

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

A Regular Meeting was held by the Board of Trustees on Tuesday, September 18, 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 Danielle Goodman (8:10 p.m.), Village Manager Francis A. Frobel, Village Attorney Marianne Stecich and Village Clerk Susan Maggiotto.

ABSENT: Trustee Diggitt McLaughlin

CITIZENS: Seven (7).

APPROVAL OF WARRANTS

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

Multi-Fund No. 20-2007-08 \$ 77,677.28
Multi-Fund No. 21-2007-08 \$187,679.50

PUBLIC COMMENTS

Elisa Zazzera, 68 Southside Avenue: I had noticed in the calendar on the Website the Conservation Commission meeting was held last night, and only two of the members came. So it did not seem like there was a meeting, or if it was canceled it was not announced. Also, I noticed that at the end of the Trustees meetings you have announcements and you often announce other meetings that are coming up. The Conservation Commission meeting was not announced on the agenda. I was not at the meeting, so I do not know if it was missed.

Mayor Kinnally: I think somebody added it.

Ms. Zazzera: I am on the Village e-mail list. I usually get an e-mail about the meetings that are coming up. Never got one about the Conservation Commission meeting. So it has fallen off the charts, I think. I do not know what is up, if there is anything up.

Mayor Kinnally: We will follow through with the chair and see what is happening.

74:07 PERMIT APPLICATION FEE FOR FLOODPLAIN DEVELOPMENT

Village Manager Frobel: This is the final part of that ordinance that the Board recently adopted. The \$250 appears reasonable. It is what neighboring communities have pegged the fee at. Obviously, we are uncertain as to the level of support, but staff will be required to process an application. We believe the \$250 is a good number.

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

RESOLVED: that the Mayor and Board of Trustees establish a permit application fee of \$250.00 (two hundred fifty dollars) for floodplain development as required by Local Law No. 4 of 2007 Flood Damage Prevention.

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

75:07 AUTHORIZATION TO RECEIVE BIDS – QUARRY TRAIL CONSTRUCTION

Village Manager Frobel: A few meetings ago the Trustees awarded the project for the design of the Quarry Trail to RGR. This is the 2001 grant that the community received for the development of this trail. After several meetings with the architect we are now at a position where we are ready to go out to bid. Despite the fact that it is a straight 575-foot by 15-foot wide trail, it had some engineering challenges. The change in elevation, from the high point at the Old Croton Aqueduct down to the low spot on Southside, presented some challenges. We believe that we have been able to minimize the strain that people will experience in climbing that distance through the use of about 128 steps. Our goal was to build a trail that would ease that change in elevation, and these steps will accomplish that. The trail goes underneath two bridges, and a major part of the project is to clean out those areas under the bridges which are filled with trash, rubble, silt, and vines. We will be removing two or three dead trees. We are also going to build a series of retention-type basins along the trail to capture any stormwater before it runs down to Southside.

We are hoping to go out to bid in October. We still need to receive approval from the state on the specifications because they are the funding agency. As soon as you give us the okay to bid we will pass it on to the state and receive their approval. I asked Dr. Hubbard to join us to answer any questions. We have used his skills in developing the specs. The landscape architectural firm is one of the best I have seen. They have had a lot of experience in trail development, and they have taken Dr. Hubbard's comments very seriously. We have a product that we are going to be pleased with when it is completed.

Dr. Fred Hubbard, Village Naturalist: This trail is a cultural, economic, perfect example of the possibility of development of a new trail. It has such enormous potential because it is not only a very simple operation, but it has a connection to other trails within the Village. Everyone will enjoy walking on this trail from the Old Croton Aqueduct down to Southside Avenue, and then connecting with other trails along the way, such as potential trails on the waterfront as well as the Rowley's Bridge Trail. It is a great contribution to the Trailway system in the Village.

Village Manager Frobel: The architect is very sensitive to our limited budget. This was awarded in 2001. The purchasing power of that grant has been limited. We will provide most of the management services during construction. We are bidding the work on a unit basis so that we can take advantage of the stone that we saved from our Community Center project. Dr. Hubbard has a friend who has a quarry. We are negotiating with him to receive the steps, which are going to be rock, stone, granite rather than wood timbers. If we can get it at cost we will have it delivered on-site and the contractor will not have to buy the product. We will have the product for him to use, which will result in quite a savings.

Trustee Swiderski: There is a large derelict air conditioning unit at one point on the trail. Are there any plans to screen that sort of unsightly intrusion?

Village Manager Frobel: We talked about that air conditioning unit. I think it is not being used, but has been dropped off there. That is going to have to be removed. But there has not been a lot of encroachment by the neighbors.

Trustee Swiderski: About 100 yards into the trail it rapidly degenerates into unsafe conditions. There should be a sign "To Be Worked On" or some similar wording. I do not want to imply that that this is an open trail. If you get to the second tunnel, where there are at least three dumpster loads of wood and debris, you are beyond unsafe; it is hazardous. My concern is, what is that legal term when people are tempted to go somewhere they should not?

Mayor Kinnally: Attractive nuisance.

Trustee Swiderski: Well, that screams attractive nuisance if we do not at least cover ourselves by marking it as something that is not officially open.

Village Manager Frobel: Let me talk to Dr. Hubbard, and let us take steps to prevent that.

Mayor Kinnally: [Trustee Goodman arrives.] Danielle, we are talking about the authorization to receive bids for the Quarry Trail. Just to note, Danielle was here. She had to go back to get her glasses. Any comments on the trail resolution?

Trustee Goodman: I am in favor of it.

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

RESOLVED: that the Mayor and Board of Trustees authorize the Village Manager to receive bids for the construction of the Quarry Trail.

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

76:07 BOND RESOLUTION – GARBAGE TRUCK

Village Manager Frobel: These three resolutions are all closely aligned. Now that the Board has approved the seeking of bids for purchase of the garbage truck, the fire pumper truck, and the ambulance we contacted bond counsel. Bond counsel has drawn up the borrowing acts so the we can begin the process of borrowing the necessary funds to acquire this heavy equipment. These would be BANs, Bond Anticipation Notes. In the current fiscal year we would take delivery on the garbage truck; the ambulance in '08; and the fire truck in '09. Once all items have been purchased they would probably be rolled into a serial bond. The goal has always been to minimize the impact on the budget and to spread it out over three fiscal years. We are looking at perhaps an interest rate of 4%. Our fiscal advisor indicates that municipalities are not having difficulty in selling their bonds; what is going on in the mortgage and other financial markets has no effect, as of now, on this market. He feels confident that once you pass these, we can begin that process and it will be smooth.

Mayor Kinnally: These are items that were identified in the Manager’s capital budget and have been discussed on a number of occasions, at a work session and at our last Board meeting, and the need for them has been more than aired and justified.

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

RESOLVED: that the Mayor and Board of Trustees authorize the issuance of \$170,000 bonds of the Village of Hastings-on-Hudson, Westchester County, New York, to pay the cost of the purchase of a garbage truck for said Village.

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

77:07 BOND RESOLUTION – FIRE PUMPER TRUCK

Mayor Kinnally: Same comments apply as for the garbage truck.

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

RESOLVED: that the Mayor and Board of Trustees authorize the issuance of \$575,000 bonds of the Village of Hastings-on-Hudson, Westchester County, New York, to pay the cost of the purchase of a fire pumper truck for said Village.

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

78:07 BOND RESOLUTION – AMBULANCE

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

RESOLVED: that the Mayor and Board of Trustees authorize the issuance of \$150,000 bonds of the Village of Hastings-on-Hudson, Westchester County, New York, to pay the cost of the purchase of an ambulance for said Village.

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

79:06 DESIGNATION OF LEAD AGENCY FOR QUARRY TRAIL DEVELOPMENT

Village Manager Frobel: You are designating the Village as the lead agency. We will prepare the short form. This is considered an unlisted action. We view it as a maintenance project, although there is, obviously, some construction. But it probably fits closer to the category of maintenance. We view it as improvements to an existing trail. We will circulate it, once it is completed, to the various agencies for their comments, and proceed on that basis.

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

RESOLVED: that the Mayor and Board of Trustees designate the Board of Trustees as Lead Agency for environmental review pursuant to the State Environmental Quality Review Act (SEQRA) involving trail development of the property known as Quarry Road, and be it further

RESOLVED: that circulation of a short form Environmental Assessment Form (EAF) to interested parties is hereby authorized.

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

VILLAGE MANAGER'S REPORT

Village Manager Frobel: No firms attended our on-site visit for the Kinnally Cove project, which surprised us. Since that time, three firms have picked up the specifications. The bid opening is September 26. If we have no bidders, we will come back to you with some suggestions.

We are trying to analyze why there is a lack of interest. It is not that big a project for some of these firms, but it is too big for smaller firms. Also working in water creates a situation where contractors need to link up with other contractors who are more familiar with working in water and, consequently, you have limited the number of bidders. I hope we will have some interest between now and when we open those bids.

Second item, the pool. We experienced a very successful year. Our pool membership reached 885 families or individuals. That compares to 750 on average in previous years. Our total attendance was up 18.7%, total visitors 27,361. We easily made our budget. In fact, we reached about 102% of our budget. We have done very well this year. It continues to be a very popular place, which everyone realizes.

I have received several e-mails from residents for a very positive camp experience and a most enjoyable time at the pool. A special thanks needs to go out to Ray, Kendra, Lisa and the entire staff for their commitment to making the summertime experience here a positive event for all our residents who participate.

My final note is Con Ed on the tree-trimming program. They still need to take down two trees, on Hamilton Avenue, which the property owner has agreed to, and on Broadway where they have not yet reached agreement, but by and large they are complete. They have picked up all the bigger logs left on the side of the road. If anyone is aware of anything we have missed, let me know and we will have the crews come back.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: I have been in contact with Joe Sontchi from ARCO and am hoping to set up a meeting with him in the next couple of weeks. I am waiting to hear from him as to an update on their testing of the water in the OU-2 portion, and the results of the testing from OU-1. I am also reaching out to George Heitzman of the DEC to get the DEC's take on the progress or lack thereof of the testing on the waterfront.

Trustee Goodman: Which one of the Trustees will be able to accompany you to the meeting with ARCO?

Mayor Kinnally: I do not know because I do not know when it is going to be.

Trustee Goodman: I express an interest to attend.

2. Request to Purchase Village Property - Referral to Planning Board

Mayor Kinnally: At last week's meeting we had before us the procedure that the Village Board normally undertakes where an application is made for consideration of a conveyance of Village-owned property. That involves a referral, as was noted last week, to the Planning Board for a determination as to whether or not that property would be needed for a municipal purpose. It is not a decision on the application but it is information that the Village Board would need before going forward and even considering the application. If there is a perceived need for this property for present or future municipal purposes, that would go into our consideration as to what to do with the application. So this is on for discussion of referring the matter to the Planning Board.

Trustee Swiderski: At the last meeting there was a consensus on the Board of no great eagerness to sell, but there was an entertainment to swap: moving the existing paper road to, whether it is an easement or something, the edge of the property. Ideally, that easement would also provide for a walkable portion down from the Aqueduct. When you look at the map, it is not entirely clear how broad that walkable portion is. But given that in unwinding what is now a winding road you would be gaining property, perhaps giving up a little up there to create something that theoretically down the road could be walkable would be ideal.

I think that is where we left it. A number of us went by the property since then, but we look to the Planning Board for their opinion.

Trustee Goodman: I agree with all that Peter said. As an additional comment, at the Quarry Trail dedication some members of the Old Croton Aqueduct Society who were there were aware of this because they had watched our Board meeting. I do not want to speak for them, but I think they agreed with the idea of an access.

We are confronted with residents who have been on our agenda twice, maybe three times. Now we are sending them to yet another board without guidance. If it is going to go back to the Planning Board it should go back with a resolution or some guidance, advisory opinion perhaps, that we have already made a determination on the question of the sale, and refer it for site planning to explore the feasibility of a land swap. That is what the Planning Board does. They have an expertise in it. This is so that the applicants know where they stand. They may not want a land swap and may simply prefer to let this rest, but I am trying to make this user-friendly.

Mayor Kinnally: I am trying to make it right. I do not know that this Board made a decision as to what we are going to do with this application. It is premature to make the decision because there has not been a determination as to whether or not this property is to be used for a municipal purpose. No action was taken by this Board last time. And the referral to the Planning Board does not mean that the applicant has to go to the meeting. It is just a question of the Planning Board looking at it, as they have done in the past, and seeing if this property should be retained. Then they give their report to us.

Trustee Goodman: Section 102 of the New York State village law that governs this says: "There are two basic requirements. Number one, the land must no longer be needed for a municipal purpose." Well, we are saying that is not the case. We feel that it is needed for a municipal purpose.

Trustee Swiderski: Maybe.

Mayor Kinnally: We have not made a decision yet.

Trustee Goodman: Why do we have to overload the Planning Board with this?

Mayor Kinnally: I do not think it is overloading them. That is exactly what our procedure has been.

Trustee Goodman: I am just trying to save steps. It does not make much sense to me. We have identified a use, and it seems to me the inquiry should begin and end there, saving the Planning Board the time. And the applicants can have guidance as to where we stand. But if

you insist on pursuing what is probably a procedure that should be streamlined, then go right ahead. I do not see it.

Mayor Kinnally: If you want to streamline the procedure we can do that at another time. But there is an application before us. There is a procedure in place right now: refer it to the Planning Board. I do not know how much time the Planning Board is going to spend on this, but this is a matter of routine that the Planning Board has gone through before. They will come back to us with a recommendation. It may be that it is moot, that the Planning Board says this should be retained for a municipal purpose. Then we can move on the application. But I do not think, in fairness to the applicant, if we have a procedure in place that we should get guidance from the Planning Board, that we ought to short-circuit that. We ought to get guidance from counsel, too.

Trustee Goodman: Then I have a question. Why did it come to us to begin with?

Mayor Kinnally: It should come to us.

Trustee Goodman: If there is a procedure that first the Planning Board...

Mayor Kinnally: No, the procedure is that the Village Board refers it to the Planning Board. The application is made to the Village, not to the Planning Board. The application came to the Village Board. So we are, as part of the process, referring the matter to the Planning Board.

Trustee Goodman: I would cite this as exhibit A of yet another example of residents being shifted from board to board. Hopefully we will undertake a project where we look at our calendars and our schedules and how we coordinate things to prevent this in the future. I apologize to the applicants.

Mayor Kinnally: I hope we do not prevent it in the future because the issue here is whether or not there is a municipal purpose. And our procedure is that the Planning Board gives us a recommendation in that regard. I know what the statute says there. But in order for us to decide, we have said we want guidance.

Trustee Goodman: Does it absolutely have to be referred to the Planning Board?

Mayor Kinnally: That is our procedure. Do you want to change it? We are changing it in midstream. Let me hear from the rest of the Board what they want to do on this.

Trustee Quinlan: I have not really thought about it before now. I read the resolution, and my gut instinct is that I would like the input of the Planning Board if they could find time for it. But I have also, on the record, given my opinion about whether we should sell this piece of Village land and what the procedure should be to set a price. If this is the way it has been done for a number of years, I am willing to go along with it. I just hope it does not take too long, and I hope the applicants do not mind going to the Planning Board.

Mayor Kinnally: They do not have to go the Planning Board. This is a determination the Planning Board is making not on the application per se, but on whether or not this property should be retained for a municipal purpose.

Trustee Quinlan: The Planning Board's opinion about that would just be advisory to us.

Mayor Kinnally: Exactly.

Trustee Swiderski: I am torn. At least, Lee, you have not vocalized an opinion on this, but generally we are of one mind that this does have a municipal purpose. I do not want to speak for the Planning Board, but the municipal purpose seems obvious enough that I have a hard time imagining they will determine otherwise. So while I am a stickler for procedure and process, and would rather refer it out of respect for the procedures and processes, I suspect the response will be exactly what we think it will be, which will be it should be retained. A month and a half will go by, and that is the time lost in a process that we respect. So I am going to defer to my usual deference to process and agree it should be referred. But I suspect we will be back here in October discussing a shift of our right-of-way to the south of the property.

Trustee Goodman: If it is going to go to the Planning Board, could we ask, if they determine there is a municipal use, if they could assist us with working out a land swap? My thought is that this is site planning, and that is what they do.

Village Attorney Stecich: No, it is not site planning. This would not be under their site plan jurisdiction because it would not require a site plan. Site plan is something very specific.

Trustee Goodman: I am using the wrong words. They deal with planning out...

Village Attorney Stecich: Planning issues. So it is, in this case, under their advisory authority.

Trustee Swiderski: But in terms of steps, and again in deference to the applicants, if the end goal is a land swap, how does that work? Where does the nitty-gritty come in of sitting down with a map and saying, here is the red line on where it should go. Where does that happen in this process?

Mayor Kinnally: In executive session because it is conveyance of real property.

Trustee Swiderski: I want to get the process down. Should they be preparing a proposal that provides for that when they go to the Planning Board? Right now the proposal is a purchase. Will we be sending it back to the Planning Board yet again when we decide?

Mayor Kinnally: Marianne raises a good point. Has the application changed at all? No?

[Applicants indicate no change in the application.]

Village Attorney Stecich: So the application is to purchase it.

Mayor Kinnally: The issue of the land swap - if they wish to do that they can come back to us - is not something that we should negotiate in public, although a determination would be announced in public. I have not walked the area, but intend to. It is not a simple matter of saying we will swap it to an area south of the property because of the topography there. We can be creative. It does, unfortunately, take time, but it is a big issue.

Trustee Swiderski: Will it require another referral to the Planning Board if the determination is made that the Trustees are not interested in a sale but will go for a swap?

Village Attorney Stecich: I would say that when it goes to the Planning Board either I write a memo or somebody writes a memo to the Planning Board about this discussion, saying that the Board of Trustees believes that there is a purpose for it, but thinks it might be a good idea to swap this piece for another piece.

Trustee Quinlan: There is no doubt that this is the proper topic for executive session: the sale or swap of Village property. But that does not mean that we cannot talk about it in public, too.

Mayor Kinnally: That is right.

Trustee Quinlan: So we go back to our disagreement of last week about when and where we can discuss this. The point I am trying to make is, yes, it is a proper point for executive session. But this is taxpayers' property, and it also is a proper topic for discussion in public.

I have made my opinions clear that this land could be go for a lot of Village uses that we may not even be able to see: now electrical lines, sewer lines, trunk lines, paths for walking. We do not know what the future is going to bring. So although it should go to the Planning Board I think, Marianne, that you should ask the Planning Board to read about the Board of Trustees' comments on these things so that they are not working in a vacuum.

Mayor Kinnally: Good point.

Trustee Goodman: Both Diggitt and the Old Croton Aqueduct Society pointed out that at the ravine due south of this property there is a bridge and overpass and arch that is of some significance. We should keep that in mind.

Mayor Kinnally: All of this is substantive, but right now I am just trying to get consensus that we refer it to the Planning Board. So is there consensus that we refer the application with some background to the Planning Board

Trustee Goodman: Yes.

Trustee Swiderski: Yes.

3. Comprehensive Plan Committee Kickoff Meeting

Mayor Kinnally: There was a suggestion of having this on September 25. Is the Board available and should we poll the members?

Trustee Quinlan: I am available, but it is a good idea to see how many of the current ten members can attend before we schedule.

Mayor Kinnally: The agenda for that meeting, I hesitate to say pick a chair because it may be too soon. They are going to need to work out some of their dynamics. But would this be a meeting of the Board of Trustees with the committee, or with just the committee?

Trustee Goodman: I thought we were going to have a joint session, perhaps at the Community Center, if it seems like there is a lot of interest. Peter suggested that the Trustees would set the agenda. We wanted to give some guidance to the committee, wish them well, and speak about matters that interest us. I have a point of view that I would share with them once and for all in terms of my wishes or desires for the process, my enthusiasm to support this process. Issues about clerical support and other details have to be worked out, and they should hear that from us and not be left to flounder. If they procedurally are assisted they will be more efficient in the outset and will not lose time.

Mayor Kinnally: I would ask Fran if you would consider what you might have available, and get input from the committee about what they might need in the way of assistance. We can poll them, and tentatively set a meeting of the comprehensive plan committee for September 25 at 8:00 p.m. in the main room at the Harmon Community Center.

4. Other

Trustee Quinlan: I saw on the Planning Board agenda for Thursday that they may be approving the site plan for the 9-A project. I would like to convey to the public, and remind myself and everybody on the Board and Fran, that my recollection was that when the site plan was going to be approved that the \$400,000 rec fee was due the Village. So if the site plan is approved Thursday, Fran, I would ask you to remind Ginsburg and whatever the name of his corporation is now who is going to do the development that we expect that \$400,000 post haste so that we can start making interest on it, and determine how we are going to use it in terms of improving recreation and parks for this village.

I was involved in the final approval of 9-A about two months after the election. A lot went on before I got on the Board, years and years. But there is also land that is due to us of 1.75 acres, and I do not believe that was ever outlined about when that transfer of land may be. But since being on the Board I have learned that Anderson and his Urban Green were using Christie Terrace as a staging paper road without paying us anything. I am concerned that they will probably use the acreage that they are going to give to us some day as a construction staging area, and I am wondering when we should start negotiating with them, when that transfer should take place, so we can make plans for that also. It cannot be used for free by them for years and years and years, considering the money we could use to help reduce the taxes of the people in this village.

Finally, I was sent by Susan and Fran a resolution sent to us by the Village of Ardsley in support of the state legislation requiring that condos constructed after January, 2008 be taxed as single-family dwelling units. Lee, you and I discussed that, and we both agreed that the chances of that passing in Albany are probably not good. But I think it is important to send a message to Albany, if my fellow Trustees would agree, that we need to tax condos at the same rate as single-family dwelling units, as they use the same services as single-family units and we could use the tax revenue t. I am asking that this be put up for Board discussion in a more formal sense.

Mayor Kinnally: Let us put it on the agenda for the next meeting, October 2.

Trustee Goodman: Trustee Quinlan, thank you for refocusing us on that resolution. It is important to send Albany as many messages as we can when it comes to the tax base.

With respect to the Ginsburg project I expressed a concern last week about our failure to discuss the flood damage prevention building ordinance before we passed it. We had the opportunity to add additional language. I did not realize when we passed this ordinance that the Ginsburg project was close to completion. I had suggested that we put off discussion about the additional language subject to having an engineer talk to us about the ramifications of these provisions, to my concern of at least two provisions that might apply to the Ginsburg development. My question is to counsel. If the site plan is approved, does that mean that Ginsburg would not have to abide by these laws if we pass them later? At one point in time the 9-A parcel was in the floodplain, not the buildings themselves, but part of the site plan.

Village Attorney Stecich: I had drafted the resolution on site plan approval, which I circulated to the Planning Board. One of the first conditions was that it has to comply with the flood damage prevention law, certainly as it is in place now.

Trustee Goodman: But as it is drafted, not the optional ones.

Village Attorney Stecich: They would have their site plan approval, depending on whether the Planning Board does it. I do not know that the Planning Board is going to be ready to do it Thursday. If it is a change that does not involve redoing the site plan, redoing the building, if it is just how high in the building, let us say, the utility switches have to be in the basement, provisions that can be done without opening up the site plan, then I do not think it is an issue. It may be more problematic if they get their site plan approval and then you make changes to the law. That means they have to redo their project.

Trustee Goodman: That gets back to my concern about what goes on our agenda and who coordinates it. This statute had a deadline. It was supposed to be passed by September 28. We made the deadline by the skin of our teeth. I do not know for how long this was outstanding or pending, or who was looking at it in the Village. But meanwhile there is a project and there are 60 units of housing being built. One of the provisions talks about removing fill and replacing it with a hydraulically equivalent volume of special materials. Would we not want that development to adhere to these provisions?

I wish I had understood that because I would have pushed and asked. This first came on our radar in July. We set it up for publication and a public hearing. We had no input, no work session. Tonight, for example, we are going to talk about a leaf-blowing ordinance. We are having a work session. We are going to hash that out. We did not do any of this with the flood prevention provisions. The materials that were given to us say that they ensure better buildings.

Village Attorney Stecich: I provided all that extra language in a memo, and it was on a couple of times before...

Trustee Goodman: But we did not discuss it.

Mayor Kinnally: Nobody said you could not discuss it, though.

Village Attorney Stecich: But nobody ever raised it. It would have been easy to put in.

Trustee Goodman: I will go back to the minutes, and I was asking to discuss it and it kept being pushed off.

Village Attorney Stecich: But I would think that that sort of change is not a big deal. That does not seem the type of change that would mean anybody has to redo a site plan. What I sent you were five possible additional provisions, and two of them were really totally not relevant. I do not think anything in there would affect the project very much, so it may not be an issue.

Generally the way the law works, you have to meet the requirements of the law at the time the decision is made or that you are doing it. If they have not yet done the work, and it is amended to include that provision, they would have to meet that. But if I they could not build the building, then you do have some issues. I do not think it is an issue here because this is so uninvolved with the floodplain. Before I would even draft the resolution for the Planning Board I sent the stuff to the Village. I sent the flood prevention law to the Village's consulting engineer on drainage and asked him to check compliance of their plans with it. I was not satisfied with the response. It was not thorough enough, and it was back and forth, back and forth for most of this week. We since have a fairly thorough memo from him with still some open questions, and the Planning Board is going to have to see which things they make conditions. But you can rest assured that the Planning Board is being very careful that it does comply with the flood prevention law. One of the first conditions I included was that the Village's flood damage prevention law, Chapter 146, must be complied with.

Trustee Goodman: Thank you for those assurances. We have pending the stormwater regulations and these optional provisions, and I would hope that they could be scheduled for discussion.

Village Attorney Stecich: Jerry, you mentioned two things. On the fees, a couple of further conditions down, rec fees in the amount of \$465,000 must be paid. It was not a condition that it be paid, though, before they start the work. Although the Village may want to change to policy on that, generally these fees are paid before they get their certificate of occupancy

when the work is done, the point being that these are not taxes but fees to be used to pay for recreation needs, and the recreational needs do not become needs until people move in. That is why you generally get those fees before you issue the certificates of occupancy. It would not ordinarily come in at the time of site plan approval, and you may have a hard time justifying that, given the purpose of the law for it. This is probably the first application where this law is going to be applied. But in the other villages I have worked in that have had these rec fees, and I was the one who recommended them, that they happen right before the C of O.

Trustee Quinlan: You have the final resolution in front of you, so...

Village Attorney Stecich: It is not a final, it is a draft that the Planning Board will be working with on Thursday.

Trustee Quinlan: I will have to take a look because I have an extensive file on it. I do not know why I dreamed this up if I did not read it somewhere; the Board of Trustees' approval also had many conditions. I will have to see if it says site plan approval or certificate of occupancy. I am not concerned about what the Planning Board's conditions are. I am referring to the conditions that *we* made and that are history, and that are in writing somewhere. I am going to double-check for them.

Village Attorney Stecich: I have them. Not that this would have to be in the Planning Board resolution, but just so everything was on one sheet of paper. The third condition is that all conditions of the Board of Trustees' June 23, 2006 resolution approving the Saw Mill Lofts concept plan must be complied with. I will take a look at that, too. If that one said that the rec fees had to be paid at the time of the site plan approval, then they are stuck with it.

On the land transfer, the Planning Board's thinking was that it made sense not to subdivide the property to give the Village that parcel until the work was done. They will finish the work, and then apply for the subdivision. They have to clean up the parcel, get the asphalt off and plant it, and, at that point, give it to the Village. I do not think it is a great idea for the Village to own it while they are doing the work because you are the owners of it and there is work going on that is beyond your control. The Planning Board thought it made more sense that the subdivision of the 1.75 parcel happen at the conclusion of construction and that it be given to the Village. My thinking on that was that that had to be accomplished also prior to the C of O.

Mayor Kinnally: I cannot imagine we would use that property while construction is going on.

Trustee Quinlan: No, I agree. My recollection is that there was no timetable for that transfer.

Village Attorney Stecich: There was not.

Trustee Quinlan: But again, that is my recollection. We will look at the June meeting. That is why I brought it up, and it is just an idea. I do not know how everyone else feels about it. But my idea is that if we could get that land sooner rather than later, and it is ours, then there would be no way they could use it without us granting them the right to use it, for a fee. Now, that may not be a good idea. If it is our land and if they do not want to pay a fee for us to use it, then do not set foot on it because it is private property. It was an idea I had to generate revenues for the Village on a project that is going to make the developer probably millions and millions of dollars. We could use a little of that money to reduce our taxes. We can revisit that later. That was an open question, but I will check about the recreation fee.

Mayor Kinnally: Marianne, if you would give us that information if you find anything.

Trustee Goodman: Fran jogged my memory when he brought up Con Ed. We had an open issue about once the Con Ed immediate crisis was over that we would consider sending one of our employees to the Cornell Extension for education so it could help us defray the cost of hiring an arborist if there were problems down the road. I do not know if there is a grant for that or how we look into it. But I would hope that we have a tickler list where we can log this in and follow up on it.

Village Manager Frobel: Okay, sure.

Fred Olsson, 3 Glenwood Avenue: At the parking lot in Boulanger, are there any signs that tell you whether you should put money in on Saturday and Sunday? Even on the meters you do not know whether you should.

Village Clerk Maggiotto: I am fairly certain that the pay stations display how much time, the hours of operation, and the days of operation. But we will double-check it.

Mr. Olsson: I deal a lot with sound in the city, and I understand that if you want to project you have to be into the mic. For me, it is a little difficult to hear what you are talking about because you are talking to one another and not into the mic. I say respectfully that if you could do that it would be good.

Mayor Kinnally: Good point. Next Tuesday night there will be the first meeting of the comprehensive plan committee. I do not want to say it is a joint meeting of the Board of Trustees. The Board of Trustees will be there.

Trustee Swiderski: It is a special meeting. Once we have a quorum, we have got a quorum, right?

Mayor Kinnally: That is right. So we have to have a motion for a special meeting with the comprehensive planning committee.

EXECUTIVE SESSION

On MOTION of Trustee Swiderski, SECONDED by Trustee Quinlan with a voice vote of all in favor, the Board scheduled a Special Meeting with the Comprehensive Planning Committee for Tuesday, Sept. 25, 2007, at 8:00 p.m. at the Harmon Community Center.

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 9:05 p.m.