

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
SEPTEMBER 9, 2008

A Regular Meeting was held by the Board of Trustees on Tuesday, September 9, 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).

Mayor Kinnally: Fred Olsson is here, and with the pledge of allegiance having just been recited, with liberty and justice for all remaining in our ears, Fred, maybe you want to come up and give a little news. A young man who grew up in Hastings, Andrew Berends, was arrested by the authorities in Nigeria recently and held captive.

Fred Olsson, 3 Glenwood Avenue: Polly Berends called this evening when we were having dinner. She lived on Lefurgy for the last 20-some years. Andrew and Jan, her other son, grew up in the Hastings school system. Andrew was making this documentary in Nigeria and was arrested while filming some women. Senator Schumer sent a message to Condoleezza Rice:

“Hearing of the arrest of Andrew Berends, an established, award-winning American filmmaker and journalist, Senator Charles Schumer, Democrat of New York, responded with a letter on Wednesday to Secretary of State Condoleezza Rice, calling for Berends’ immediate release. ‘The situation is untenable,’ said Mr. Schumer. ‘Mr. Berends, an award-winning journalist, was making a film about the Niger Delta, Nigeria’s oil-producing area, where the government forces and armed separatists have been fighting for years. Unfortunately, it seems that the Nigerian government thinks it can conceal the economic and ecological disaster in a region by harassing and intimidating foreign journalists. This is unacceptable.’”

“Berends was arrested at approximately 6 p.m. on August 31 by Nigerian military, along with his translator, Samuel George, who has not yet been released. Andrew entered Nigeria legally in April, 2008 to complete a documentary film. At the time of his arrest, Andrew Berends was filming women going to market at the Nembi water side in Port Harcourt, a public place. Andrew received verbal permission to film in the area from the sergeant in charge at the waterfront that day. After Andrew’s initial arrest by the Nigerian military he was transferred first to the police and then to the

state security service. He was interrogated by all three groups for 36 hours without access to legal representation and was not allowed to eat or sleep. Andrew stated that the interrogation was coercive and that all the statements to the SSS were involuntary.”

“There has been no news about his translator, Samuel George, since Monday and there is concern,’ his mother, Polly Berends, says. ‘Of course I am devastated by what my son is going through. I’m terribly worried about him and want him home as soon as possible. Throughout childhood and adolescence in Hastings-on-Hudson Andy was always passionate about fairness. His work as a filmmaker reflects the same dedication. His films receive untold stories of injustice, objectivity, letting facts speak vividly for themselves. I am hugely proud of him. I am also profoundly grateful for all of the people working to get him released and for the efforts of Senator Hillary Clinton and Senator Schumer.’”

Mayor Kinnally: Thank you. That is good news indeed.

APPROVAL OF MINUTES

On MOTION of Trustee Goodman, SECONDED by Trustee McLaughlin with a voice vote of all in favor, the Minutes of the Public Hearing of August 19, 2008 were approved as presented.

On MOTION of Trustee Swiderski, SECONDED by Trustee McLaughlin with a voice vote of all in favor, the Minutes of the Regular Meeting of August 19, 2008 were approved as presented.

On MOTION of Trustee Goodman, SECONDED by Trustee McLaughlin with a voice vote of all in favor, the Minutes of the Executive Session of August 19, 2008 were approved as presented.

On MOTION of Trustee McLaughlin, SECONDED by Trustee Goodman with a voice vote of all in favor, the Minutes of the Executive Session of September 2, 2008 were approved as presented.

APPOINTMENTS

Mayor Kinnally: These are reappointments to three-year terms, expiring in 2011, except where noted.

Advisory Committee for the Disabled, David Parker; Economic Development Committee, Elliott Weiner; Board of Police Commissioners, George Gevas; Youth Council, Jennifer Altman; Zoning Board of Appeals, Brian Murphy to a five-year term expiring 2013, and Matthew Collins to replace an alternate to a term expiring 2009. Our thanks to everyone for agreeing to serve and for all the time and energy they put into it.

APPROVAL OF WARRANTS

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

Multi-Fund No. 22-2008-09 \$104,834.56
Multi-Fund No. 24-2008-09 \$ 41,780.71
Multi-Fund No. 25-2008-09 \$ 22,173.70

PUBLIC COMMENTS

Mayor Kinnally: Items not otherwise on our agenda. No public comments.

89:08 ADOPTION OF LOCAL LAW NO. 26 OF 2008 – VEHICLES PARKED ON STREET OR VILLAGE CONTROLLED PARKING AREA MORE THAN FOURTEEN CONSECUTIVE DAYS

Mayor Kinnally: This item was the subject of a public hearing recently. There were a couple of questions raised about some of the drafting that appears to have been taken care of. Any comments or questions from the Board on this item?

Trustee Goodman: One question, based on email we received today, that posed the situation where there is a van parked in front of the home that has not moved for over 18 months. I would take it that if a van is parked in front of a house the police now can be called if it has been sitting there for in excess of 14 days. So this law would cover that situation.

Mayor Kinnally: Yes, it is a vehicle. Sure.

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 hereby adopt Local Law No. 26 of 2008 amending Chapter 282, Vehicles and Traffic, of the Code of the Village of Hastings-on-Hudson as follows:

Section 1: Chapter 282 of the Code of the Village of Hastings-on-Hudson (Vehicles and Traffic) is hereby amended by adding the following new section, to be designated § 282-20.1:

§ 282-20.1. No parking for more than 14 days.

No vehicle shall be parked or allowed to remain upon any street in the Village or any Village controlled parking area for more than fourteen consecutive days without being moved.

Section 2: Section 282-41(Authority to impound vehicles) of the Code of the Village of Hastings-on-Hudson is hereby amended by adding the following new paragraph:

D. When any vehicle is parked or allowed to remain upon any street or Village controlled parking area in the Village for more than 14 consecutive days without being moved, said vehicle may be removed by the Police Department.

Section 3: All ordinances, local laws, and parts thereof inconsistent with this local law are hereby repealed.

Section 4: This local law shall take effect immediately upon filing in the office of the New York Secretary of State.

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	

**90:08 APPROVAL OF EASEMENT AGREEMENT FOR PLAZA AT 422
WARBURTON AVENUE**

Village Attorney Stecich: As part of the approval for the 422 Warburton project the public plaza there had to be open to the public. We needed an easement guaranteeing that, and that is what the easement agreement attached is. It provides the Village, on behalf of the Village residents, an easement to use that property for public access. 422 Warburton, or whoever the successors are, will continue to own and have maintenance responsibilities for it. We spell out what the maintenance responsibilities are in paragraph 2; they are going to have to shovel the snow and repair any holes, potholes, or anything. The rules for its use will be the same rules as are in effect for Village parks. They keep ownership. There was some negotiation, and I am satisfied with it.

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

RESOLVED: that the Mayor and Board of Trustees approve the Permanent Use Easement Agreement to allow public access and use of the Plaza at the corner of 422 Warburton Avenue as attached.

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	

91:08 AUTHORIZATION OF CERTIORARI SETTLEMENT – PEGGY MILLER

Mayor Kinnally: This is a recommendation by special certiorari counsel to the Village that the Village Board approve this settlement.

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

WHEREAS, petitions having been filed by the property owner(s), below challenging real property tax assessment(s) on the Village's assessment roll with respect to the following parcel(s):

92:08 AUTHORIZATION OF CERTIORARI SETTLEMENT – LILY AND SILVIAN MARCUS

Mayor Kinnally: Again, a recommendation made by special certiorari counsel that this is a good settlement on behalf of the Village, and that the Village Board should approve the settlement.

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

WHEREAS, petitions having been filed by the property owner, below challenging real property tax assessments on the Village's assessment roll with respect to the following parcels:

<u>Property Owner</u>	<u>Address Description</u>	<u>Year(s)</u>
LILY AND SILVIAN MARCUS	579-581 Warburton Avenue Volume HA, Sheet 12, Block 630, Lot 19	1997-2008

WHEREAS, petitioner's court challenge is now pending in Supreme Court Westchester County; and

WHEREAS, the Village and the property owner have reached a mutually agreeable resolution with regard to the assessments at issue in the Court challenges; now therefore be it

RESOLVED: Counsel to the Village Attorney is authorized to execute a settlement on behalf of the Village for assessments for no less than the following:

Years	Current AV	Reduced AV	AV Reduction
	1997-2002: DISCONTINUED		
2003	\$ 43,400	\$ 29,700	\$ 13,700
2004	\$ 43,400	\$ 29,050	\$ 14,350
2005	\$ 43,400	\$ 26,490	\$ 16,910
2006	\$ 43,400	\$ 25,740	\$ 17,660
2007	\$ 43,400	\$ 24,850	\$ 18,550
2008	\$ 43,400	\$ 24,850	\$ 18,550

The refund of Village taxes amounts to \$18,153.01±.

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 Goodman: This \$18,000 has to be paid to the property owners in what amount of time?

Village Manager Frobel: We expect it to be during this fiscal year. The auditors require that.

Trustee Goodman: Did we schedule this?

Village Manager Frobel: Not this one in particular. But this year we budgeted \$75,000 for these types of settlements. The lion's share of that was the second of three years to Uhlich Color. So we anticipated that, and we do anticipate small ones during the course of the year. This one is a larger one than I envisioned. We have almost expended our entire budget on this line for this account this year, so I hope there are no more between now and then.

Trustee Goodman: How someone on a brownfield who has polluted their land like Uhlich can get a property tax refund is beyond me. But we should talk to the state about that.

Village Manager Frobel: This year and last year we were able to include in the operating budget these types of settlements. But looking ahead it is possible we will be back in that situation where we have to borrow money to pay this money. When I do the budget in the spring I will have to look at that and, hopefully, we can find the money in the operating budget to anticipate these types of settlements; I want to avoid having to borrow money to pay these kinds of claims.

94:08 APPROVAL OF LEGAL SERVICES RETAINER

Mayor Kinnally: This is the services of the Village Attorney, not only here but also in court. It was one of the topics that was the subject of our executive session on personnel last week, or at our last meeting.

Trustee McLaughlin: Fran, could you tell the public about your budgeting for this?

Village Manager Frobel: I did anticipate making a recommendation to increase the salary for the Village Attorney. We are very satisfied with the level of service. I felt that it was overdue to make an adjustment. I did anticipate this adjustment and included this amount in the budget. This would be an annual increase of \$7,500, bringing the annual retainage to \$72,500.

Trustee Quinlan: We have already approved this in the budget. Village taxes will not be increased because we have already set the rate for taxes for this year's budget and this was included in it. Is that correct?

Village Manager Frobel: Yes, sir.

Trustee Goodman: I appreciate that all the department heads in the Village have direct access to Marianne and her partners for a variety of issues, curbside consultations, as things come up. I am appreciative of that service on behalf of the department heads.

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

RESOLVED: that the Mayor and Board of Trustees approve the legal services retainer for Stecich, Murphy & Lammers L.L.P. in the amount of \$72,500 effective June 1, 2008.

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	

95:08 APPROVAL OF ASSESSMENT SERVICES RETAINER

Village Manager Frobel: This is a professional outside service that we rely upon. Benefits are not part of the program. Mr. Balog has been the assessor for a number of years. I am pleased with his work and believe that he is deserving of an increase. I did not specifically anticipate the dollar amount for Mr. Balog, although in the budget there is money for all personnel. This will also not impact your tax rate because this money is contained in the budget for personnel matters. Mr. Balog currently is paid \$17,500 a year, and I am looking to increase his annual pay to \$21,000 a year.

Mayor Kinnally: That was in effect for how long?

Village Manager Frobel: Bob does not even know. It could be eight years, it might be nine.

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

RESOLVED: that the Mayor and Board of Trustees approve the assessment services retainer for Robert Balog in the amount of \$21,000 effective June 1, 2008.

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	

96:08 SCHEDULE PUBLIC HEARING – HANDICAPPED PARKING SPACES

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

RESOLVED: that the Mayor and Board of Trustees schedule a Public Hearing to consider the adoption of Proposed Local Law No. 27 of 2008 to amend the Code of the Village of Hastings-on-Hudson, Chapter 282 Vehicles and Traffic to Designate Certain Handicapped Parking Spaces.

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	

EXECUTIVE SESSION

On MOTION of Trustee Quinlan, 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 personnel.

Mayor Kinnally: AT that time we will also have a meeting with counsel to discuss threatened litigation.

VILLAGE MANAGER'S REPORT

Village Manager Frobel: There is a change that we became aware of a few weeks ago regarding Cablevision and their level of service. Some customers are going to be adversely impacted to the point of having to make changes in the equipment that will be required in their home to enable them to continue to receive our public access channels. I have asked Raf Zaratzian to talk about what this change could mean to Hastings residents.

Village Technology Director Zaratzian: Cablevision announced that as of September 16 Channel 75, WHOH TV; Channel 76, which is the Greenburgh access; Channel 77, our school district channel that we also operate; and Channel 78 will not be in the analog spectrum. This means if you have an older type of cable-ready TV and you want to get these channels they will not be available without a digital converter box. The cable company is going to offer, until October 16, a box so you can receive whatever services you are getting currently. They will be put into the digital spectrum. So if you get broadcast basic, and you order the box, you will get that in digital. If you have family basic, you will get that in the digital spectrum with this box. This is one per household, no charge. Residents can call 800-353-9821 and select option 3. You can then go to Cablevision and pick up the box, or you can have them come and a technician will install at your home free of charge.

We are going to send out an email, we will have a scroll coming through, we will put it on the radio station. *The Enterprise* is doing a story on this. So it will be in the public. People who do not want to do this who have Internet access can always watch these programs on whohtv.org where you can download our programs on demand.

Trustee Goodman: I am concerned about some of the senior citizens who do not have computers or may have some difficulty with the technology. Is it possible for you to do a public service announcement, similar to what you just said, and put yourself on television?

Village Technology Director Zaratzian: I am sure Ms. Corso would love to do that.

Village Technology Assistant Corso: I also spoke with Ann Schnibbe, so she is aware and is talking to all the seniors.

Village Technology Director Zaratzian: As we all know, in February of 2009 television is no longer going to be broadcast in analog; it is going to be broadcast in a digital format. For a cable company, that means that one analog station equals five digital stations, or three high definition stations. That is the reason they are moving these channels out. If we did have Verizon here, there is no analog signal at all. You need a digital box for every television, or a digital TV to get some of the channels. This is really about competition.

Village Manager Frobel: Tomorrow morning I will be meeting with state DOT officials to discuss the Village's desire for them to consider changing the traffic patterns on Broadway. It has been a long time coming, but I expect that this week I will be able to report to the Board as to what at least the initial draft proposal from the DOT will be.

Third item, I offer an open invitation to anyone to join with me next Tuesday evening at 7:30 for a meeting to reorganize some of the good work that Fred Hubbard started and was so responsible for. We need to get together without his leadership to continue that work, so I am meeting with anyone who would like to become active in trail maintenance.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: Diggitt and I met with Joe Sontchi of ARCO last Thursday. ARCO had engaged the services of a test boring company to take additional samples of various sites in the river that had the DNAPL PCBs. They have completed that, and the data has been forwarded to the State of New York. They are hoping that they will be able to come to an agreement with the state as far as design of the bulkhead and the extent to which the remediation is going to occur both in the northwest corner on what is known as OU-1, which is the land area, and the northwest corner of OU-2, which is in the river.

They found an extensive area of riprap in the northwest corner. It is deep and extends farther out into the river than they initially had thought. That will have to be taken into consideration in the design phase of the remediation. They have not heard from the DEC. I know internally at the DEC this will be a subject of discussion with the Fish & Wildlife people as far as impacts in the remediation in the river, and what other mediation steps should be taken to deal with the problems that they are encountering.

Joe Sontchi agreed to give a report to the Board on Sept. 23. By that time I will have spoken with George Heitzman at the DEC to get their take on it, and maybe to get a better idea of the timetables as far as the remediation plan and the PRAP for OU-2. I will also ask George about Uhlich and where things stand in that regard.

Trustee McLaughlin: The goes out into the river 100 feet and, at its deepest, is 20 feet deep. That is a lot of riprap. I had envisioned underground reservoirs of the DNAPL, but I learned from Joe Sontchi, who is a geologist, that what is underground are porous rocks, slag, and other things like that. The DNAPL has been absorbed by the rocks so that it is not a matter of just dropping a line and pumping something out because it is contained in the very pores of the stone and other stuff down there. I was grateful to have the opportunity to share that meeting with you, Lee.

Mayor Kinnally: It just fills in the spaces and, like anything else, it is plastic and flows a little bit. It has settled in these areas so it is not, as you said, reservoirs or vast plumes of this where they can just take it out. There are other things in there.

The second item we talked about was the problems we had encountered in the inbound platform of Metro-North, the area by Riverside Auto. There is a flight of stairs going up to the platform in an area where people were driving down, dropping passengers off. There were problems with steps being fenced off and people not being allowed to walk down or to drive down into the area to drop passengers off. That has been taken care of. Joe apologized for it. It was overzealous policing by some of the deputies of ARCO, but that has been taken care of. People are allowed to go down there, to drop passengers off, to wait while they are either dropping passengers off or picking them up. But people are not allowed to park there since it is private property and it would foul everything up.

2. Update on the Comprehensive Plan Committee

Trustee Quinlan: The request for a proposal for the consultant has been worked on by the Comprehensive Plan Committee, Greenway, Fran and his staff, and they are just about ready to send it out. Fran is meeting with them Thursday evening. I took a close look at it, and being the liaison my overall view was that the changes the Village made to the initial request for proposals were not substantive in nature and I had no problem with the changes. I have spoken to Kathy Sullivan, the chairperson, and conveyed that to her and one or two other members of the committee.

Trustee Goodman: I want to thank the subcommittee of the Comprehensive Plan who put this RFP together. They produced a very professional document. One thing I was pleased to see it and hope it does remain in the draft, is that this truly is the first comprehensive plan for

the Village. They are proud of that effort, and we are proud of the effort. I also like very much that a budget amount was mentioned. One of the things we have done over the course of time with experts is not given them a budget and it has caused problems for us down the road because we only had \$100,000 to spend and we got a \$1 million Cadillac that we could not afford to drive, fuel, or otherwise avail ourselves of.

Trustee Swiderski: As a consultant for probably more than half my adult life, the single most difficult thing to respond to is an RFP without an indication, either implicitly or clearly indicated, of how much money generally they are expecting the bid to fall in. Those that do not have indications result in bids that are wildly all over the map. So I agree with you. I was glad to see that, and it is a document I would be happy to respond to because it is clear.

Trustee Goodman: I hope that the Comprehensive Plan Committee remains the driving force on the expert search team, and that whatever committee is put together to vet the proposals and pick the expert remains primarily the Comprehensive Plan Committee. We have experts who hired consultants in their jobs frequently, Kathy Sullivan, to be specific, and Richard Bass. They are more than capable of taking on that task.

Trustee McLaughlin: I agree with Danielle. When we created the Comprehensive Plan Committee we had been presented with several models. Some communities, for instance, set up a comprehensive planning committee that had a representative of every board and commission, or they ask for representatives from certain local groups. We rejected those models in order to bring in a fresh group of people to cast a totally new eye on the Village and how it works. The job they have done in the past year has been extraordinary. I do not see any reason to involve anybody else in this search. They have shown they can handle just about anything that gets thrown at them, and I am sure they will do this very well.

3. Attorney Fee for Bernstein Case

Mayor Kinnally: We had authorized the firm Keane & Beane to work on the papers to intervene before the court of appeals. It is quite fascinating what has happened in this case, and the extent to which we are trying to make new law. We had moved previously in the lower courts to come in to the case and it was not allowed. Now we are looking for an opportunity on behalf of the villages to argue our position before the court of appeals. When I spoke to Rick O'Rourke today he admitted that they had gone over the budget simply because there was nothing to fall back on. This is new law and, he said, when you go before the court of appeals no corners are cut and you have to make a forceful argument as to why you should be there and why the court of appeals should ignore prior precedent and allow you not only to submit a brief, but also a seat at counsel table and an opportunity to be heard on oral arguments.

I appreciate the fact that they went over a bit. But having looked at it, and now Peter sent around the papers today, I can understand where the money was spent and why it was spent. In light of everything that we have done so far in this case, the expenditures over time are not great, considering what we have gotten and where this is taking us.

Trustee Quinlan: Could you be more specific about the cost of this motion, how much it has gone over, and what we expect it to cost us in the future?

Mayor Kinnally: I cannot answer that last question. I do not know what it will be in the future.

Trustee Quinlan: Let us take away the last question and see if we can answer the first two. My understanding is that the budget for this motion was \$18,000.

Trustee Goodman: No, it was actually \$15,000.

Village Attorney Stecich: And the cost was \$18,000.

Trustee Quinlan: The estimate was \$15,000 and the cost was \$18,000. So it went \$3,000 over, which is 20%.

Trustee Goodman: He gave us a high/low \$10,000 to \$15,000.

Trustee Quinlan: I got an email from Peter today that said that there will be other costs because the motion has been submitted. But if it is granted, I assume there is going to be more work involved, correct?

Trustee Swiderski: Yes.

Trustee Quinlan: They are going to have to write a brief, they are going to have to argue. I can only assume that the costs probably will be double or triple what the cost of this motion was just to get in the case.

Trustee Swiderski: I cannot speak to the number. The brief itself, a first draft has been written by a pro bono attorney who has been working with the villages for the last few years, and who has done quite a bit of work earlier. That pro bono brief will be reviewed by Keane & Beane, who will ultimately take responsibility for it. But they will not be doing the lion's share of the work. Whether that is two or three times this, I do not know.

I come from a management consulting background, where bills of this size are nits and I just do not have a feeling for what is reasonable or not in terms of a legal review of somebody else's brief. But that is what we are looking at, and Keane & Beane has not offered an estimate. They are not ready to do that.

Trustee Quinlan: I do not know how many lawyers the boards of Tarrytown and Ardsley and Irvington and Dobbs Ferry have. I know how important this particular case is to the villages. I have reviewed the bills. They charged \$225 an hour for the work they did. I happen to be an attorney. I have written some briefs to the court of appeals, and it is a very important case and a very important court. But I think this \$18,000 bill is very unfair. They knew they had us over a barrel and that it would look bad for us to say no to pay our portion, which is \$3,000. I believe that a fair price for this type of motion could have been done for at least half the cost. I am worried about the burden that this puts on the taxpayers of this village, and I think they charge too much an hour and put too many hours in. I plan to vote that way tonight. This is going to be another \$3,000 for the Village. I do not know if that was in the budget for this year.

Mayor Kinnally: It is not another \$3,000.

Trustee Quinlan: We do not know what the next bill is going to be like. It is \$3,000 for us, but it is \$18,000 for a motion. We have two other lawyers on the Board but I have never spent even half this amount of money, billed to my client, for a motion. So the case is important and the precedent is important, but sometimes when you make new law you get bad law. I cannot say what is going to happen on that, but it is overpriced in my opinion.

Trustee Goodman: I tried to determine if it was overpriced. I tried to cross-compare what they spent their time on, but they were lumping tasks together so it was impossible for me to see how much time they actually spent on the O'Rourke affirmation affidavit. Where I come from, if we gave a bill like this it would be tossed back. Our firm has to break out tasks. They lumped the five or six mayors' affidavits in with the main affirmation, so I do not know how much time they spent. So I cannot answer whether they spent too much time or not because the bills do not pass the muster of the kinds of bills I have to submit to my clients.

We are very far down the path here. We won in the appellate division, and we cannot not proceed; there is too much risk. I take your point that we could make bad law, and I guess we could. But so far we have made good law, and this firm has been responsible for that. But I do think they are over the mark. I do not think their bills are sufficient. There are ABA billing guidelines. We should get them. We have to pay this bill because we committed to it, but we should get our head straight about legal fees, about what we are being billed, about what the work looks like, and how much we are paying. We do not audit

our legal bills. Firms that regularly submit bills to clients get them audited. There should be some discussion down the road because all of our legal fees together: environmental, special counsel, are a chunk of our budget and we are not handling it in a businesslike fashion the way other clients are. Insurance companies and other clients, they audit their bills; we do not. We just sign the checks. We could ask for a breakdown in billing in the future: we are not going to accept these kinds of bills because we need to be able to see how much time was spent on the different tasks. And if the other municipalities want to accept this kind of billing, then we should get together and try to see what we can do about the fee.

Trustee McLaughlin: Bills I have seen from hospitals or law firms are itemized in great detail. It surprised me to see a bill like this. I did not think it was professional the way they clumped tasks together. I do have a question, and this goes back to when we got involved in this suit. The villages in Greenburgh are of very different sizes, and I think of the six we are the third largest. When we engaged in this did we agree that despite the fact that Elmsford and Ardsley have only a few thousand people that we would all split this cost equally?

Mayor Kinnally: Yes.

Trustee McLaughlin: So we are never going to get hit with more than a sixth of the cost of this suit.

Mayor Kinnally: Unless they change, and come to us and say there is going to be a different allocation. But the allocation from the very beginning was that it would be whacked up six ways.

Trustee Goodman: Is there a chance to recoup our legal fees from Mr. Bernstein?

Mayor Kinnally: I do not believe that attorneys' fees are available. Attorneys' fees are available in the United States either by statute or by agreement, and there is no provision in an Article 78 for recovery of attorneys' fees.

I had looked at all the papers. I cannot criticize the hourly rate given the sophistication of the work and the fact that it is the court of appeals. You need to have people who are conversant with the court of appeals. A blended rate of \$225 is, I do not think, out of line. We can ask for more elaborate billing; I am sure they would comply with that. But for \$18,000, given the stakes and the amount of work that was necessary, it is not pulling out something that people have handled before and marking it up; they have got to craft a pretty sophisticated argument. It ran over 20%, but I do not think they feel that they had us over a barrel. I would be surprised if some of the time was not written down.

As far as auditing, I do not know if you want to audit. It is not an easy thing to do and a lot of the people that do the auditing have never done the work that underlies the bill.

I think we ought to approve it. Every other municipality has approved it. One of the toughest things is having a client come to me at the beginning of a piece of litigation and say give me a budget, tell me what it is going to cost. You do not know what the other side is going to do, you do not know what the judge is going to be like, you do not know what bumps in the road you are going to encounter. To me, a budget is a guestimate that is revised monthly because you can get hit with an order to show cause, an injunction, an appeal, and it throws the numbers way out of whack. There e is no way of telling what is going to happen in litigation.

Trustee Swiderski: I think it is useful also to remind people of the context for this particular bill. The relationship with Keane & Beane substantially predates this filing. We have been at it now for three years in regard to discussions, negotiations, responses to lawsuits in the case of Bernstein versus Greenburgh. What is at stake here is not this bill for \$3,400, or a previous bill which was lower, for a combined total of less than \$6,000. What is at stake is law and a lawsuit that if we were to lose would cost the citizens of this village \$400 a year, each family. So this particular bill and the previous one combined come to a one-time payment for the families in this village of about two dollars.

From my perspective of viewing this as an investment or insurance in securing a seat at the table and the ability to argue a case which will have a material difference of \$400 or more on the average family, it is a reasonable fee. This motion may seem extravagant. I guess it is 80 hours of work. I cannot judge whether that is 80 hours of legal work or not. I can say that substantial work on prior filings by this firm were done, I would not call it pro bono, but deeply discounted. At first this was an intriguing legal problem taken on by one lawyer there, and it has now turned into a line of business. But overall, I completely agree with the desire to see greater detail. I am used to providing hourly records for my billing time. But as far as an investment by the taxpayers of this village to their future, it is very cheap.

Mayor Kinnally: The stakes are high, and the \$400 is the beginning point. Bernstein is on a crusade here to whack the villages with as much of the parks and recreation budget that can be moved from the town to town-wide and this will only embolden him if we were to lose. We will be assuming a good chunk of the parks and recreation budget, not only operating budget but also capital budget, for the Town of Greenburgh. And that would include acquisition of parks, paying off bonds, equipment, things of that nature.

Trustee Quinlan: I do not mean to minimize the importance of this case. I think it is very important. I hope very much Hastings wins this case, and they should win it as I interpret the

law. My only objections are that I am not a partner lawyer, I do not have a big office in White Plains, I do not need to spend \$18,000, or 80 hours, on a motion to intervene in the court of appeals. Again, the reason why I object to this has nothing to do with the case. I just believe that this legal bill is way too high for what we got.

Mayor Kinnally: What is the sense of the Board in approving our proportionate share of the most recent Keane & Beane bill for services rendered in the Bernstein case?

Trustee Quinlan: Let us have a vote.

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 approve payment of the most recent bill from Keane & Beane in the amount of \$3,026.25 to pay the Village's share of the billing.

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	

4. November Board of Trustees Meeting

Mayor Kinnally: There had been discussions about not having a meeting on election day this year, November 4, and we never finalized that. In discussing it, let me point out that we cannot have a meeting on November 11 because it is a holiday and the Village is closed.

[Discussion ensued.]

Mayor Kinnally: Let us put this on for a resolution on our next meeting.

Trustee Quinlan: I am not going to be at the next meeting, but as far as I am concerned I do not care if it is Tuesday, the 28th or Monday, November 3. I leave it up to your judgment.

Trustee McLaughlin: The resolution we are asking Susan to prepare is for what?

Trustee Swiderski: It will be from Nov. 4 to Oct. 28.

**5. Proposed Local Law No. 28 Concerning Steep Slopes
Proposed Local Law No. 29 Concerning Definition and Regulation of Height in
Zoning Code**

Village Attorney Stecich: I am passing these on from the Planning Board. Steep slopes, as I always joke, is like the seven-year itch: it keeps coming up, and they discuss it, and then they cannot come to any agreement and put it off. Anyway, the Board stuck with it this time and came up with a revision to the current steep slopes law.

I will tell you the main changes. Right now under the steep slopes law, you deduct the steep slopes from what can be developed. If you have a lot with steep slopes on it you deduct certain percentages of it. That only applies to subdivisions, not to an individual lot. That issue, as you recall, came up with 10 West Main, where people were looking at it and saying, whoa, there is this big steep slope here, why do you not have to deduct for it? Well, there was never any subdivision involved with the 10 West Main property.

Since the law was passed the Board has talked about whether it should apply to all lots. This revision would make the deduction of the slopes apply on any lot. So if you have a lot that has a slope between 15 to 25% you cannot disturb more than 35% of that steep slope. If it is a steeper slope you cannot disturb more than 25%. That is the main change. The other thing is, there is some different language added to the purposes, mainly because over time you have seen that more things are affected by steep slopes.

What I will call development deductions will not apply in the MR-C and the CC districts, the two downtown districts, because they want somewhat higher density in those districts, and because of the development there already. But the height there is regulated in a different way by the amendments to the definition of height, which I will describe later. There are some more specific requirements for building permit applications, and also a notice requirement on steep slopes has been added.

It is not a whole new law, but the changes are important changes. That the first one. The Planning Board worked on it for a long time, over the years. This last round, probably in six meetings they spent a lot of time on it. Plus there were a lot of memos. So a lot of thought went into it.

Regarding the definitions of height, I am not going to try to explain it. This was Jamie Cameron's project. Lots of lots work went into this, not only by Jamie who put most of the work in, but also by the Planning Board. To make everybody feel somewhat more comfortable, he did run it past the ARB to have architects look at it and see if they could

understand it, and Deven who is the guy who is going to be applying this thing. He did not seem to have trouble with it.

It is probably easier to look at the pictures than to read the text. The text describes what is going on in the picture. Right now, the CC and MR-C districts are the only districts in the Village that height is measured at the street. It can be 35 or 40 feet high and three stories high at the street and it is fine, even though the property may slope way down, and in the back could be as high as six stories. In the rest of the Village height does not work like that. You would take your slope and draw something parallel to it, have two planes; the plane at the base, and then the next plane at the height, in the district, of 35 feet. You draw another plane 35 feet above that and you run it up, and you have to stay within that plane. My first question was, why do you use that definition of height for the downtown district? But that might mean you have less flexibility in the design, and it might mean less density where they wanted to encourage density in the downtown district. What you would do, there is a certain grace distance, where you have that same plane that you have got through the rest of the Village, but sometimes you are going to go through the plane. You can do it, but you cannot do it for longer than 20 feet and then you have to drop down.

Mayor Kinnally: To try to get our arms around this, can we take an actual application that we passed on under the old law, and see how it would work under the new law?

Village Attorney Stecich: What might be an interesting one, especially since it is off the table now, is the 10 West Main one, because that is where you did have a big development. It met the height definition, but in the back it was just huge. It did not follow the slope.

Mayor Kinnally: It would cover for both. It would cover steep slopes and this, right?

Village Attorney Stecich: No. Because the steep slopes law will not apply in the MR-C and CC districts.

Trustee Quinlan: The only problem with taking 10 West Main Street is that it is not a real project. I am not saying we should not do it, but I do not want to single them out to show the differences of what it could and could not be, because we do not know what their next plan is going to be, and I do not want to prejudice them in any way. But the problem with doing that, Lee, is that most of the buildings in our CC and MR-C districts were built before there were height restrictions in zoning. So I could not even think of an example of an existing structure that was built under let us say the 35 or 40 feet that goes down a big slope. We have the big ravine that goes down where the Zinsser parking lot is, and then we also have the big ravine over by Washington Avenue where they are built on that steep slope.

Village Attorney Stecich: It is unusual. It would have to be a deep property for it to make much difference.

Trustee Quinlan: I do not want to take over Marianne's discussion, but let me try to explain it to you a little differently. When the Planning Board started examining the steep slopes law it applied to all of the Village for subdivisions, but not lots. They came to the conclusion that the steep slopes law that they wanted to apply to lots and subdivisions would not work for the CC and the MR-C district, because if some building burned down that was currently existing, let us say on Main Street on that slope, and someone wanted to build a building they might not be able to even build a building with the current height restrictions as they were. Giving back so much of the slope on the steep slopes law . . .

Mayor Kinnally: What about Warburton Avenue?

Trustee McLaughlin: How about La Barranca as an example? I know it is outside the zone, but in terms of the structure of La Barranca I think the back of it is a couple of stories higher than the front of it.

Mayor Kinnally: And you can say the same thing for 445 Broadway, too.

Trustee Swiderski: What about 45 Main? Is that on a slope?

Trustee Quinlan: No, not really. It is not on a slope. They dug out all the rock and put it on a pretty much flat piece of land.

Trustee McLaughlin: If you looked at La Barranca, for instance, with an eye to this you could do the profile of how the building might fit.

Mayor Kinnally: The streetscape would not change any.

Trustee McLaughlin: No, the streetscape would not, but the silhouette of the building would.

Trustee Quinlan: That is probably a good idea. Maybe we could do La Barranca. But let me finish. The Planning Board, I think it is important to say that it was unanimously approved. There were only four members at the August meeting and the alternate was there, Rhoda Barr. But the other three members were also in favor of it. So basically what we had is all seven members of the Planning Board plus the alternate that were in favor of these changes. Would that be fair, Marianne?

Village Attorney Stecich: Yes.

Trustee Quinlan: So we have eight people who spent countless hours over two years doing this. In the CC district they are stepping the buildings down the slope. It would look much like you might see in Italy coming down to the ocean. One of the laws that they fashioned this after was Durango, which goes down to the river, in Colorado. You are allowing the density we need for the central commercial district, for the MR-C district. You are not hurting the density, but you are trying to protect the developer and the villagers by giving them density, but also preserving air and light, and a balance of the views which we currently have. As these laws both indicate, all development will be subject to the same few preservation laws that we have now. The existing rule called for using the front street lot line, and it could end up having building heights that could lead to overly high buildings on the backside going down the slope. You would have three stories here, but you might have 10 stories here. What this does is prevent that from happening by stepping the buildings down the hillside, while trying to maintain the higher densities.

Mayor Kinnally: But let us just say we have a building that is 50 feet wide and it is flat in the front. The streetscape is perfectly flat, but it goes down 10 stories in the back. How does this affect that building?

Trustee Quinlan: What you have is, depending on how long the lot would be down, a stepping-down. You would have it going out like Marianne said. The first 40 feet would be at three stories, let us say 35 feet. And then you would have a step-down and it would go out 20 feet for the next part of the building, and then a step-down and go out 20 feet, and then down to the bottom. Your building would look like that if you had a big enough lot to have all these step-downs. If your lot was not big enough, you would be 40 feet out here and just one step-down.

Village Attorney Stecich: Or the other thing you could do if you did not want to keep stepping it down, this sort of maxes it out. You could come down lower so you were just like this. It could be taller in the front. You just cannot go higher than that.

Mayor Kinnally: t Jerry, I know your reticence in using 10 West Main as an example. But it probably is the best example, even though it is in the CC, of how it would apply. One of the discussions was that we are going to have this relatively mild streetscape, but when you go around to Southside Avenue you are going to have this hulking structure. Maybe just for our consideration counsel can give us something to show us the as-of-right in the CC and how this would apply.

Trustee Quinlan: That is fine with me. If we do pass this law, which I think we should, Mr. Anderson could have a beautiful building and make plenty of money, and yet we would save light, air, and views. Marianne can draw the picture as she wants to, but I do not even know if he would want to do that.

Mayor Kinnally: Well, that is up to him, but just as a learning tool.

Village Attorney Stecich: But this application is dead. We told them it is over, we are considering withdrawing we have not heard from you in so long. I cannot draw this. This is architect stuff. I wonder if you could ask Deven to take the 10 West Main drawings and superimpose this on them to show us what it would look like.

Trustee Goodman: I was at the meeting at the Greenburgh Council for Aging, where the county planner came to talk about Westchester 2025, their new planning initiative. They announced that there is all this fancy software. For example, Mount Vernon was rezoning their downtown, and apparently did not have a good handle on how that was going to look in 3-D. The planner said that they would come to any of the municipalities with these 3-D tools to help with rezoning. If I can find that in my notes I can give that info to Fran.

I did sit in at one of the Planning Board's work sessions when they started to look at the steep slopes. It is very complicated subject matter. I know that they have worked very hard and I am very appreciative of this effort. I find the diagrams to be very good. They remove any ambiguity there could be from language in the zoning.

The other thing I am most admiring of is very specific instructions for applications. This should take all of the guesswork out on the parts of the applicants, and all of the discretion taken away from anybody in the Village who is going to let an application be put on any board's agenda incomplete, because what that creates is the specter of boards being obstructionists and difficult with applicants. And that is not our intention. Our intention, particularly on these property matters, is due process, both for the applicant and for the neighbors and the villagers that are going to be looking at these buildings after they are built.

I love the fact that there is a very specific list of application requirements. And I think our employees who are going to apply this law should be punctilious in requiring every "t" to be crossed and every "i" to be dotted so that when an application comes in the Planning Board or Zoning or whoever is going to be dealing with this has everything and there are not a lot of embarrassing questions and delays. It goes a long way to making a law user-friendly when it is all spelled out. So bravo to the Planning Board.

Mayor Kinnally: What do we want to do with this and what is our timing? If we can get a little more assistance, a little more explanation, it will give me a better grasp of what we are doing so we can act intelligently. I need a little more help on it and I am sure I will reach out to some people and talk to them about it, including Deven.

Village Manager Frobel: Let me contact the county. Perhaps we can do some of those what-ifs.

Trustee Quinlan: So Danielle and Fran are going to reach out to the county to get some computer digital printout. We are going to talk to Deven, yes? Because this is something that has been two years in the making already, and I do not want it to die on the vine.

Mayor Kinnally: I do not think it is going to die on the vine. Speaking for myself, I have got to have a little more information. And I think we should spend one night on this at a work session. And then a public hearing on this.

Trustee Quinlan: At the work session we could have Deven and Danielle's expert, and we could ask Jamie Cameron since he seems to be the one that did a lot of the work. Does anybody have any objections to have him come to the work session?

Trustee Goodman: No, I think that would be good.

Trustee McLaughlin: I think that is great. Could we have done enlargements of the artwork here? If we are inviting the public, and we want stuff here on an easel, it will have to be a lot bigger than the drawings we have here.

Mayor Kinnally: I am sure they can be blown up. So Fran and Danielle, put your heads together and see what you can do, and we can revisit this on the 23rd. Let us decide when we can have a work session.

[Discussion ensued]

Mayor Kinnally: We will see if we can do something on October 14.

Trustee Swiderski: I have no issue with the definition of the height section. I had to read it through three times before I got it, but in the end it makes sense. And I do not have any issue with understanding the steep slopes law. I disagree that it is not radically new. In fact, it is the equivalent of an entirely new law because it applies to a category of people that have not been affected by the law before. So for those people, which is a large category of people in this Village, it is a new law. In that regard, there is one thing I would appreciate having at

that meeting. I live on a steep slope. I have filed for a building permit under the existing law for a retaining wall I built on it. I look at this, thinking through what the cost would be additionally for me to file that building permit, and would that include a licensed professional engineer and architectural plans, etc. I believe the answer is yes, in which case not only is it a new law, but it imposes additional costs on people. I would love from Deven a basic analysis of the costs for architectural drawing, engineering, etc. so we have an idea of what it is exactly we are imposing on the 600 or 700 people who live on steep slopes for work they do on their slopes.

Village Attorney Stecich: You have to do it right now under the existing law. This does not change that. The only thing that is different is the development deductions. And that is a big change. Right now, under the steep slopes law, everything in 249-7, these underlined things are actually pretty small things, what you have to with the site plan. The detailed site plan has to go in, the engineer's drawings. That is how it has been.

Trustee Swiderski: For private citizens building a retaining wall.

Village Attorney Stecich: Yes, on any lot that contains a steep slope that requires a building permit, any work that requires a building permit, which is most work except landscaping. So whether that is good or not good I am not saying, but it is the law right now.

Trustee Swiderski: Then I retract my request. If this is not imposing a new expense on people, then I am not interested in that analysis. My understanding was that this is now a requirement for non-subdivision properties.

Village Attorney Stecich: No. The distinction between the subdivisions and existing lots was only whether you have to deduct the development now. Right now, on your lot, under the existing law, if you wanted to build on your steep, you wanted to build a garage on your steep slope and you were going to use most of it, you could. You just have to make all these showings that there are not going to be drainage issues on your neighbor's property, there is not going to be creep or slide, whatever. But when the law is changed, and let us say it is a very steep slope, it is over 25%, you are only going to be able to build on 25% of that steep slope. Previously that was only an issue for subdivisions. Now that is going to be an issue for any home.

Trustee Swiderski: So that is for a naked parcel, or is that for existing built-on parcels?

Village Attorney Stecich: It would also apply to existing built-on parcels.

Trustee Swiderski: Well, that is a different condition than what I am worrying about.

Village Attorney Stecich: Right. So in that sense it is a big change. But the rest of the law has always applied to all lots.

Trustee Quinlan: If Peter wants to put a retaining wall on his property will it cost any more under the new law than it would under the old law to get the application in?

Village Attorney Stecich: Probably not. There are a couple more things you would have to include on your drawings, if there are any water courses or whatever. But the cost is getting the engineer and having him do the drawings. So not significant. It is probably more addition of trouble than additional expense. You have to notify the adjacent neighbors.

7. Other

Trustee McLaughlin: I reviewed *The Enterprise* before I came over tonight, and I noticed a real estate ad showing a house on a fairly large lawn and it advertised that it had a legal one-bedroom apartment in it. It did not say what village it is in, and the odds are that it is not in Hastings, but it started me thinking about our accessory housing law. I was under the impression when we drafted our accessory housing law that accessory apartments in a house, when you have a house with an accessory apartment, you have to dismantle it before you sell it. Am I right on that?

Village Attorney Stecich: No.

Trustee McLaughlin: I am not. In other words, you can sell a house with an accessory apartment that exists.

Mayor Kinnally: But the new person has to apply.

Village Attorney Stecich: There is a certain grace period where you have to come in. What you cannot do is build it new, or you cannot add on to a house or you cannot build a new house with an accessory apartment. The space in which the accessory apartment exists has to have existed on whatever date is in there. I think it is 1994.

Trustee McLaughlin: One thing occurred to me in terms of our community, real estate values, and people feeling pinched. I am not sure that lots of people know that we have an accessory housing law. If they want to look it up, they can, but just simply knowing that we have such a law available in case people are weighing what they are going to do; they cannot afford their house, but they want to keep their kids in the Hastings schools, what can they do.

I was thinking what can we do to advertise to our residents that this possibility exists? You do not have to sell your house if you can create an accessory apartment in it.

Village Attorney Stecich: You have to be careful, though, because there is a limit to the number. I do not remember whether it is 50 or 100.

Trustee McLaughlin: No, understood. But even if it is 50 and we have only three permits left, if there are three people in Hastings who can keep their houses because they create accessory apartments we will have done something for them. I do not know what I even have in mind: a public service announcement or something like that, reminding people that this is possible in Hastings within certain restrictions. If you are thinking of selling your house because you cannot afford to maintain it right now, there is a possibility for you. Once people read the law not everybody is going to run right out and do it because the laws are pretty strict, but it could help some people.

Trustee Goodman: On 422 Warburton I have had a couple of inquiries about the fence that is being erected, that there is a chain link fence in the back and some of the neighbors were wondering how that approval came about. The other question was the location of the garbage receptacles. At one point in time they were going to be in a parking lot at the north end of the building, hidden from view from Warburton. But now there seems to be some issue about them being at the southern end of the parking lot, which would be directly above the public plaza and, to me, unsavory to have the garbage above the public open space.

The cake gets built, and it is a wonderful cake. The public gets shown a picture of the cake when the cake is being approved, and it is going to have this great chocolate frosting. In the end, we end up with powdered sugar and no frosting, and you can see the cracks between the layers and it is not finished. Some of the people that brought this to our attention were good citizens that really did not object to these buildings, and I don't want them to be looking at an unfrosted cake. So I am trying to figure out myself, in the process, when the frosting is not put on in the end does not the ARB look at this again? Does not the Planning Board? I cannot believe that the pictures that got shown to the public contained a chain link fence or garbage receptacles that were in their sight line.

So since I am led to believe it is about to happen, I do not want to hold up this building because there are people waiting for apartments. But I hope that a conditional CO is issued, and the garbage receptacles do not find their way above the public plaza, and that the neighbors that were so patient and gracious and who did nary make a peep but whose sight line the chain link is going to be in do not come away feeling burned. That is their due process property rights they gave up. They were good neighbors, they did not oppose the project, and now they are looking at a chain link fence. I would be not happy. So I voice my

concern on their behalf, and I hope that the cake gets its frosting. And I hope someone explains to me who, in the end, has this discretion to change the plan.

Village Attorney Stecich: They do not. I do not remember anything about the chain link fence, but I remember that where the trash receptacles were going to be was part of the site plan. So they have to conform with the approved site plan, and that would be the Building Inspector who makes sure that it conforms.

Village Manager Frobels: The plans I saw have the dumpster where it is being planned to be placed. Do you think it is somewhere else?

Village Attorney Stecich: No, I do not know. I just remember that it was on the site plan.

Village Manager Frobels: It was always intended to be there because of ease of access. That way, a truck can back up, hook onto it, and drag it out that way rather than at the far end of the parking lot where he would have to navigate. The truck would have to back down that narrow way with the cars parked each way, get the dumpster, empty it, and then come out. Where it is placed now is ease of operation.

Village Attorney Stecich: Was it on the site plan?

Village Manager Frobels: My understanding, from what I have seen. It is also not right next to the public plaza. There is the plaza, then there are cars parked, then there is a driveway, then there is the dumpster. So it is not directly above. There are a number of feet and then it drops way down.

Mayor Kinnally: Why do we not see what the site plan was.

Village Manager Frobels: Clearly a fence is needed. The drop-off is severe.

Trustee McLaughlin: No one is arguing that.

Trustee Goodman: No one argues with that.

Village Manager Frobels: I think what they decided was the chain link fence was the most durable and lasting. Anything else, over time, would have a harder time to hold up. Plus, there are other chain link fences. There were neighbors further down that had chain link fences separating property, so it seemed logical to tie it in with a device that would be lasting. It was thought in time there would be plantings that would grow around it. They have also changed it now. It is the green vinyl rather than the steel slats. I thought that

matter had been resolved, and I had not heard any more on it. But the dumpster I did look into, and the logic was proximity to the street for ease of emptying it, minimizing the danger of having them navigate through a parking lot with cars angled in. You are going to interrupt people at any point with its operation. Further down you have homeowners that are going to hear it being lifted and emptied, and down there they are going to hear it as well. But we can look at the plans and see what kind of detail they got into.

Trustee McLaughlin: If you have moved since the last time you voted you must re-register to vote. If you have Internet access, you can go to New York State Board of Elections and download a registration form. The registration form must be filled out by hand, must have your hand signature on it, and must be mailed to the Board of Elections. You have to have lived in your dwelling place for 30 days in order to register at that place. You should register by the first week in October because registration closes 30 days before the election.

Trustee Swiderski: October 10.

Trustee McLaughlin: And if you do not have Internet access there are voter registration forms available here at Village hall, and in the library.

Trustee Swiderski: The forms should be mailed to the Board of Elections location in White Plains to guarantee you will be ready by November 7.

ADJOURNMENT

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