

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
FEBRUARY 19, 2008**

A Regular Meeting was held by the Board of Trustees on Tuesday, February 19, 2008 at 8:07 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: Five (5).

APPOINTMENTS

Mayor Kinnally: We have three appointments: to the Economic Development Committee, Elliot Wiener to fill a term expiring in 2008; to the Board of Assessment Review, Betty Ryberg and David Agosto. I thank them for agreeing to give their time and energy to our Village.

APPROVAL OF MINUTES

On MOTION of Trustee Swiderski, SECONDED by Trustee Goodman with a voice vote of all in favor, the Minutes of the Regular Meeting of February 5, 2008 were approved as presented.

APPROVAL OF WARRANTS

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

Multi-Fund No. 56-2007-08 \$161,471.54

PUBLIC COMMENTS

John Gonder, 153 James Street: I was led to believe that the lights on the bus were illegal, I think from the Building Inspector, if they were on the street, or moving. I do not know if you told me, Mr. Frobel, or I got that from the Village Attorney. The vehicle was off the street and the police did give a summons for improper registration.

Mayor Kinnally: The vehicle was on the street.

Mr. Gonder: I am sorry, Mr. Mayor. I think they gave him an improper registration. The police called me and told me that is it: if the judge throws it out, he could park anywhere and anyplace. I asked him about the lights, and they told me no, they do not care if the lights work or do not work. But I was under the understanding only a school bus could have those types of lights, ambulance, police cars, fire trucks, tow trucks, and maybe utility vehicles that are doing emergency repairs. That is the information I thought I got in the last year. If I am wrong, I would like to know.

Village Attorney Stecich: I did not get that information because I never focused on the lights. Sorry, I do not know.

Village Manager Frobel: I rely on the police officer being familiar with the motor vehicle code. You do not think they summonsed him for that, as well?

Mr. Gonder: They did not. They told me they gave it for improper registration. And if he proves dual registrations or something, that is it. They will throw it out of court.

Village Manager Frobel: I will ask the Chief why the police officer did not cite them for the lights if, in fact, it is a violation.

David Skolnik, 47 Hillside Drive: I have not had as much difficulty speaking to you as I felt this evening. I do not think it would have done any good. I tried, in some kinds of ways, preparing something to say so that I felt that when I sat down I would have said what I wanted to say. That did not particularly work. What I am looking for from all of you is more than one thing, and it is complicated to me.

On the one hand, I need to express to you that I am disappointed and frustrated and feeling somewhat abused by the process that I have experienced in trying to present my particular obsession to you over the past year or so. I respect the idea of the process. I respect all of you for what you do, for the dedication and just the commitment. So it makes it more difficult for me when I feel like I have to express that I am feeling you are doing something wrong, or trying to get you to see something.

First of all, I appreciated your allowing me to speak out of order last week. But as I watched the meeting again on WHOH I realized, again, as I tried to explain to you that I thought I was extending a certain kind of courtesy to the Board. The only reason I waited that long was to allow you to do what I thought you were going to do which was, at least, carry through part of that process.

I had presented to you some time ago the idea that this particular problem, which is the traffic around the Farragut complex, was unusual in the overlapping jurisdiction of the various Village agencies and that it needed some sort of coordinated approach. I have been at a loss as to how to formally present this idea to you that could actually reach the Board and be discussed.

Mayor Kinnally: You have formally presented it to us.

Mr. Skolnik: I am not sure how that has been. How has it been?

Mayor Kinnally: We are in receipt of a number of written proposals from you, one of which we have forwarded to the Safety Council for their review, report, and recommendation. We are also in receipt of something that was reduced to writing that was the subject of our traffic study meeting at the James Harmon Community Center. So we have had a number of proposals from you: formal, informal, or otherwise.

Mr. Skolnik: Then I am to assume that if nothing further is expressed on the subject that it has been reviewed and simply dismissed as something that does not merit anything further.

Village Manager Frobel: It was reviewed thoroughly by the Safety Council per the direction of the Board of Trustees. They reported back to the Board that they did not recommend adoption or consideration of any of your recommendations.

Mr. Skolnik: If we are speaking about the Safety Council, then this is where I am not sure how to proceed other than to say that my original proposal with regard to a task force made clear that, at least as I saw it, it is not a question of qualified, but that the structure of coordinating more than one agency did not fall within the purview of the Safety Council. Nonetheless, I have read the report since I got it. I find there has been no opportunity to actually discuss the merit of the report. With due respect to the members of the Safety Council, I like them personally but I find the report extraordinarily flawed. The point that I am making, though, is that if the Safety Council is the agency that is going to determine whether you as Trustees can examine the problem, then you are unduly insulating yourself from the responsibility. The Safety Council, as I indicated in my report to you, basically responded from the point of view that there really was not a problem.

Mayor Kinnally: That was their assessment.

Mr. Skolnik: Yes. To not abuse my time here, what I am saying is, if that is the assessment that you then endorse, based on their recommendation, then I can only look for what I basically have to do: present to a larger population that the Board of Trustees does not feel that there is a traffic and a safety problem around the Farragut complex.

Mayor Kinnally: I do not think anyone has said that there is not a traffic problem around the Farragut complex. I think everybody is in agreement.

Mr. Skolnik: I do not think so, not based on this report.

Mayor Kinnally: The report talks about certain ways to deal with it, and they are not in agreement with your proposals. One area that the Safety Council and the police department are addressing is to have a two or three month trial of banning parking on the north side of

Mount Hope from School Street to the entrance to the school, which will open up some of that bottleneck and allow a freer flow of traffic.

Mr. Skolnik: So it said.

Mayor Kinnally: You want to add the editorial comment to it, but that is what they are hoping to find out.

Mr. Skolnik: I know what they are hoping to find out. I know what the Board of Ed is hoping to find out. I know that I have taken a lot of your time with this. You have to know that it has taken a lot of my time.

Mayor Kinnally: I do, and I know that the Safety Council devoted over an hour and a half to this.

Mr. Skolnik: With all due respect, I am not sure what the implication of that statement would be.

Mayor Kinnally: It is not an implication. It is a statement.

Mr. Skolnik: Well, if it took that long, then it merited that much time. I do not understand if I am supposed to be thankful.

Village Manager Frobel: No, they took a thorough examination of it, David. You were at both of those meetings, and they took each one of your discussions quite seriously and explored them thoroughly both in the meeting room and in the field. You are well aware that several members have spent quite a bit of time in the field observing the same things that you have noted and they do not come to the same conclusions or the same recommendations.

Mr. Skolnik: Then to try to close this, and not to carry this forward, I need to understand, as I have said in the past, how I will proceed. I do have to feel that there is a consensus of the Board that whatever the problem that I was trying to address, trying to get the various agencies of this Village to address in some concerted way, are no closer other than this one gesture. They are no closer in its totality at this moment to being addressed than they were before. I feel, to just step back and relinquish any sort of effort, either that is my choice or I have to look for some other way to bring to your attention in some other way whether or not any of my 13 proposals had any merit, that there is an issue that is not being addressed. It is a safety issue, and is the responsibility of the Board of Trustees that goes beyond the judgment in this case of the Safety Council and the individual members of the Safety Council. So I will be left to try to find a way to keep this in front of you without taking as much time. But I feel that I cannot accept, simply based on my experience of the process, that this has actually been superficially vetted or addressed.

Mayor Kinnally: I open it up briefly to the Board. We have your proposals in front of us. If any member of the Board wishes to take up any of your proposals they are free to raise it.

But generally we defer to the Safety Council at least for a report and recommendation, and the Police Chief. We did that in this process, and they looked at what you proposed. They did not agree with it. I am not saying that is the end of it because the school continues to look in conjunction with us.

Trustee Goodman: I have a suggestion that when we do our additional workshop on the traffic plan that we look at Mr. Skolnik's proposal. Perhaps we can vet his suggestions in the priority of a yes/no consensus kind of treatment that Peter is familiar with. Thank you for all of your time. The Safety Council is composed of the Police Chief and the Fire Chief. The chair is a former detective in Yonkers and police officer. I give great weight to what they say. I have been before them as a citizen, I have seen them in operation as a Trustee, and I feel they do an excellent job for us. We are not necessarily bound by their recommendations, but I am not a traffic expert and neither are you, Mr. Skolnik. I appreciate all the work you did. You had statistics and data that our traffic expert did not so I do give weight to your observations. But between the Safety Council and yourself, you have to understand that we do have to pay attention to what they are telling us and that we are doing the very best that we can.

We should take this up when we look at the remainder of the traffic expert's recommendations. That is all we can do for you at the minute. Hopefully, that will be sufficient. You are looking to appeal the Safety Council. You are looking at us like we are the appellate court, and I am offering you, with the consent of my colleagues, that opportunity. Then I am going to ask that once we make a decision that we all determine that there are other ways and that we are trying our best with a situation that lasts for a limited amount of time and then it is gone. There is a lot of traffic, but the blessing of a lot of traffic is that it slows everybody down.

Mr. Skolnik: I do not know if your colleagues would agree.

Trustee Swiderski: I have a modification on that. The idea of merit here is the concept of a task force or some sort of working group. We discussed that tangentially at the end of the last traffic study meeting. I think it merits resurrection and formalization at the end of the next one. I agree with everything you said in regard to the Safety Council. I am not sure, as a result, I want to see these thirteen proposals put on the same level playing field as the five in the traffic study that are the result of a much more integrated effort.

However, I think Mr. Skolnik is right in that there are overlapping jurisdictions in that part of town. Whether his document feeds that process, or is one of the inputs, or is reconsidered at some point down the road, the salient idea is a working group coming out of the second session that we will agree on. It does not have to be big, but it clearly requires formalization. That is, perhaps, where this will see another chance, or light of day. We have committees and councils, and while we cannot rely 100% on their counsel, I am not a traffic expert. I trust their input more than I do of any one individual because much of their domain overlaps the world of traffic and, as a result, they are closer to expertise than I am. When they think something will not necessarily work at an intersection, I am going to listen.

Trustee McLaughlin: Thank you, Peter. You have pretty much covered my feelings on this. I could not help thinking when you were questioning the process by which we listen to the Safety Council, in the past couple of months as we have had hearings on the leaf blower question, that there are several voices that have criticized the Trustees or the process. After the Conservation Commission was asked by us, because the Village Manager had asked us to look into it, we asked the Conservation Commission and they came back to us with some proposals. There have been voices criticizing us because we did not ask the Conservation Commission to do all the necessary research. Instead, the necessary research was done by the Village Manager's office and by some of the Trustees. We have been criticized for taking that responsibility onto ourselves.

So it is interesting now that you are criticizing the process that we would have followed had we gone the other way. We are relying on the best experts for Village traffic that we know. You are suggesting that we should be doing this ourselves. The purpose of having a Safety Council is to bring us the very best people to give us advice. I like to think that we are able. You have said that we are able. But we cannot be able on every single thing that Trustees have to be able about. That is why we have citizens' committees. I cannot imagine doing anything other than listening to our Chief of Police, our Fire Chief, and the other people on the Safety Council when they have weighed an issue and made reasoned judgments about it. If we do bring this to our work session, it seems to me we are doing the very best job we can for the residents of the Village, the people who use Farragut Avenue, and the people who drop their kids off somewhere in the two schools. We will be treating the problems there the way we ought to.

Trustee Quinlan: We do not have to agree with the Safety Council. As Danielle said, we sit as almost an appellate court. We can either agree or disagree with them. But on this particular issue I happen to agree with them. I would not like to see this become part of the transportation plan meeting in March because I think it will take our eye off the ball.

Mayor Kinnally: As far as adding it to the meeting in March, last time we tried to get out of there at 10:30. I would not want to shortchange, or jeopardize, either the Board's consideration or the public's input on the balance of the traffic plan and the proposals in the traffic study and have them focus on your suggestions. Some of your suggestions were vetted at that prior meeting. You addressed a number of the things on Broadway and at Olinda, etc. If it could be added without taking away from the time that should be devoted to that traffic study, I would not be averse to it. But I fear that we will not have the proper time to deal with it.

Mr. Skolnik: I agree. As much as Trustee Goodman's suggestion would give me, seemingly, some additional space, I do agree that it would be a distraction. And, given the time frame, it would go longer than any of us would want to see. I would, however, to the extent that Trustee Swiderski's consideration of some sort of larger committee, hope that there would be some further consideration.

15:08 INTERMUNICIPAL AGREEMENT WITH WESTCHESTER COUNTY FOR GIS DATA SHARING

Village Manager Frobel: This is a renewal of our relationship with the county in which they maintain the GIS system. Our responsibility is to provide them with certain information. This is a five-year arrangement, and one that I would certainly recommend. There is no charge to the Village, it makes good sense to be able to provide them with this information, and we in turn have access to their information.

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 authorize the Village Manager to sign the Intermunicipal Agreement with the County of Westchester for sharing of Geographic Information System data for the term January 1, 2008 to January 31, 2013.

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	

13:08 ADOPTION OF LOCAL LAW NO. 1 OF 2008 – LEAF BLOWER REGULATIONS (VERSION A)

14:08 ADOPTION OF LOCAL LAW NO. 1 OF 2008 – LEAF BLOWER REGULATIONS (VERSION B)

Mayor Kinnally: I was spared, or missed out on, this, but through Channel 75 and email and minutes I was brought up to date on all that was going on. We were all trying to wrestle with how to do this. Peter tried to get a sense of where the Board might be with an informal straw pole without having any of us talking to anybody else. I hope to banish from the lexicon the word “ban” because we are not looking to ban anything. We are looking to regulate. The questions are should there be regulation over the winter; should there be regulation in a certain period of time outside of the winter; what should the time of allowable use of the leaf blowers be on the weekdays and on the weekends and holidays; who should be fined; should electric leaf blowers be within the regulation; should there be a limit on how many contractors can operate on a piece of property at a given time; and whether private property owners can use these as they see fit outside the scope of regulation.

Trustee Swiderski: There are two resolutions on the agenda. Are we reviewing each resolution? Are we setting the resolutions aside and reviewing the terms in abstract, and then returning to the resolutions?

Mayor Kinnally: I do not know if the Board is ready to deal with, let us say, version A, without getting into the merits, to the exclusion of version B. But let me read them .

13:08 ADOPTION OF LOCAL LAW NO. 1 OF 2008 – LEAF BLOWER REGULATIONS
(VERSION A)

RESOLVED: that the Mayor and Board of Trustees hereby adopt Local Law No. 1 of 2008 amending the Code of the Village of Hastings-on-Hudson, Westchester County, New York, Chapter 217 Performance Standards to limit the use of leaf blowers as follows:

Be it enacted by the Board of Trustees of the Village of Hastings-on-Hudson as follows:

Section 1: Section 217-6 (Prohibited noises) of the Code of the Village of Hastings-on-Hudson is hereby amended by adding the following new paragraph to the list of acts that are “declared to be loud, disturbing and unnecessary noises in violation of this chapter”:

J. The use of leaf blowers, except between April 1 and May 15 and October 15 and December 15, and then only from 9:00 a.m. until 5:00 p.m. on Monday through Friday, and 10:00 a.m. until 5:00 p.m. on Saturday, Sunday, and holidays. *The Village Manager is authorized to suspend this provision if (s)he determines that an emergency situation exists in the Village.*

Section 2: Section 217-7 (Permitted noises), paragraph C is hereby amended as follows (language to be deleted ~~stricken~~):

C. Sound created by lawn mowers, chain saws, rakers, ~~leaf blowers~~ or similar equipment in use between the hours of 7:30 a.m. and 8:00 p.m., prevailing time, Monday through Saturday, and 10:00 a.m. to 8:00 p.m., prevailing time, Sunday, provided that they conform to the decibel level restrictions set forth in § 217-5 and to the steady state and impact vibrations restrictions on § 217-8.

Section 3: Section 217-16 (Enforcement; notice of violation; noncompliance) is amended as follows (new language in *italics*):

If, in the judgment of the Building Inspector, there is a violation of the performance standards contained in this chapter, *other than of §§ 217-6 or 217-7*, the following procedures shall be followed:

Section 4: The following new section is added to Chapter 217:

§ 217-17. Penalties for offenses of noise provisions.

Any person violating any provision of §§ 217-6 or 217-7 shall be guilty of an offense punishable by a fine of \$50 for the first offense and \$200 for each additional offense in the same calendar year. For violations of § 217-6.J, this statute shall be enforced against the owner, lessee, or other person in control of the property upon which the violation occurs.

Section 5: This local law shall take effect immediately upon filing in the office of the New York Secretary of State.

14:08 ADOPTION OF LOCAL LAW NO. 1 OF 2008 – LEAF BLOWER REGULATIONS (VERSION B)

RESOLVED: that the Mayor and Board of Trustees hereby adopt Local Law No. 1 of 2008 amending the Code of the Village of Hastings-on-Hudson, Westchester County, New York, Chapter 217 Performance Standards to limit the use of leaf blowers as follows:

Be it enacted by the Board of Trustees of the Village of Hastings-on-Hudson as follows:

Section 1: Section 217-6 (Prohibited noises) of the Code of the Village of Hastings-on-Hudson is hereby amended by adding the following new paragraph to the list of acts that are “declared to be loud, disturbing and unnecessary noises in violation of this chapter”:

J. The use of leaf blowers, except between April 1 and May 15 and October 15 and December 15, and then only from 9:00 a.m. until 5:00 p.m. on Monday through Friday, and 10:00 a.m. until 5:00 p.m. on Saturday, Sunday, and holidays. *The Village Manager is authorized to suspend this provision if (s)he determines that an emergency situation exists in the Village.*

Section 2: Section 217-7 (Permitted noises), paragraph C is hereby amended as follows (language to be deleted ~~stricken~~):

C. Sound created by lawn mowers, chain saws, rakers, ~~leaf blowers~~ or similar equipment in use between the hours of 7:30 a.m. and 8:00 p.m., prevailing time, Monday through Saturday, and 10:00 a.m. to 8:00 p.m., prevailing time, Sunday, provided that they conform to the decibel level restrictions set forth in § 217-5 and to the steady state and impact vibrations restrictions on § 217-8.

Section 3: Section 217-16 (Enforcement; notice of violation; noncompliance) is amended as follows (new language in *italics*):

If, in the judgment of the Building Inspector, there is a violation of the performance standards contained in this chapter, *other than of §§ 217-6 or 217-7*, the following procedures shall be followed:

Section 4: The following new section is added to Chapter 217:

§ 217-17. Penalties for offenses of noise provisions.

Any person violating any provision of §§ 217-6 or 217-7 shall be guilty of an offense punishable by a fine of \$50 for the first offense and \$200 for each additional offense in the same calendar year

Section 5: This local law shall take effect immediately upon filing in the office of the New York Secretary of State.

Village Attorney Stecich: The only difference between version one and version two is that in the first version the law would be enforceable against the property owner, and in the second one it would be the person who uses the leaf blower.

Mayor Kinnally: The use of leaf blowers except between April 1 and May 15, and October 15 and December 15: how does everyone feel about that?

Trustee Quinlan: I was interested in is changing that language, that there would be leaf blower restrictions only from May 15 to October 15 and there would be no restrictions on the other seven months of the year. I would like to amend the law, and I do not think it is a substantial amendment because it just deals with time restrictions and we have been discussing time restrictions for months.

Trustee McLaughlin: We have all sat through hours of comments and work sessions and workshops and hearings, and it became apparent that many residents were concerned about what would happen across the winter. Going back to the original purpose of the law which was to ameliorate or prevent the noise that happens in the warm-weather months when we want to be outdoors and we want to have our windows open, then restricting the use of leaf blowers across the winter months appears to serve no purpose.

There are problems with air pollution, certainly. There are problems with dust. But the cold, drier winter air would create fewer of those problems. Windows are shut and people are indoors. If we remove the winter restriction, all the homeowners who seize the opportunity on that rare, fine day to go outdoors and do some cleaning up would be able to do that; people do not tend to be outdoors, people tend to have their windows shut. The problem of the noise nuisance caused by leaf blowers would not be so great, and the problem of the air pollution caused by leaf blowers would not be so great just because the weather is different.

One complaint we got a lot of had to do with teams of workers. But since each of us lives in a little micro-climate, and my yard may be dry and have the sun on it when yours has snow piled up on top of the leaves, none of us are going to be hiring a team of lawn workers to sweep across our blocks in January or February. So the problem of having a team of five or six people come and stay, and cover every piece of ground within 5,000 feet did not seem like it would be a problem. I like the idea of lifting the winter restriction so that you could start the use of leaf blowers in mid-October and go all the way through the spring, have ample opportunity to clean up after winter storms, seize every fine day that comes along to do any cleaning up without bothering the neighbors and without creating obnoxious air conditions for the people around you.

Trustee Swiderski: I am comfortable with the law as it is now written, but if there is a consensus that the winter regulations are unnecessary I am prepared to vote for the law with that restriction lifted.

Trustee Goodman: While I am all for regulation, I am for regulating in a reasonable, logical way. I think the law that is proposed before us is not reasonable or logical. First of all, the weather imposes a restriction, so why should we impose a restriction? Second of all, I am concerned about property owners who do their own work in their own time. I am concerned about the calendar that probably will not be in synch with the law, and require Mr. Frobel to be plagued with phone calls and emergencies where he is going to have to send out emails lifting the restriction, etc.

I was very persuaded by the residents who came to the hearing who said that their asthma was triggered by having the leaves around because of the mold. I became concerned that if the weather in October/November through December did not permit the contractors to get all of the work done, that we would have a situation which was going to be a nuisance for people with asthma. I was also persuaded, again, by the homeowners who need to use the equipment. So I am in agreement with Jerry and Diggitt that the winter ban not be imposed because there is no need to regulate the conduct during that time and because the weather itself will impose a restriction, thereby relieving your government from imposing an illogical, unreasonable restriction.

Mayor Kinnally: There should be regulation between May 15 and October 15, and winter will take care of itself. There are problems with doing it during the winter. Either there is snow on the ground, or it is a soupy mess and I would not want anybody tromping around anyway. Having said that, the first Friday I believe I was home in December, the people who clean up my yard decided to do their final cleanup and the army of leaf blowers came through. At the same time, my brother-in-law was there firing up the snowblower because it was snowing. So we are going to be at the mercy and the vagaries of the calendar, but in general the period we have looked at should be fine and winter will take care of itself.

As much time as we have spent on this, there will be tinkering in the future. The republic is not going to fall, and the sun will continue to rise in the morning, regardless of what happens here. We should just give it a try. Nobody said it is going to be perfect, and I would be surprised if it is perfect.

Village Manager Frobel: When we set out to do this, we looked at neighboring communities as the model. We cautioned from the beginning that enforcement would be difficult. But I agree with you. The winter ban will work itself out. Our principal complaints came during the summer when there are several working on the same property or in the same neighborhood, when windows are open and we have people that work at home or with young children. That is what triggered this issue and was why we brought it to you.

Mayor Kinnally: Peter and I were at a village officials committee meeting last week. A number of the mayors indicated that they were watching with great interest what we were doing on the leaf blower law because they thought it would set a standard.

Trustee Swiderski: They asked for a copy of whatever we come up with tonight. There was an inclination to model after whatever we come up with for some consistency across the river villages. Otherwise, the contractors will be looking at the road sign and looking at their master sheet of regulations.

Trustee Quinlan: We are up to the time now.

Mayor Kinnally: Monday through Friday, 9 to 5.

Trustee Swiderski: I am comfortable with the way the legislation is now written.

Trustee McLaughlin: One concern to me was the people who said that the sound of leaf blowers during their Sunday church services caused them distress.

Trustee Swiderski: This is the weekday version.

Trustee McLaughlin: In that case I am fine with the way it is, but if somebody can persuade that it should be earlier, that is fine.

Trustee Goodman: I have always been bothered by the time increment, but the fact that we have increased the time that the blowers can be used I might feel a little better. But once again, I am just constrained to ask this question and I will feel better if you can all answer it for me. From 7:30 in the morning, every other piece of equipment can be operated all year round: chain saws and rakers, lawnmowers. It is hard for me to understand why we are focusing on the leaf blowers; if a truck of contractors pulls up at house A they have to sit and wait until 9 o'clock to start with the leafblowing, yet next door the rock chippers, the chain saws, and everything else can be going from 7:30 on.

People say they moved here for the peace and quiet, but we are more urban than we are suburban. We are at close quarters. I wish people could accommodate each other, but time is money. It is difficult for me to understand why this one tool has been singled out among all others. I would like to think that I understand the reason behind why I am passing something. I have gone round and round with it, and I have no answer.

Trustee Quinlan: From 9 to 5 Monday through Friday is fine with me.

Mayor Kinnally: I am going to be a contrarian here. I would go later during the week. With daylight savings being the way it is now, next week or the following week we are going to have daylight savings and they can work later. In fairness, I would give them later.

Trustee McLaughlin: You mean later in the morning and then later in the evening?

Mayor Kinnally: Later at night. Nine o'clock in the morning is fine. Why are we singling these out? People have said that the leaf blowers bring a plague of locusts with them, and there are many reasons to deal with them. The rock chipper does not trigger asthma, and there are not many rock chippers throughout the Village. These things seem to multiply as the day goes on. So I would go later, but I sense a consensus of 9 to 5. Am I correct?

Village Manager Frobel: That came out with our conversation with the landscapers. Originally we had it nine to six. They had asked for 7:30 a.m. to 7:00 p.m. We just wanted it in compliance with our other noise aspects.

Trustee Swiderski: Danielle, I agree with you it is illogical. It is an unnatural division, though the bulk of the noise is the leaf blowers and the others are more episodic in nature.

The number of chain saws going in Hastings in any given weekend is one maybe, and leaf blowers far more so. When we get around to cleaning this up, as we need to at some point and not this year, we should harmonize these times with respect to common sense.

Trustee Quinlan: I was looking to have it start earlier in the morning and go longer in the day, but that is fine. Again, we are going to revisit this, I am certain, over time.

Mayor Kinnally: Saturdays, Sundays, and holidays.

Trustee McLaughlin: I am sympathetic to comments about the interruption of Sunday church services, but the problem comes during the summer months when church doors stand open, when windows are open, and when there are packs of weekend leaf blowers out there. I do not think it will be as intrusive after mid-October just because places are going to be more buttoned up. A lot of the objections reflected open doors and open windows, hot weather and so on. Once you move the use of leaf blowers to the cooler months a lot of those complaints will vanish. My feeling is that this is likely to, as well. When I realized we were only talking about late autumn through early spring, the need to limit them on Sunday to starting at noon went away because there have been many residents who have been quite persuasive that they want to have the right to use them before noon. If they are planning a day of chores and they cannot start until noon, that really wrecks their Sunday.

Trustee Swiderski: The legislation as written is fine with me. If there is a change it would be making it consistent with the weekday schedule simply to make life easier for all of us to keep straight what the hours are. But if there is no interest in that direction, I will stick with the legislation as it is written.

Trustee Quinlan: I agree with Peter. There is a little difference between Saturday, Sunday, and holidays ten to five, but if the majority of the Board wants to make it consistent, nine to five, then it is fine with me.

Trustee Goodman: I would go nine to five for consistency and also out of respect for homeowners who do their own work and who would prefer to start earlier. So I feel this would assist them, and that is why I would go for nine to five, both for consistency and also to meet the needs of citizens who are weekend warriors.

Mayor Kinnally: I would like to see them banned on Sundays.

Trustee McLaughlin: Restricted.

Mayor Kinnally: Restricted is right, thank you.

Trustee Swiderski: What about the time?

Mayor Kinnally: I would do ten to five.

Trustee McLaughlin: I would go with nine to five

Trustee Quinlan: I am for ten to five, but it is up to you.

Trustee Swiderski: I said I would be willing to do nine to five if there was an agreement. If that makes a threesome I am happy to do that.

Mayor Kinnally: It is nine to five.

Property owner is fined, or the operator is fined. It can be one and the same. Should the person who is operating the equipment be the one who gets the summons?

Trustee Swiderski: Yes.

Trustee McLaughlin: Yes.

Trustee Goodman: Yes. I was pretty adamant at one point that the property owner should be fined. But my daughter was visiting family in Upper Monclair, New Jersey a couple of weeks ago and came home all excited because the police were called to the house next door on a Sunday for illegal use of a leaf blower. The police arrived, and they gave the people a warning or issued a summons. But as soon as the police left they were back at it, and the police had to come two more times. I had not really considered the fact that the person operating the blower would be recalcitrant.

Mayor Kinnally: So the answer is yes?

Trustee Goodman: Yes.

Trustee Quinlan: I am the lone holdout for property owner being fined. I think it is easier to enforce. I do not want to be fining our school maintenance men and our Village maintenance men because they are the operators, not the owners. I do not have a lawn service, but if my operators came on my property at the wrong time and I got fined, I would be taking it off their bill in a heartbeat. So I am for the property owner.

Mayor Kinnally: I think the operator should be the one that is fined. Then we have consensus on the operator is fined, right? Next, electric leaf blowers permitted.

Trustee Quinlan: I am for electric. It solves a couple of problems. The industry said that they are not going to use electric so we do not have to worry about multiple use, multiple sound disturbing a lot of the air. We are not using gas. But the most important is it gives the individual homeowner a way to clean his lawn in a less obtrusive way in a whole year. And also, more importantly, it gives the contractor who wants to do gutters or roofs or different little cleanups like driveways, sidewalks, they can plug those in and they can use them. It might be a little more inconvenient for them, but you can clean your gutters with an electric leaf blower. I would like to amend the law to just say gas-powered.

Trustee McLaughlin: Neither.

Trustee Swiderski: Neither, but with the caveat that the point Jerry brings up about the use of leaf blowers, whether electric or otherwise, by contractors using it as part of their work tools for something like roof work. It is a point also that Danielle has made publicly. I do not know how to engineer that sentence somewhere, or perhaps it is something simply that works into enforcement. But that should be a permitted use because it is so infrequent, and yet useful, to the job; it should be permitted regardless. But electric, no.

Trustee Goodman: The electric should be restricted also, with an asterisk that once this law is done I can offer a sponsored amendment for people with handicaps one electric leaf blower per property with a doctor's note explaining that due to either upper extremity or back problems the person is not able to handle rake or broom and that electric be allowed unrestricted all year. That could be something that I could help Marianne fashion and make it an amendment. Not spend time now, but just make it known that I have expressed concern about handicapped or people physically unable to handle a broom or a rake.

Trustee Quinlan: I did not mention that, but that was another reason why I think we should allow electric; for the elderly and the people that are unable to rake either by age or some sort of disability, illness, or infirmity. It gives them a chance to do their lawns.

Mayor Kinnally: I would like to see electric allowed. Okay, so the consensus is no to electric, but with an asterisk which we will address at a later date.

Limit on how many members of the army can be operating on one piece of property at a given time, how this could be drafted or enforced.

Trustee Quinlan: Is it the number of contractors, or the number of leaf blowers that can be used?

Mayor Kinnally: I guess it is leaf blowers.

Trustee Swiderski: Leaf blowers.

Trustee McLaughlin: Tim Downey made the suggestion of one per truck. Of course, that creates a problem if your truck comes and you send your team out to several properties. But if your truck comes and people scatter to several properties, one per truck does solve the problem of having the several properties be small properties so that you hear every pin that drops in your neighbor's lawn.

Mayor Kinnally: You are right. Then you have one truck and you have guys coming in separate cars. Let us not worry about how they get there. Let us worry about what they do when they are there. Are we going to count the number of leaf blowers on a particular piece of property at any time, and limit that?

Trustee Swiderski: I am not prepared to work through that yet. We do not have enough data and it is just too complicated.

Trustee McLaughlin: I agree.

Trustee Goodman: I agree with that because I do not know if it is two or three or four.

Trustee McLaughlin: I absolutely agree. Certainly at every time that we have opened the floor to the public that is the grandfather of all the complaints, that is where it all starts, with the teams of people using leaf blowers. So we do need to grapple with that at some point, but we have not yet seen how other communities do it effectively.

Trustee Swiderski: I am hoping that the contractors will grapple with it independently over the next year and have the sense to crank it down unilaterally.

Trustee Quinlan: I am for limiting the number of leaf blowers. I do not think it is that difficult, and that is the major problem. You can just pick a number. I think a number should be no more than three during the permitted period, but I guess I am outvoted.

Trustee Swiderski: Three on a property or three on a street or three on a truck?

Trustee Quinlan: Three on a piece of property. They are going to go from property to property. That is certainly enough. You cannot even hear yourself think with three going.

Trustee McLaughlin: But the problem with three on a piece of property is the difference between one piece of property and another where six of one could fit into another. One per property could still be ten per block.

Trustee Quinlan: How many angels can dance on the head of a pin? But when I can count four or five on a piece of property, that is when I would issue a summons. Again, four other people do not agree with it, and it is not a deal breaker for me.

Trustee Goodman: Section 2-C is something I do not understand. We struck leaf blowers from that paragraph. Does that mean that the leaf blowers during the times they are permitted are not subject to decibel levels anymore?

Village Attorney Stecich: There was a different provision dealing with decibel levels. You cannot count on that. I know the police department does not have a decibel meter.

Village Manager Frobel: We do have one in the building office.

Trustee Goodman: But I wanted to make sure that when we struck leaf blowers from this provision we were not taking them out of the regulation of decibels, even if that is not an effective tool.

Village Attorney Stecich: You understand why it was taken out of this. You do not want it to have the broader permission. But I will double-check that, Danielle.

Mayor Kinnally: The last one is to give private property owners full use of leaf blowers unfettered by any regulation.

Trustee Swiderski: In other words, have it only enforced on contractors.

Trustee Quinlan: No.

Trustee McLaughlin: When the contractors first visited with Fran they asked for a guarantee, which he could not give them. But they asked that we not pass any kind of restriction that bore differently on private individuals from the way it did on them. All during our discussions we have possibly tacitly agreed to honor that. It is a totally reasonable request. Noise is noise, dust is dust, erosion is erosion. And it does not matter if the person who is causing it is a homeowner here or is paid by a homeowner here, the basic problem is still here. So we should not move apart from that goal of enforcing this equally on the contractor and the homeowner.

Mayor Kinnally: So it is a no?

Trustee Swiderski: What she said. No.

Trustee Goodman: No.

Mayor Kinnally: And I say no also.

Fran, I kind of skipped over you on a number of these, but I will let you double back.

Village Manager Frobel: No, I agree with what we have heard today. In applying to everyone, that applies to the Village and the school properties. We know that. We have gone into it and discussed it with staff.

Mayor Kinnally: Marianne, what does that do to what we have in front of us?

Village Attorney Stecich: I am going to have to redraft the law to incorporate all of these changes. Under the municipal home rule law you have to have the law in the form that you are going to pass it in your possession for seven days before you vote. But it is unclear to me whether there was consensus on the handicapped. There were three people who wanted the asterisk for permission for people. I do not know if we came to agreement on that.

Mayor Kinnally: I thought Danielle said she would revisit it later on.

Trustee Goodman: I said I would sponsor an amendment.

Mayor Kinnally: Although if there is consensus, my recommendation is to put a provision in there that at the discretion of the Village Manager or his designee that people coming within the handicapped designation could get relief. Is that the sense of the Board? I have a problem with people who have handicapped stickers out there marching through the Village with these things strapped to their backs. It may be a way of getting the wheelchairs around.

Trustee Quinlan: Marianne, maybe you could put in here the Village Manager authorizes to suspend this provision if he or she determines that an emergency situation exists.

Village Attorney Stecich: I am assuming that now, with the ban from May 15 to October 15 that you do not want that.

Trustee Quinlan: That is not necessarily true. We might have a summer storm.

Village Attorney Stecich: You might want that provision? Okay, fine. Then we will put in a different provision for the handicapped. The one other question besides needing a new local law is whether you need a new public hearing. I do not think so. While the changes are changes and are not really minimal, they certainly were within the scope of the discussion at the public hearings. It is somewhere between our existing law and the law you had proposed, so I do not believe a public hearing is necessary. But it does need to be redrafted, which I will do right away so you will have it in your packet next week.

Mayor Kinnally: But before we do that I would like to hear if there are any comments from the public on what we have discussed here. Let me just ask, any other discussion by and among the Boardmembers on this?

Village Manager Frobel: Should the law indicate the permitted use of electric blowers on building sites? We talked about that, for the clearing of gutters. Sometimes I have seen it used on job sites. They blow out sawdust or nails, or clear a driveway after a job. Does that need to be in the ordinance, or is that discretionary on my part?

Trustee McLaughlin: One thing that came up, from Don Wemer, he needs to use a blower for about a 5-minute stretch on a building site to prepare a roof before shingling. He said nothing else works the way that does. So there has to be some way that we have a legal permit, but where do we put the language? I am concerned about passing something that we are acknowledging is going to be violated.

Village Attorney Stecich: Whatever you want, I will write in. Do you want him to have a permit, or do you just want it to be an exception? You said two different things. It could be an exception, or it could require a permit.

Trustee McLaughlin: I would ask Fran what the best way to enforce it would be.

Mayor Kinnally: I think permitting is difficult. If Don Wemer is going to be up on a roof clearing it in 5 minutes, by the time the Building Inspector or the police get there it is going to be over.

Trustee Goodman: What he said specifically is, up on the roof he would not be using electric because the cords are dangerous, people are tripping. And it could be not just the roof. Siding or other things that really need to be clean that take epoxy glue, nothing else works as good as a blast of air. But I did not perceive it was anything that was going to be prolonged.

Trustee Swiderski: How many homes are resided or roofed in a year anyway?

Mayor Kinnally: Eight, ten maybe tops.

Village Attorney Stecich: It is probably worth writing it in.

Trustee Goodman: He assumed that perhaps his building permit, and that is where the permits got in, would be some shield. Or maybe there is something written on the building permit. I do not know.

Mayor Kinnally: Marianne can come up with something.

Trustee Goodman: He does not want to break the law.

Village Attorney Stecich: I could come up with the language if you want it, but do you want that exception written in?

Village Manager Frobel: As an enforcement. We will manage that from that point of view. We will respond from an enforcement point of view.

Mayor Kinnally: Giving the Manager discretion.

Village Attorney Stecich: So you are saying the exception does not have to be in there.

Village Manager Frobel: Do not put it in there.

Trustee Quinlan: In closing of this whole issue, I got a letter from an 11 year old Hastings resident that I thought we should read into the record. It is from Claire Weinstein, 41 Kent Avenue. She writes me the following letter:

“I am sure you are all as concerned about the environment as I am, and acknowledge that if drastic measures are not taken soon global warming will get out of hand. One way we can all help is by raking leaves by hand instead of using leaf blowers. Leaf blowers are polluting as well as noisy, and I wholeheartedly support the idea of a ban on leaf blowers.

I responded to her letter with the following letter:

“Dear Claire Weinstein. Thank you for your letter. You are right. I am concerned about the environment. I love nature and the outdoors, hiking, skiing, and riding my bike. We must all make efforts to protect the earth. I am in favor of a law that places

restrictions on the use of leaf blowers to specific times of the year and during specific hours of the day. I am working towards a fair and balanced law. There are people who use leaf blowers, and some people support their families by using leaf blowers, despite the fact that they are unhealthy and make a terrible noise.

That says it all about this issue, and that is the last I am going to say about it.

Randy Paradise, 35 Floral Drive: I feel some mitigating efforts have been done here by the Board, for which I am grateful. I come to speak as a homeowner who does his own property. I spoke briefly with the Village Manager before this meeting began. He had mentioned in a previous meeting that this was an issue about which the Village had probably received more complaints over the course of the last couple of years than any other issue he could think of. I could not help but agree with him. As a homeowner who uses a leaf blower, I have been seconds away from picking up the telephone to call in myself regarding the army of commercial gas-powered leaf blowers that have come down my block on occasion. A lot of it, I think, has been mitigated. I asked him whether those complaints were over the commercial users of leaf blowers or over individual homeowners using their leaf blowers. He said he could not think of anybody calling up to say that their neighbor had started too early in the morning or that they were using a particularly loud leaf blower; all of the complaints were regarding commercial use. I feel that a problem that was really generated out of a commercial use of these things generated a solution that lumped commercial and non-commercial usage all into the same basket of restrictions. That was my chief concern.

The reason I am standing here now instead of just sitting down and saying, Well, the changes that were made, many of which I agree with, especially moving the time on Sunday morning, speaking as someone who only has the weekends to work on his property, moving it from 10 o'clock to 9 o'clock is a big difference on the weekends. Gives you an extra hour to start. But I still believe that there is a qualitative difference between the use of electric leaf blowers and gas-powered leaf blowers. I realize it may cause enforcement concerns, but as a person concerned with the environment, and just as a resident of this community who likes to enjoy it as well as everyone else, I also have an interest in reducing noise, and especially in reducing air pollution. But clearly, electric leaf blowers are non-polluting. They also operate at a lower decibel level than the gas-powered ones do, especially since many of them can operate at two different speeds. You can use them over the summer months on a low speed relatively quietly to do things like your own driveways or your stairs. Restricting that use lumps homeowners into a solution that was intended to address commercial use.

So while the restriction seems to be that we are going to restrict electric ones like we restrict gas ones, and the Board and the Mayor have said that we may be reviewing this in time to come, I would like to remind everyone that I have been involved in politics since I was 18

years old, and is axiomatic that it is easy to increase or add to the restrictions on something that you have created if it does not quite go far enough, but it becomes very difficult to roll back restrictions once they have been put in place. I think you will mostly agree that it is very tough if you are going to start fine tuning and tinkering. My suggestion would be that if you are looking to draft a law that you would come back and look at later that you err on the side of restricting minimally rather than maximally, and think hard about the permitted use of the electric leaf blowers that are non-polluting and operate at the lower decibel level.

Jacqueline Lhoumeau, 157 Southside: I am disappointed at what happened tonight. I was quite ready to support one of the ordinances as they had been proposed, and I had hoped that is what would have been voted on tonight. It might really call for a public hearing with the amount of change that has happened. One of the things that has been mentioned is should we be treating the homeowner and the contractor the same. We went into it because of what the contractors asked to do assuming that we should, but maybe we should not have. Everyone is saying it is the hordes of contractors coming onto an area for many hours with many blowers that is what people have a problem with. If you are going to allow leaf blowers over the winter, could you restrict to no more than three per property? It would be a start and a message to the contractors. Or only electrics allowed during the winter. Even with your windows closed the noise is bad and the fumes get in. Although I would rather not have the noise, the noise is less with the electrics and the fumes are so different versus a gas blower.

I also remember the Conservation Commission suggested originally November, December, and April. Those were extended longer because we had the idea that they would not have enough time to get the job done. If now we are giving them the whole winter maybe we could look at those edges again. I would love to have the last two weeks of October back. As of Halloween, most of the leaves are on the trees. Thanksgiving, most of them are not on the trees. November could be a good start. And that is the most beautiful time of the year around here, mid-October when the leaves are changing. It is when I want to be outside more than any other time of year. I could say the same for the beginning of May. So if we are going to have the winter to do a lot of the cleanup on the days that permit, and we had numerous ones this winter, maybe we can cut down the good weather-permitted times back to what the Conservation Commission originally proposed.

Just the question of why leaf blowers and not other machines. It is how pervasive they are. Sometimes you live near a construction site, but eventually that ends. It is the pervasiveness of the leaf blowers that put it out of the same category for me. That is why you get the complaints on this more so than in other areas. Also the thing about who to penalize. You could penalize both parties half the amount. You could also choose something like that so that both parties had a stake in the penalty. Just to end, a question of who does enforce it. Would it be the police?

Village Manager Frobel: Yes, it would have to be the police.

Mr. Gonder: I am glad to see that you included the winter months because where I live there are several acres of woods. The leaves blow into my driveway, and the next day it is supposed to snow so I have to blow them out. Otherwise, my snow blower gets jammed up. The other thing I wish you would reconsider is to let us use these electric ones. They do not make that much noise.

Mr. Skolnik: I wanted to thank Danielle for providing the opportunity of the additional workshops. They were very informative, not only because of the subject matter, but the process. It was not easy. It was trying something new, and I thought that it was adventurous and did a good job allowing people to talk more directly. Diggitt, you mentioned one thing earlier. I hope I didn't come across as being critical of the Board, if I understood you correctly, in actually trying to take responsibility for it. I hope I was not being seen as critical of any of the actions that the Board was taking with regard to this issue. I know I communicated with the Board, but in any case it was not my intention. So if it was me I apologize.

I do not have a stake in this. I do not have a leaf blower. But there were a couple of things in my reading of the various Village plans that I realized might not be appropriate to even try to incorporate now. At least one of the villages allowed for a separate consideration of the village and the usage. I cannot remember if Jerry raised it as a concern, but there was a differentiation made for some of those. The other was that at least one designated quiet zones. This concern about areas around churches and synagogues, or hospitals maybe, there was reference made to certain areas that had different restrictions, different regulations. So whether or not you want to get into the issue of whether you are playing with Sunday or Saturday and favoritism, the idea that somewhere in tweaking the law there, there would be that mechanism theoretically that you would have at your disposal. The last thing was a question of if there is to be any kind of consideration, tweaking: is the Conservation Commission the place and the direction that that would come from?

Mayor Kinnally: Not exclusively.

Mr. Skolnik: So it could come basically from anyplace?

Mayor Kinnally: That is what we have public comment for. But the Board of Trustees has identified a number of things that we will revisit when this is done.

Mr. Skolnik: Is there any one group that would be more likely to be involved in assessing and observing?

Mayor Kinnally: Probably the enforcer.

Village Manager Frobel: I assume I will serve as a clearing house for any information and experience. We will be collecting, during this coming spring and of course in the fall and then over the summer months, any complaints. I will be monitoring that. I expect I will give a report to the Board perhaps sometime next year at this time as to what our experience has been for the past year. But there are any number of avenues that comments can come to us; to the Boardmembers, to myself directly, or during a forum like this.

Ms. Lhoumeau: One more thing about homeowner versus contractor. When you are a homeowner you tend to know a little about your neighbors; like when the neighbor is sick, has had a new baby, has a young child, works at home. You might, therefore, consider their schedule when you do your work. The difference about the contractors is they know nothing about your neighbors. They cannot make allowances for those things that somebody who is a homeowner is more likely to make.

Village Attorney Stecich: On Danielle's question about making sure that the leaf blowers were also subject to the decibel restrictions, it is a good observation. There is a section under performance standards that said that you cannot exceed certain decibel levels. But the way this is written, you could say this is less restrictive. So what I would suggest is adding this language, and I have to make sure that everybody agrees. You would say that leaf blowers are allowed only for whatever period, and then only from nine to five, and then this language: provided that they conform to the decibel level restrictions set forth in section 217-5 and to the steady state and impact vibration restrictions in 217-8. Does everybody agree with that, even though we do not know whether they currently fit within those.

Mayor Kinnally: But we are not dropping it out.

Village Attorney Stecich: But it was there before. That restriction has always been there.

Trustee Goodman: I am going to give credit to Jeff Bogart for that because I think he raised it at the public hearing. I made a mental note and never got back to Marianne until the 11th hour. So thank you to Jeff.

Mayor Kinnally: Thank you. I think we made some progress here tonight. Reference was made in the course of our discussion to roundtables. An interesting concept, and I thank you Danielle for the summary of these workshops. I have a concern and a comment about not the

workshops or roundtables themselves, but how they evolved and how they came to be. It was a surprise to me that it was being considered since it never formally came before the Board of Trustees. And if it was a result of an informal polling of the Board of Trustees, I was conspicuously absent from that polling. In fact, I knew nothing about what ultimately turned into the roundtables. Fran had said that people wanted to have something else, and I said that is what the public hearings are. But the next thing I heard was receiving an e-mail that these were being held. It was a surprise and a mystery to me how it came about, without the Board collectively discussing it and deciding it. But nobody reached out to me, and frankly I was disappointed. Peter wants to address this also.

Trustee Swiderski: I am going to agree with that. I was disappointed that they were held without any review, discussion, or approval of the Board, in complete contravention to the way the Board has run Village business to date. These workshops were conceived, designed, and run on the basis of the sentiment of one Boardmember who thought they could come to consensus on this contentious issue. If a Trustee wants more input, what should have happened is the Trustee should have gone before the Board, suggested additional workshops or meetings or whatever. The Board would have discussed the wisdom of that and we would have voted on it. Instead, these workshops were organized and scheduled without that consent, and that led to a number of problems.

First of all, these workshops are not a part of the official public record. They are not the result of a vote, and they are not a result of the process of legislative review, so they occurred in a legislative vacuum. The people who attended these workshops would understandably not have thought that because the workshops were chaired by two people on public property with a camera running. So they certainly seemed official, but in fact they were not, and that may have led to expectations at least on some of the attendees' parts that this was something official, when in fact it was not. It was effectively private foreign policy.

My second issue with the workshops was that two Trustees ran them, muddying the issue. Here we have a workshop whose result is supposed to provide input to legislation that is already drafted and before the Trustees. How can a workshop be run by two Trustees seeking further input without that appearing to be a conflict of interest? And how can the two Trustees lending their presence to those workshops, and their intense mediation-like context, not impart on those workshops a weight and a heft which they did not, in fact, have legally or otherwise?

Finally, these were not public meetings because they were never announced. So what we had was a meeting at which two Trustees collected input from the public. However we, the other Trustees and Mayor, were not a part of this meeting and could not attend because of the structure of the open meetings law which demands that a meeting where three Trustees or

more are present be announced as a public meeting. So a meeting run by two Trustees regarding issues in front of all Trustees that cannot be attended by the other Trustees is just wrong on the face of it.

Those were my three primary objections to a process that, on its surface, I do not have an issue with. There are other procedural questions and failures. Initially there was an invitation list, and without a public discussion it was not necessarily clear how the list was chosen, nor how the date was chosen. It was less than a week's notice for many people. What should have happened, of course, is issues should have been raised in a public meeting. It is that if we are about open government, we practice it. I am for inclusive government. I tried a mediating process like this on the 9-A development several years ago, to no avail. But I did get fully unanimous support of the Board before I did that, and it was very early in the process, comparatively, to here. I am also for open government and a respect for process. But if Trustees go off and run their own investigational workshops as they wish, without public review, on one week's notice, this is not open government. It is chaos.

The public has a right to expect us, as a Board, to abide by a set of procedures where they can count on their voices being heard in a consistent manner, and decisions being made openly and consistently. Changing the rules in midstream on a personal conviction that it is a good idea adds nothing to the discourse and nothing to the public's trust. We are running by the rules here. Even if the intentions were completely noble, as I know they were, that is not open government nor inclusive government, nor even government. And it is nothing I hope we repeat.

Mr. Skolnik: Is this open to the public, as well, in terms of comment? I am asking because it seems to have stemmed from a comment. I am not saying it stems from it, but I did speak to it and I feel that there are some comments that I would like add.

Trustee Swiderski: It certainly was not directed at you, or in reaction to anything you said.

Mayor Kinnally: Without knowing what your comment is, go ahead. We were talking about process here. We are not talking about what happened at the meetings, whatever the roundtables were.

Mr. Skolnik: I understand the concerns with regard to process, though I need to make clear, since I was at the meeting, that it was...

Mayor Kinnally: What meeting is this?

Mr. Skolnik: I am sorry. The two meetings that Peter is referring to: these additional workshops. It was made clear many times that this was, in fact, not an official process; that it was very much not related to the legislative process. It was made clear at a number of points. I will accept that in total it may be a warning on a cigarette package: you know it is there, but you ignore it. But for the record, I would want to make absolutely clear that it was presented that way. I would ask, other than the actual notification, is there something that could have been done where it wouldn't have seemed as much of a violation?

Mayor Kinnally: Here is the issue. The issue was not notification. The issue is that generally, when a decision is made to hold anything, it is the result of a collective discussion and decision by the Board of Trustees. The issue was not raised at a public meeting, and it was decided by three Trustees without reaching out to the balance of the Board of Trustees. That is the problem I have with it. Normally we make decisions here collectively. That is the spirit and the letter of the open meetings law. Albeit I was not at the meeting, it would not have mattered because it was not raised at the meeting. Somehow or another a decision was made by Trustees to have these meetings, to ask for a room in the library, and to ask for it to be covered by WHOH, none of which was decided or even broached at a public meeting. That is the problem I have with it.

Mr. Skolnik: Could I have created that meeting?

Trustee Swiderski: Independently, sure.

Mayor Kinnally: I do not think you would have gotten a room at the library or gotten a camera. Anybody can talk about something. The problem I have is that it appeared to be under the aegis of the Board of Trustees. It was an adjunct of the public hearing that we had. And I do not for a moment, as Peter said, question the motives of people. But they were trying to mediate a dispute. I do not know between whom because the Board of Trustees is an integral part of that dispute, I would think. But the problem I have is not with how the meeting was conducted, it is the run-up to the meeting.

Mr. Skolnik: I understand. I just think it is unfortunate because I do think ultimately there was something...

Mayor Kinnally: I do not even get to that point. I am not saying one way or the other it was not productive, that something came out of it.

Mr. Skolnik: There was something that I think happened there that cannot happen in the more official forum.

Mayor Kinnally: I would not know that.

Mr. Skolnik: You could watch HoH.

Mayor Kinnally: I guess I could. Anything else on this?

VILLAGE MANAGER'S REPORT

Village Manager Frobel: Nothing to add in addition to my written report. Ray Gomes, who will serve as project manager for the cove project, has met on several occasions over the last several days with the contractor and has been in contact with the landscape architect. They are doing some benchmarking at the cove site. I expect we will see some work crews out there perhaps as early as this week if weather holds. We are hoping for two or three days of good weather that we can count on so we can get out there and do some work.

Trustee Swiderski: At our last meeting Danielle prompted a request in regards to the manufactured gas plant. We saw in our packet a letter out of Con Ed that was the result of Danielle's prodding. What exactly happened with that? Was that mailed out to the residents in those buildings, or posted to doors? Was there an effort to get that out?

Village Manager Frobel: Susan, could you report on what you have done in this regard? I have asked Susan to head that up for me, I am so distracted with the budget right now.

Village Clerk Maggiotto: An extensive mailing list was developed by Con Ed. The fellow from Con Ed told me about 160 interested parties were mailed the fact sheet. Con Ed has been actively working on the project and working with the owners. Even though it was the first that we heard of it at the meeting from the DEC, Con Ed had been talking for months, apparently, with the owners. So it was not any big surprise to the owners.

Village Manager Frobel: Susan, could you also report on the public meeting that Con Ed suggested be held, and the fact that the DEC thought it would be premature at this time?

Village Clerk Maggiotto: That is right. Con Ed is happy to come here and talk to you about it, which they could do at your next meeting if you want a Con Ed representative to be here. But they were also interested in having a public meeting. The DEC said perhaps it was premature to have a public meeting until they have something to talk about, and they may have nothing to talk about after their investigations. But I have not heard any feedback, comments, or any kind of response from people. I think certainly the word is out that this is happening, but it seems to be a non-event.

Mayor Kinnally: The fact sheet was a positive thing because it laid out the dates that we had inquired about. These buildings have been there for decades and there has not been a problem. If they continue giving that type of information out, and reach out to the affected people, it is going to go a long way to dispelling any issues here. Maybe there are issues, but at least they are moving forward.

Village Clerk Maggiotto: Do you want Jim O'Toole from Con Ed to come here for your March meeting?

Mayor Kinnally: If he comes he is only going to repeat what is in the fact sheet at this point. Let him come when there is either good, or bad, news.

Trustee Quinlan: I agree.

Village Manager Frobel: We have made great progress in furthering our discussions and negotiations for a successor contract to the Donald Park fire protection contract. It is my understanding that the town council in Greenburgh will be setting it for public hearing on February 27. It is a five-year agreement, and I believe it fairly covers the Village's out-of-pocket expenses to provide that service to that neighborhood in Greenburgh. The Board typically does not act on the matter that comes before them at a public hearing the same night, so they are looking to enact it, Jerry, March 4?

Trustee Quinlan: Depending on how the public hearing goes, they are keeping an open mind until they hear from the public, like we do. They may act on it in a work session in the first week of March or they may wait until their first meeting. They meet on the second and fourth Wednesday of the month.

Village Manager Frobel: But it has taken several meetings. Most recently, last week we met with the council and explained our position again, and provided them with plenty of information to justify our request. We are urging residents to attend that public hearing on February 27 to offer any words of encouragement if you feel it would be supportive. I know some of the fire chiefs will be there. We think it is a fair contract, and we are optimistic that it will be at least set for the public hearing and the comments will be supportive.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: Mark Chertok has drafted the new trust agreement for the additional monies under the consent decree. There have been drafts going back and forth between

Mark and the ARCO people. My understanding is that it has cleared Mark and the outside attorneys for ARCO and is wending its way through the ARCO bureaucracy at this point. We are hoping to have it on for our next regular Board meeting. I think the language is okay. It just has to get the approval of management on this.

Trustee McLaughlin: A question. Fran said something like looking forward to three good days for the cove. Are there only three days' worth of work to be done?

Village Manager Frobel: In order to mobilize the crew and get set there, they would like to know that they would have their equipment and materials there to give them at least three days before the weather might get bad. That is why they are hoping for a little stretch of some fair weather. But it is a several week project.

2. Update on the Comprehensive Plan Committee

Trustee Quinlan: So much is being done by this committee, and so much was done at the meeting of February 13, but I am only going to hit the highlights at this time. Marc Leaf was in attendance from the Zoning Board, and he is the new member of the Zoning Board of Appeals. I was very happy to see that he was there. I was not there myself, but I understand that he was very informative and will be an important addition to the Comprehensive Plan Committee.

A couple of things that they discussed were the matching funds for the grant. It was determined that the time spent by the committee members can be used as part of the matching requirement for the grant. That is very common-sense because a lot of members of that committee, in their professional lives their time is so valuable in terms of financial reimbursement, that it is a no-brainer that their time would be used as a matching fund.

I understand that Kathy Sullivan and Betsy Imershein met with you, Fran. Under discussion was the time frame of the capital improvements the Village is projecting, and program information. They appreciated meeting with you, and found that was very helpful. This is important, and that is why I am going to hit on it as a final thing: the funds for a consultant for the Comprehensive Plan. They asked if it should be put in the budget for next year. Robert Mayer, who has expertise in this area, is going to contact a couple of consultants he knows to see what their thoughts are about where a consultant should fit into their committee. It was the opinion of the committee that funds for a consultant for the Comprehensive Plan should be put into the Village budget for next year. But Fran, I leave that up to you. They talked about speaking at neighborhood meetings, and were talking about between 20 and 25 individual meetings to reach out to the community.

And last, but not least, they asked the Board of Trustees to extend the grant money that expires in October of this year. Fran, I wanted to ask you to give us a more information about how much of that grant money there is and what are the mechanics to get that extension, if we can.

Village Manager Frobel: The Village received a grant in the fall of 2006 of \$15,000 from the Hudson River Greenway Council. It required a \$15,000 match, so essentially we have \$30,000 to spend for appropriate expenses relative to the drafting of the Comprehensive Plan. That can mean consultants, some legal work, and any kinds of experts the committee feels it needs. We have already renewed it once. Typically, all it takes to renew it is a letter saying that you are progressing and you need more time. Rarely, if ever, do grants get taken back. The agency that grants you the money wants to see a product so they are not in a hurry to get the money back. They would like to see it completed. I suspect the committee will soon be drawing down that money as they begin to gear up their work. When, and if, they feel the need to develop a request for a proposal to get a consultant in to help them we will begin to spend that money down. Until we spend that money down we are prevented from applying for more money from that agency. So it is an incentive to keep this project moving along in a rapid fashion.

Trustee Quinlan: My understanding is that they asked us to extend. Do we need a resolution to do that, or can we give you the go-ahead by consent if all of us agree?

Village Manager Frobel: We are in good shape until October of this year. When September/October rolls around, if we have not spent all the money down at that time, then I will send a letter to the agency saying we need more time. It does not take any action on the part of the Board.

3. Proposed Fee Schedule Revisions

Mayor Kinnally: This was the subject of the public hearing, Fran?

Village Manager Frobel: Yes.

Mayor Kinnally: Are we ready to put this on for action at our next regular Board meeting in light of the groundswell of support and opposition manifested this evening?

Village Manager Frobel: In your packet we gave you some insight as to what we expect will be the yield from these fees if they are increased. We are in the midst of doing the budget. I am assuming, pencil copy only, that some of these will be increased. They do not make a significant difference in terms of the tax rate, but it is a question of fairness in

reflecting the true costs of providing that service and how it should be paid for by the user. I hope you are ready to adopt it.

Trustee Swiderski: I would say the analysis that was carried out by Kevin seemed to indicate, what, \$40,000?

Village Manager Frobel: The road opening permit will be substantial. That will make a difference.

Trustee Swiderski: Well, \$40,000 is almost a 1% increase in taxes saved.

Village Manager Frobel: Half a percent, but you are right. That one does make a difference. I want to look at those numbers a little closer. I hope that is right. It seems like an awful lot of road permits. I suspect the utilities may have a concern.

Trustee Swiderski: It is money. Good.

4. Cablevision Update

Mayor Kinnally: We are in receipt of a check in excess of \$65,000 on the franchise fee from Cablevision. We are in the home stretch on the franchise agreement with Cablevision. Bob Perlstein and the cable TV committee have been working diligently in this regard in conjunction with John Figliozzi from the state, who has been a great resource for us. Bob had some issues on one or two items. We have not been able to talk about it because Bob is under the weather, but I am hoping that we will be able to have a proposed franchise agreement before us, for at least consideration if not action, at our first meeting in March.

Trustee McLaughlin: When are we going to go back to the table with Verizon?

Mayor Kinnally: I received an email over the weekend from John Butler of Verizon asking if the Village is anticipating dealing with a franchise agreement with Verizon in 2008. The answer is yes. They have always linked this with a level playing field with Cablevision. There has been on both sides, and I do not criticize Verizon but Cablevision also, a wariness, not wanting to agree to something if we are not going to stick it to the other service provider in the same way. It has slowed things down. My response to John was, yes, we are willing to do it; why do you not give me a call on Tuesday morning so we can discuss it. I waited in vain for a telephone call from him. But more importantly, I have spoken with a consultant who has been at meetings here for Verizon on a number of occasions in December and in January about this, about whether or not Verizon is going to come back to us and reapply. That is why I thought John's question was an interesting one. We cannot do anything with Verizon unless, and until, we have an application before us. They withdrew their application

in October, 2007 and we have not heard anything. We are more than willing to continue the negotiations, but they have to be good faith negotiations with Verizon. Verizon pulled the plug on it, and we are waiting for Verizon. So I hope I hear from John. And I will say to John Butler, get us your negotiating team. From what I understand, they have not assigned a new negotiating team at Verizon. Give us the application, and we will pick up where we left off.

Trustee McLaughlin: Mayor, this is of great concern. We cannot be alone in New York State in having Verizon walk away from the table.

Mayor Kinnally: No, we are not.

Trustee McLaughlin: What has been the experience of other communities when this has happened? Not only do we have Verizon employees in town that we hear from, but neighboring communities have completed this process. So we get beat up a bit because we have not. It sounds to me like it is their fault, Verizon's.

Mayor Kinnally: I do not know if there is any fault here. We cannot do anything absent an application before us and we cannot negotiate alone even if there were an application. Two things have to happen: they have to resubmit the application, and they have to designate a negotiating team. I get a lot of calls and inquiries about this. In fact, I was on the phone with Verizon on a personal thing recently, and a salesperson was trying to sell me the Verizon triple play. I said, why do you not tell me what the service is you are offering. He went through the Internet, and the telephone, and the cable TV. I said, do you offer cable TV? He said, of course we offer cable TV services in Hastings. I said to him, I do not think so. I did not tell him who I was, but I said I know there is no application pending before the Village. And the guy said, I will have to talk to my supervisors about that because my understanding is that anybody who wants cable from Verizon can get it.

Trustee Goodman: This is a Cablevision question. I had a call from a senior citizen in the Village who was trying to negotiate a senior citizen discount. Apparently, Cablevision does offer them. But when they looked into their own file they called her back and said she wasn't entitled to a Cablevision discount because we had not negotiated for it. So is that something the cable committee is willing to undertake on behalf of the seniors?

Mayor Kinnally: I do not know. I will pass it along to them. I have never heard of this before, but I am pretty sure it was not in any of the prior agreements.

Trustee Goodman: Could you please look into it? According to the information she got, other municipalities have that available and it is part of the negotiation process. So if it

applies for Cablevision, perhaps we could also look into that for Verizon. Your Village elders would appreciate the break.

5. Village Officials Committee

Mayor Kinnally: We talked in the past about the village officials committee, which came to be as a result of problems that the villages have had with the Town of Greenburgh over apportionment of certain costs and expenses to the villages. We were part of a lawsuit that was brought by a resident of Edgemont, and it involved what has become known as the Finneran Law. That had to do with allocation of park expenses for a park that was purchased using state and federal funds, Taxter Ridge. Bob Bernstein sued the town, saying that the villages should pay a portion of this. We were successful in being able to join the suit, and the appeal has been pending about a year and a half. On February 14 we found out that the town won the entire petition, with a decision from the appellate division's second department that completely supported not only the town's position, but the villages' position. I congratulate everyone who was involved in the process.

It is a fabulous decision, probably one that will not go up on appeal to the court of appeals. So it will become law, but it satisfies and sets once and for all the scope of the Finneran Law and how it applies to town/village finances. The question is, what are we going to do in going back to the town to ask them reallocate the expenses that were put in the village portion of the budget that should only be allocated to the town portion of the budget. Peter, I am getting over my head here.

Trustee Swiderski: I am going to rephrase what Lee said, and break it down in how it impacts people and also what the next steps are. When I got note of the decision I sent out an uncharacteristic email to the VOC that essentially started out with the words, Whoo-hoo. It was a cataclysmic loss to the other side, in the sense that the decision was written so clearly that even I, as a non-lawyer, came away understanding how devastating it was to the position held by the litigant.

The villages won this, and what it means to every family is that the risk of a \$400 to \$500 tax increase from the town on every family has now receded into the distance and is just unlikely. And that is a big victory. That is \$500 per family for all the families in the villages. It is millions of dollars saved off of our collective tax bill. So that is why this extremely arcane and dry matter matters. What we are now faced with is figuring out what to do with expenses that have been, in the past, allocated to us. It is a sensitive issue. The Town of Greenburgh is cut in half. Half of us live in the villages and half live in unincorporated. Unincorporated has its own tax bill and its own services, and theirs just went up this year 25%.

What this legal decision does, unfortunately, is create a situation where it is all too easy to pile on and create a true funding crisis for unincorporated, where next year's tax bill will go up even more. Essentially they have been undertaxed. They have been sharing expenses with the villages that they should not have around parks, recreation, and other expenses. This decision clearly says that should not be. So over the course of the next months the village officials committee is going to be determining what is appropriate to ask for immediately and what is appropriate to ask for moving forward in relation to how these costs are cut up, taking into account mercy and the law. And not in that order.

We have been armed with a powerful tool here in a relationship that has not until recently really favored us. It is a dramatic change from where we were a year ago, with a town board that was not friendly to the villages and this lawsuit pending that was ambiguous. We now have a board that is friendly and a lawsuit that came down in our favor. It is fair to say that everything changed, and the negotiations we face with the town are going to be very interesting.

Mayor Kinnally: The issue is, do we push the town to roll it back. Do we let it lay for this year, and press that it be properly allocated next year? Do we back beyond 2008 and recapture some of the other years? When we met at the VOC there was chatter and email back and forth. We said we would take it back to our respective boards. So I just throw that out for everybody to consider. One of the things we are going to be interested in seeing is will the town board, of its own, say they have to revisit this. I think there is not going to be unanimity on the VOC on this, but we should take a look at it. I certainly would not do anything until the fire contract is done.

Trustee Swiderski: There is one unfortunate side effect from this ruling, which is effectively a direction implication. Any park in unincorporated Greenburgh that is currently open to village residents technically should not be. And no park moving forward should be made available; whether it is a tennis dome or a request for access to the Greenburgh pool or whatever. This is a draconian result I do not think the villages necessarily want. One of the items in negotiation will be to seek to amend that law, the Finneran Law, to allow the town board to open facilities to village residents as long as it is not an implied requirement for us to share in the costs.

The equivalent there is exactly what we have here in the villages. We have the ability to close our parks to people outside our village, at least of all the villages. There are some examples where that is so. Mathieson Park in Irvington and the riverfront park in Dobbs Ferry are closed to outsiders. I do not believe any of ours are. So we have our parks open to the town and are not requesting them to pay half the cost. The town should have the

flexibility to do it in return and that seems a completely fair quid pro quo, though this decision actually restricts their ability to do that.

Here is an example of an item we should negotiate fairly soon so they will have that opportunity because it has got all sorts of implications. They want to build a tennis bubble and make it available to all Village residents. That is not doable now under the law. It would be restricted to unincorporated only, and apparently that would make the economics of this tennis bubble unmanageable. Here we have a legal result that benefits us financially, but there are other things that we may want to go to them and see if they are willing to join in tweaking the law to benefit both of us.

Mayor Kinnally: But it has changed our bargaining position dramatically. Bargaining position may be too strong a word, but it certainly has changed the relationship between the town and the villages. We participated voluntarily in a mediation process with a retired supreme court justice. When we started the process, we explained our position and our interpretation of the Finneran Law. While he understood the position, there was great skepticism on his part that our reading of the law was right. That emboldened Bob Bernstein. But according to the appellate decision, we had it right.

Unfortunately, what happened here is that the town board would not even give us the time of day in considering what the issues were and what the risk was that the town could lose this. The mediation was, is there a way of accommodating everybody so you get a half pound and the other side gets a half pound. Well, the appellate division said to us, you get five pounds.

Trustee Swiderski: It is the worst outcome for them.

Mayor Kinnally: It is their nightmare because there is no ambiguity in the decision. It is pretty clear.

Trustee Swiderski: It is, again, ironic because in the mediation the one offer on the table was from the villages. We were willing to begin to discuss some sort of agreement to cost-share on the parks. They rejected it as insufficient as a bargaining position, and we folded up our tents and left at that point since they did not counteroffer. And since they were so confident that the decision would break the other way they felt why concede anything to us. It is so desperately difficult not to gloat at the point like this. It is nice to be on the right side of the law when it comes down to a decision like this.

Mayor Kinnally: What really affects things is that we had meetings with Bernstein, and Bernstein's approach to this, and he has another lawsuit, is that this is only the beginning, I

am going to pick my targets and the villages are going to pay dearly for all of this allocation. The wind is out of the sails, as they say.

EXECUTIVE SESSION

On MOTION of Trustee McLaughlin, SECONDED by Trustee Goodman with a voice vote of all in favor, the Board scheduled an Executive Session immediately following the Regular Meeting to consider litigation settlements.

ADJOURNMENT

On MOTION of Trustee Goodman, SECONDED by Trustee Swiderski with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 10:25 p.m.