

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
BOARD OF TRUSTEES  
REGULAR MEETING  
JANUARY 15, 2008**

A Regular Meeting was held by the Board of Trustees on Tuesday, January 15, 2008 at 10:10 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

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

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

**CITIZENS:** Eight (8).

**APPOINTMENTS**

**Deputy Mayor Goodman:** I have the honor of providing you with the names of two new appointments to the Zoning Board of Appeals: Ray Dovell has been appointed with a term that expires in 2012, and Marc Leaf has been appointed as an alternate to fill an unexpired term that expires in 2009. We are honored to have them serve and we are grateful that they have volunteered, and wish them well in their service.

**APPROVAL OF WARRANTS**

Multi-Fund No. 48-2007-08 \$ 20,004.10

Multi-Fund No. 49-2007-08 \$ 4,650.98

**PUBLIC COMMENTS**

**John Gonder, 153 James Street:** I am still talking about that bus on James Street. You people can build a beautiful community center, you can get big corporations like Atlantic Richfield and British Petroleum to do a lot for the community cleaning up the Anaconda property, and you can rebuild Boulanger parking lot, but you cannot get rid of a little bus up on James Street and High. Also, I told the Building Inspector that there is a trailer up there. It is hidden behind a tool shed. That is a violation of ordinances, too, I think. If you cannot get him on the school bus maybe you can get him on the little trailer behind the tool house.

**David Skolnik, 47 Hillside Avenue:** This question is directed to Mr. Frobels. I had sent a replying e-mail to Police Chief O'Sullivan on the January 10. I then cc'd Mr. Frobels asking if he would also distribute my response to the Trustees and to the Safety Council. Mr. Frobels, I should ask whether you are in possession of the e-mail that I sent.

**Village Manager Frobel:** I do not know. What is the date on that?

**Mr. Skolnik:** January 10. The time frame of this was after last week's Trustees meeting, wherein you informed me in response to my question about the status of my proposal before the Safety Council that there was going to be a continuing discussion on this week's Safety Council meeting, which was why they had not reported back to the Board of Trustees from last month's Safety Council. Based on that information, I wrote a note to the Safety Council apologizing for having jumped the gun; having generated the letter while they were still presumably considering my proposal.

I got a reply back from Chief O'Sullivan. Again, this is all in the e-mail that I sent you, so if you are not getting this that is an issue that I am concerned about as well. If you are confused about the timeline, then it is important that these things be traceable. But Chief O'Sullivan explained to me that, in fact, the item on the agenda for the Safety Council is not a continuation of my proposal at all, but is more likely addressing a specific proposal from the Board of Ed with regard to changing certain parking on Mount Hope. So I sent a reply to Chief O'Sullivan, which I then cc'd you, asking to disseminate it to both the Safety Council and the Board of Trustees. I was assuming that I did not then have to repeat this e-mail in this meeting now.

One of my concerns is understanding what the process is in the distribution of correspondence. I am concerned, too, that there was for whatever reason a certain amount of misinformation or misunderstanding either on your part or on Chief O'Sullivan's part about the agenda item. You had mentioned at last week's meeting that there was something in my report that confused you, and I do not want you to be confused. Going back to the September Safety Council meeting I tried to explain what the order of events was that brought me to be making these correspondences, where the missing meetings were in the Safety Council, why it is that I assumed that you would have gotten the report from the Safety Council.

Be that as it may, I am looking to not let this issue get lost in confusion in correspondence. I guess I cannot ask the Board of Trustees to respond to something that they have not even received so I cannot ask you, the Board, to respond to this e-mail. I hope that whatever needs to happen so you do get it can be...

**Trustee Swiderski:** Boardoftrustees@hastings.gov.org? If you sent it to that we should have all gotten it.

**Mr. Skolnik:** No, I did not because I was not aware of that. I did, in fact, cc Mr. Frobel and asked that he distribute it to you.

**Village Manager Frobel:** I will double-check on the distribution. The Safety Council is meeting Thursday evening. That will be their first opportunity to meet as a group since your meeting with them, the three-hour meeting we had in December. At that meeting Thursday they will take up the suggestions you made and they will form that into a letter to be sent to the Trustees reacting to your recommendations. The Safety Council has not had an opportunity to meet to discuss what they heard from you during the discussion that Thursday evening in December. So there is no reaction from the Board.

**Mr. Skolnik:** I am not asking for a reaction from the Board. I understand that they have not heard from the Safety Council. My concern is, and in a way you are repeating it, I am getting different information from you and from Chief O'Sullivan with regard to the agenda. The agenda that went out on the Village Web site makes it clear there are three items. Based on that agenda, addressing my proposal is not there.

**Village Manager Frobel:** As a matter of business, they also react at their next meeting to what they heard at the previous meeting. They give themselves a chance to go out, review some of the sites, make some considerations among themselves at that meeting, and then direct the chairman to send a letter to whoever the citizen was that brought those concerns to their attention. And that will occur Thursday evening. What you also saw from the Chief is that they are going to be taking up specifically the suggestions about limiting the parking on Mount Hope near the school.

**Mr. Skolnik:** If I understand correctly, I would be getting a letter coming from out of that meeting that they would be communicating with me? Or they would be sending a report to the Trustees?

**Village Manager Frobel:** To the Trustees. They were directed to take up your suggestions at their meeting, which they have. Now, I am saying that is anticipated to occur Thursday. It may not. I assume you will be in attendance. They may decide among themselves they need additional time. I do not know, but I am certain that is typically their course of business, at their next meeting, to react to a petition that they have heard at the meeting before.

**Mr. Skolnik:** Right. Then the reason for my concern, and the reason that I came to you last week with this as I tried to explain, is that what occurred, starting in December when they heard from Mr. Corrigan with regard to the Broadway proposal and, at the same meeting, from the Board of Ed with regard to their proposal. I fully expected that the procedure that you are describing would have taken place, where a follow-up meeting would have occurred the following month and the issue would have been discussed and I could have had whatever input. As it turned out, there was no meeting that month, that would have been October, nor

was there a meeting in November. However, at the next Trustees meeting the report had already been sent up to the Board. I know that the Broadway proposal went up, with the Safety Council's approval. I believe, based on the discussion at that Safety Council meeting, the Board of Ed proposals, and I will not speak for them, but that they were not as enthusiastic about it. Nevertheless, clearly some report went to the Board of Trustees because subsequently, at transportation meetings, reference was made to a Board of Ed proposal. The only thing that concerns me now is that you have left open the possibility that they will not address this at this coming meeting. Frankly, I have tried as many ways as I can to understand the process. I indicated in the correspondence that I was not even clear that the Safety Council was entirely the appropriate venue for an aspect of the proposal which, as you know, was trying to put together some sort of task force.

I am not asking you to address the specifics of that now, but I want to be clear that I am not comfortable with what I see as the unnecessary delays in the process. I do not know why they would have to delay dealing with the proposal. It was extensive, and the fact is they can send it up to you saying they do not like it. I should not represent that meeting, but I think I did in my written correspondence to the Board. So I have no illusions about what to expect, but I am not sure what the reason for the delay might be. It was not on the agenda. My point is, too, I sat down at the last meeting. You explained that it was going to be dealt with. I then reacted, I responded. But what I feel is, though, you are telling me that it is not on the agenda.

**Trustee Swiderski:** I got a memo from the Safety Council. I do not know if any of you remember reading it. I think it is item number three or four. It is the last item, and it is reviewing your proposal.

**Mr. Skolnik:** I am sorry. I would be very surprised because the one that I got from the Village, unless I read too fast, I did not see my name up there. I will look at it again, but I only saw three.

**Deputy Mayor Goodman:** I am pretty sure that what I saw was an item that was dealing with the traffic, or the parking, on Mount Hope and that there was probably another item marked old business.

**Village Manager Frobel:** Typically that is how they rank them. I have been attending their meetings and I will continue to, and we will keep this on point.

**Deputy Mayor Goodman:** We thank you, Mr. Skolnik, for your hard work on the traffic and safety issues. I would urge you to attend the Safety Council meeting.

**Ellen Hendrickx, 136 Circle Drive:** Con Ed tore up the sidewalk in front of their substation and put in a big patch of tar that is pretty unsightly and not great to walk on. I was wondering if they are going to repair the sidewalk.

**Village Manager Frobel:** Yes, but they are doing a lot of extensive capital improvement down there. What they do now is put some cold patch down at the end of the day. They do intend to restore it to where it should be.

**Ms. Hendrickx:** Also, there is a big crater in the parking lot across from the train station. You can lose a car in there, so I just wanted to bring it to your attention.

**Village Manager Frobel:** I will look into that. Thank you.

**Trustee McLaughlin:** Can I raise a question about the cold patch? On William Street there are several places they tore up. William Street was just resurfaced a year ago and now we have these soggy, squishy places. But those are only temporary?

**Village Manager Frobel:** Yes. Right now the asphalt plants are closed so all they can get is cold patch. They will come back in the spring, but we will make a note of that to make sure they go back and fix it the way it should be.

#### **6:08 CHANGE OF MEETING DATE**

**Deputy Mayor Goodman:** This resolution changes the date of the Regular Meeting from February 5, 2008 to February 12, 2008. Is there any Board discussion?

**Trustee Swiderski:** Where is this from? What brought about this resolution?

**Deputy Mayor Goodman:** What brought this about was the fact that this is the presidential primary and that there would be citizens interested in attending voting and serving as election inspectors, poll watchers, campaign workers, etc. It was put on as an item to deal with that request to move the meeting date.

**Village Manager Frobel:** Unbeknownst to the Mayor. He has made arrangements for two spokesmen from the DEC to brief the Board that evening. We would try to reschedule if you choose to change your meeting date, but I did want to point that out to you. Also, the way the meetings fall, that would leave us almost four weeks between meetings. Again, we can call special meetings between tonight and then, but I did want to also point that out.

**Trustee Swiderski:** I am an election-following freak if there ever was one. But we are not depriving anyone of voting, and we are expanding the gap between meetings. I am tradition-bound. I do not tend to change if I do not see a compelling need. I am indifferent.

**Trustee McLaughlin:** I had proposed this about a month ago, and at that point Board members said let us not talk about it now, let us talk about it in January. By the time we get it on here, of course, the meeting with the DEC is scheduled. Had we thought about this far enough in advance we could have arranged the schedule better over a period of time, but considering it this close to the time eliminates our ability to move things smoothly. In the past, when a Board meeting has fallen on the first or second night of Passover it is moved, and December it fell on the beginning of Hanukkah and it was moved. You might argue that we should not move the Board meeting for religious holidays.

**Trustee Swiderski:** I would not argue that.

**Trustee McLaughlin:** I would not make that argument myself. Yet a minority of residents of Hastings celebrate Hanukkah and Passover, and we would consider moving it for that. But there are people whose secular religion is politics. So it is a reasonable thing for us to consider, but because of the problem with the compression of time I will not vote for this because it would create more problems than it would solve to do it at this late date.

**Trustee Quinlan:** Would you like to withdraw it, or do you want to have a vote on it?

**Trustee McLaughlin:** I would be happy to withdraw it as opposed to voting it down.

**Trustee Quinlan:** Anybody have any objections to that?

**Deputy Mayor Goodman:** No. I echo Diggitt's sentiments. This could be brought up during our organizational meeting in April. I have some thoughts on this area, meetings and scheduling, and we can take care of some of that down the road.

### **7:08 CHANGE MEMBERSHIP OF CONSERVATION COMMISSION TO ADD TWO MEMBERS**

**Trustee Swiderski:** This came to me from the Conservation Commission by way of Sandeep and a desperately burdened group. We have one representative here, Kerry-Jane King, from the committee and I am sure she will second the sentiment that they have lot on their plate and are facing a struggle to get through it, and unanimously feel a couple more interested volunteers would help. Their conviction is strong and I cannot see why we would not be receptive to it.

**Trustee McLaughlin:** Peter, you are the traditionalist. I am going to be a devil's advocate. This committee was created with five members for some reason that is probably in the founding resolution. Thank you, Susan, for digging these up from 1972. I am curious to know why people who work with the Conservation Commission cannot simply be volunteers. Because it seems to me there is an underlying assumption here that one must be a committee member in order to work. We want to encourage Village volunteerism. Does everybody who works for the Village want to take on the responsibilities of being on the committee? If we increase the number of people on the committee we increase the quorum required, for what that is worth. I am inclined to absolutely anything that the Conservation Commission wants to do if it helps its mission. But I am curious in general for the rationale of not asking people to be volunteers, and of increasing a quorum.

**Trustee Swiderski:** That is a good question. The only response I can give you is that membership confers responsibilities, a certain degree of expectation of attendance, and professionalism that maybe a more casual volunteer level might not. That does not denigrate volunteers as a whole. In fact, I go to those meetings, and there are several volunteers who have been there every single meeting.

**Trustee McLaughlin:** That is why I brought it up, because they are there despite the fact that they are not committee members.

**Trustee Swiderski:** I do not denigrate their efforts by any means. On the other hand, in general once you are tapped, and accept that role, there is certain formalness and seriousness that you tend to exhibit. It is a completely legitimate question: do they need seven? Perhaps not. They have got a busy agenda. So it comes time to divvy up the items on the agenda because the way a lot of committees work people do research on a micro project. It seems more fair and right to give that work to a formal member rather than to expect the same level of work from a volunteer as you expect from a committee member.

**Trustee McLaughlin:** And the committee members share in setting the agenda in a way that somebody who simply goes to the meetings does not. You sold me, Peter.

**Trustee Swiderski:** But it is a legitimate question. In general I quail. We have 100 plus committee members in this Village. We are adding yet another two to a list that represents almost 3% of the adult population. It is not an insignificant issue to the responsibility of filling those seats. In this village, however, I can say that this is probably a committee we will have no trouble filling seats on, because it is an issue of passion for a lot of people.

**Deputy Mayor Goodman:** I would agree with adding two members. If the Conservation Commission is going to do more in assisting with drafting ordinances, they should be doing more community outreach. And members are required, because being a member carries the mantle of authority, to do the outreach. That is important, as well as public education. There is a lot of work to be done, and I agree that having a regular member would prompt a duty, or responsibility, that a volunteer would not have.

I would make one other request: when the two new members are appointed, that the Board of Trustees and the Conservation Commission have a joint meeting. I have some concerns about procedure. Some things were raised tonight in the hearing, and I would like to see the Conservation Commission get some guidance from us about operational procedures and mission.

**Kerry-Jane King, Conservation Commission:** All of your comments are valuable, and I agree with Diggitt's comment on volunteerism. It is wonderful to have volunteers supporting the Conservation Commission. Peter's comment on responsibility is key, in that we have some experts in the community right now. We could really use their help. We have a daunting task ahead of us. The whole issue of conservation and sustainability is enormous and a huge challenge, and it would be great to get to actively take a role who maybe have not thought of joining the Conservation Commission. I welcome Danielle's comment on procedure because I feel that some guidance has been lacking and that we would benefit from the guidance of the Trustees in how we organize our meetings and how we proceed with such issues as the issue that was presented this evening.

**Trustee McLaughlin:** Procedures can vary from committee to committee and it would not hurt for them to be consistent. The state open meetings law was recently judged as not applying to committees and boards except for boards of trustees, planning boards, zoning boards and the like. We have always expected our boards and commissions to operate by the open meetings law, which talks about setting agendas, keeping minutes, and so on. They do not have to be elaborate, but they should be done so that people who are not on the committee can know what the committee does, so the Trustees can know as well.

Every April at the organizational meeting we accept the rules by which we operate. I had been thinking of suggesting that we create a set of rules for how our boards and commissions will operate. It would make you feel, as a new committee member, that you are not necessarily operating in three-dimensional space, which you might well be.

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 increase the number of appointed members of the Conservation Commission from five (5) to seven (7).

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

### **8:08 SPONSORSHIP OF CLIMATE CHANGE AND SUSTAINABILITY EVENT**

**Trustee McLaughlin:** I proposed this. The Conservation Commission and Sustainable Hastings have been talking about an event in April, which is when Earth Day is, that would focus on climate change and sustainability. It would have an evening of events for school kids, a movie night, workshops, lectures, and other programs for interested people. The Conservation Commission is a co-sponsor already and so it involves the Village but Board sponsorship would give it greater stature as we promote it to people county-wide and outside Westchester County. It is a really important subject. We are all totally behind what the Conservation Commission and Sustainable Hastings are doing with the event and with issues down the line, and our becoming co-sponsors puts our stamp on it in an extra-important way.

**Trustee Swiderski:** We are seeking to reach out to neighboring communities. If we want to have, as one idea, a discussion group of mayors, it is difficult to do if we are not behind it.

**Deputy Mayor Goodman:** It is our intent to reach out to the other boards and committees within the Village government, including the Youth Council, so it is appropriate for the Board of Trustees to act. It is a wonderful event and idea, and thank you to the people that originated this idea, Sustainable Hastings and the Conservation Commission.

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

**RESOLVED:** that the Mayor and Board of Trustees become co-sponsors of the week-long climate change and sustainability event organized by the Conservation Commission and Sustainable Hastings to be held during early April.

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

### **9:08 OPPOSITION TO PROPOSED CON EDISON RATE INCREASE**

**Deputy Mayor Goodman:** This week we were alerted by the County of Westchester about these proceedings. Trustee McLaughlin put this on our radar screen, so I thank you. Once Diggitt raised this I began to look into the situation and got, through the help of Mary Jane Shimsky, who is Assemblyman Brodsky's constituent representative, information from the state and the county. Jim Stadler also got me the Public Service Commission's January 8, 2008 decision and opinion on this. I suggested that the Board may want to take an opportunity to submit a position letter to the PSC regarding Con Edison's latest request for a rate increase. We are not taking a position that there should be no increase. What we are asking is that the rate increase be fair and reasonable.

Our electric service is made up of two parts: supply and delivery. The Village gets its electricity supplied through the New York Power Authority, but Con Ed delivers it and our Con Ed bill is \$48,000. So there is a significant increase projected on the delivery of our service. The supply end of things is not regulated. It is set by the forces of competition. Con Ed can raise rates based on what it costs them to buy the electricity, and pass it on to us. But the delivery portion is fully regulated by the New York State Public Service Commission.

I looked at the county's position. The county did something we cannot do as a village: they hired two utility economic experts. They have a team of lawyers, and they put in testimony in September. They have had an initial hearing brief and a post hearing brief. The PSC agreed that there should be some reduction in Con Ed's request. But the proceedings are not wound up, and there is an opportunity to put in a submission this week. If we wanted to send someone to a hearing tomorrow, we could. Otherwise, we could send a written submission by February 8. So I prepared a draft letter. It asks that the commission set fair and reasonable rates, and that it consider that any increase in the Village's electric delivery bill will be passed on to the residents, who are going to have their own personal electric bills increased. We asked that the PSC look carefully at the proposed infrastructure, make sure everything is needed that is claimed to be needed, and that the management of those budgets be fair and reasonable to the citizens, and users of electricity, in the state.

**Trustee McLaughlin:** Thank you very much for the work you did on this.

**Trustee Swiderski:** I was skeptical at first. I am not big on symbolic gestures, which is why a statement against the Iraqi war or in favor of some national issue is not something I would want to see before the Board because that is not our business. When I first heard this I wondered if this is something that should be in front of us. One statistic you threw out says it all, which is our annual delivery charge of \$48,000. A 33% increase in that is not insignificant. So while the letter and the resolution may have minimal impact, we are justified in putting our voice out there. Since we are responsible for the finances, we at least should raise an objection to a precipitous raise of this sort. What was going to be a no vote because I do not want to set a precedent for symbolic actions was turned around because your letter was thoughtful and it was based strictly on how it impacts the Village municipal finances. That is thoughtful and sound, and I thank you for your efforts.

**Deputy Mayor Goodman:** The size of the proposed rate increases is unprecedented. In all fairness, I went to Con Ed's Web site, and one of the reasons they cite is that Westchester County is booming, and that over the last two years more permits for housing construction in Con Ed's service area have been issued than at any other time. So we are not saying they do not need to build more infrastructure, but we are saying we want to make sure that what is being done is fair and reasonable.

**Mr. Gonder:** I agree with you 100%. But also you may be able to lower your bill. The holiday lights around are beautiful. I recognized them again tonight. But maybe you ought to cut them off a little earlier and save some money.

**Deputy Mayor Goodman:** We are mindful of our Con Ed retirees who live here. I want to make sure that their retirement funds are properly looked after. So we are not disagreeing that there should be an increase. We want you to be safe and happy.

**Mr. Metzger:** I, for one, love the Christmas lights. In response to Trustee Swiderski's commentary about sending this letter off and what good is it going to do, I was heavily involved in what was supposed to be the symbolic rail against Con Ed in their tree-cutting process. We were told why bother: the PSC sits up in Albany, they do whatever they want, we have no control over this. But a small group of people that started here in Hastings raised enough dust and enough issues that it made its way up the ladder. Superintendent Feiner got hold of it, and Tom Abinanti, our country legislator, got hold of it. We managed to get Con Ed to sit up and take notice. I would say that the only way to get anything done is to start with a symbolic gesture, but then make sure you follow up on it.

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

**WHEREAS,** the Consolidated Edison Company of New York, Inc. (“Con Edison”) has proposed an increase in its electric service rates and charges by \$1.2 billion during the 12-month period ending March 31, 2009, and

**WHEREAS,** the Mayor and Board of Trustees of the Village of Hastings-on-Hudson (“Village”) believe that such an increase will place onerous financial burdens on Village property owners, now therefore be it

**RESOLVED:** that the Village joins the County of Westchester in requesting that the Public Service Commission (“Commission”) conduct a thorough review to determine if Con Edison’s proposed infrastructure initiatives are necessary, affordable and within a budget that reflects just and reasonable rates, and be it further

**RESOLVED:** that the Village urges the Commission to set just and reasonable rates while maintaining safe facilities and adequate services, and be it further

**RESOLVED:** that the Mayor and Board of Trustees direct the Village Manager to send a letter to the New York State Department of Public Service expressing these concerns.

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

### **VILLAGE MANAGER’S REPORT**

**Village Manager Frobel:** Our meeting today scheduled with the New York Department of Transportation was canceled. One of the key people from the state had an illness in the family, so we are going to be rescheduling that meeting. That meeting was on the initiative to do the restriping of Broadway.

## **BOARD DISCUSSION AND COMMENTS**

### **1. Update on the Waterfront**

**Village Manager Frobel:** Fred Yaeger called me today. Mr. Yaeger is the local contact for the company. He could not be here this evening. As I indicated earlier, two representatives from the DEC will be here at the February 5 meeting to bring you up to date not only on the waterfront project and where they are in terms of the testing and the collecting of data, but also on some other issues that the DEC is working on in the Village.

**Deputy Mayor Goodman:** On January 3 the Village received additional documents regarding the former Tappan Terminal site, the Exxon Mobil/Uhlich Color Company property at the south end. Those are going to be in the library and at some point we will have them available on-line.

We had information that we received that we want to pass along to the public. We received this on December 18 in the course of having a discussion with environmental counsel. I helped put together a memorandum, with input and consultation with Mayor Kinnally. The Board members and counsel read it over, so I am going to read it to you. It serves as a memorandum and an update.

“Summary of action taken 12-18-07. The Village Board agreed that Mark Chertok, who is our environmental counsel, should prepare a resolution for its review and consideration regarding the establishment of a monitoring trust fund solely to be funded by BP/Amoco.

“Discussion. Our attorney explained that it was in the best interests of the Village to have input into the design and infrastructure that BP/Amoco intends to put into place during its remediation of the former Anaconda plant site, and to be able to review, analyze, and comment on the remediation, including any unresolved cleanup issues and the legal and engineering documents that are expected to be generated. Our attorney brought us up date on the establishment of the monitoring trust. It was the Village’s position that under CERCLA the costs associated with the Village’s review of remedial documents should be borne by BP/Amoco. That is in addition to, and exclusive of, the provisions in the consent decree for the Village monitoring of actual remediation.

“After negotiations, it was agreed by the Village and BP/Amoco that a monitoring trust fund would be established, and that BP/Amoco would place \$200,000 into the trust to cover the costs of the Village’s engineering and legal expenses related to

review and analysis of documents regarding remediation, infrastructure design, and grading. At the Village's discretion, its expert engineers and environmental counsel could also review the Draft LWRP as it pertains to remediation issues. The precise details about the fund and its use will be specified in the resolution.

“In response to concerns that were raised, our attorney explained that accepting the trust fund, engaging in review, or providing input into the infrastructure design would not commit the Village to any particular future use of the Anaconda site. Although the cleanup will comply with residential standards, the acceptance of the trust fund did not commit the Village to a residential use. He also explained that BP/Amoco intended to install the infrastructure as part of the cleanup, and that BP/Amoco wanted the Village's input into the design elements. However, in the absence of any input or guidance from the Village, BP/Amoco would design the infrastructure as it deemed appropriate

“In response to concerns raised by the Village Board about the cleanup timeline, our attorney explained that the offshore cleanup was driving the process because the bulkhead must be designed prior to the initiation of design of the onshore cleanup. There has been a delay for roughly a year because of the need for additional sampling to resolve disputes between the DEC and BP/Amoco with regard to the location and depth of the bulkhead. Our attorney further explained that the establishment of a monitoring trust would also provide the Village with the ability to have its expert engineers review the newly-generated test data and the proposed offshore remediation design. This will assist the Village in understanding the unresolved cleanup issues, and better enable the Village Board to participate in the ongoing discussions between the DEC and BP/Amoco.

“Our attorney also advised the Village Board that it should consider making an immediate request for a joint meeting with the DEC and BP/Amoco, and the Village, to clarify the remaining unresolved remediation issues.”

I thank the Mayor and Fran for getting the DEC here in short order.

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

**Trustee Quinlan:** The memo you just read was excellent and important. It reflects what I believe is non-confidential information that could be publicly disclosed, but was not because the Board of Trustees had a telephone conference with Counsel Chertok back there, when it should have been out here.

As to the Comprehensive Plan Committee, a lot of important stuff is going on there. Some members of both the Economic Development Committee and the Comprehensive Plan Committee met with the Westchester County Industrial Developmental Agency and discussed issues regarding the central commercial district. It was educational and informational, and also promotional in how to improve our commercial district.

They have formed subcommittees that I mentioned at the last meeting:

1. A community background in history and planning history.
2. Demographic.
3. Regional and local setting in intergovernment and municipal structure.
4. Transportation infrastructure
5. Community facilities and cultural resources.
6. Community services and scenic resources, historic resources and recreational resources, and natural resources.
7. Economic.
8. Sustainability.
9. Land use and zoning.

The 11 members of the steering committee have divided themselves up among those various subcommittees, and they are looking forward to getting to work on them. I hope people will volunteer for those committees.

An exciting initiative is the Hunter Studio curriculum. A committee member, Richard Bass, who is a professional and also teaches at Hunter College, has approximately 15 students. Their assignment for this semester is going to be our comprehensive planning committee. They are going to work with the committee to come up with ideas and help with the Comprehensive Plan, and that is going to be part of their schoolwork. We are looking forward to their labors and energy and their young outlooks on Hastings.

At the next meeting on January 23 they will have two guests, John Dennehy from the Hudson River Valley National Heritage area and the Hudson River Valley Greenway, and Megan Flanagan from the Westchester County planning department, regarding the Greenway Compact and the Westchester County Greenway Compact Plan.

### **3. Proposed Leaf Blower Legislation**

**Trustee Quinlan:** I heard a lot today and I have a lot to think about. I am going to hold my comments and ponder the letters and all the interesting opinions that I heard tonight, and talk about it at some future date.

**Trustee McLaughlin:** I am with Jerry. We have dozens of letters here from the public that we did not have before the last day or so. Between that and the testimony that we heard tonight, I do not feel like jumping into this right now. I need to take in a little more of what is here waiting for me.

**Trustee Swiderski:** I agree there is quite a bit to absorb here. However, I wanted to address a couple of the issues raised tonight. One of them was minority versus majority and trying to understand where the community is on an issue like this. We are not a referendum democracy in Hastings. Very often that is a call by people who are on the losing side of an issue, and a way of hoping that if it is thrown open somehow it will land up differently. The closest we have to a poll was the completely biased letter sent out by the contractors seeking supporting comments. One of them, sent out by Civitano, came back with 57 different answers penned by people who received a letter that claimed we were enacting a complete ban and to react to that. The reaction is interesting because you would think the letter would prompt something that it did not. Less than a majority agreed that there should be no ban; 28 were against the ban. I did a quick count today, and 29, despite the language in the letter, which was quite inflammatory, agreed that a ban of some sort, either restrictions in time, restrictions on dates or, in the case of a half-dozen people, a complete ban, was appropriate. In as close to a poll as I am interested in running on this, run by an opponent of the ban, we had a majority response indicating some sort of restriction was appropriate.

I do not have a body count on the e-mails I have received. It is a lot. It is fair to say that, perhaps with the exception of 9-A, in six years that I have been sitting here I have never seen anything like it. The vast majority were in favor of some sort of limitation. It is not fair to say that is a minority. I remember once I had a conversation with Nita Lowy and she said, we get letters all the time on issues. But if you get a half-dozen letters on an issue, handwritten letters or typewritten letters, not form letters, that is a groundswell. That means that a half-dozen people were motivated to write on a topic. And that is considered a huge interest because, in fact, people do not call and write nearly as much as you would think they do so. When you receive 40 or 50 e-mails against unregulated use of leaf blowers, that indicates more than what is termed the usual vocal minority. The vast majority were from people we have not heard from before.

There is clearly a strong interest. With that said and done, there are plenty of people who do not want anything to happen. No matter what we do up here we will tee off a significant part of the Village. We are in a tight spot. What we are left with is looking at the issue cleanly on its merits because we are hosed either way. So we might as well vote on it, given its clean merits. I am going to assume it is an even break in the community and we are going to draw enmity either way.



I do not want a mini nanny state here either. But this is not a private issue. This is not private behavior in your home, it is not driving a quiet car through a neighborhood. It is ripping the muffler off your car and deliberately gunning it. It passes a border from private into public and invasive, and is rightfully regulatable behavior. It is not just noise, it is not just pollution. It is a totality of issues that, added up, is fair to consider worth regulating given that the benefit from these devices during much of the year is limited. This is not just imposing our will on how people keep their lawns up. It is regulating behavior in a quarter-acre zoning community where if you pass gas the neighbor hears it. We are on top of each other here, so this sort of behavior affects one another much more so than it might in a community where there is two acre zoning. When you live in a hive, a noisy bee makes much more of a racket than if you live out in the countryside.

We hear the ramming-through argument, and that falls into the realm of the it-needs-more-study argument, which is inevitably the argument used by people who do not like where they think something is going. Precious little in this village ever gets rammed through because we talk things to death. On the other hand, there is a line between enough information and too much information. WE could spend \$100,000 running studies to determine economic benefits of this, and injury and precise pollution, or we could see that a bunch of other communities have passed these sorts of restrictions and we are not broaching new territory here. We are not the first community in the nation doing this, so this does not require exceptional study above and beyond what a reasoned examination of surrounding communities would indicate makes sense.

It comes down to an analysis of what is a reasonable set of restrictions for a community, a dense suburban community where, clearly, public behavior impacts all of us. I remain, after what I heard today, convinced that a restriction on use makes sense. Twiddling at the margins still remains a possibility. I am torn on the electric issue, being an owner of an electric blower and recognizing it is not the same thing. On the other hand, they are not quiet by any means and when you run it, the neighbors know it. It is not like you are running a vacuum cleaner. You are definitely running something that is noisy. But it is a different category, and I can see why we might want to make an exception for that.

I hear about the ten o'clock start on a Saturday. I am not a five o'clock early riser. But ten o'clock is late for me to get ugly chores out of the way. I could see an argument for rolling it back an hour. Beyond that, I am not sure I am willing to tinker with the general parameters. I want to absorb what we have been given here, but that is the story arc of where my thinking is on this.

**Deputy Mayor Goodman:** I will add my need to review everything again, the letters. And also my deep concern and hope that no matter what we do in this particular instance that we revisit how we do these things. I would have put a task force together of the proponents of this and the landscapers. There is information that came forward today that we did not have. I do not know if we can start revisiting. I am not advocating that—I do not want a raft of e-mails here because I am thinking out loud. I just have a real upset for the intolerance, and I was happy to see the people stand up and say they cannot use a rake. Because if one more person said to me get a rake, I am sorry. I am the liaison to the Committee on the Handicapped and the senior citizens. Those folks have been in the shadow. They did not get a chance to go to the Conservation Commission. We have to consider that when we give the Conservation Commission issues to look at, they are not going to look at the social or the economic aspects. They are just going to look at the environment, and a statute gets drafted just off of that. I am not sure that I like the process here at all, and there is nothing I can probably do about that. But I am interested in what I heard. I want a chance to look at the transcripts and see if there is some way.

We cannot make everybody happy. We have all had threats. We have gotten e-mails where people were threatening to drop their customers. We have had e-mails threatening us with our jobs. That is just how it is, and we are not going to make anybody completely happy here. But the whole majority/minority thing, that is why you elected us. We are supposed to make those decisions, and it should not be a cattle call because somebody is churning out e-mails and telling other people to e-mail us. Half those e-mails are prompted. There are some true e-mails, and there are groups of e-mails. I am an organizer, we are all organizers. I was one of the people sending Peter the 9-A e-mails. But they are opinions, and they are important, because even if somebody is prompted to write an e-mail, they are doing it. So we have to weigh the interests.

The only other thing that concerns me is the calendar. We cannot legislate the calendar. The lady that spoke, Ms. Neuwirth, I was right with her. That weekend, I know precisely the day, was a Sunday in between Christmas and New Year's. I was in my back yard raking. I do not own a leaf blower. And my guy was gone. He was away for the holiday. My husband has heart disease and he is not going to rake. So I am a one-man crew, and there are many of us like that. We have to weigh those things, and what bothers me is the intolerance of people to understand that. Not everybody can take a rake up. It is not possible. And we have to find a way to make this reasonable for them because, after all, it relies on compliance. The thing you are going to have is neighbors having to call on neighbors. If you make a law too strict the intent is not going to be met because people are not going to comply. And how are we going to know that except if a neighbor is calling on someone else.

**Trustee McLaughlin:** We are not reinventing the wheel here. There has to be a fair amount of experience on how these laws work. I would like to know what has happened with senior citizens in other communities. Do their properties go to wrack and ruin? I do not think so. Do the landscapers go out of business? This is America. If there is a need someone will fill it. As soon as a landscaper says I am never going to work in Hastings again, there will be somebody else tomorrow with a business card tacked up at the pharmacy saying, I do landscaping. Where there is a void somebody is going to rush in to make a buck. That kind of threat does not work for me.

How does this play out in the first year and the second year and the third year? How does compliance work? If it does not work I feel that there are some communities that would have changed the laws. We know that there are other instances where, over a couple of years, compliance builds. I do not believe we have had that information. Peter, I know your point that you do not want to study it to death and sometimes the best is the enemy of the good, and I agree with you. But if we are going to impose a law, we should understand how it will play out over time. We do not have that now.

**Deputy Mayor Goodman:** The first statute we were presented with was probably the strictest of anybody: the conservation committee gave us a statute that was one month and one month. Fran and Kevin gave us a range, and we are on the outside of that range. If this was a question of just banning the leaf blowers over the summer months we would probably be done now, and we would be moving, and then maybe looking to phase this in in another way. But we are not doing that. I think that would have been less controversial for the contractors. I am not saying it is bad to be the pacesetter here, but we are getting into areas where perhaps other communities have not gone.

**Trustee McLaughlin:** We know that we have granted the Village Manager the right to lift the law if necessary. But how many ways can the Village Manager regulate this? Let us say you have seven days of rain. Do we add to the law, do we extend the work period by seven more days because we have just had seven days where it rained more than an inch every day. I could imagine putting in very convoluted language that said if there is a recorded half-inch of rain by 7 o'clock at the weather station in Ardsley that the US Service uses, and in that case that day will be considered a rain day, and the Village Manager may, at the end of the month, extend the use time by that day. We can drive ourselves crazy fine-tuning it like that. Since compliance and enforcement are two keys here, it seems to me the more of those bells and whistles we have the tougher it will be in the long run.

**Trustee Swiderski:** On compliance, ultimately this is a neighbor pulling the trigger on a neighbor. You generally do not do that. The instinct is not to rat out your neighbor unless there is bad blood or things have gone sour. People do not do that unless the offense is

egregious. I am not advocating people breaking a law we have not even passed, but I am going to imagine that the enforcement will tend to shutting down the worst offenders. And the kindly woman, handicapped, who pulls out the blower three weeks after she should have put it away, and uses it because her lawn is messy, again I am not proposing that is right. But I am proposing it probably will not be an issue. So compliance is going to follow an arc that you expect it to follow. People will be very happy to blow the whistle on the five men lined up in a row with gas blowers heading down the block in the middle of the summer because that is what offends. Less likely on the electric blower out of season because somebody's lawn has gotten out of control. While it is useful to hear that Scarsdale perhaps had issues with enforcement, my gut instinct is that common sense will prevail, as will civility and decency and everything else I maybe incorrectly believe tends to dominate in civil discourse in this village when people actually deal with each other as neighbors.

**Deputy Mayor Goodman:** We will put this on again for discussion?

**Trustee Swiderski:** And possible passage if any sort of consensus emerges.

**Trustee Quinlan:** I think there is only one issue. We do not have to talk about it tonight, but the burning issue at least before tonight was a fine to the owner or a fine to the user. We have not discussed that, so just keep that in mind when you are pondering. That is one of the reasons why I would like to think about it because, as everyone knows, I have been a strong advocate of fine to the owner. Tonight maybe I am a little off that dime. I am thinking about maybe fine to both.

**Trustee Swiderski:** I agree with you. I am surprised it did not come up as much as I thought it might. That is a salient issue that drives what we vote on, unless we rewrite one of the two versions.

**Trustee Quinlan:** Possibly we could just go back to square one, but I am not particularly in favor of that. I just throw that out for everyone's consideration. Tonight was the big night as far as we are concerned; this is where we heard from the public in the proper forum. We heard from them extensively and intelligently. We just have to think about these things.

**Mr. Metzger:** I wanted to thank the Board for facing the most crowded room I have seen in seven years of attending meetings, and saying we are going to allow every person in the room to take as long as they want to voice their opinion. It was an extremely long two hours. I will say that the person that had the longest comment probably had the best information to present. Tim Downey was incredible. I wanted to thank this Board. It makes me proud that I voted for all of you that you were able to stand up and face that sort of challenge and get the information that you got.

**Rudiger Stoer, 156 Cochrane Avenue:** It was a fair hearing, and you got opinions from both sides. Maybe you can come into the middle a little more and extend the time a little.

**Ms. King:** Generally in the other ordinances they have made a distinction between gas and electric blowers, and that may address some concerns about people who are not able to rake. It also addresses air quality issues.

### **EXECUTIVE SESSION**

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

### **ADJOURNMENT**

On MOTION of Trustee McLaughlin, SECONDED by Trustee Swiderski with a voice vote of all in favor, Deputy Mayor Goodman adjourned the Regular Meeting at 11:35 p.m.