

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
JUNE 16, 2009

A Regular Meeting was held by the Board of Trustees on Tuesday, June 16, 2009 at 8:05 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Peter Swiderski., Trustee Bruce Jennings, Trustee Jeremiah Quinlan, Trustee Diggitt McLaughlin, Trustee Meg Walker, Village Manager Francis A. Frobel, Village Attorney Marianne Stecich, and Village Clerk Susan Maggiotto.

CITIZENS: Four (4).

APPROVAL OF MINUTES

On MOTION of Trustee Walker, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Executive Session of June 2, 2009 were approved as presented.

On MOTION of Trustee Walker, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Regular Meeting of June 2, 2009 were approved as presented.

APPROVAL OF WARRANTS

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

Multi-Fund No. 1-2009-10	\$ 28,691.45
Multi-Fund No. 2-2009-10	\$ 113,585.47
Multi-Fund No. 3-2009-10	\$ 297,739.07
Multi-Fund No. 4-2009-10	\$ 57,567.58

Mayor Swiderski: Prior to the public comments, a brief two words. Last night we had an absolutely terrifying incident happen on the borders of Hastings with an armed break-in to a home on Donald Drive. Hastings police were first on the scene and were first responders in this crisis. Officers Sean Ryan and Michael Moore helped to apprehend the one suspect that was left at the scene. These were armed suspects, guns were used to pistol-whip an innocent husband and wife. The son was hog-tied and left under a table in the kitchen.

It was a horrific act. It was literally caught in progress. Our officers ran into a building where there were armed men, engaged, and promptly brought one of the perps in. I know you train for this. I know this is the line of duty. But it is a moment of great bravery when

you walk into a situation like that and take action. I speak for all of the Board in congratulating those two officers for handling it as well as they did.

Another three officers showed up on the scene as well: Heather Smolenski, Marcos Acosta, and John Danahy, who helped in the search, unsuccessfully, for the three other suspects who are currently at large. Neither the husband nor wife sustained serious injuries. We have one suspect from Manhattan in custody in the Greenburgh jail. We hope that the other three are apprehended. Again, congratulations to the Hastings police for remarkable valor. It is not something you typically expect in a quiet suburban village. Just remarkable.

PUBLIC COMMENTS

Mayor Swiderski: I hope Mr. Gonder appreciates we started within three minutes of 8 p.m. as was his request last time. However, in turn, fair is fair. We will hold you to the five minute-limit customarily held for applicants.

John Gonder, 153 James Street: I will do it in about 30 seconds. In Pulvers Woods there are newcomers which happen to have little spots on them. They are running around and, to me, sometimes they look like little kangaroos. But they happen to be little deer. I hope you are having those meetings with Irvington and Dobbs Ferry and will get something done about it. Thank you.

Mayor Swiderski: As is our new habit, we have a public service announcement for sustainability. Take it away, Elisa.

Elisa Zazzara, 68 Southside Avenue: I am going to talk tonight about garbage, and particularly the waste that we put at the curb on Mondays and Tuesdays, the stuff that we do not recycle, the stuff that we have to pay to tip. Last year the fee for tipping was \$97,000. I found out that if each citizen of Hastings could remove a little more than a pound of garbage a week from their Monday and Tuesday loads, we could save enough money to open the library on Sundays in the summer or to keep the pool open for one more night a week. Or we could simply just save the money.

Here are a few ways to divert some trash from the tipping fee. First, be more diligent with your recycling. I hate to break it to you Hastings, but we are no longer number one in recycling in Westchester County. Trust me. I have seen some of your garbage, we can all do better. Buy stuff that has less packaging, or stuff that comes in packaging that is recyclable. For instance, milk comes in plastic containers and it also comes in cardboard wax containers. These are recyclable, those are not. Do not throw out your clothes or old rags. You can drop them at the bins at the DPW or the A&P. Compost: about a quarter to a third of the garbage

on the curb on Mondays or Tuesdays is compostable in your backyard. You can ask Susan Maggiotto about that, my new convert to composting. Does she look like someone who wants to dig in the dirt and compost and get all in the rotting food? So you can reduce your trash greatly by taking out that organic kitchen waste. And it is heavy stuff, too. So let us lose a pound a week this year, and enjoy a book at the library on Sunday.

40:09 APPROVAL OF CHANGE ORDERS JAMES HARMON V. COMMUNITY CENTER

Village Manager Frobel: These are the final change orders for this project. Deven was the project manager throughout this. His cost summary shows you the base bids, the change orders you have already approved. And the change orders that you approved at your June 16 meeting, bringing you up to date to the most recent group that needs to be considered. Throughout the project we have kept you informed about these changes. The ones remaining are minor in nature. In a project of this magnitude, which reached nearly, \$5.5 million, to have change orders totaling just under 3% is remarkable. I say 3%, taking out the decision made early on to go with brick rather than stucco, which was a modification to the contract. We do not consider that a change order, although it had to be handled as such.

On balance, the comments I have heard are that people are satisfied with the project. I worried about the financials as we went through this. One matter still of concern is that we have not yet received award our application for reimbursement for the cost of that contaminated soil. We early on encountered contaminated soil on the site and we think it fits perfectly under this state program administered by the DEC. We fell victim, like other property owners do and through no fault of our own, in incurring expenses of about \$126,000 to remove, and handle, that soil properly. With the exception of that, we have come in on budget. If that reimbursement does not come through, then I will be back here asking for some other alternative as to how we can bring this back into balance. We are still having a dispute with the architect. He is looking for additional fees. We do not believe they are justifiable, and will argue that as we did with the cost of a lot of these change orders: rather aggressively.

Trustee McLaughlin: Can we go after the owner of the Jenny station that we think was responsible for that pollution? Can it be proved that that is where the oil came from?

Village Manager Frobel: That is the burden of the DEC. Under this program, because there is no identifiable source for the contamination, the DEC investigates, and that is what we assume has taken nearly three years. If the result of that investigation is that they cannot prove with certainty that that is the source, then you fall to this program and you are reimbursed. This program exists because everybody, as a consumer of petroleum products,

contributes to it. If the DEC cannot find the source, and go after him for us to be made whole, then we are reimbursed under this program. So I suspect they have not been able to determine exactly where it has come from. But I am mystified as to why it has taken so long. In the last six months I have probably called every three weeks. I am told it is still being considered, do not rule it out yet, you should hear from us shortly. As recently as last week I was met with the same response. They initially attributed it to some changes in Albany. Then there were some concerns about the finances, even though this is a separate pool of money. But they have had a lot of excuses in Albany as to why we have not been made whole under this program.

Trustee McLaughlin: A question about how the DEC does its checking. I did not realize that the DEC had actively been involved in making a determination here for the past three years. I have not heard anybody mention that there has been any sampling, for instance, underneath the A&P parking lot or Citibank or any of the buildings that one assumes are along the path of those pollutants if they came from that gas station. So how would the DEC make that determination if they do not do testing?

Village Manager Frobel: I really could not tell. I just relied on them to do the work and have eagerly awaited the phone call saying the check is in the mail. But I really do not know how they go about their investigation, and I assume from what I have been told that it was being pursued by the agency. I mean, I hope it was. But given what you have just said, that you have not been aware of any testing in the area . . .

Trustee McLaughlin: Well, has anybody else? I have not heard anybody ever mention it.

Mayor Swiderski: Not a word.

Trustee Jennings: No, not a word.

Village Manager Frobel: I know there are monitoring wells in the A&P lot. Maybe they grabbed samples from that. You see them in the parking lot monitoring, but I do not know. I know one theory is that this petroleum-based product followed the stream. I do not know exactly how the stream meanders but it ends up next to our building and then hits a pocket of sandy soil. That is where it seemed to collect, in the left-hand corner of the site. But I do not know how they go about their work. I cannot answer that.

Trustee McLaughlin: So in other words, there is no way we can go back and say, your nose was not on the grindstone; let us put it there.

Village Manager Frobel: My approach is that at this point I wish they would just give us an answer, because I wanted to tell them that I understand you have done your due diligence, but we would like to appeal. There must be an appeal, and that is when I assumed we could challenge and find out exactly how they went about it and how they came to that conclusion and why are we being denied this reimbursement. But right now, in the absence of any written correspondence, we are waiting. I mentioned to the Mayor, or the Mayor mentioned to me, that in his trip to Albany next week with Mr. Quinlan they would like this information to approach the staff there. We hope a face-to-face may break the logjam.

Trustee Jennings: I am not entirely sure I understand the nature of what is being decided in Albany. What are the grounds for denying us this payment? Is it just if they find some private entity that is the source of the pollution and, therefore, responsible, or could there be other reasons why they would deny our request? In any case, on whatever grounds it is denied, I assume that there is an administrative appeals procedure. But if they were to find some responsible party, would it be up to us to initiate litigation to recover the costs, or would the state do that for us, or what would happen then?

Village Manager Frobel: I first found out about this program by attending a conference sponsored by the New York group of mayors. The state had a table set up, and I began a conversation with a couple staff members about our situation. They said this may fit for Hastings, because I began to bemoan what we have encountered and the fact that we do not think it is fair that we are being saddled with this expense through no cause of our own. Deven had conversation with staff about that same time, and the readout he had received was not as positive. In fact, it was rather negative: that this does not seem to fit the program. So it has been an internal struggle, I suspect, with the DEC as to whether or not it fits.

Trustee Jennings: I see. So that could be another reason.

Village Manager Frobel: Exactly, and that is what we suspected. In fact, I have been told, in my conversations, do not push us too hard at this point because you may not like the answer. Let us go through this internal debate, and then wait for your response. But you are right, Bruce. We know there is an appeal process. We are just going to have to be prepared to take it. We submitted a tremendous amount of detail. There were subsequent conversations with the DEC three years ago as we began to go through this process, with more data and information and supporting documentation. So we felt pretty good about it, and we have throughout. It has just taken longer than any of us had envisioned.

Trustee Quinlan: It seems to me that by all these change orders we are going to be \$34,592 cheaper. If I add up the pluses and minuses, and I look at this sheet that Deven prepared, we go from \$5,604,593 to \$5,569,901, which is minus \$34,592.

Village Manager Frobel: I will let Deven go over it, but throughout this process we have been very diligent in working with the three trades.

Trustee Quinlan: I know. And you can answer this, Deven. It looks to me, by these change orders, we actually are saving \$34,592, unless I am reading it completely wrong. Is that true, false?

Building Inspector Sharma: No, it is true. One of the change orders was a credit to us. As a matter of fact, \$93,000 is a net change in that order number 10-R.

Trustee Quinlan: The only comment I have is that these are the kinds of change orders I like: the kind that save us money.

Village Manager Frobel: It was through Deven's effort. We were able to determine that the amount of rock was so expensive that to remove, Deven, in working with the engineers, was able to come up with a cost-saving effort to avoid removal of all that rock. That is what resulted largely in the credit we received.

Building Inspector Sharma: It may be interesting to note that a lot of change orders, when they are money owed to them, they make them huge. For example, this change order for \$7,000. They had asked us for \$150-some thousand, and we settled for \$7,000. This credit for foundation redesign of \$100,000, they were only giving us \$17,000 for it. Through tough negotiations and sticking to our guns on the logic and rationale, we were able to get \$100,000. Whenever you make any kind of change that goes in their favor they will give you \$100 for \$10 worth of change, and you have to be smart enough and know your business to tell them how wrong they are. If you do not, they ask for \$100,000 and you settle for \$50,000. They will take it gladly, and it is still \$40,000 more than what you owed them. We were able to do this, and I am very happy with the way Fran and I worked. They really could not get away with anything that was not rightfully owed to them.

Trustee Walker: Good job in bringing these change orders down to a very moderate number. Why are we approving these change orders now, when they were made quite a while ago?

Village Manager Frobel: Throughout the process, in my written notes and during the Manager's comments at the meeting, I briefed the Board about these matters being pending. We waited until the end because we were negotiating these prices up until a few weeks ago. The work that had been done was work that had to be done, but there was still an argument over the price. All these changes were agreed upon by the parties, in fairness, without the

cost of going to an arbitrator; which, in itself, is remarkable, in my opinion, because then you are spending money for the neutral, and your own staff, to formalize the process. But in answer to your question, we do it at the end because the prices were still being hammered out.

Trustee Walker: Why are the architects arguing for more money?

Building Inspector Sharma: The architects had only included so many site visits during the construction phase, and since the project went on for almost a year longer than anticipated they did provide additional visits and meetings. That is what they are asking for. As part of the contract, the fine print is, you do not do any work until it is agreed to, and accepted by, all the parties. Maybe they did it in good faith. It was a contractual agreement, and they have been paid. They did go ahead and provide those services. Architects and engineers do make mistakes from time to time. They call them errors and omissions, and they carry insurance to cover those. There are three kinds of changes: found conditions; concealed conditions you happen to come across when you are doing the construction, when we ask for the change, for example brick veneer as opposed to stucco; and errors and omissions on the part of the designers. So there are changes because of these and, at some point, it becomes critical to deal with the money they are asking for. We might try to balance this against the errors and omissions. I think they have been made aware that we may be looking into that.

Trustee Walker: Years ago, when they remediated at the Jenny station or when they pulled the oil tanks out of the ground, I heard, but never saw documents, that the DEC had to sign off on that site. If they were responsible for approving its completion and cleanliness at one point, I do not know if it is relevant.

Village Manager Frobel: I do not know if we know the age of the material that was found on the site. It may go back to the '40s. And it was not treated as a hazardous site, just contaminated soil. It was a very low degree. There was an argument as to how far we had to go in terms of addressing that concern, the content of the contaminated soil.

Building Inspector Sharma: Whatever the level of contamination there was, we followed the DEC procedures and standards. They gave it a case number and a spill number, and they monitor it and we monitor it. We hired a consultant at the time, and the case has been satisfactorily closed. Whatever the tonnage of the soil was, it was disposed of in a prescribed manner. But that is how it was done, to the DEC's satisfaction. They set the standards of how and what to do with it.

Trustee Walker: Was it clear that it was not coming from an oil tank that had once been in the building, heating oil or something that had been on-site?

Building Inspector Sharma: There was an oil tank removed, and if there was any it was very slight contamination caused by that. It was in a localized area. But all of it, or most of it, was not attributed to that tank.

Trustee McLaughlin: The Village Manager's memo states that because of the laws under which the Village operates we could not hire a general contractor; that was why we used Deven to oversee the project. I remember that there was a certain amount of discontent about Deven's being appointed to the job. There were a bunch of diffuse grounds that it was against the architects' code of ethics, and so on. I do not remember anybody ever defending that by pointing out the position we were in because of the law. I would like to have known that a couple of years ago.

Village Manager Frobel: The architect wanted to be the project manager, at quite a fee. Given how tight our budget was, we much rather wanted to put our money into bricks and mortar. That does go back to this tension we are feeling now with the architect. That is my own theory, but I was very pleased when the Board took my recommendation that Deven be retained as the clerk of the works, the owner's representative. It worked very well. I had only heard one challenge to that, and it was how could he be the Building Inspector when he is the clerk of the works. That concern was totally unfounded. It was a cost savings to us. The evidence is his enthusiasm when we went through the change orders, and arguing on our behalf. He certainly had not only a professional involvement, but a loyalty to the organization. But the Wicks law that I talk about in my comments is separate from that. The Wicks law is the state law that requires that, because of the size of this project, we not enjoy the luxury of a general contractor. That is where it became difficult in working with the separate trades. In other states there is a general contractor. It would be his responsibility to make sure the HVAC man is there on time and the plumber is there. We had to take on that role, and it became an added layer of responsibility. It would have been easier for a general contractor to influence a sub to get on the job on time because they may partner together on another job. Here, the plumber had no loyalty to the Village. That law has been modified somewhat. I think the threshold now for Westchester County has been raised to \$1.5 million. On projects larger than that it can go with a general contractor, but at this time the law was \$50,000, which was very low.

Trustee McLaughlin: I did not mean to bring that up to make any untoward implications about Deven, but it is simply that he has done such a great job. And whatever the point was of the complaints in the first place, the defense that you made was never brought up. But any concern anybody ever had about it has certainly been exonerated.

Building Inspector Sharma: There is an implication of the Wicks law. It is because each one is a prime contractor as opposed to being one general contractor and all other contractors

being his subcontractors. We do not necessarily save any money. We do save a lot of aggravation because everything happens through the general contractor. But when it comes to getting pricing that changes, the GC will not necessarily try to be more fair than the subcontractors would be. As a matter of fact, everything the subcontractors do there has a marker by the GC on it.

So the problem with the Wicks law is truly with the timing. There are usually four contractors, and they all blame each other. They are really like animals in a circus, and someone has to be in the middle cracking his whip, keeping them calm and keeping them working. That is always a challenge. Nobody has really been able to master it yet. So the delays because of it are not unusual at all. We may have made a mistake that we thought it would take just a year to build. Of course, the contaminated soil added a couple of months to it, but I think that was a wrong estimate to begin with.

When this project came about, I was lucky enough to have had this kind of experience previously. I had worked with contractors as a construction manager and worked with so-called "government contractors," and how they manipulate the way they work. Electrical and GC, I think I made them very angry. They would have embedded me in concrete if they could have. But they probably did not expect some things to happen that did happen.

As Fran explained, the last change order we negotiated only recently, and that a few weeks ago. It was our tactical decision. I was trying not to have them talk about that \$17,000 credit, whereas we thought it would be \$150,000. We did not tell them because if we had told them they would have stopped the work. They could have played all kinds of games. So we were able to say, it is only credit so it is not like you want money from us, let us keep going with the work. It worked, and we negotiated.

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

RESOLVED: that the Mayor and Board of Trustees approve change orders for the James V. Harmon Community Center as follows:

GC-8R Phoenix Building Corp.	+\$31,002.00
GC-9R Phoenix Building Corp.	+\$ 5,952.00
GC-10R Phoenix Building Corp.	-\$ 93,000.00
H-2 L.J. Coppola Inc.	+\$ 4,499.00
E-1 BAC Electrical	+\$15,888.00
E-2 BAC Electrical	+\$ 1,067.00

ROLL CALL VOTE	AYE	NAY
Trustee Bruce Jennings	X	
Trustee Jeremiah Quinlan	X	
Trustee Diggitt McLaughlin	X	
Trustee Meg Walker	X	
Mayor Peter Swiderski	X	

VILLAGE MANAGER'S REPORT

Village Manager Frobel: The New York State DOT is lining up the work for re-stripping of Broadway; according to their email it could begin in as early as two weeks. The preference of the contractor is to have the work done at night. I have since written to the staff member in charge of this project with a series of questions. One question is what are the hours? Is it from dusk to midnight, or is the intent to work all night into 2, 3, or 4 o'clock in the morning? That would be disruptive, obviously, to the neighbors. The duration, I am not sure if this is a four, three or two day project. We need a sense for how long this inconvenience would be, and any other questions the Board can think of that should be posed to the state. They want to do it with minimum traffic on the road, and we want the work done. But we need to guard against a major level of inconvenience to residents that should not have to suffer through a week of grinding. They are not painting over the lines. The noise is going to be the grinding off of the paint, and that will be noisy. The painting goes by with a swoosh and it lasts a few seconds. It is the grinding down of the paint that will be noisy and dusty. And there will be a lot of illumination of the area for the workers. We have got a series of questions and I do not have any answers yet.

Trustee Walker: I am very excited about this but I am concerned about the re-stripping between Washington Avenue and Olinda. The plan I saw had no additional sidewalk space on the east side of Broadway. It provides additional sidewalk space on the west side, very much needed. But the east side there is very little space for people to walk and there is very little space for people who live there to pull up and unload. There is no room to park.

Village Manager Frobel: Do they not park parallel to the street?

Trustee Walker: Only one house has room to park parallel. So I am asking, when they start doing this they will have a better idea of exact dimensions and it would be really helpful if there were a few more feet on the eastern side. Also people who are walking along the Burke Estate on the east side of Broadway will probably want to continue. They are not going to want to cross over at Washington Avenue, walk along Broadway, and then cross back again at Olinda. They will want to just continue straight. It seems odd that they would have to do

this circuitous route, which I am sure that kids will not do. I think they could squeeze a little out of the middle striped median. So if they could just look at that, because of that particular situation there on that block.

Village Manager Frobel: Jerry, do you remember the conversation we had with them? We were looking to widen that. Was there not enough to shift that a little?

Trustee Quinlan: The problem, as I recall, is that it was going to be a sidewalk to nowhere. This is one of the points that Lee and I made: that if you add a sidewalk there, it just ends.

Trustee Walker: Well, it ends at Olinda, where there is a sidewalk.

Trustee Quinlan: We are talking about the east side of Broadway. If you walk down Olinda, and then made the turn and walk down the east side of Broadway, it would just end.

Trustee Walker: No. Because there is going to be that extra width on the south side of Broadway along the Burke Estate.

Trustee Quinlan: That is one problem. The other problem is that there is going to be a right-hand turning lane to go up Olinda so it does not allow for a lot of space.

Trustee Walker: But they have taken four lanes.

Trustee Quinlan: The other problem, Meg, is that you were not here during the original discussion, which we discussed over and over and over again. So if we are going to reopen this whole thing two weeks before they are going to start doing the work, then I think we have to get a vote from the Board to do that.

Trustee Walker: I do not want to reopen it.

Trustee Quinlan: Well, that is what you are doing. You want to change the work order.

Trustee Walker: No, it is not changing the work order. When they are actually out there doing it, there may be the opportunity to squeeze another foot or two out of the middle median. The drawings I saw are not very carefully measured drawings. They did not survey every aspect of it. It is very rough. So when they are out there doing it, they will have a much better idea of actual dimensions. I do not think it is too much to ask them to just pay attention. There is extra room next to the Burke Estate, is there not?

Trustee Quinlan: I do not have the plans in front of me, but the idea was you would walk, you would cross the crosswalk, you would go on the sidewalk, and then you would cross back on Washington. Whether people are going to do that or not, I cannot control people's common sense to cross at the crosswalk and stay on the sidewalk. That is something I cannot control, I can only provide it.

Trustee Walker: It is a very difficult crosswalk to cross at Washington Avenue. It is not going to have a crossing guard or signal. So most likely people will continue walking straight on the east side of Broadway. That is common sense.

Trustee McLaughlin: Did we not agree that there would not be a crosswalk at Washington?

Village Manager Frobel: Right.

Trustee McLaughlin: It was originally proposed, but that would mean there would be two crosswalks within about 100 or 200 feet if we did that. So we did not, in fact, have a crosswalk at Washington.

Trustee Walker: So where would those people go who are walking along the east side of Broadway along the Burke Estate?

Trustee McLaughlin: Meg, we certainly talked over and over and over and over and over and over and over about the fact that people walked south on the northbound side of Broadway, and there is no real sidewalk there but they walk there anyway. The fact is, and I think we have covered this, that people are not going to move their stone walls closer to their house so that we can build a proper sidewalk. They are going to keep their stone walls where they are and there is going to be 18 inches of space. Pedestrians are going to walk there even though it is not a sidewalk. But do we want to be in the position of encouraging that, and thereby possibly incurring liability? Was that not part of our thinking? That if we led people to that side of the road it would be an active endorsement of walking there, instead of a passive acceptance that people do?

Trustee Quinlan: I cannot remember the exact reasons. But the prior Board voted unanimously for this change and for the changes that were on the plans. If you think that we are going to walk out there while they are doing it, and say, make the median smaller and add more side to the east side, you are going to screw up the whole project. If we want to revisit it, and disappoint the people on Broadway that have been looking forward to this, and revote it and revisit it, then we take a vote and do it. I do not remember why we did it, but we did talk about it and voted on it unanimously. We are not going to walk out in the middle of the

work, and say, Oh, I think you should take some off the median and put some on the east side. They are going to look at us like we are crazy.

Trustee Walker: No, I am not proposing that. I am saying that the Village Manager is sending up some comments to the DOT. Could that be one of the comments?

Village Manager Frobel: Let me talk to him about what can be done in the field on that site. Not disrupting or delaying the project; that is the last thing we want.

Trustee Walker: I absolutely do not intend that. I do not want to see it held up.

Trustee Quinlan: So what is it specifically you want Fran to tell them? You want to make the median smaller, and put more room on the east side between Olinda and Washington?

Trustee Walker: I would not want them to decrease the sidewalk on the west side because that is needed. They are increasing it on that side. But if there is a way to squeeze the median down to get a little extra space on the east side, I just see so many people walking there. I live in that neighborhood, my daughter walks that street every day to school. They walk Broadway constantly on the east side, and there are people who live over there who have no safe way to unload groceries even, or to just stop for a second in front of their houses. There may be no way so that's it. Then I would back off.

Trustee Jennings: I have another suggestion, in the spirit of not messing things up, but just while you are talking with them about last-minute details. I do not know what the plan is so I am not going to second-guess anything. But last night, at the comprehensive planning meeting, there was a discussion that seems pertinent to what we have before us. The planning expert was talking about various ways you could do striping to achieve certain kinds of behavioral effects like slowing down. I was wondering if there had been a discussion already, or if it would still be possible to have a discussion, about the nature of the striping and the colors that are going to be used. The gentleman last night was arguing that different kinds of colors change behavior. Is that something that is still open to discussion? I am not sure what color scheme he was talking about. I think he was talking about cross-hatching instead of one directional line. I am not sure. Meg, can you help me?

Trustee McLaughlin: Cross-hatching is something that is in this, is it not?

Trustee Walker: I did not hear the exact comment last night. I think he was probably talking about sidewalks and areas in the middle of town, for example Spring and Warburton Avenue, where you want the cars to stop at the un-signalized crosswalks. There are a number

of things you can do to those crosswalks that will make them stand out and also warn the drivers as they are approaching them. That there are a number of things you can do.

Trustee Jennings: But he was also talking about something that came up two or three meetings ago with Chief Bloomer on this. He was talking about the way in which the color and the nature of the striping, even when you do not use different materials like bricks or whatever but just regular paint, affects the speed and the optical illusion that you are in a more tunneled area. And it is germane to wherever you have pedestrians and traffic close together. It is not just a downtown thing. I think it would be absolutely apropos for the scenario that we are imagining and, in fact, does happen on Broadway between roughly Burnside Drive and Olinda.

Trustee Walker: There are all kinds of reflective paints and tapes. The question is, at what point do you introduce them in a place where there is so much striping? But it is a question you could ask them. I have worked with the DOT a lot, many DOTs. The New York State DOT is a lot more advanced than they were even just a few years ago in traffic calming and providing pedestrian signalization and amenities. So it is worth a question.

Trustee Jennings: I was a little alarmed when Chief Bloomer said that going down from two lanes to one would actually make people go faster.

Trustee McLaughlin: May I speak to this? Obviously neither of you has read back in the minutes to see exactly where this came from. The initiative came to the Board as a way of making changes on Broadway that have been considered desirable for 50 years, without spending the money on concrete buildups, brick, or anything like that. We felt that paint was a cheap investment. Patty Speranza, who is head of the Planning Board and works with the state DOT regularly, encouraged us to do this. She made the point that they were very willing to listen to plans like this, and whatever they might have been in the past they were now open to proposals like the one we took to them.

In terms of speed increasing, you may not have driven north on 9 through Briarcliff in Ossining, but they re-striped about a year and a half ago. What they have found is that outside of rush hour traffic moves more smoothly, but marginally faster. That is a very carefully constructed sentence. It moves more smoothly, but it does move marginally faster. It is not stop-start, not veering out of the lanes; cars are not six inches away from each other. We are not creating a more hazardous situation. Just because the traffic is moving faster, it is moving smarter. It is better managed, and the police chiefs up there believe it and the DOT believes it. So, intuitively, the idea that if it is faster it must be bad does not work out in this particular instance because it is a wiser way of working.

Trustee Jennings: I did not mean to dispute that, Diggitt, at all.

Trustee McLaughlin: But at any rate, the DOT has been over and over and over and over this. This is not something we are imposing on the DOT. This is something that the DOT's engineers have come down for, walked the land a couple of times, driven around the Village, looked at it. This is totally the product of great collaboration between members of the past Board of Trustees and our police department, fire department, our DPW, and the DOT.

Trustee Walker: I was actually the first person who brought the DOT here to talk to them about it, around 2001. So I have some history with it but I was not involved, obviously, when the Trustees were meeting with the DOT.

Mayor Swiderski: Let us bring this to a close. Was there anything else?

Village Manager Frobel: We opened bids today for our Washington Avenue sidewalks. We were very pleased. We received three bids, all from very good firms. The bids are being reviewed by the county, and we expect to have a recommendation to the Board for action at your July 21 meeting. We went into this with a budget of about \$225,000 and are within budget. We may even have a little left over, and if we do, the plan is to redirect those to the Maple Avenue project. We are taking a second look at that in terms of the comments we have heard from the neighbors. Our specs for Washington are written such that we are going to recover pieces of slate that are usable, we would like to try to get creative and use some of those pieces of slate on Maple to preserve that fabric already out there in terms of a pedestrian walkway. The plan is to have the construction this fall, and to perhaps have the specifications ready for Maple Avenue next spring.

Mayor Swiderski: Would you care to comment about Meryl Streep?

Village Manager Frobel: That is Mrs. Maggiotto's department. I have nothing to do with that program, but she would be happy to bring you up to date.

Village Clerk Maggiotto: Hollywood is coming to Hastings. On Friday night a major studio, Universal, is shooting a scene on Main Street in front of Dr. Kutz's office on the corner of Whitman Street which, for some reason, they think looks like Santa Barbara. It is going to be a nighttime scene in the rain, and Meryl Streep is starring in this scene. The movie is untitled right now, but it also has Steve Martin and Alec Baldwin in it. So a major movie. The scene is estimated to last, in the movie, 30 seconds to one minute. And you would not believe the hours that we have spent in talking with these people, making arrangements. I am very pleased to say we had a meeting yesterday with Chief Bloomer, who has been great in this, and three people from the movie and three from the Chamber of

Commerce. Everyone is on board and actually excited about it. We did hear those words from our Chamber of Commerce: Yes, this is very exciting and we are looking forward to it. Everyone recognizes that it will be a disruption in a lot of ways, and we are trying to do everything possible to minimize the disruption and any negative effects it might have, especially on our shopkeepers and, of course, the residents in the downtown. But we are hoping that, on balance, it will be a pretty exciting event. Tomorrow they are going to start dressing the fronts of buildings. They have contacted, certainly, every resident and every shopkeeper so everybody knows this is going to happen. They need certain parking, and we are trying to figure it out. They are working very hard at it, and they have been working hard at it for months, for one scene. They are paying a substantial amount of money to us and to the Community Center for the use of the facility. They are also paying us for the meter spaces. They are paying the store owners in the Village who are directly involved. They are taking over Blue Moon restaurant, so there is a deal there for him. They have a deal going with Slices and with the bagel store. So a lot of money will be spent in Hastings, which is a good thing.

They are going to start shooting as soon as it is dark. It is a rain scene, so to give you an idea of what they have to do, they will hustle her back to her trailer, completely dry her off and freshen her up, and then she will go out and do it all over again until they are happy. They are supposed to be out of the Village early Saturday on time for business as usual. There will be some vehicles still around that they might not be able to move out so quickly, but their work will be done. Main Street will be pretty much closed off at some point Friday evening. But they want people to come and watch, and they will show you where you can hang out.

Trustee McLaughlin: How about the fire truck, from the hook?

Village Technology Assistant Corso: And the ambulance.

Village Clerk Maggiotto: They have talked to the fire department and there are no issues. That, of course, takes priority over everything.

Trustee Jennings: Just let me get this scene right. The fire alarm goes off . . .

Village Clerk Maggiotto: It could very well happen.

Trustee Walker: Yeah. They know about our alarm?

Village Clerk Maggiotto: I just thought of it when Bruce said that, and it might be something to discuss with them. They might have to listen to that.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Trustee Quinlan: I will try to be briefer than the report on Meryl Streep, if I can. You can rest assured that I will not be coming down to see that.

Village Attorney Stecich: I have the time marked in my calendar.

Trustee Quinlan: It does not interest me at all.

The meeting is set for next Monday in Albany. We are lucky enough to have a very high executive from BP who is going to fly up from Houston and join us at that meeting, and we look very much forward to meeting him. I understand he has decision-making powers. Not that any decisions will be made that day, but it will be good to meet him and go up the ladder to see exactly where we stand.

The ATV vehicle that was going to be delivered next Wednesday, due to the suppliers who are having troubles with the bankruptcies from the car companies, some of the parts will not be ready for that machine to be delivered next week. We will just wait for it to be delivered sometime in the future.

Mayor Swiderski: You are being a little modest so I will give you credit where you are not taking it. Jerry went to the effort of getting non-disclosure agreements signed with BP and the DEC so they would allow us into the loop for examining the eight scenarios that BP has come up with for a possible cleanup. This allows us and our engineering firm to participate in this process. As a result, the meeting on Monday is going to be very interesting.

Trustee Walker: At what point do we start to hear from Malcolm Pirnie about the eight scenarios and get the information?

Trustee Quinlan: The modified feasibility plan, which is what it is called, is now in the Village's possession. Fran has a copy, Peter has a copy, and I have a copy. It is over 125 pages long. We have planned to have a discussion with Malcolm Pirnie on Friday. We are going to discuss the scenarios at that meeting.

Trustee Walker: When will we, as a Board, and the community hear about the scenarios and the recommendations?

Trustee Quinlan: Right now there is a confidential agreement between the parties because it is a rough draft, so I cannot answer that question. We have to see what happens in this meeting and what the give-and-take is and how it is going to be modified as it grows into a second, third, and final draft. That is when you will see it, but I do not know when that is going to happen. Would that be a fair description of it, Peter?

Mayor Swiderski: It is fair. The draft is BP's, and that does not necessarily mean the DEC agrees with the assumptions or all the details of the draft. BP has its own incentives for how to tilt the analysis. There are some disagreements, so there is bound to be a second version. I am not entirely clear yet, and that is part of what we will be talking about on Monday; what role we play in the decision-making. The DEC is the issuer of what is known as the "ROD," and they choose the scenario. Jerry and I hope we weigh in. But all that has yet to be established, that interplay of our sentiments on what makes sense, where Malcolm Pirnie works into this. It is all part of the rules of engagement we hope to begin to define on Monday. I do not want to be too ambitious on what is going to happen on Monday.

Trustee Quinlan: It is hard to say what the meeting is about, but we are going to try to establish guidelines on how we are going to communicate with each other and how we are going to move forward with the remediation of the hazardous waste site. It is a preliminary meeting, as is this document, so we get to know each other: put the names with the faces, try to get people excited with Peter's initiative to make this a high priority for the Village.

2. Update on the Comprehensive Plan

Trustee Quinlan: Most of the Board was there last night. It was a town hall meeting with the consultants. I think we found it all very interesting. It was the third meeting with the Village residents invited. Susan was there also, so the Village was well-represented. I thought it was productive, and we will see where it goes from there.

3. Village Web Site Software Replacement

Mayor Swiderski: We have a meaty Web site in terms of content and capabilities, but not necessarily the easiest to use or update. And there is also a whole raft of additional capabilities we could look to our Web site for. Finally, and not entirely trivially, it is a highly custom, hand-jerry-rigged piece of software that relies on a couple of people in the Village, and leaves us vulnerable should the proverbial truck swing by and turn left instead of right at the wrong moment. The objective is to come up with a site that provides greater ease of use and greater functionality, and a packaged piece of software that can be run by anyone with minimal training so that any number of people could update it. With those rough objectives, I convened a group of Hastings residents who have a background in technology

and Web site design, and we went through the things a Web site should have and how it might work. At first we were thinking about building it in-house, and that turned out to be too ambitious. Fran pointed out that there are reasonable packages that deliver everything we want. Fran found one and Raf found another. We had both demo'd to us, and then Raf and I went through the capabilities and looked at dozens of sites that each one has built. We tried to distill this into a matrix which compares the two costs and features of two software packages: Virtual Town Hall and E-Gov Link.

We realized that neither site was perfect, but the Web sites developed in Virtual Town Hall were more attractive and easier to use, and seemed to be easier to build and have more functions built in. The one critical thing missing from Virtual Town Hall is the ability to register complaints from residents and track them, which is something we would like to do at some point. It allows you to fill out a form and submit a complaint, but a formal tracking system it does not claim to be. It is the first step, however, and it has everything else from easy addition of forms and agendas and lists of directories and everything you see here listed. More importantly, you can tack on that capability from other systems down the road when we grow into that. It is cheaper on an annual basis, and everything comes folded into it. There are no little gotchas that were an issue with the other product, things that would cost extra money, like disk space.

We settled on Virtual Town Hall as the product we could use to replace our Web site. The entire effort takes seven to ten weeks and they do much of the work for you. We have a number of residents in town who are happy to help on the design. River Towns Guide is produced by two residents who have volunteered to help. There are banner photos which rotate, which you could see local residents providing photos for. There are all sorts of little things you could do that would be a lot of fun. But also, almost all of us and every committee chair could be trained on this in about 20 minutes. Each committee could have its own page, where it could upload its stuff and store and share interim documents that are not available to the public: post agendas, minutes, working documents, decide whether those are public or not. It gives us a single place where we could evolve into cooperating with one another easily by the sharing of agendas, etc, something that Diggitt and I have been talking about when we begin to re-form the committees and boards and how they operate. With all these capabilities, it seems like, given what is a marginal expense, a worthwhile addition to our tool set. It would have a big impact on how we reach out to people and how we work together.

Trustee McLaughlin: Yea. I do not have questions, because the memo you wrote and the matrix you provided are so thorough. The difference between Virtual Town Hall and E-Gov is pretty stark in terms of the way E-Gov sneaks in additional costs, and everything is included with the other one. One of my political issues going back 25 years has been

accessible government, and it seems to me that this is exactly the way to have accessible government. When you think that only five years ago, or even more recently, every time we had a new report the question came up of "is it in the library?" Now it is online. I do not know if we are able to track how many times people look at things that are online, but they do not go to the library to get them anymore the way they did. That is the way the world is. When we were first putting together Climate Action Week, I was exploring other communities in Westchester County and found how many of them had Web sites that were primitive compared to ours. That was the one that Raf worked so hard to do. But despite all that, seeing that there has been a huge leap in technology, some of the communities that had primitive Web sites a year and a half ago are now using Virtual Town Hall. I really look forward to our having this.

Trustee Jennings: I am very excited about this also. This will facilitate the work of our committees and the interaction between the Village and the broader community. We have a community where people are very busy, and electronic communications facilitate participation and discussion. It is a great next step. We should acknowledge the contribution that Raf and other Village staff have made in developing the Web site over the years from no Web site at all to what we have today. But Web sites are dynamic works in progress, and change is the name of the game. I got an email today from a resident who does not use email very often and was concerned the new age is going to leave people out. The documents will still be there in the library. We want to make sure we do not disenfranchise anybody who is not comfortable with electronic technology. But for the most part, this is going to open up government rather than disenfranchise anybody and I think it is a great move.

Trustee Walker: I am very excited about it. This is going to make our Village even more user-friendly. After they set it up and we get it going, we continue to pay a yearly fee. What kinds of upgrades or new applications could we get or are we contacted to get going forward? What kinds of services do we get, and so on?

Mayor Swiderski: They do not provide 24/7 support; it is something like 12/6. They keep it up and running, they answer the phone and they fix it if there is a problem, if you need to figure out how to do something. One thing they seemed particularly keen on, they are always developing new features and those are always available to you. Theft is the wrong term here, but borrowing the best ideas from other village Web sites. During the development period they show you how other villages have done things and you can consolidate those into your site. That continues beyond the point where you are set up. You see that South Wales, Connecticut has done this in an interesting way. They will help you implement that. I come from a world where you do not buy a sneeze for \$400 an hour. The annual fee for the support provided seems pretty reasonable. It is a competitive marketplace so these two firms

were bidding for our business aggressively. There are always new features being rolled out. There is an eagerness to get you and then hold on to you by offering you the latest flash.

Trustee Walker: So are there interactive features?

Mayor Swiderski: The Virtual Town Hall is not big on things like public blogging. I am probably pretty okay with that. I am not eager to go down the road of anyone leaving comments they want on the Web site. It can get awfully scatological awfully quickly if there is something passionate for people to comment on. If you have ever visited Paul Feiner's blog spot it can be pretty vile when people go at each other, and I do not think I want to support that. Surveys and polls, they do support. It is something we could use actively. With all due respect to the three people in the audience, this is not the most representative sampling of the Village. Sometimes sending out a poll and getting 200 or 300 people responding can tell you quite a bit about where people's heads are at.

Trustee Walker: The memo says it supports mail lists. How would we manage a mail list?

Mayor Swiderski: There is a general mailing list. If you want to get everything from a particular board, you can check off boxes of the mailing you want to subscribe to. Those become lists that that board can use to send out emails or mailings just to those people interested in that issue. Everybody in this Village gets the one blast we send out, but there are people who want to get even more from us on selected topics. This would allow that.

Trustee Walker: Is there separate software that is reasonably priced to track complaints?

Mayor Swiderski: There are, it turns out, any number of places that will sell that and integrate that into your main Web site. As we grow into that in a year's time, we can do it.

Trustee Quinlan: I am not the most electronic guy, but I am getting there, and obviously this is needed, Peter, and you know what you are doing. So go for it.

Mayor Swiderski: Raf, you put in your hours on this with me. Do you have anything you want to add?

Village Technology Director Zaratian: Peter, you did a lot more work than I did. But this is a natural evolution of where we started back in 1999 when we were one of the first to have a Web site. Cost-effectively, at that time, it was better for us to do it in-house. With the prices coming down, it is a time to look at other features. And as you said, if the bus comes and hits me.

Mayor Swiderski: I did not mean to be quite so graphic, but it is an issue.

Village Technology Director Zaratzian: It is. One of the things that we are proudest of about our Web site is that it is not a Web site, but more like a library. Virtual Town Hall gives us the ability to expand on that. As long as it is cost-effective, that is what we want to do. As far as the emails and everything else go, we look at it as an environmental solution: less paper, people only have to print out what they want to print out, and we are saving trees. This is an evolution. As costs come down, who knows what we can do.

Trustee Walker: We had something in our budget for this?

Mayor Swiderski: It falls under our software and communications.

Trustee Jennings: One of the things that excites me most about this is the greater facility it will give us to have written communication that is accessible to the Village via email or by visiting the Web site. I have always felt that it was not very open government to simply post a 500-page document somewhere and tell people that it was there if you are interested, read it. This gives us a greater capacity to give summaries and boil things down to a few highlights and keep people apprised more briefly. If they want to dig down deep and do the research themselves into complex issues, they can get the entire documents. I know a lot of people in the Village do not feel they know what is going on. They certainly do not have time to read full documents and use the library feature of our Web site, but they would like something in between. That could be shorter communication pieces which our elected officials can write, the Village staff can write, many volunteers on our boards and commissions can compose. So we have an opportunity to give an intermediate level of more accessible and more manageable information to our community, and that will be a good thing because it will get people better informed, get people more involved. They will come to face-to-face meetings, when we have them, and then some of them will dig down deep and become expert on particular issues and give us meaningful advice and criticism. So every way you look at it, it is going to be a real plus.

Trustee McLaughlin: Every now and then people bring up the idea of why do we not have a Village blog. There is no reason that anybody who wants to, in the Village, cannot have a blog. The Democratic Party has a blog, which nobody uses. The Historical Society sort of does. They update their postings twice a week. Axiom has a blog. I do not know how many people are subscribed to it, but I am sure there are dozens of others that I do not know about. But anybody who wants to do it, can do it. As you say, the model in the Town of Greenburgh is so unpleasant that I agree with you: I would rather keep that off the Village Web site, too.

Mayor Swiderski: Is the sense of the Board to let Fran move ahead in making arrangements with Virtual Town Hall?

Trustee Walker: Totally.

Mayor Swiderski: All right. Then I will convene the same group of people who had helped before to worry about design issues, and we will move forward.

4. Other

Trustee Jennings: Two weeks ago I outlined a sustainability agenda. I talked about recycling, but one really ought to see recycling and solid waste disposal and yard waste all as a part of a solid waste management plan. I wanted to add to what was said a couple of weeks ago: that we want to work with the Conservation Commission and with other Village groups like Sustainable Hastings on the garbage part, the non-recyclable part of our waste stream as well as the recyclable part. The PSA tonight gave a number of suggestions about how that could be reduced. The less we put in landfills the better it is for us financially because we pay for all the stuff we put in the landfills. And, of course, environmentally it is better, too. Landfills are not the greatest thing in the world. Composting and packaging are part of that, and I should have added that two weeks ago. But I would like to make that addendum.

Jerry gave us an update on the comprehensive planning meeting. A big part of that meeting was the sustainability topic. I think the worst thing in the world would be for us to get at loggerheads with the various groups and thinking that is going on in the Village: the Comprehensive Plan, what we on the Board of Trustees are interested in doing and so on. Last night I had the feeling that there is a convergence of ideas and priorities and good thinking between the Comprehensive Plan and the Board of Trustees. I was very gratified to see that. I am sure it will continue. So we are pulling our oars in the same direction rather than working at cross purposes, and I am encouraged by that. I wanted to state my perception that that was going on and that is the path we are on right now.

Trustee McLaughlin: Regarding composting, I live alone, but since I started to compost I could go three weeks before I have a full bag of garbage. I am really impressed by how my garbage has decreased since I started to compost. I live in an apartment. My landlady has given me an extremely small place beside the garage where I compost. You do not need to do anything fancy. You do not need to buy worms, you do not need to do any of that. You do not need to go turn it, but you need a place that is not widely traveled to put your stuff. It is not going to smell, it is not going to attract rats. If you do not put meat products in there it will not be objectionable at all, and it will really cut down your disposable waste. It will cost us a lot less to deal with your garbage the lighter it is and the less there is of it.

Because of my absence we have not had an announcement from the Board about Village boards and commissions for a while. The Conservation Commission, the Village Arts Council, the Public Health Board, the Economic Development Committee, and the Committee on Disabilities all have vacancies. If you are interested, send me a letter or your résumé or you can contact anybody on the Board. We would like to hear from you soon, and if you have a friend who might be interested who does not watch WHOH tell your friend. We would like to hear from everybody in the Village to participate somehow.

Trustee Quinlan: The US Department of Homeland Security announced today that there is \$1.8 billion in federal emergency management agency funds for 2009. After the meeting I am going to give this information to Susan and Fran. Possibly we could get some money for disaster response, prevention, and recovery.

Trustee Walker: I am working with the Chamber of Commerce and the Economic Development Committee, and I hope to work with the Arts Commission and the Farmers' Market, on forming a downtown events committee. This is charged with putting on a monthly event that will not require closing the streets in the downtown, but will enable us to attract people downtown for music, art, and other themes and also allow retailers and restaurateurs to promote their businesses. We are meeting tomorrow night at the Community Center. If others would be interested in joining us we would welcome you. We will need a lot of assistance as we go forward. We see it as a partnership of organizations in the Village.

Mayor Swiderski: I had a meeting this morning, which will formally be every second Tuesday of the month, with Mr. Shaps and two members of the school board, the head and the head of the finance committee, to begin to identify areas for cooperation and possible sharing of costs and services. There is a raft of items on the agenda and we are going to slowly work through the low-hanging fruit and see what we can do together as a group. Also, it is a forum for raising issues that could cause dissention between the two bodies. I think there has never been that regular forum to defuse problems before they get out of hand. We have made the commitment, and hope to stick to it.

The mayors continue to meet monthly. We had our last meeting three weeks ago. There are five different contracts underway; I do not know if any have proceeded to the signing phase. Those contracts have been opened up to the school systems and at least a couple have joined.

Finally, we are batting three for three. The second of the two Finneran suits was decided very much in the Village's favor. Marianne, do you want to comment on that?

Village Attorney Stecich: There was a second suit that was on hold while the court of appeals decision was getting resolved. The judge decided this within the last week. She rejected the plaintiffs claim, and ruled that Yosemite Park and the recreation center should be paid only from the unincorporated town budget. There were three issues. That one, and then one about volunteer firefighters and other volunteers, safety workers and disabled people from the whole town, including the villages, whether the fact that they use town facilities violated the Finneran Law. She ruled that it did not because it was such massive use and there was a good reason for it. The third element, and this could probably be a problem for Greenburgh, is that they were proposing a tennis bubble at Veterans Park. The judge ruled that that would violate the Finneran Law because it was going to be open to many more than just the unincorporated residents. I doubt Bernstein would appeal because not only does he have this decision, but the decision was consistent with the court of appeal's decision. I do not know what the town is going to do about the sports bubble.

EXECUTIVE SESSION

On MOTION of Trustee Quinlan, SECONDED by Trustee Walker with a voice vote of all in favor, the Board scheduled an Executive Session immediately following the Regular Meeting to discuss personnel and advice of counsel on chickens and Verizon.

ADJOURNMENT

On MOTION of Trustee McLaughlin , SECONDED by Trustee Quinlan with a voice vote of all in favor, Mayor Swiderski adjourned the Regular Meeting at 9:45 p.m.