is who attended, that the general discussion was personnel or legal matters, and those decisions taken that would then be discussed publicly, I do not see a problem. I am extremely conscious of what I call fear of subpoena. I would not want anything in those minutes other than what I have just described which, I do not think, put us at risk.

Mayor Kinnally: Because they would not contain anything.

Trustee Swiderski: Well, it does serve an important function. Because they are the minutes, and the previous meeting's minutes would be accepted by the Board, they are an acknowledgment by the fact of acceptance that what is being discussed in these meetings is appropriate for executive session.

Mayor Kinnally: At least by the attendees.

Trustee Swiderski: We are all on record. We approve minutes which indicate the prior session was about personnel issues. The topic that was discussed that resulted in a public proclamation of some sort was approved in that meeting. I do not see that it puts us at any risk of abrogating the confidentiality of these discussions. But on the other hand, it forms a record that is also useful to go back and say: you were not at the discussion, that was an executive session, or, that was the one where we chose the members of the comprehensive planning committee. There is some utility to having that record, but there is also utility to the simple statement that what was held in these meetings was appropriate. I think that statement is made by an acceptance of those minutes.

Village Clerk Maggiotto: There have been a couple of occasions, maybe two or three, when a specific action was taken in executive session, particularly regarding personnel, that was then announced at a Board meeting and minutes were written for those meetings. But are you suggesting that something apart from a formal resolution would be recorded in minutes?

Trustee Swiderski: Even if no resolution is voted on for public disclosure, the minutes will be all of four or five lines long: who attended, personnel matters were discussed, nothing was voted on resolution. That is a record. I would argue that it is a public document. Diggitt, what does the Open Meetings Law say? Is that a public document, the minutes, or is it private?

Trustee McLaughlin: I do not recall when the minutes of an executive session are public. But I think the point of the minutes is that they...

Village Attorney Stecich: After an executive session, if you have taken an action you have to have minutes. The Open Meetings Law requires that. Peter is suggesting something different from that.

Trustee Swiderski: I remember it being a little less clear than that, but it does not much matter. So we expand on the Open Meetings Law by a bit in simply having, in effect, a glorified attendance. But at least it is a record: we are in executive session, personnel and whatever else was discussed that night. If something came out of it, we have that record and it serves a function. And it is also something we are legally bound to.

Trustee McLaughlin: I have talked several times about the issue that in the past there was no record of work sessions. They might be mentioned in the preceding regular Board meeting minutes as being scheduled, but then there was nothing. The reason given was that there was no action taken. But the Open Meetings Law is clear that a work session is a meeting. All the Board members are together, you have a quorum, and you are discussing public business even though you are not taking action. Now, ordinarily you would have very boring minutes. You would just have the attendance and what was discussed because you would have no action taken. But my problem has been that therefore I have not been able to revisit what we did.

Mayor Kinnally: Right. Those are two separate things, though.

Trustee McLaughlin: I understand they are. Because our transcript is not the kind of minutes that New York State lets comply with the Open Meetings Law. Our transcripts provide so much more, and it would be expensive to do that. If we are going to videotape our work sessions, that at least solves the issue of being able to revisit them. But there is still a question of the fact that the work session is, in fact, a Board meeting.

Mayor Kinnally: The Open Meetings Law does not require that you create a record. The Open Meetings Law essentially says that the meetings have to be open. They have to be available to the public, it has to be in a public forum, and the public has to be invited and notice given. If all you are doing is discussing an item you do not have to create a record.

Trustee McLaughlin: I understand that. The point of the minutes, as described in the Open Meetings Law, is that it is resolutions passed and actions taken. And a work session, by definition, does not have action. But given that we have in all of our other meetings a transcript and can go back and see who said what, what information was shared, it is a gap of our coverage both for our own use and for that of the public that we do not have some record available of work sessions.

Trustee Swiderski: Does videotaping address your concern?

Trustee McLaughlin: The videotaping is not as good as having a transcript. But yes, the videotaping would do it.

Mayor Kinnally: If we would have transcripts it would bankrupt us.

Trustee McLaughlin: It would be very expensive, I know that.

Village Technology Assistant Corso: What about audio recording?

Mayor Kinnally: Yes, but here is one of the problems of just having audio recordings. In a work session there is back-and-forth. You may not know who is saying it.

Trustee Swiderski: That is why I am proposing the videotaping.

Mayor Kinnally: Videotaping is good, but it cannot be the policy of the Village, because there may be times where you do not have people available, and I do not want to say we are not going to have a meeting because we do not have a crew.

Trustee Swiderski: I agree and maybe, at that point, we settle for an audiotape. But as an attempt to fill the gaps, and we do not have many, these two address gaps we have heard about. It is low-cost, it takes the issue off the table, we can stop asking for volunteers. It is boring to hear about it because nobody ever shows up. And there is a record. It is a nominal expense if we are pursuing the spirit of the Open Meetings Law. Once we do it, it will just become something that happens. And when the comprehensive planning committee stops meeting it will be even cheaper because our work sessions add up to six, maybe eight a year.

Mayor Kinnally: I do not have a problem that we can afford that. But we need to get the people in. The focus on our taping has changed. Twenty-plus years ago when we were getting involved in this it was public access and it was supposed to be the public who was going to do it re programming, who were going to come down and deal with the local access. Unfortunately the spirit of volunteerism is not here so we have to fill the gap.

Trustee Swiderski: I am thinking what is appealing to a person of college or high school age, and \$10 an hour sounds pretty good.

Mayor Kinnally: That sounds good. All right, I think it is a good idea and Fran can take a look at it.

Trustee Swiderski: Could I ask the attorney for *public* counsel on the minute suggestion: If you have any issues with the suggestion for the sort of minutes I have described, and what your thoughts are on them being public documents.

Village Attorney Stecich: The only one I would have concern about would be if it were over a legal matter; it would be privileged. If it were a session for advice of counsel or an executive session dealing with legal issues, that would be privileged.

Mayor Kinnally: We would simply say “advice of counsel,” period.

Village Attorney Stecich: Right. Even though it is privileged, people make mistakes when they go through files.

Trustee Swiderski: But let me throw out a hypothetical. We meet in executive session to discuss a police contract and, in the end, agree to accept the terms offered by a union negotiator. We would come out in public with that statement the next week. I would argue that is something that would belong in the minutes and should be public record once it has been released to the public.

Mayor Kinnally: But we are subsequently taking action in a public meeting anyway by approving the contract.

Trustee Swiderski: Understood. But I would say at least we capture what meeting that discussion was held in and when it was arrived at.

Mayor Kinnally: Sure. But let us assume for a moment we have a session on personnel that also happens to be attended by counsel and an issue has been brought before us about some activity of one of our employees. A decision is made to refer the matter to the district attorney. I would not want that put in the record. All I would say is that it was a session dealing with personnel. I would not get any more specific than that.

Trustee McLaughlin: Well, that is what Peter proposed in the first place, just to describe something. He has the word “personnel” here as being the topic.

Trustee Swiderski: And another clarification. The resolution passed would simply be described, but without necessarily a roll call. So, for example, a committee is appointed, but it was not a unanimous decision and there was some contention about members on that committee. I think there should be the freedom to have that discussion without necessarily enumerating who voted in favor or against, but simply the fact that the resolution passed.

Village Attorney Stecich: The Board does have rules of procedure that deal with executive sessions and how you deal with issues like that.

Trustee Swiderski: If you could take what we proposed here, and lay it over the rules so we do not go against them.

Village Attorney Stecich: Okay. Why do we not, if everybody is in general agreement, amend the executive session policy to include that.

Mayor Kinnally: We will put that on for the next meeting.

Village Attorney Stecich: And then you can vote on it. I will make sure I understand. Let us see how the two fit together.

Trustee Swiderski: Okay, good. But I would like to err on the side of the Open Meetings Law you circulated: that it be something where a resolution is taken on a public matter, that is in the minutes. I would like to err on that side if that is at odds with what is in the current law. Amend the law to allow it.

Trustee Goodman: Yes. I would like to thank Peter for his comments and suggestions. I support obtaining a paid roster of volunteers and also having our executive sessions recorded by minutes as per counsel's advice.

On the first point, I think it bears repeating that all of us act in good faith, and we are not always going to agree on the issues or how we come at it and we come at things in different ways. While I appreciate Peter's comments, I do not agree with him on this issue and I think that the majority of the Board did act appropriately. I think when it comes to matters of attorney-client privilege, when you are dealing with the public body, there is the Board, there is the public body, and there is an attorney. We serve in a different capacity than we do in our private lives and it is no longer a one-on-one, it is actually a triangle. In this particular case, and perhaps I did not articulate myself well enough, I think my real trouble was that any advice on that particular matter should be shared in public and not...

Mayor Kinnally: I think you made yourself perfectly clear on that. I do not think there was any issue.

Trustee Goodman: But I think I objected to it on work session grounds as opposed to a waiver of the attorney-client privilege. I think the trouble that I had was not receiving counsel's advice, but the manner in which it was going to be dispensed. So enough said on the subject, and I am sorry that Peter was troubled. We agonize about our decisions, and we think very hard and carefully about things. I would hope that the situation does not arise again. But certainly I went back, I did the research, and I would come out the same as I

voted last week. So I feel that it has been aired, and I think that we move forward always keeping the spirit alive of the Open Meetings Law, for which we are all endeavoring.

But I would like Marianne's opinion about minutes with the executive sessions and what she sees being done elsewhere as well.

Mayor Kinnally: Anything else from the Board on this subject? Anything from the public? We are not going to have public comments. We had public comments already.

Mr. Skolnik: A clarification question, that is all, on the work sessions. If you could just simply clarify the role, if any, of public comment in that work session.

Mayor Kinnally: A work session generally is to solicit an interchange of ideas among the participants of the various boards that are in the work session. I do not know how much time is going to be available at the end of that. We are going to try to put a limit on how long that meeting is going to run. So I do not know if we are going to have back-and-forth with the public.

5. Other

Trustee Swiderski: It had been raised earlier that we discuss the renewal of the building permit. Since that process has a 10-day expiration period, if we do not talk about that tonight and resolve something I am not sure where that is left. I requested that we discuss it with our attorney in closed session so we understand the issue. The Boardmember who raised it is not here, but I still think since there is a 10-day clock running we need to discuss it.

Mayor Kinnally: Then I would suggest that we have a session with counsel at the close of this meeting, or do you want to have it before we close the meeting?

Trustee Swiderski: I do not know. You have to ask the other Boardmembers. Out of that discussion, is there a public discussion offering our sentiments on what should happen next?

Mayor Kinnally: We should have discussion with counsel to see what we can talk about.

Trustee Goodman: I do not think it is going to generate necessarily an action on our part because it may not be within our purview.

Mayor Kinnally: That is part of my feeling. It may not be within our jurisdiction.

Trustee Swiderski: That may be so, but I would want to adjourn briefly now so that if there is a public statement the meeting will still be in session.

Mayor Kinnally: Let us make a motion for a session with counsel.

On MOTION of Trustee McLaughlin, SECONDED by Trustee Goodman with a voice vote of all in favor, the Board recessed for advice of counsel in connection with litigation and the building permit issue.

[Recess 10:25 p.m.; reconvene 10:40 p.m.]

ADJOURNMENT

On MOTION of Trustee Swiderski, SECONDED by Trustee Goodman with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 10:40 p.m.