

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**BOARD OF TRUSTEES**  
**REGULAR MEETING**  
**MARCH 3, 2009**

A Regular Meeting was held by the Board of Trustees on Tuesday, March 3, 2009 at 8:10 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Mayor Wm. Lee Kinnally, Jr., Trustee Peter Swiderski, Trustee Jeremiah Quinlan, Trustee Danielle Goodman, Village Manager Francis A. Frobels, Village Attorney Marianne Stecich, and Village Clerk Susan Maggiotto.

**ABSENT:** Trustee Diggitt McLaughlin

**CITIZENS:** Nine (9).

**Mayor Kinnally:** Trustee McLaughlin is not here this evening because she is ill. We wish her a speedy recovery.

**APPROVAL OF WARRANTS**

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

Multi-Fund No. 59-2008-09 \$ 96,233.13  
Multi-Fund No. 60-2008-09 \$ 75,587.01  
Multi-Fund No. 61-2008-09 \$127,630.45  
Multi-Fund No. 62-2008-09 \$ 27,239.31

**PUBLIC COMMENTS**

**John Gonder, 153 James Street:** I live with a tribe of six deer at 153 James Street. Last meeting, I set about a solution for the deer. If people gave you \$10 or more for each deer that is taken out you could save the Village money and also make it a much safer and healthier community. I am going to give you a few facts of myself. Clean up deer droppings: approximately 50 hours per year. Chasing deer off my property: 208 hours per year. Plants: I have no more tulips. I used to have at least 50. I have roses, three bushes, no longer. They eat the thorns and everything. I had beautiful tiger lilies. I even planted some in the Pulver's Woods area. As soon as two flowers came out two bucks came, ate all the buds. Azaleas, I have had plants that my kids gave us Easter, Mother's Day, some 30, 40 years old. They are going to pot. This is what the deer do. [Shows clippings.] I lost a lot of time in my garden. I put up a six-foot fence around a garden for food; deer jump right over the fence. Not too bright on me. That garden was wasted. The next year I'm a little smarter, I put fencing around. It cost me a fortune. I put it seven feet up and left about 12 inches so I

could throw a weed whacker underneath to cut the grass. The young ones get under and eat the stuff. Second garden was sort of shot. The third time, the deer with two little antlers, little bucks, ripped the netting out. Had to buy new netting. I am getting a little smarter now, I put chicken wire around the bottom but they still are driving me crazy. Three trees I had to take down. I have told you in the past about the deer ticks: two on me and two in my house, one on my grandson. It has cost me a lot of money. If they are destroying your yard and they are in your yard you should be able to hire someone and take them out. But I am not sure that you people have the guts to do something about it. You took on the leaf blower, and that was a little controversy there. This is environmental, health and safety, with cars and whatnot. I hope the new Board will take this as a priority.

### **VILLAGE MANAGER'S REPORT**

**Village Manager Frobel:** You had asked me to report to the Board on our financial situation. After eight months going through the budget at about 70% expended, most of our expenditures are on target. The department heads are doing a good job in managing their budgets. There are some areas for concern. I do not think any of there are a surprise. The one that tops the list for concern is purchase of salt. Up until this last storm I thought we were going to be able to get away with having over-expended our budget by about \$34,000. Such is not the case. In my meeting today with Michael Gunther we had to place an order for an additional 200 tons of salt, which will push our budget an additional \$13,000 over. Mike does not feel he can get through the month of March without that comfort level of having additional salt in the shed.

You are aware of our sanitary sewer break earlier this year. That line will be about \$8,000 over budget. We also embarked on a very aggressive catchbasin/storm sewer repair program this past summer. We have all heard our complaints about collapsing catchbasins. That put us about \$12,000 over budget. Our street sweeper was recently down. The repair has exceeded our budget by about \$9,000. We are aggressive in taking down and trimming any trees that appear to be a source pf danger to property or persons. That is about \$11,000 over budget. Finally, an area for concern is the electric bill at the Community Center. We got hit with back billing from Con Ed for some of the electricity used during construction. We are in discussion with them about that, but that has put our electric budget over budget as well.

We will continue to watch our expenditures. We recently sent a memo to department heads that any additional expenditures will be closely scrutinized. But those items I just indicated are beyond our control. They a must be taken care of, and we have very little option. We could have budgeted more. But it would have been difficult to anticipate the kind of winter we experienced this year.

On our revenues, not much new to report since our last conversation. Our mortgage tax, although on target for we have received so far, will be less than we had budgeted. We received word from the town that they are anticipating about a 40% reduction in the mortgage tax. I am sure that is going to continue to be our experience as well. Our sales tax, we are only through November. At that time we were at \$518,000 so we were on target, but we do not know what December will bring. Hopefully it is a good month; January and February will probably be slower months. Locally-generated revenues are lower than we expected, but there are a few bright spots. We have received some additional monies from the Cropsey Foundation. Because of your action on raising the cost to pick up and dispose of commercial trash, that has increased. Our cable television fees are up. And our Community Center rental is up slightly. On balance, those are small items in comparison to some of these major concerns, but we will continue to watch this.

Again, some of the items I have indicated are beyond our control. They are items that we got stuck with, and we have taken steps in next year's budget to better estimate what these items may cost. A budget is nothing more than a plan. We do carry a large contingency. We have got about \$135,000 left in contingency to cover these over-expenditures.

The third item is a matter that both Susan and Ellen have brought to my attention. We continue to be somewhat concerned about our cash flow situation as the fiscal year go on. April and May can be very lean months in terms of revenues. We are closely watching that. I believe we will come in okay in terms of cash flow, but it will be tight, and it is a matter for concern. Part of that is the fact that we have been involved in a rather aggressive program of completing some of our capital projects, and this has placed a crunch on our cash flow because those grants are reimbursable, which means you have to pay the contractor and the supplies and the all the materials up front and then there is a waiting period for you to be reimbursed. To compound this, we did not borrow the \$200,000 for our road resurfacing. My hope is that we were going to do this in a bond anticipation note that I will be presenting to you, probably, at your next meeting, trying to bundle some of these items so that we can go to bond market with a large enough note to make it worthwhile. There should not be any surprises: things like the Washington Avenue sidewalks, Maple Avenue sidewalks, those items that we need now to come up with a cash match for the grants.

I have been meeting with the department heads over the last several weeks, developing their budgets for next year. We are continuing our trend of being very conservative in estimating our revenues. Despite what I told you tonight, I think we are probably in better shape than some communities in that we were very cautious in estimating what our revenues would be, anticipating some of this downturn that we are now experiencing.

**Mayor Kinnally:** Thank you, Fran. Not a rosy picture, but nobody expected it to be a rosy one. Will we have monthly or bimonthly reports on this to keep us abreast?

**Village Manager Frobel:** Yes, sir. And you will be getting the budget early next month. We will have a series of work sessions and public hearings on next year's budget. But I will be reporting continuously in the next two months on this budget.

On another item, Congresswoman Lowey has included some monies for our police department under the Omnibus Appropriations Act. I received word from her staff last week that we can anticipate about \$56,500 for several critical items that we had included in our operating budget for our police department. This included replacement of our vehicle video recorders, the in-car recorders that are used during a police stop; some in-car computers; and some replacement radar units. We are very appreciative of that and look forward to the final indication that we can count on that money.

To give you a further update on the federal stimulus law, staff attended the work session last week held by New York DOT. There are a slew of projects already either in design or certainly in the planning stages, further along than the small projects that we have submitted, that look like they will have a better chance of being funded under that act than our work. But we benefit by having these capital improvements in the region. The initial readout from the staff in attendance was that the likelihood of being funded, say, for Quarry Trail phase two is remote.

The Ridge Hill intersection committee is meeting on March 19. I will be in attendance as they begin to monitor that project.

## **BOARD DISCUSSION AND COMMENTS**

**Mayor Kinnally:** The New York State Conference of Mayors and Municipal Officials has presented a 35-year certificate of public service to Robert Palumbo: "In recognition of 35 years of distinguished public service to your community. The New York State Conference of Mayors is pleased and honored to publicly acknowledge your dedication and commitment." Sergeant Palumbo could not be with us this evening, but I congratulate him. I wanted to share this with the community, and when you see him please offer your congratulations. Thirty-five years of service to us is remarkable, and continuing on.

### **1. Leaf Blower Law - First Year Review**

**Mayor Kinnally:** Fran gave us a memo of the review of the first year. The promise was made when it was passed last year that we would revisit it, and this is a good time to do so.

**Village Manager Frobel:** The Chief of Police is present. As the Mayor indicated, we did summarize our experience over the past season. I think the local law has worked well. It took some initial education on the part of the Police Department to inform the contractors of their obligations under this law. The Chief has a summary as to the number of calls they responded to and what the disposition was.

**Chief Bloomer:** We responded to 50 complaints of leaf blowers. Twenty-four of those calls were unfounded. Either people had already left the scene, or there was a hedge clipper or a weed whacker or some other device being used. Twenty of those resulted in warnings being given, and six calls resulted in summonses being issued, and those six calls led to 10 summonses being issued. Of the ten summonses, nine people pled guilty. The fine was \$50 each, and one person still has not shown up for court.

**Village Manager Frobel:** Seven homeowners requested medical exemptions and those were all granted. I never received any complaint from any property owner who might have called and said my neighbor is using a leaf blower, how come. So there were not challenges to the medical exemptions. I did lift the ban for a 24-hour period at the request of a couple of large property owners. I think they were apartment complexes, after a couple of windstorms we got hit with during the summer. Again, no complaints from abutting owners wondering why certain people were using leaf blowers. I thought it went pretty well. Another season of walking through this would work out and be fine. Any calls that I got over the summer months were complimentary, appreciative that the ordinance was in place, appreciative of the quiet and reduced noise. We took steps to explain it in plain English. Not only was a copy of the law provided to the businessmen, but the police officer had a copy to give to the operator. The Chief did have one suggestion: that a summons be issued not only to the operator but to the businessman. Chief, do you want to go over the logic of that?

**Chief Bloomer:** We surveyed the officers at the end of the year for their recommendations and their experiences. There were some companies whose workers received multiple summonses. Under the law, the first fine is \$50; the second one is \$200. But if you hand the leaf blower to the next employee, that guy is \$50, and then if you hand it to the next employee he is \$50. So the recommendation from my officers was that in addition to the operator of the leaf blower the summons be issued to the company if there was a company involved. If it is a homeowner, he would get the summons. I spoke to Mr. Murphy regarding that, and I believe he was going to speak to Ms. Stecich about it.

**Village Attorney Stecich:** Yes, it is fine. You could do that. If it is a corporation it is easy. If it is not a corporation it could be a little trickier. But my guess is they are probably not going to challenge it, and I think it is a good recommendation.

**Trustee Quinlan:** I agree with your recommendation to go forward with this for another year. The quiet was interesting to me; it was a lot quieter during the time period. A lot of people came up to me and noticed it, too. Next year will we be issuing warnings again. Will we start over again even if it is the same person or the same company?

**Chief Bloomer:** In the beginning, in May because people are not used to it, for probably the first month, we would issue warnings unless it was a repeat offender. Last year we gave leeway longer than the first month because it was a new law. I would think this year people are more used to it. It is basically the same companies that operate here year-to-year.

**Trustee Quinlan:** I agree with the police recommendation to change the law to include a company. If it is a company, then they get one warning, and from then on the fines continue. It seems to be a loophole in the law. I am in favor, if we can do it, if everybody else is.

**Village Attorney Stecich:** When people came in and paid the \$50 fine, they were employees of the corporation. Do you know who paid? Did they paid in cash? Or was it a check by the corporation?

**Police Chief Bloomer:** I do not know that.

**Village Attorney Stecich:** Who would know?

**Police Chief Bloomer:** Probably Ginny Sura, the Court Clerk.

**Mr. Gonder:** I am one of the seven that has an electric leaf blower I can use. Blossoms of 36 dogwoods fill up my walkway and we track them in the home. I call it the oak, and I have no oak trees, but they come from Pulver's Woods and other people's property, and drift down and clog up gutters and gardens. Your time limit is wrong because this is in April. You should reconsider and only include the gas blowers. Let electric ones be used any time. All of these machines now can be used as vacuums. You can suck up the leaves in bags. So you ought to also, if you revise it, include that.

**Tim Downey, 520 Farragut Parkway:** I thought the law was terrific. The noise reduction was a plus, and it was a lot nicer to be out on your deck or around the yard not having to listen to the shrill noise. Like I said last year, however, I do not think it was comprehensive enough. It is nice to hear the discussion this evening on budgetary concerns because what I have advocated dovetails nicely with that. There would be monetary savings if we approach this battle of the leaves differently. I do not know if there is a line item in the budget that illustrates the cost to the Village in disposal of these mountains of leaves. We could probably reduce the cost and the volume that we have by 50 or 60% based upon my years of

experience and practice in the field. I am coming here this evening not only in the capacity of a part-time contractor, but a full-time homeowner in the community. If we could remove some of the money from the budget that is being spent for disposal of leaves through better environmental practices, you would have untold thousands of dollars available for a salt melt, which is a higher priority for road safety, or any other issue, whether it be sewer repair, sidewalk repair. There is found money that we are not recognizing. I offered last year to come and speak to the Board. I even sent emails to each individual last year. I never heard a word back. So maybe this year, with recognition of the financial concerns, someone might sit down with me and I can explain how this could be done. Otherwise, we can just keep burning up money that is not necessary to burn up.

One suggestion is to bump the October 15 resume date back 15 days possibly, because there are places where there is a good deal of mess. Also look at using a qualifying machine during the year-round service, one that has a low noise output. They are available out there; I brought in material last year regarding these machines. There could be easy ways to educate contractors on this. It is required that they purchase and use only this machine; have a decal on the truck identifying that they understand the change in law and there is compliance with it. This year people may have a heightened level of sensitivity if they start coming home and seeing their properties not in as good a shape as they would desire. It may start creating problems for some contractors if they cannot deliver the type of product that people want to see for their homes. That is just a thought in terms of using a machine full-time, but a qualifying machine, one per vehicle.

**Lauren Hyman, 39 Lefurgy Avenue:** I have heard lots of positive comments. Everybody I have encountered that knows I was involved with trying to push forward this ordinance said that they appreciated the reduction in exhaust fumes and the reduction in noise, and it made for a nicer spring and summer. It was good to hear the police report, too, because I did not notice that summonses were being issued. I appreciate that they were being policed.

**Trustee Goodman:** I want to speak to something that Mr. Downey said. I agree with him 100%, and not only about leaf disposal. Last week we signed a contract for \$66,000 per annum for landscaping services. So it is not just how we take care of the leaves, but the culture of the lawn and the sprinklers and the water and the fertilizer. The situation begs for a complete overhaul of our landscaping practices across the board. It is not just the leaves, it is the water that we are using. The culture needs to change, and there has to be a new village green, drought-tolerant plants. The Village needs to be the leader here, has to set the example. We are not doing that with our own property, and we are a large property owner. We are blowing leaves to smithereens. This need for the manicured look. We just put a sprinkler system in front of the library. I know the service was donated, but now the water bill is high; the sprinkler systems need upkeep. That is all money that could be better put

elsewhere. I do not know who does that; if that is something that Parks and Rec looks at, in combination with some of the native plant experts and landscaping people we have in the Village. It is not the first time we have spoken about it, so thank you, Mr. Downey. I think we should take him up on it. He has a lot of good ideas.

**Mr. Downey:** The Village practice is one of the things I was going to go after straight up. I am friends with the company that takes care of the properties in the Village, and in many instances they keep the material on-site. But I know of some instances where it is not; it is taken away. That practice should be stopped, and I have tried to speak directly to people involved to explain the technique. But it falls on deaf ears. I do not feel like writing a check for that material to be carted away later on. I am tired of that. There are other practices in the Village, with trees and the like, that I do not want to write the check for. They can be done in a better way. You folks are all professionals in your own industries, and you really should reach each out to a person like myself who is willing to explain to you how you can save money for the Village in an area you do not have the knowledge on. I am glad you brought that up about the Village properties, and I would like to see the Village be a leader in that area.

**Trustee Quinlan:** I would like to hear what Tim has to say. Fran, maybe we could set up a meeting with you and me and Mr. Downey. He's right. I know nothing about his business. But if he could come up with some ideas to save the Village money, and they are realistic, I think we should sit down.

**Village Manager Frobel:** I will take the next step;

**Trustee Swiderski:** Every day, on the way to the station, I walk by the school. And I invariably get an earful out of a couple of employees about the leafblowing law in high season. They are a good counterpoint to the general message that people are in favor of a quieter summer. I have certainly noticed it. It has been a pleasure. While we passed this for a year at a time, it is worth keeping our ears open, and thinking through is there flexibility down the road. This is an ongoing experiment with ongoing experience, and we have to be mindful of the impact this has on people, like workers on large facilities.

**Trustee Quinlan:** I would like to bring up again the electric leaf blowers. That is an argument we lost, Lee, to the majority of the Board. I would like to think about that with the new Board.

**Trustee Goodman:** The electric blowers are operated by the homeowners. So if you want to kiss your summer quiet good-bye, you are going to hear your electric-whining blowers all summer while you are grilling and everything else. Just be careful of what you wish for.



**Village Attorney Stecich:** Did you want me to draft the amendment that Chief Bloomer suggested?

**Mayor Kinnally:** Why do we not see if maybe we can package it with something else? Maybe the Board wants to think about this, and maybe there are a few other things they want to add. But the sense is to approach it that way.

**Trustee Swiderski:** That recommendation was endorsed by the police and the attorney. I am comfortable with it.

**Mayor Kinnally:** I am not saying do not do it, but there may be something else. I do not know if you want to hold multiple public hearings. If the Board wants to consider it, let it percolate for a few more weeks; anything else comes up, you can do it all at once.

## **2. Update on the Waterfront**

**Mayor Kinnally:** I spoke with Mark Chertok, and he had forwarded to me an email concerning next steps and if we wanted to retain Malcolm Pirnie to look at a couple of things. We have to have technical advice concerning the report from ARCO/DEC on the DNAPL testing, and we also anticipate the feasibility report that ARCO and the DEC have been going back and forth on. The sooner we get that feasibility report the quicker we can get a seat at the table and have our voice heard as to the alternatives being pursued by ARCO and/or the DEC for the site. The Board possibly would be in a position to discuss this at our next regular Board meeting, when we would be ready to retain whomever we need to assist us in that regard. We have a pot of money that has been established by ARCO that we can draw upon to get the necessary expertise and assistance, so we can be an equal at the table when the DEC and ARCO are moving forward with this.

**Trustee Quinlan:** Are you recommending that we wait for the feasibility report, or that we move forward before we see it?

**Mayor Kinnally:** No. I do not think we should wait for the feasibility report. We should discuss with Mark and probably Malcolm Pirnie our hope that they will be ready to deal with it as soon as it comes down, and to retain that.

**Trustee Quinlan:** And when you say “a pot of money,” do you know how much?

**Trustee Goodman:** That is the trust fund. Right?

**Mayor Kinnally:** No, it is not the trust fund. It is something else, and it is in excess of \$100,000. I forget exactly how much, and it was replenished.

**Trustee Goodman:** No, I do not mean the trust for the environment. I meant there was a trust set up for engineering fees and attorney's fees.

**Mayor Kinnally:** It is not under the consent decree. It is additional monies that they had put aside. I do not know how it is accounted for.

**Trustee Quinlan:** I do not think it is a trust, but I think it is in a separate bank account.

**Mayor Kinnally:** So that can be used to assist us in this regard. Mark is going to continue to follow up with everyone, and he promised to give me a call later this week when he gets more information. But he asked that I prime the Board to be ready to act.

There is one other thing. There is a provision in the consent decree where the Village and ARCO agreed to negotiate additional open space and public land for the Village. We had an agreement to push that along, but I have said to both ARCO and to Mark, and to some of my colleagues here, that I would rather not rely upon my recollection or the good will of ARCO, but rather get an amendment to the consent decree such that it gives both sides the incentive, and the comfort room, to continue those discussion so nobody gets painted into a corner, but knowing that there is an obligation to do that. I believe Mark has reached out to counsel at ARCO, but he is going to talk to me about that also.

### **3. Update on the Comprehensive Plan**

**Trustee Quinlan:** There was a kickoff meeting last Monday with the consultant. PPSA conducted a SWOT analysis, which means Strengths, Weaknesses, Opportunities, and Threats to our community. It was to set the stage to focus on important Hastings issues in preparation of the community-wide meeting on March 16 at the Community Center. We will keep you posted on the web site and through the Village on the exact time. It is very important that as many people come as possible because the whole purpose of the comprehensive plan is community involvement.

**Trustee Swiderski:** It was the first interactive meeting with the new consultant. It was very exciting to watch because it was a free flow of ideas. The intention is that the public will participate in this SWOT exercise in a larger version on March 16. It is a chance for everybody to speak to what they perceive to be Hastings' strengths, weaknesses, opportunities, and threats. The public will have relatively few chances to step forward with

this process. You cannot assume there are going to be plenty of meetings in the future. It is happening now. Attendance is mandatory.

**Mayor Kinnally:** History repeating itself: this is exactly the analysis and the community input that we had with the RPA at the gym in Hillside in think on two weekends. It certainly creates a dynamic, and it is very interesting to see how things come about, bouncing ideas back and forth. It is terrific input.

**David Skolnik, 47 Hillside Avenue:** I have concerns about the date. It is coming concurrent with the Village election, which is two days later. But also, between now and then I am wondering if there could be any concerted effort to publicize this. It does not seem like a lot of time to disseminate information and to help people focus their thoughts so that a meeting on a larger scale could be effective. My concern is that it seems to be a compression of time.

**Ellen Hendrickx, 136 Circle Drive:** We are crafting the outreach now. As a matter of fact, today we were doing just that. We really do not want to prep people with our thoughts and suggestions. We want everybody to express themselves originally. We did something like this already, but this is different. It is more focused, it is with the consultant. And we are working against a very aggressive schedule. We would like to have the first phase which is, in effect, the plan done within nine months. It is unfortunate that it is adjacent to the election, but it really should not impact it. And we are also encouraging people to come because we are going to form subcommittees. We want as many people to sign on and be part of the process as possible.

**Mr. Skolnik:** I understood what she said about not wanting to prep or pre-bias people. But does that mean that you will not distribute any of the material? That it is the committee's conception that it would be better not to distribute any of the thinking that has gone on up until this point?

**Ms. Hendrickx:** No, we did not say that. We will probably post it. Liz Leheny, the representative of the PPSA with whom we worked, just put the responses together. So we have to synthesize that and yes, it will be available.

#### **4. Proposed Guidelines for the Central Commercial District**

**Mayor Kinnally:** Last year the ARB came before us with draft guidelines they had been working on. They have continued revising them. I reached out to Bennett Fradkin recently, and he said we are in pretty good shape. He submitted a draft dated August 4, 2008 to me, and I circulated it to the Board of Trustees. The ARB would like the Board consider this. Do you want to review it?

**Trustee Swiderski:** Absolutely.

**Trustee Quinlan:** Yes.

**Trustee Goodman:** Yes.

**Mayor Kinnally:** Do you want the ARB to come before us?

**Trustee Goodman:** Absolutely.

**Trustee Quinlan:** Yes.

**Mayor Kinnally:** At a regular meeting or a work session?

**Trustee Swiderski:** Regular. I am not interested in second guessing a line-by-line review of the document. My impression in reading through it is that it is excellent. The guidelines are thoughtful. I would like to see how it is enacted and what the review process would look like. The process is as interesting as the description of the guidelines.

**Trustee Goodman:** In addition to that, some explanation to the public by the ARB about what they do and how this would make their job different, if at all, the historical context.

**Mayor Kinnally:** It would give them a much-requested tool. This is part of an evolution of what the ARB has been doing. They wanted to take baby steps in the beginning, but now they are up and running and they feel this is going to result in a better product for them and for the Village.

**Trustee Quinlan:** The regular Board meeting is fine with me. I am in favor of the design guidelines. It should be noted that this is for the central commercial district only, so 90% of the Village will not be affected. I have some questions about the enforcement but I will wait until it comes before the Board.

[Discussion of date]

**Mayor Kinnally:** March 18? Okay. A presentation by the ARB. We will ask them. I will reach out to Bennett.

## 5. LWRP - Next Steps

**Mayor Kinnally:** We had a meeting scheduled for review of the LWRP on February 28, and it snowed. We were talking about a discussion of section three, proposed local policies. Do we want to reschedule this and, if so, when? It should be a work session.

[Discussion of dates]

**Mayor Kinnally:** March 10 at the Community Center.

## 6. Other

**Trustee Quinlan:** I want to discuss the bill that we received on the Bernstein suit. I am glad we talked about the budget early, because we know what kind of dire straits we are in. We got a bill from Keane and Beane on their arguments. One thing that bothered me extremely about the overreaching on this bill was that on January 13, the day of the argument, Keane and Beane decided without our consent to send two attorneys to Albany to make one 10- or 15-minute argument by one attorney. They billed us 21-1/2 hours at \$225 an hour. That was unnecessary. One person argued the case; one person could have gone up to Albany. The person who argued the case billed 12 hours for a 15-minute argument. I understand you have to travel up there and you have to prepare, but his buddy, who is a partner in the firm, I guess went up to say good job, and he billed 9-1/2 hours. I would not pay this bill. I would call them and tell them that was unnecessary and unusual, and I would like them to take off the 9-1/2 hours for the second person. I have argued cases at the appellate division. I would not bring another lawyer with me. I know my clients would not put up with it. And if they called me up and told me to take it off the bill I would say you are right, I am taking it off the bill. I would like to see how my fellow Boardmembers feel about that.

**Trustee Goodman:** I thought that when we thought we were billed excessively on the drafting of the brief we were going to give them a warning shot that we are looking at the bills. I am not sure if we did that.

**Mayor Kinnally:** Yes, I did. I called and discussed with them not only the size but also the content of the bill, and said that we wanted greater specificity. I believe that has occurred.

**Trustee Goodman:** I would think that once you get a call like that, that you will be on your toes and that people are scrutinizing the bills. I do not know what the other municipalities are doing or if they scrutinize the bills. Perhaps this is an indication where, like some of our clients, they have billing guidelines. Maybe some of these things should be written out so that when we retain counsel they know what the rules are up front.

Routinely we get calls, and we are asked to take things off the bill and we do. So I would agree with Jerry. Lawyers every day of the week reduce their bills for their insistent clients, which we have been. And we are not done, because there is maybe going to be Bernstein II also. I know it is \$2 per household or something like that. But \$2 adds up, it really does. And then you are out \$13,000 for the salt. We do have to pinch the pennies. It might be worth a call to the other municipalities to see if they have paid the bill. And anybody who has not, get a strategy as to how to approach it.

**Trustee Swiderski:** I am not an attorney, and I do not know what regular practice is. I do know that most of the other villages have paid the bill. I do not know if we are the only one outstanding. Six villages participated in hiring this firm, so the hours in the bill you speak of, actually one-sixth of that is ours. Since I do not know what normal practice is, I cannot criticize it. On the other hand, I cannot criticize the success we enjoyed with this firm. We did win that ruling, and our relationship with this firm has been excellent. As is often the case with this sort of work, there is a fair amount of work that is done that is not necessarily captured in bills. I know that a former judge who has essentially represented the Village on these matters, Herb Rosenberg, when I inquired what he thought of the bill responded it seemed reasonable for the amount of work done. Since I am in the midst of this case and have been fairly close to it, I am probably not as unbiased as I should be to comment in a fashion that gives me enough remove to speak to it. But I come back to the clean and simple fact that we won, and if the cost to the Village of that victory in the end is \$2,000 or \$3,000 extra for this particular bill, I am inclined to shrug and say, we won.

**Mayor Kinnally:** I will reach out to the other communities to see what they did with this. What I am not going to do is second-guess how they staffed this case. You can second-guess how they build the case, but I am not going to second-guess how they staffed it because there may have been reasons for what they did and how they wanted to utilize their personnel. Having said that, that does not necessarily mean that it all has to be on our dime. There may be reasons why two people went up there. I do not know, but I certainly will give them the benefit of the doubt of explaining it. And I will talk to the other communities and see if I can get a sense of where they are, then reach out to Keane and Beane on this thing, and report back to the Board.

**Mr. Downey:** I would like to endorse Mr. Quinlan to please do that. As long as it is done in a non-threatening and thoughtful fashion I sure see no reason why you shouldn't be able to question a bill. It seems there is a concern that you would not want to spoil the relationship. I do not think the mere fact that you are asking a question like that should spoil it, if it is done in a proper manner. The way you figured the bill was \$250 an hour. Was that for the two attorneys that represented us?

**Trustee Quinlan:** Each.

**Mayor Kinnally:** It was a blended rate. I think that what we negotiated here, a blended rate.

**Mr. Downey:** But the way it came out, it was \$250.

**Trustee Quinlan:** No, \$225 each. The total bill for the month to prepare and argue the case was 71-3/4 hours. A lot of the work was done at the appellate division. A lot of the briefing, a lot of the cases, a lot of the theories were argued in the appellate division, and then those arguments do carry over to the court of appeals. Certainly you have to prepare. I am glad we won, tickled pink that we won. If we were going to negotiate a fee on the basis of if you win we will pay you this and if you lose we will pay you less, then that would be more acceptable. But win or lose, we were going to get billed the 71-3/4 hours, and I think it is too much for the work that was done.

**Mayor Kinnally:** So I will reach out to our neighboring colleagues and report back, and then reach out to Keane and Beane and talk to them about it.

**Trustee Swiderski:** That is a somewhat ironic segue to this. I got an email today from the Finneran committee, set up by Feiner to try to patch Finneran to address the issue opened by this victory. That email includes a copy of their recommended modification to that law, a description in plain English of what that modification means, and a cover letter. I will forward that to the Board tomorrow, with my own description of the process. They are looking for our input and comments on that law by April 20, so it probably belongs on the March 18 agenda. It deserves a careful look and analysis, and a response of some sort.

**Mayor Kinnally:** Does it do what we want it to do?

**Trustee Swiderski:** Sort of. There are issues, and some of our neighboring villages are going to have sharp issues with it.

**Trustee Quinlan:** Lee, I have one more thing. I was asked by a resident and I did not know the answer. There is still the thing with TV and Channel 75, and how to get it and how not to get it. Can Raf explain?

**Village Technology Director Zaratzian:** A digital cable box is the only way you can get it with an analog TV. If you do not have a box you are entitled to one free digital box from the cable company on Executive Blvd. If you buy a new LCD TV you can get Channel 75, but it

will not be on 75. It will be somewhere in the 99-100 range. It depends on the tuner and how it gets the signal, but it is usually up in those higher ranges.

**Trustee Swiderski:** One final thing. It is also an outgrowth of Finneran. The village mayors continue to get together looking for opportunities to share costs, and we had such a meeting two Thursdays ago where villages went through a wide variety of contracts looking for opportunities for cost sharing. There will be a follow-up meeting in a couple of weeks to look at the best of those. Many of these opportunities do not apply to all the villages working on one contract. It is a bit of a mess, and we have to sort through how to do that, how to structure it, what makes sense, and which ones are especially interesting for villages to pursue. I think, out of the next meeting, we will have enough of a coherent sense to begin to echo it back to our respective boards.

**Mayor Kinnally:** I have three announcements. First, we are privileged to have this evening John Tomlin, who is the community liaison representative from Senator Andrea Stewart-Cousins' office. John, thank you very much for coming. I received notification recently from the Arbor Day Foundation that Hastings has achieved Tree City USA status for yet another year. The Hastings Public Library and the PTSA are presenting Comedy Night to benefit the Hastings public and school libraries. This is featuring Al Lubel, who is a regular on *David Letterman*, 8 p.m., Friday, March 20, high school auditorium. Tickets are \$20, students and seniors \$10, patron reserved seating \$50. This is a fund-raiser to benefit the library at the public school and our own Hastings Public Library.

### **EXECUTIVE SESSION**

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

### **ADJOURNMENT**

On MOTION of Trustee Goodman, SECONDED by Trustee Swiderski with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 9:30 p.m.