

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
OCTOBER 28, 2008**

A Regular Meeting was held by the Board of Trustees on Tuesday, October 28, 2008 at 8:05 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: Two (2).

APPOINTMENT

Mayor Kinnally: The first item is an appointment for a two-year term to the Tree Board, Brett Schneiderman, and I thank him for volunteering to be on this board. He replaces, if that can be possible, Fred Hubbard.

APPROVAL OF MINUTES

Trustee McLaughlin: Page 20 of the September 9 meeting, third paragraph: "If it is a steeper slope, you cannot disturb more than 25%." That should be 35%. We had to wait for Attorney Stecich to return from vacation to confirm the correction.

On MOTION of Trustee McLaughlin, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Minutes of the Regular Meeting of September 9, 2008 were approved as amended.

APPROVAL OF WARRANTS

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

Multi-Fund No. 33-2008-09	\$123,117.03
Multi-Fund No. 341-2008-09	\$ 24,972.89

PUBLIC COMMENTS

John Gonder, 153 James Street: Several weeks ago someone mentioned MacEachron Park or some of the other parks and geese problems. I hate geese as much as the deer running loose in Hastings, especially in cemeteries, parks, and golf courses.

I play 150 rounds of golf a year, and it is devastating going through fairways with geese droppings. A lot of local courses try to do something to get rid of the geese. They use shotgun shells with blanks, and the geese fly away for an hour or two and they are back. Sirens, other things, they do not work. They also try dogs, and a dog gets tired after awhile and the geese come back a few hours later. In Sprain Lake they put some realistic fake coyotes around. They are rubberized, three-dimensional and about 37 inches, on a pivot staked in the ground. For the last three weeks there have been no geese. The stake that holds him up is not too good, and Saturday's wind knocked mine over several times. I am trying to get coyotes to come in. I will feed them and maybe they will go after the deer. I do not know if that would work. But if you put tubing in, and put them on in the tubing, it works beautiful. You have to move them every four or five days, otherwise the geese will get wise and come back. You may want to consider getting them. They cost \$39.99 plus shipping.

104:00 AWARD OF BID FOR QUARRY TRAIL PROJECT PHASE I

Village Manager Frobel: We have been wrestling with this project for a number of years. We are running the risk of losing the grant we received in early 2000. We have asked for several extensions and have received them, but this year we have been told that that option will not be available. We need to refashion this project so we do not lose the grant. This proposal breaks the project into two phases. We are recommending that we begin immediately with Phase I and award the bid for it to the Landi construction company. A year ago we attracted 12 bidders to this project. They remain the low bidder, even breaking it into two. We are looking to work from the entrance to what will be Quarry Park at the Old Croton Aqueduct down to the bridge, not going through the bridge, but to the bridge, on Warburton. The project is as specified: to grub out and clean up the area; create a footpath which, in our recommendation, is to use stone, have some stone steps and create what would be a 15-foot wide area, with about an eight foot wide footpath through the length.

Trustee McLaughlin: This appears that the path that will have a general winding to it. Is that how it is designed?

Village Manager Frobel: Yes, it is serpentine, avoiding trees to minimize the number of trees we have to take down, or move any boulders, and to have a leisurely climb upwards.

Trustee Goodman: What we would be looking at in Phase I is timber steps.

Village Manager Frobel: No, I am recommending stone steps. That was a last-minute change. We were wrestling with this right up to Friday. I did indicate timber, but they are stones down there.

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

RESOLVED: that the Mayor and Board of Trustees award the bid for the Quarry Trail Project Phase I to Peter J. Landi, Inc., Eastchester, New York, in the amount of \$93,819, to be paid from grant proceeds from the New York State Office of Parks, Recreation and Historic Preservation (\$75,000) and the General Fund ((\$18,819).

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	

105:08 DESIGNATE GENERAL VILLAGE ELECTION DATE

Village Manager Frobel: This is a state law that requires that the date of the Village elections be changed to reflect St. Patrick's Day. Even though it is a state law, it still takes affirmation by the Board of Trustees.

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

WHEREAS, New York State Election Law §15-104(1)(a) states that the General Village Election shall be held on the third Tuesday in March, and

WHEREAS, New York State Election Law §15-104(1)(b) further states that for any year in which the seventeenth day of March shall fall on such Tuesday, the Board of Trustees shall provide by resolution that such election be held on the eighteenth day of March, now therefore be it

RESOLVED: that the Mayor and Board of Trustees designate Wednesday, March 18, 2009 as General Village Election Day, for the purpose of electing one (1) Mayor and two (2) Trustees for a term of two (2) official years each, and be it further

RESOLVED: that the polls are to be open between the hours of 7:00 a.m. and 9:00 p.m.

ROLL CALL VOTE

AYE

NAY

Trustee Peter Swiderski	X	
Trustee Jeremiah Quinlan	X	
Trustee Diggitt McLaughlin	X	
Trustee Danielle Goodman	X	
Mayor Wm. Lee Kinnally, Jr.	X	

VILLAGE MANAGER'S REPORT

Village Manager Frobel: The crews began work over the weekend milling those streets to be paved. They completed their work. Our Public Works crews are working ahead of them, as I reported last meeting, raising the manholes where needed and catchbasins. We hope, weather permitting, to begin the resurfacing program tomorrow, perhaps completing it as early as Friday of this week. I am pleased that we were able to be one of the first in line for this work. We are competing with five other communities to get this work done in a timely manner.

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 discuss litigation.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: I had conversations today with Joe Sontchi of ARCO and with Bill Ports of the DEC, giving me an update on where things stand on the waterfront. Joe said that they had been working with the DEC to come up with a range of alternatives concerning OU-1, and also looking at how to integrate those alternatives with OU-2. This is consistent with what he has been saying: that while they have artificially broken this down into OU-1 and OU-2, the mitigation and the design should go hand-in-hand. Both Bill and Joe feel strongly that the final product will be a lot stronger, and it makes more sense from a fiscal and an engineering standpoint to do it in a coordinated fashion.

I asked Joe about the timetable. He said that they are hoping to get information from the DEC this week. I asked him about a timetable for receipt of the PRAP. He doubts that we would have a PRAP by the end of December, and that the first quarter of 2009 seems reasonable. He said there is still 50% of the design phase of OU-1 and, again, emphasized that they are looking at how to integrate OU-1 and OU-2 in the design. Bill Ports, who is now working on this project with George Heitzman, confirmed that they are still looking at alternatives to the various remediations. They had a conference call earlier this morning with ARCO, and they are going to refine the list of alternatives in draft form. A rough draft is being circulated in-house, including with the people from Fish & Wildlife. He was not comfortable in sharing that with me at this point.

He mentioned the new recovery well that was put in that Joe had talked about when he was last here. They are monitoring the well and hoping to get a view of DNAPL in that well. When the old well was put in it was not discovered until well into the monitoring phase that it did not quite conform with the specifications for it so ARCO put another one in. But he said that, as he had anticipated, coming up with DNAPL in any particular site is a hit-or-miss proposition. So far they have not hit it in this, and there is no guarantee that they will find it. It could be five feet away, it could be two inches away. If it flows into the well so much the better; if not, then they will have to go with whatever data they have.

I asked him about the nature of the alternatives they were pursuing. He said it would be, as they have said in the past in the northwest corner, a shoreline configuration. They are trying to come up with the design of the wall. Among the issues being discussed are whether to create more land, capping and dredging, putting the sheet pile through a new material that would be introduced into the river such that it would provide a barrier between the basal sands. One of the fears is, when they put the piles in that they are going to open up a pathway. He said there is a way of coming up with a material that can be introduced into the river through an auger system and be mixed as it is being augered in there. It would provide a much firmer substrate into which to drive the piles, and would not allow the introduction of PCBs into the lower area.

He said he hopes to have a draft of the alternatives circulated sometime around December. He did not know a timetable for the PRAP, and I did not ask him if he agreed with what Joe had said. Because there is a delay here, probably sometime in early 2009 would be the period within which we would get a PRAP.

I also asked him what was going on with Uhlich. He said there is C-2 testing of the biodegradation method. This is introducing certain active agents into the soil to see if they will work to get rid of the some of the chemical compounds. He said there has been a delay in that. They have to notify the EPA and because of the notification period, they have not been able to move forward. There have been negotiations with Chevron concerning a consent decree. They are looking to have a consent decree on a full-scale implementation of the biodegradation late in 2009 and early 2010 that would cover the remedial design and the implementation. What that would be is a work plan and a blueprint for going forward.

The introduction of these agents was discussed at the school on a number of occasions, and Jacques Padawer had talked about this. He said to me that they had done a bench scale testing of this particular approach and it came up fairly positive. That is why they are going to do next what he calls a pilot scale testing in 2009.

Trustee McLaughlin: How old a technology is this?

Mayor Kinnally: I do not know. I have no idea.

So he thinks that a consent decree could be signed in the spring, and the work could begin in the Chevron area in possibly late 2009 or early 2010. He was fairly encouraged by the opportunity to use this new technology, he said, but again it is hit-or-miss. These agents work on some parts of the PCBs, but not on all of them. It just depends upon what the chemical composition is in the string of carbon atoms, or whatever they have there. He says it does not react equally with all of the agents in the soil, but he said with the hydrocarbons he thinks it will work.

Trustee Goodman: From what I read in the documents at the library, some of this was deemed experimental.

Trustee McLaughlin: But how long ago was that?

Mayor Kinnally: A couple of years.

Trustee Goodman: No. They left documents maybe in the first quarter of last year through March. There are three sets of new documents lying out.

Mayor Kinnally: The discussion of this has been going on for a couple of years, though.

Trustee Goodman: But it was reduced to writing. There are three relatively new sets of documents at the library. Some of this is deemed experimental, so I would say we should keep our eye on it because why should we be somebody's experiment. It seems to me like they're choosing the slowest methods, even the methods like the air sparging. That all had to do with cost. Because the state does not have a responsible party identified, the state is paying for it. That was what I read: the state was going to ask the responsible parties to pay up at the end of the game instead of making ExxonMobil pay up front the way ARCO is.

Mayor Kinnally: I am not sure that is the case. I know the parties are talking. I do not know if the state is absorbing this.

Trustee Goodman: We should try to get a handle on this and watch it carefully, and I know that you are, but I do not think we should settle for experimental. It is great, but we need that property online because the longer it sits there it is not generating tax revenue.

Mayor Kinnally: Well, it is. We are getting tax revenue out of that.

Trustee Goodman: We are paying refunds right now to Uhlich.

Mayor Kinnally: ExxonMobil has not filed any certioraris, and we are getting substantial tax revenue out of that.

Trustee Goodman: Well, we would get more money. We need more money. The property, as is, is not generating its potential. That is my point.

Mayor Kinnally: I think everyone would agree that all of the waterfront is not generating its potential.

I asked him to anticipate your next area there, whether or not the Village should aggressively get involved in this. He thought this is not the time to do that because the parties are talking, and because of the negotiations on the consent decree he did not think it would be prudent at this time for the Village to do that.

Trustee McLaughlin: The public should be aware that there are three parcels: the ARCO site, the ExxonMobil site, and the Uhlich site, and each of them has a different history of pollutants and is at a different phase of negotiating with the Village. What we usually talk about when we talk about the waterfront is the ARCO portion. It is slightly more than half of the entire waterfront; it is the northern part. We have been successfully working with ARCO for years on this. We have a consent decree. There has been testing going on. When the Mayor talked about sinking monitoring wells, that was on the ARCO property.

The conditions on the other two properties concern me because the last I heard from ExxonMobil was that their proposal was nowhere near as useful to us in terms of the remediation they were going to propose. It would be nowhere near as useful to us as the thorough kind of job ARCO is planning on doing. Am I wrong there?

Mayor Kinnally: I do not know enough about it.

Trustee McLaughlin: My memory was that they wanted to go down a very few feet and then cover up what was there, rather than the intricate engineering that ARCO is doing.

Mayor Kinnally: It is much different. There are not PCBs on that site. It is generally pigments, hydrocarbons.

Trustee Goodman: It is volatile organics: benzene and chlorobenzine.

Mayor Kinnally: Yes, it is hydrocarbons. But I heard today a little more optimism than I have heard in the past. At least the parties are talking. The Chevron relationship with everybody has been a difficult one. The parties have not been able to get together, but apparently they are talking.

Trustee McLaughlin: Is it Chevron or ExxonMobil?

Mayor Kinnally: Both. Bill seemed to think that things were moving forward, and he was encouraged that the bench testing had gone as well as it had, and was anxious to move forward with the pilot study.

Trustee McLaughlin: The DNAPL of which we speak is incredibly viscous and adhesive. When they have a monitoring well it is not like watching the water rise. It is so much a different substance that that is one of the reasons this process has taken years and years.

Mayor Kinnally: Next year is going to be an interesting year on the waterfront because we will have a PRAP for the ARCO site and a consent decree either in 2009 or beginning of 2010 on a portion of the southerly site. So there is some movement there.

Trustee Quinlan: I find the report, and it certainly is not your fault, depressing and not hopeful. When Joe Sontchi was here giving his report, he thought the PRAP would be done by the end of the year, and by the end of the first quarter of 2009 we would have the ROD. Now you are reporting that that has been pushed back at least one quarter, and maybe two or three. So that does not make me happy. It seems like we are talking about more delay than when Joe Sontchi was here.

The southern end is very polluted. And I am confused. ExxonMobil owns that site, but did Chevron take them over? Is that why we are talking about Chevron now?

Mayor Kinnally: No. Chevron was one of the PRPs, Potentially Responsible Parties.

Trustee Quinlan: But ExxonMobil, are they before in the chain from Chevron, or after?

Mayor Kinnally: They are before, I believe.

Trustee Quinlan: So are they at the table?

Mayor Kinnally: Yes.

Trustee Quinlan: It seems that the state says we should not become involved, they think things are going well. I take the opposite position; I think the Village has to be more aggressive with the waterfront. This has been going on since I moved here in 1979. I do not see us any closer. The \$200 million that ARCO is committed to, as days go by and years go by, becomes less and less money for them. It becomes cheaper for them because of the \$200 million that was agreed to. The consent decree was five years ago. The \$200 million five years ago is worth a lot less than \$200 million now.

Mayor Kinnally: That is what they had budgeted for, but that is not what their cap is. Whatever it costs they have to do. The DEC is not going to be sympathetic to them because prices have gone up; they are not going to get a benefit based upon the passage of time.

Trustee Quinlan: We will see about that. It will be an interesting process, but it has gone on way too long and something more aggressive has to be done by the Village to get this moving. What Danielle said was very interesting, and we have to talk more about that in terms of the potential of the waterfront. It is true that ExxonMobil is paying taxes and they have not filed for certs, but it is also true, and the Village should understand, that Uhlich has. We are paying big bucks to them on behalf of the suit they brought for certiorari.

So let us not fool ourselves that the potential of the waterfront is not only not being realized, but is costing us money. At the last meeting last Tuesday, while we were talking in glowing terms about how great ARCO is, I held my fire. But thinking about it in the past week, and studying some of the documents, although they are talking about how progress is being made and how we are all cooperating with each other, the reality of the situation is that they are trying to delay it as much as they possibly can.

Mayor Kinnally: It is funny that you raise that point because I asked Bill Ports today if he found that they were getting less than cooperation from ARCO. He said that was not the case. He found they were being responsive, and he did not lay whatever delay at the feet of ARCO. I am not here to support ARCO, but he did not point out that ARCO had dragged its feet. He discussed the intramural politics and debate that goes on at the DEC, especially with Fish & Wildlife. There is a problem there if they are going to cap any of the river. Apparently Fish & Wildlife is quite an advocate, and has resisted any approaches in that fashion.

Trustee Quinlan: I am surprised that the state would blame themselves for the delay, but I think it is a combination of the state and the corporations involved. These corporations are worth billions quarterly. . Hastings is a very small problem for them. They have worldwide problems. They make \$40 or \$50 billion a quarter. I do not think they are concentrating on directing the resources they could and should to make our waterfront be developed and give us a positive tax basis. We are fooling ourselves by sitting here talking about how wonderful everyone is, and it is the state's fault, and ARCO is great. Both have to get focused and get our waterfront cleaned up so that we can have a positive tax base.

Mayor Kinnally: Jerry, you lost me on something. I do not know if anybody has ever said how wonderful ARCO was. All I did was report on my conversations. They are moving forward. Nobody is wonderful here. This is a difficult process. But I do not know if I have ever said that ARCO was wonderful. And if you perceived it as such, I want to disabuse you of that. All I have said is, it appears from my conversations with both Bill Ports and previously with George Heitzman that there has been delay on a number of occasions for a number of reasons. But they have not pointed the finger of blame at ARCO.

Trustee McLaughlin: I recall when we were looking at the plans for Kinnally Cove and the consultants came in with this Versailles of proposals for our simple cove. It was clear that there was something like an empire builder in Fish & Wildlife who was out to make us do certain things. In fact, we altered our plans considerably and cut them back, but they wanted wetlands and this and that and the other thing. It is clear that Fish & Wildlife is not a passive partner, and it does not seem to be operating hand-in-hand with the people at the DEC. Instead of arguing about ARCO and DEC and so on, perhaps we should be talking about a strategy of meeting with Assemblyman Brodsky or Senator Stewart-Cousins, or both, to put forth our case in Albany. Especially if the senate turns Democrat, we will have people in the majority party in both houses. We would have a better audience there than we have had for some time.

Mayor Kinnally: That may be a good strategy.

Trustee McLaughlin: How would you like us to go about doing it?

Mayor Kinnally: It is a little presumptuous to say anything tonight because Democrats do not have a majority in both Houses. We should, in part, be guided by the observations or feelings of the people inside the DEC who are trying to shepherd this thing through. We may want to talk to George and to Bill again, but I thought Bill was reflective when I asked him the question. And then he said, I think it is premature. We should let the parties see where they go with this at this point rather than getting aggressive. I was only talking about the southern end. The northern end, we have a consent decree there. And they are working through the design of not only the remediation, but also the bulkhead.

The bulkhead has always been a problem. He pointed out one of the difficulties: if you bump out that wall into the river you will be taking part of the river, and you will have to have mitigation elsewhere, and it is usually two or three to one. So that has to be taken care of. If they are not going to bump out the wall, and they want to do something that will bring the wall closer in to the Village, then that is going to raise a whole other specter of problems. Does the Village want to lose that area, where would it be, and what would it mean as far as encapsulating and moving some of the PCBs that are in that northwest corner?

So this is part of what they are struggling with and coming up with alternatives. They have some draft alternatives. Once they have formalized those draft alternatives, they have to be circulated inside the DEC and then given to ARCO. We may be able to jump start this a little better. But because we have worked with these people at the DEC for so long, there is a measure of trust that has grown up between the DEC and the Village and the attorneys for the parties, including ARCO. I do not know if it is wise at this point to upset the applecart, and to say we hear what you are saying, but we are going to weigh in and throw our weight around, such as it is. They do not answer to us. The DEC has got its own problems internally: they have to deal with Fish & Wildlife, they have to deal with other projects they have here, and then they will deal with the legislators and the governor.

Because we have a pretty good view of what the next three to six months is, and they have given us an outline of what steps they expect to be accomplished in that period of time, we may want to be careful in trying to upset that process. If the Board thinks it is wiser to go that way the Board will have that discussion. But I would urge caution in losing some of the trust that we have with the DEC. This Village has been very well served by the professional staff at the DEC, and one of the reasons why we are making the progress, glacial though it may be, is that we have the continuity there. If you have ever dealt with people on a state or federal level where there a revolving door, DNAPL will be running fast compared to what we are going to have here. I just do not think it is the wisest thing to move forward in that regard.

Trustee Goodman: On the south end there was the biodegradation method, but there was also the air sparging method. Have they given up on that completely?

Mayor Kinnally: I do not know if they have. He did not discuss it today.

Trustee Goodman: Because that is all through their documents. That is not an experimental technology, so why are we not at least pursuing that?

Mayor Kinnally: We are not pursuing anything. This is the DEC. I can recall a lot of discussion at the high school meetings concerning the wisdom of air sparging versus the introduction of the microbes. I thought the air sparging was much slower. I thought that was one of the problems, and it was going to take so much longer. At least the parties have agreed on something, to go this route right now. This has been a very contentious negotiation between the DEC and the parties there. We saw that years ago when we were trying to figure out who was responsible for the maintenance and the upkeep of the bridge that has ultimately been closed. They fought over everything.

2. Update on the Comprehensive Plan Committee

Trustee Quinlan: We have received nine proposals for the Comprehensive Plan. I got them today and we will take a look at them with the Comprehensive Plan Committee and the Village Manager and the Assistant Village Manager and the Building Inspector. I look forward to picking the right, and the most noteworthy, proposal. But we got a good response, and that is important.

3. Other

Trustee Quinlan: It would be appropriate to set a public hearing on the height requirements in the CC district and the steep slopes for those two laws tonight. What does everyone think?

Mayor Kinnally: We should ask the Village Attorney and the Village Manager if we would be ready to do that.

Village Attorney Stecich: I imagine you will. I would hope that if you do not understand by the end of the work session today someone has got to go back to the drawing board. But I know the Planning Board has worked on this for a long time and is eager to have it passed. If you are not comfortable, you can always postpone it.

Trustee McLaughlin: What date would we have for such in November?

Trustee Quinlan: The next Board meeting is November 18.

Mayor Kinnally: I just asked Fran what we have on that night. Potentially that night we have the borrowing issue on the hook and ladder, Veterans Way renaming, holiday parking, the leaf blower local law experience report, and the county has asked to make a presentation on the Hillside Woods issue.

Trustee Quinlan: I have not even seen the plans from the county about Hillside Woods yet.

Mayor Kinnally: You have them in front of you. If the Board wants to do it, make a motion, Jerry.

On MOTION of Trustee Quinlan, SECONDED by Trustee Swiderski, the Board of Trustees scheduled Public Hearings for Tuesday, November 18, 2008 at 8:00 p.m. to consider the advisability of adopting Local Law No. 28 of 2008 Steep Slopes, and Local Law No. 29 of 2008 Definition and Regulation of Height.

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	

Trustee Quinlan: I do not know whose decision it is to have the county come here on November 18.

Mayor Kinnally: The county asked.

Village Manager Frobel: I could tell them your meeting on the 18th is crowded and you would like them to come perhaps your first meeting in December.

Mayor Kinnally: That is fine. It shortens the period of time in which to get a response to the county. My understanding is, the county would like to have this resolved by year end.

Trustee Quinlan: I have a problem with that because I do not think they should set the deadlines for us about response. This is a very typical thing. They come in months late. We have been waiting for their plans to come for years.

Trustee McLaughlin: We have been waiting for months.

Trustee Quinlan: For them to come in and set an artificial deadline is unacceptable to me. I do not take that in my practice and I do not take it as a member of the Board of Trustees. Artificial deadlines are unacceptable. Lee, you know that, too. I would like to see someone put an artificial deadline on one of your cases. You would probably say the same thing I would: you cannot do that.

Mayor Kinnally: The guys with the robes do it all the time.

Trustee Quinlan: Yeah, but they are the robes. I do not see any judge in this case putting an artificial deadline on it.

Mayor Kinnally: I do not want to get into an argument over Hillside Woods. I do not want to pick a fight with the county either at this point because I do not see it is necessary to pick a fight with the county. Let us explain to the county what our timing problems are, ask them to come December 2. I have not seen these plans, I have no idea if there are any changes, but we are going to have them for six or seven weeks before our meeting.

Trustee McLaughlin: This is something that has concerned many residents of the Village. Mr. Kanor is not here and it is too bad. He has been such a strong voice for our handling of the deterioration of our infrastructure. There is probably not a single resident of the Village who does not have something going wrong within 100 yards of his home. There are reasons for this.

Let us say it is 1609, and a developer is on his yacht in the Hudson River. And he is saying, here is an island and I am going to make it the greatest city in the world. And on those hills up there I am going to build housing for commuters into this great city. Well, the current laws we have, including the state Environmental Quality Review Act, would not permit building Hastings the way it is today. So we are faced with the fact that our village was built under different circumstances from those in which we now live. Many of the houses on the hillside were built in the 1920s. But Riverview Manor was built 80 or more years ago. So the infrastructure was built for very little car traffic. When the roads were first paved they were not anticipating anything like the pressure on highways since then. They were probably over-engineered, and if traffic had stayed at 1929 levels the Village of Hastings would stand unscathed for 500 years. But that is not what has happened.

A couple of weeks ago we had a cave-in on Flower Avenue of a drainage line and the roadway. We had \$5,000 in our annual budget for repairs like that, and that one cost us \$11,000. The houses on the hill are built basically on the same geologic structure; the infrastructure is about the same age everywhere. We all hear complaints. Wherever we go, someone will stop us and say, near my home there is a storm drain, a curb, there is this thing and it is falling apart, there is a hole and you cannot see the bottom.

There are so many problems, all because our infrastructure is old and crumbling. What will happen to our budget if we have another Flower Avenue cave-in this year? Given that our sales tax revenues and mortgage tax revenues are dropping and so on, we all know the circumstances of the world. So here we sit with an infrastructure that has problems everywhere. What are we to do? We have talked and talked and talked and talked about this. People come in and talk about it; they write us e-mails. They want this curb on their street fixed, they want this drain someplace else fixed. And we have responded in a very piecemeal way because our more important job as a Village is protect the health and welfare of people, which means we have to pay attention to the ambulance and the fire department and things like that and, frankly, curbs come second.

I wanted us to at least acknowledge this problem tonight. I am not going to go into an election rap, but we have talked at various times about looking forward to a time when the federal government will begin to put money into the crumbling infrastructure of American towns, cities, and villages. We cannot do it otherwise. I do not know if I hope for a WPA. These things put people to work and they built an infrastructure for a modern America. That may be what we need. Our job is not to decide that, but our job is first, to convince the voters of Hastings that these problems are happening not because we are incompetent or our employees are incompetent or because we do not plan for the future, but because we are stuck underneath this huge boulder that is the consequence of our geology, of our weather, and of ancient history over which we have no control. There is no panacea except to wait for the election, see what happens, and hope for federal and state help in the future.

Mayor Kinnally: You are not going to get it from the state, I can tell you that.

Trustee Goodman: I do not think people want to hear that we do not have the money. But they want to be acknowledged in some way, and we should address it. I do not know if that is having a separate meeting, and letting people come in and tell us about their infrastructure. It is on everybody's mind. Upper Ashley Road is washing out. There is no shoulder, and even on a day like today the rain is coming down like crazy and the roadbed is going to wash out because the shoulder is gone. And yes, there is one in every neighborhood. But I think that it is incumbent on us to at least listen to the people and try to figure this out. Is it that their phone calls aren't getting answered? There are a lot of complaints. To me, it is the thousand-pound elephant in the room. I am tired of reading about us in *The Enterprise*. I do not like it.

Village Manager Frobel: During the Comprehensive Plan design there will be a section on capital improvements. That will be an opportunity to have discussions like this with the community at large. I put together a capital improvement program, and the group will be getting input from the citizenry at large.

Drainage in the community is very limited for a variety of reasons. Curbing for aesthetic purposes is not a priority of the department. The complaints that I hear about, or the frustrations that citizens feel, for the curb in front of their home or a pothole from a drainage system that does not exist, I think you can get some input from the community during that Comprehensive Plan process. A result of that might be a bond issue to address some of these concerns you have talked about. And then we will talk about our debt, and affordability.

We, too, feel the frustration. We, too, do not like to read the stories in *The Enterprise*. But I will take exception with responding to the citizens. We do respond, but often times they do not like to hear the fact that it is a lower priority, that we do not have the funding for replacing curbs that are not contributing to alleviating a drainage problem but, rather, are aesthetic in nature. I would like to have some input from the citizenry on the number of signs we have. I have just as many people calling me saying there is a sign everywhere I go, let us try to limit some of that. And we feel that resistance as well.

So I think the Comp Plan process will be very informative as we begin to hold public forums where we get input from the community at large.

Trustee McLaughlin: What month is this likely to be dealt with?

Village Manager Frobel: The consultant proposals were due yesterday. The chairwoman has kept them on a very tight timeline. I think they want to have a recommendation to you perhaps as early as your second meeting in December, and have the consultant on board in early 2009. The community input for the visioning statement comes very early. Sometime in late winter, early spring we will start having those forums.

Trustee McLaughlin: So we would have a separate forum for infrastructure failure or something like that.

Village Manager Frobel: Capital improvement-infrastructure is the general topic. It will probably be part of community improvements. It might be on facilities. It will be rather broad, but you will hear loud and clear about where our priorities are. You have addressed that. We have \$1 million worth of authorization for road resurfacing, and just last week you approved \$200,000-plus for road improvement. So we are addressing things, but perhaps not as quickly or as dramatically as some people would like. I have gotten a few calls. I do not get hundreds of calls from people complaining about the curb in front of their home, but you get enough that it would indicate to you that perhaps we should have a broader plan as to how we can address it long-term.

Trustee Goodman: We are doing a lot with a little, and we need patience. But if there is some low-tech fix, like how we address the public, if we could be more demonstrative in our responses.

Village Manager Frobel: One thing we do not do is give them a false sense that it is going to be done immediately, and often the caller does not want to hear that. They have identified a problem that they have seen for the last month, last year, whatever, and when we cannot tell them we will fix it tomorrow afternoon that raises their concern and their anger. That is how it gets manifested, often, in letters to the paper. The paper does not call me to verify the veracity of any statements, which I think is unfair. A responsible reporter should at least call the administration and say this has been alleged, which is your position. We never have that opportunity, and I will not respond to a letter to the editor through the newspaper. If the reporter calls me, my style is to respond that inquiry. I will not debate an issue through the newspaper. The Board knows what we are doing. A report is coming to you soon on DPW productivity. I hope you understand how we have made great progress in trying to address some of our concerns, but we do have a ways to go.

Trustee Goodman: I get concerned for the integrity of our government. It is very dispiriting and I know we have to take it, but it is not easy, what we do. I hope people understand, when we are talking about approving this money for paving, we are borrowing that money, it is not that we have this cash.

Village Manager Frobel: Yes, it is a very small amount, in the scheme of things. That disturbs me because I was trying to get you off that kind of borrowing, where you could accommodate a road resurfacing program through your operating budget, and I just do not see that coming in the next five years.

Mayor Kinnally: Yet the need is there, and it has to be addressed.

Trustee McLaughlin: Thank you, Fran. I did not really pose a question to you, but you have addressed the issue that was troubling me.

Trustee Quinlan: In the spirit of transparency, Marianne, you have been contacted by Ginsburg since the last meeting. I would like you to give a brief report on that conversation. It does not have anything to do with litigation or any secrecy of anything.

Village Attorney Stecich: There is really nothing to report. I got a call from Michael Zarin of Zarin and Steinmetz to advise me that he had been retained by GDC to assist them in their reapplication under the MUPDD and would I meet with him to talk about the procedures, whether more SEQRA remains to be done or whatever, maybe to fill him in on what was done before.

I frequently get calls from attorneys who have projects, who have questions about procedures. You usually just answer them. The reason I asked the Trustees whether they had any issues is I know it is a matter that you have all been very concerned about. There was no conversation other than that.

Trustee Quinlan: I understand, but it is interesting that we have been contacted. I assume that was the new proposal that came to us a couple of months ago.

Village Attorney Stecich: Yes it is, because he called it the townhouse proposal.

Trustee Quinlan: Here is my problem with this. Recently Ginsburg asked for an extension of the live-work plan, the site plan, and it was granted by the Planning Board, which I do not have any problem with. But now they want to continue with a second proposal for the same piece of property. My response to that is, you cannot have your cake and eat it, too. You have to make your choices: is it going to be live-work, fine, do not ask for an extension and then come to me and say I am going to spend a lot of time with your new proposal. They made a choice when they asked for the extension, and my response to them would be, you have made your choice, and you are not going to waste my time with a new proposal when you have an old proposal still open before the Village.

Mayor Kinnally: I do not know how we can tell them not to bring a proposal before the Board of Trustees.

Trustee Quinlan: I just told you how we can. We can say you cannot have your cake and eat it, too. You cannot have two proposals at the same time for the same piece of property. It is a waste of our time. That is all you have to say.

Mayor Kinnally: The first application would be coming before us, and the second application would be before the Planning Board. I assume, in its wisdom, the Planning Board will deal with that. That is their business, not ours. But I do not know how we can tell an applicant do not even bother coming before us before we have seen the application.

Trustee Quinlan: That is your opinion. And my opinion is that they have made their choice, and the majority rules.

Mayor Kinnally: All right, then let us see what the Board wants to do with this. But I do not think the issue before us is the application because there is no application. The issue is whether or not Marianne, as a courtesy to another attorney, should sit down and talk to the attorney and find out what is up. There is no application pending, and if a guy wants to come in and say give me the lay of the land, here is what we are thinking of doing, can you give me some background, I do not see any danger in that. In fact, I think we get a lot more done that way than drawing lines and saying do not step over it.

Trustee Quinlan: How can Marianne give them the lay of the land.

Mayor Kinnally: Why can she not?

Trustee Quinlan: What is the lay of the land?

Mayor Kinnally: I do not know what he is looking for, but he may not know what happened in the past. She is going to have a conversation with him.

Trustee Goodman: His firm represented Purdue Pharma. How could he not know what was going on in the past? He was litigating for the other side.

Mayor Kinnally: He may not know what the most recent applications were; that was litigated a long time ago.

Trustee Goodman: Yes, but their representative was at the Planning Board watching the whole proceeding pretty much.

Trustee Quinlan: If Ginsburg hired me to put forth a new proposal, the first thing I would do would be study a history of the case, and I assume he would do the same thing. If he did not he would not be doing his job.

Mayor Kinnally: What does the rest of the Board think on this? This is an informal chat that Marianne would have with the attorney as a prelude to whatever they are going to do.

Trustee McLaughlin: Jerry and Danielle, I am not sure I understand the downside of this.

Trustee Goodman: I did not say that it had a downside. I was questioning the issue of whether this attorney had knowledge of the case. My question would be, under the statute, can they have two proposals going at once on MUPDD.

Village Attorney Stecich: I never thought about that.

Trustee Goodman: That would be the threshold for me, and the question I would want asked.

Mayor Kinnally: That depends upon the nature of the application.

Village Attorney Stecich: I was not at that meeting, but my understanding was that they asked the Planning Board for an extension of the site plan approval for the live-work proposal in case they could not get the Board of Trustees to approve a new concept plan. I guess their thinking was it was not a great plan, but at least it is something. The Planning Board voted to give them a year extension. So that is already done.

Trustee Swiderski: A property owner and developer is asking for conversation about a proposal they have, or would like to extend, before the Village. I see no harm in meeting. They were here and got a dose of our sentiment as to their new proposal. We were not hugely amused, but that does not categorically shut down a discussion. I do not even see that it is a discussion item. It is just that of course you extend that courtesy of meeting with them. But they were here, and they understand that it is going to be an uncomfortable sell.

Trustee Goodman: But we point blank asked them, if you are bringing this new proposal on does that mean you are withdrawing the other proposal. I think we got a non-answer.

Trustee Swiderski: We got a non-answer.

Trustee Goodman: I went to the Planning Board meeting and watched the representative. He was asked by the Planning Board, did the Trustees ask you whether you were withdrawing this. He gave an evasive answer so, basically, we have two proposals for the same parcel.

Mayor Kinnally: We do not have a proposal yet. That is my point.

Trustee Goodman: They are coming to ask about a second proposal.

Trustee McLaughlin: My feeling is something in the neighborhood of so what. I do not understand why there is an issue. Peter, I agree with you that there is a bunch of stuff here we do not know is on their mind and I would like to know, more than anything, what is on their mind. It seems to me that the first way to find out what is on their mind is to have Marianne sit down with them.

Trustee Swiderski: Right. And let us be honest. They have their own interests at heart, and what they are doing is hedging their bet. I cannot say I would blame them, given the reception their second proposal got here. To elicit more information out of them is, as far as I am concerned, low-risk and no cost, and of course you have the conversation.

Mayor Kinnally: And the clock is ticking on them, the year. The sand is moving. Marianne, good luck.

This Thursday evening there will be a dedication of the plaza in front of Village Hall in memory of Village Manager Neil P. Hess.

Trustee McLaughlin: I will be away at a family occasion for the next week and will be unable to attend.

Trustee Goodman: I'm sorry, we had the death of a close family friend, so I will not be present.

Mayor Kinnally: My condolences. It will be a brief ceremony, some comments, and then some refreshments will be served inside this building.

ADJOURNMENT

On MOTION of Trustee McLaughlin, SECONDED by Trustee Swiderski with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 9:20 p.m.