

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
OCTOBER 6, 2009**

A Regular Meeting was held by the Board of Trustees on Tuesday, October 6, 2009 at 7:32 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Peter Swiderski, Trustee Bruce Jennings, Trustee Jeremiah Quinlan, Trustee Meg Walker, Village Manager Francis A. Frobel, Village Attorney Marianne Stecich, and Administrative Assistant Kevin Hay.

CITIZENS: Six (6).

ADMINISTRATION OF OATH OF OFFICE - Trustee Nicola Armacost

Mayor Swiderski: We are going to open the Regular Meeting, swear in our new Trustee, close it, and then have the two Public Hearings before proceeding with the business for the evening.

Mayor Swiderski administered the oath of office to Trustee Nicola Armacost.

Mayor Swiderski: Congratulations. Please sign the book.

[Regular Meeting adjourned 7:37 p.m.; Reopened 7:52 p.m.]

APPROVAL OF WARRANTS

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

Multi-Fund No. 23-2009-10 \$ 28,510.57

PUBLIC COMMENTS

Jim Metzger, 427 Warburton Avenue: I have been discussing the possibility with some of my neighbors of asking the management company of the affordable housing project on Warburton Avenue if it would consider the possibility of a public garden in the park area. One neighbor tried to plant some vegetables earlier in the summer. His things were starting to sprout and people were free to come in and take beans and squash. It was all ripped out one evening, and we were wondering why that was done. Then we were thinking we should make a formal request to see if that could be developed as a public garden. I am here to raise that issue, something for you to think about. But we would like to come back and make a more formal presentation.

John Gonder, 153 James Street: I wanted to address something that Trustee Jennings asked at the last Board meeting about deer: if you would go out and ask people if they would give permission to shoot within the 500 feet. In Pulvers Woods I talked to a few, and the answer is no because of a lot of rocks, ledges, and big stone walls. They are afraid. They do not like bows and arrows either because the deer may not die, and run around and whatnot. Trustee Walker asked about the habits of deer. For 15 years I have been following them, and very closely the last 10. They are of habit; they keep coming back. I think if I blasted them with shotgun shells or anything they would come back the next day for acorns. It is like Hershey bars to them or candy kisses. They have a habit.

I would like to ask a question about the new Trustee. If she was running for office she would have to have four requirements. She would have to be 18 years of age. She would have to read and write the English language. She would have to live in the district 30 days or 90 days. And she has to be a US citizen. I read a lot about this young woman. She was born in England. She lived in Pakistan and Iraq, and traveled all over the world. She went to some prestigious colleges in Canada. She moved to the United States in the '90s, and I believe she came to Hastings in the 2000s. I am just wondering if you are a US citizen.

Trustee Armacost: I am delighted to say that I am a US citizen. Both British and America, so I cover quite a large swath of country.

Mayor Swiderski: Fair enough. Keeping us honest. Any other public comment?

59:09 APPROVAL OF LOCAL LAW NO. 2 OF 2009 SENIOR TAX EXEMPTION TO ALLOW CHANGES TO THE SLIDING INCOME SCALE TO BE MADE BY RESOLUTION RATHER THAN LOCAL LAW

Mayor Swiderski: We are passing resolutions related to the Public Hearings we just had. I do not think you need to describe it any further. Are there any comments or questions from the Board before we vote?

Trustee Jennings: Concern was expressed during the Public Hearing just now, and I have heard a similar concern from other constituents. This is a change that will create a streamlining and simplification of the process. It is an important process, this tax exemption provision. There is a bit of a tradeoff with accountability. My support for this resolution is based on the fact that we will not permit significant loss of accountability. The fact that a public hearing will not be formally required if this resolution passes does not mean that we cannot, or will not, have public hearings when the question is important and when people request that we do so. Similarly, all resolutions are subject to discussion and debate at the

public Board meetings. So there is not a lot of difference between a public hearing where people get up to the microphone and speak about a matter, and the discussion of a pending resolution before the Trustees vote on the same matter. It goes by a different name, but the process is pretty much the same. The public has the opportunity to make its voice heard, and opinions will be considered by the Trustees. So for those reasons, I think the loss of accountability is not very significant. The gain in simplicity is helpful and significant on balance. But we ought to state for the record that we are mindful about the accountability aspect and will not permit it to slip.

Mr. Gonder: You do not have it in the newspaper, though, that there is a hearing about this printed in the newspaper. I guess the Clerk puts it out. That's what I would miss.

Village Manager Frobel: It did appear on October 2 in the newspaper.

Mayor Swiderski: This did, but the point Mr. Gonder makes is that, moving forward, when a new change is requested it will not be published. It will appear as an agenda item in our Board agenda. It is not perfect.

Mr. Gonder: Some people only read the newspaper.

Mayor Swiderski: Before we commence with the vote, is that an issue for the Board? Or is the Board willing to tolerate that level of disclosure?

Trustee Quinlan: I am ready to vote.

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 hereby adopt Local Law No. 2 of 2009 amending the Code of the Village of Hastings-on-Hudson, Westchester County, New York, Chapter 260 Taxation with Respect to the Senior Citizen Exemption as follows:

BE IT ENACTED by the Board of Trustees of the Village of Hastings-on-Hudson as follows:

Section 1: Section 260-17 of the Code of the Village of Hastings-on-Hudson is hereby amended by deleting the entire existing language and replacing with the following new language:

§ 260-17. Extent of exemption.

The amount of the exemption shall be determined from time to time by resolution of the Board of Trustees in accordance with § 467 of the New York State Real Property Tax Law.

Section 2: All ordinances, local laws, and parts thereof inconsistent with this local law are hereby repealed.

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

60:09 ADOPTION OF TAX EXEMPTION FOR SENIOR CITIZENS

Village Manager Frobel: This is to adopt the schedule. What you have done is amend to allow this to be done by resolution.

Village Attorney Stecich: Usually this whole thing would be in the statute. You just do the maximum every year anyway.

Village Manager Frobel: Each year the state offers income levels that our assessor applies. Currently there are about 55 Hastings homeowners who are age 65 or older who own their homes and meet these income guidelines. They receive an exemption level based on their assessed values. For us it represents about \$312,000 worth of assessed values that are exempted. Based on our current rates, it reflects about a \$67,000 tax value. We also are going to allow any out-of-pocket prescription costs they pay to further reduce their income by that amount for purposes of calculation. We did a little survey. The average senior, based on these income levels, could pay upwards of 15% out-of-pocket for their medical expenses. Applications are mailed out to all those who currently avail themselves of this program. We, of course, indicate to those who visit our Community Center and bring this program to anyone's attention who has just reached age 65 who may be eligible under these income guidelines. The scale will reflect for 2010 about a \$1,000 increase in income limits from the current one in 2009.

Elisa Zazzara, 68 Southside Avenue: I do not want this to slide through to wind up in the books. On the meeting agenda, the resolution you just spoke about said “changes to the sliding scale to be made by local law rather than resolution.” But what you are really doing is making it by resolution rather than local law, which is what it says on the public hearing.

Mayor Swiderski: Point well taken.

Trustee Armacost: There is also an “A” missing in the text somewhere or other.

Mayor Swiderski: Change noted. Thank you.

Mr. Metzger: In the information that was given out, Proposed Local Law No. 2, the description was to amend the code regarding the parking and loading zones. But in the agenda, Local Law Number 2 is relating to the senior tax exemption.

Mayor Swiderski: I flipped that, and thanks for pointing it out.

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

WHEREAS, the Village of Hastings-on-Hudson has conducted a Public Hearing to change the method of approving the continuation of a partial tax exemption for senior citizens in accordance with Section 467 of New York State Real Property Tax Law from local law to resolution, now therefore be it

RESOLVED: that the Mayor and Board of Trustees hereby adopt for the 2010 Assessment Roll the maximum level of income permitted, together with the highest percentage of exemption permitted, by Section 467 of Real Property Tax Law and that the Village Assessor is authorized to accept and grant those exemptions where appropriate in accordance with those guidelines, and be it further

RESOLVED: that in determining eligibility and levels of income, senior citizen applicants may deduct unreimbursed medical and prescription drug expenses and/or veterans’ disability compensation when calculating the total income of the owners of real property.

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

VILLAGE MANAGER'S REPORT

Village Manager Frobel: The demolition permit from BP/ARCO did arrive last week. Staff has made one quick review of the documents. While they appear rather thorough, we are going to continue to go over them closely. Deven Sharma, the Building Inspector, had prepared a draft of a letter that is a checklist for the company to go over. Deven has some questions that he would like to have clarified before he issues that permit. Trustee Quinlan will be briefed by myself and Deven perhaps as early as this Thursday, keeping him closely informed as to the process as we go through. The estimated cost for the demolition is about \$2.5 million. That is very close to what Deven estimated so we are comfortable with the numbers. I am confident that we are going to have a thorough examination of that permit, addressing a lot of the concerns that were brought up by some of the citizens as well as our fire department and police.

Trustee Walker: Is there a way we can alert people to the start date of the demolition in case there are folks who do not want to be on the train platform that day because of dust or whatever reason?

Village Manager Frobel: We have our email list; that will not get out to everyone, though.

Trustee Walker: I know they will not go to everybody, but at least give them an idea.

Mayor Swiderski: It may not be outrageous to ask BP to post on the train platform, the day prior, that demolition activities commence the next day, and the timing of that.

Mr. Gonder: Maybe a couple of days advance would be better.

Trustee Walker: Should we post anything on Maple Avenue for the residents?

Mayor Swiderski: That is probably a good idea.

Village Manager Frobel: That would be fine. We have 10 days to respond to the permit so we will take the full 10. They are hoping to be complete by mid-December, but we are not moving on their schedule. We are working on ours, making sure it is a thorough examination.

Just a reminder, we have our municipal officials dinner Thursday evening. Upwards of 70 people are signed up. It should be a very enjoyable evening for us as Hastings hosts that event.

Leaf blowers will be allowed to be used as of the 15th of this month. Although they are allowed, there are still requirements under decibel limits. We will do our best to police that. Any citizen experiencing some uncomfortableness with that program, let us know.

Mayor Swiderski: Fran, you issued a very interesting email on yard waste. Is there going to be a point where we can discuss that, as a Board?

Village Manager Frobel: Because it was somewhat lengthy I wanted a little more time to digest it, but I would like a work session with the Board. Yard waste is continuing to be a problem for us. I pointed out some of the issues we face. We believe there is a better way of doing business if the homeowners would allow their commercial operators to be more flexible in how they get rid of yard waste on-site. It is a problem, as I indicated in the memorandum, just from an operational point of view for storage. I am even afraid of some of the health-related concerns we are experiencing. We need to do something with yard waste, and it is becoming an increasing burden. I indicated also in the memo that many neighboring communities do not collect commercial yard waste. They will only work with homeowners and accept it from them. We are very generous, and I suspect there may be some things we have to do to tighten up our operation down there. One suggestion I had was to create some fees we can realize to help offset some of these expenses. I would like, perhaps, next month if the schedule allows, to go over that with the Board.

Trustee Walker: And those communities that prohibit commercial yard waste, where do they take it? They bring it here or they bring it to Yonkers. Are there other places where fees are charged?

Village Manager Frobel: We believe Yonkers does not issue licenses or permits. We have not been able to verify that, though. I cannot challenge the veracity, but if you are working in neighboring communities and your last stop is Hastings, as much as we quiz and pursue where it came from, if they say it is Hastings we take them at their word. I have to go on that basis, but it is an over-burden. The men do a wonderful job keeping it down. What you see in the yard is what is dropped off from the commercial vendors. That is not what we pick up

at the homes because what we pick up at the homes we bring immediately to Yonkers. We do not typically dump the garbage truck there and then reload it. So that gives you an idea of the magnitude of the problem.

Trustee Walker: You circulated a possible letter or memo to go out to residents about increasing recycling?

Village Manager Frobel: Yes.

Trustee Walker: Do you want to talk about that at the work session?

Village Manager Frobel: We could. That was just a reminder to everyone that we are going to be stepping up our efforts to urge recycling. That did go out through our email. Very few responses so far. Kevin Hay has been fielding the questions that do come in, but we think it is time for a refresher course for our homeowners to become more aware of recycling, what the law is, and what good practices should be.

Trustee Walker: I thought that was very good but I wondered if at our work session we could talk about challenging our residents to set a goal, maybe reducing our solid waste and our tipping fees by 10%. We have discussed it in the past. Letting them know we are going to monitor it, and set the goal and see if we can meet the goal.

Village Manager Frobel: We did put that challenge out.

Mayor Swiderski: It was 5% in the letter, but there was a challenge put there.

Village Manager Frobel: That is just what we want to do. We want to see those kinds of results. We are going to be doing more in terms of educating our workforce. My most recent meeting with the men of the DPW was to bring to their attention how important recycling is and their responsibilities to work with us to bring recycling up and trash down.

Trustee Jennings: It is a good idea to consider these two memos and two ideas together, because they are both recycling. We should not pigeonhole recycling, and just think of it as plastics and tin cans. What you do with your yard waste composting, mulching, etc., is a form of recycling also. If we connect the dots it will be easier to get a new attitude going and new educational programs going with Village residents.

Trustee Quinlan: You recommend a fee by the commercial owners of these operations to use Hastings for yard waste disposal. You were not going to prevent them from using it. You recommended \$5,000 for the license. Was my understanding correct?

Village Manager Frobel: Yes, it is. I want a big enough incentive that they can work with customers to reduce the amount of vegetative yard waste we bring in. That is the mission.

Trustee Quinlan: That goes along with what you talking about, Bruce, that they are connected very closely. That will make an interesting work session.

Village Manager Frobel: I also want to talk about the pay-as-you-throw for both household garbage and yard waste. I have done a lot of research on that, as well, with Kevin. The pay-as-you-throw for trash in the home might be more controversial than pay-as-you-throw for the yard waste. That works in communities, too. I mentioned in the memo where you buy stickers for your paper bag, and you could have as many as you want. A dollar apiece or two dollars apiece to pick up. That is also an incentive.

Trustee Quinlan: It costs us money to get rid of the garbage. So if you have a licensing fee our bottom line, which is paying to get rid of it, if we decide to do it and we have to discuss it a lot further, the idea would be, and I am not saying I am for it or against it, that it would be a cost of doing business type of tax.

Village Manager Frobel: Yes. Right now we have a good relationship with Yonkers and we also had one with Ardsley, but that could end next week. And then we go back to the private hauler, which was much more expensive. So it is a real economic incentive on our part to reduce yard waste.

Trustee Jennings: One more idea to throw out in anticipation of this work session is that I did a little research recently on municipal composting operations. In addition to trying to encourage people to do their own backyard composting, we should explore the possibilities of having a larger-scale operation if we have the right location for it. It does require some investment of technology and equipment, but that might be the kind of thing that would be amenable to state financing or outside help with the initial capital outlay for the composting machinery. We should not fail to explore all of these possibilities.

BOARD DISCUSSION AND COMMENTS

1. Quarry Park Next Steps

Mayor Swiderski: The desire is, rather than let meetings slip by where we could be taking action, to talk about, for starters, the idea of a park designation for that piece of property. Is that done by resolution?

Village Attorney Stecich: Yes.

Mayor Swiderski: What are the requirements? A public hearing, followed by a resolution?

Village Attorney Stecich: For a resolution you do not have to have a public hearing. You *can* have a public hearing if you want, but it is not required.

Mayor Swiderski: Where was it left regarding the cleanup? Do we take a rash step in declaring it a park if the cleanup has not been completed?

Trustee Quinlan: We need to finish the testing, which is not that complicated. The last bit was the water test.

Village Manager Frobel: Groundwater, yes.

Trustee Quinlan: Groundwater testing. I think that was approximately \$30,000. I am not sure of that. Part was a grant and part was a match. But in our last discussion we all felt it was prudent to finish the testing to see exactly what the cleanup would entail and the approximate cost, within parameters of the cleanup, before we move to the next step as designated parkland. That was my recollection.

Trustee Jennings: That is what I remember also.

Village Manager Frobel: We asked this question of Brian Murphy back in 2006 and Brian did some research at that time. Brian saw it as a local law rather than, Marianne, just a resolution. I do not know, that is just a difference of opinion. But he felt we needed a local law, which would require a public hearing and a more formal process. He thought the first step might be to check the deed and make sure there were no restrictions on the deed when it was given to the Village that would prohibit it from being a park. He said, with an abundance of caution, do a little more research. And also that SEQRA would be required which would probably be part of our environmental testing anyway. He felt that before acceptance as parkland that should be part of the process. We could start doing some checking on the deed. We still have some testing yet to do. We have to place the groundwater monitoring wells, and then develop a plan of attack as to how to clean it up, the process to go through, which is the \$30,000 you talked about that is yet to be accomplished. So a few things are ahead of introducing a local law

Trustee Quinlan: Marianne can go back and decide whether it has to be a resolution or a local law. I do not think that makes a big difference because probably we should have a public hearing anyway in terms of transparency and letting people voice their opinions. I do

not think anybody would be against that so I am not too concerned about that. Checking the deed is easy. But what I am concerned about is when, where, and how we are going to get the \$30,000 to complete the testing. Do you have any idea about that, Fran?

Village Manager Frobels: We applied for the last grant. We do not know when we are going to be awarded. We are told perhaps before the end of the calendar year, maybe early January. That was in that process that we applied for under Parks, Recreation, and Historic Places. So we should know within the next, say, four or five months perhaps. And we will know then what kind of shape we are in to do this additional work.

Trustee Quinlan: Everybody in the Village knows I am a big supporter of designating and creating a quarry park. I have been since I was elected in 2006. One of the things I am a little disappointed about is that I would like to move this process on a little faster. And without talking about numbers, I think there is the possibility, depending on how the rest of the Board feels, of using some of the ARCO trust fund, if possible. Of course, Riverkeeper would have to agree. I do not think BP/ARCO would mind what we used it on. I would like to know from my fellow Boardmembers or maybe from you, Peter, where we stand on that issue, without discussing numbers tonight because I understand that would not be appropriate at this time. But what I am afraid of is that we just keep going around in circles.

Mayor Swiderski: But we have applied for a grant for this purpose. Exactly what are you asking for feedback on? To use the ARCO money for the match to the grant, or instead of the grant? What are you asking?

Trustee Quinlan: We have to start the process of deciding whether this Board wants to use the ARCO fund. If it does, how much we want to use it. And then if we can decide to use it, and come up with a number on how to use it, we ought to approach Riverkeeper and see if it will agree. We ought to start that process now because what are we waiting for.

Village Manager Frobels: Only that when we made application for the grant it was an indication, or a signal, that we would come up with the match. That is why that question was asked.

Trustee Quinlan: And where are we going to get the match?

Village Manager Frobels: The thought was from the trust fund.

Trustee Quinlan: So now we have the three or four months waiting for the grant to be either approved or disapproved, it is the time to hash that out with the Board and public to determine exactly where we stand on making that a parkland.

Village Manager Frobel: Oh, a parkland.

Trustee Quinlan: Well, clean it up first. See where we are, and then whether we can designate it a parkland.

Mayor Swiderski: But in terms of the immediate next step, my sense at the last meeting where we discussed this was that the Board did sign off on the idea of the match necessary for the testing and that this was the first step we were willing to take. While we can confirm that discussion now, the next step beyond that would be to reach out to Riverkeeper. Right?

Trustee Quinlan: Are you saying, Peter, that we decided we would match it with local tax revenue, or match it with the ARCO fund.

Mayor Swiderski: No. With the ARCO fund.

Trustee Walker: We are talking about the \$30,000?

Mayor Swiderski: Half of the \$30,000. That would be the match.

Trustee Walker: I have a question about the overall project. Let us say we did not wait for the grant and decided to start spending money on this. We took \$30,000 from our trust fund. Now, could that go toward matching something else? I know there are a number of points in the grant application. It is not just for the testing. There are some other points in there.

Village Manager Frobel: No. It was for design and the cliff study.

Trustee Walker: Right. So if we just started right away spending it, we can still use that as a match if we get the grant. And if we do not get the grant, at least we have already done the testing and have not wasted time. If you look at the whole thing as a package, would we necessarily have to go 50/50 on each piece?

Mayor Swiderski: The only problem is, if we do not get the grant we are out money, matchable money, that has been spent without an offsetting grant.

Trustee Walker: But I think we can offset it later. I could be wrong, but if we start to spend money on the Quarry, just as the time the volunteers have spent on the report and so on, we are counting that toward a match. So a certain amount of what we spend now can be used to match later grants. Now, if we never get a grant, then there is the issue. But we still

feel an obligation to clean up this site and this is the first step. So it would show a good faith effort on our part if we actually started it. Maybe we would be more likely to get a grant.

Village Manager Frobel: We already have the Scenic Hudson grant. So you are right, we could start. But it is not enough to make a meaningful inroad, it is not enough to do the design.

Mayor Swiderski: Is it enough to do the testing?

Village Manager Frobel: The Scenic Hudson money is specific for the design. We did get a small grant from Scenic Hudson, which we have already spent down except for a few thousand dollars for testing, and they paid their part.

Mayor Swiderski: And how much is the testing?

Village Manager Frobel: I do not have it all. I was not ready to do that tonight.

Mayor Swiderski: Ms. Lomolino, do you know how much?

Christine Lomolino, Quarry Study Committee: Yes. Placing the groundwater testing wells, having the results analyzed by a lab, having an engineering firm develop a closure plan in conjunction with the DEC, getting it approved, and drafting an order on consent, would be \$38,000. We have got a total of \$35,000 from Scenic Hudson; \$15,000 of it has already been spent on environmental testing; \$20,000 of it requires a 50% match, and that remains for the hiring of a design firm. We also have an \$85,000 grant which has been forgotten in this discussion. The \$85,000 grant is a 50/50 match grant that we have already been awarded last year from the Department of State. As Trustee Walker correctly points out, any monies spent from the ARCO fund will surely be used as a match either for the grant we already have or for the ones we have applied for for the 2009 grant cycle.

Mayor Swiderski: The larger grant you mentioned is for what?

Ms. Lomolino: It for design work, but it can also be used, I think, for remediation work. We will have to look at the application. But we could also revise the application, if we would like, to use it for remediation.

Village Manager Frobel: We are just waiting for a contract.

Trustee Walker: Sometimes, in the whole design package, they could accept testing, remediation, and other things that lead toward eventual implementation. Design can be thought of in a bigger picture.

Ms. Lomolino: I would also suggest that if money came from the ARCO fund to finish the environmental testing, that money, in the future, will be repaid 50/50 from the DEC. Because all of the investigative work that we have been involved in is subject to a 50% return from the DEC. When we enter the order on consent, they will apply the 50% DEC grant retroactively to the investigative work and the testing that is being done.

Trustee Quinlan: What would you suggest? As the chairperson of the Quarry Committee, we finish this testing? What money should we use, what should we do, to get the testing done so we know how polluted, if any, this site is?

Ms. Lomolino: I would suggest that the Board authorize the use of the ARCO money so we can front it, so we have already done the match, when the grant monies come through. I would also suggest that further money be set aside to begin the design work. If we have to go to Riverkeeper, which we do, to get its approval for the expenditure of the ARCO trust monies, we do not want to go back several times for small amounts. We should create a larger amount. My suggestion is something perhaps in the \$300,000 range so that we have the permission in place.

It does not mean it has to be spent, or has to be spent within a given time frame, so long as it is dedicated to the project. It can be spent as a design contract is approved by the Board, as the Village Manager recommends, as per further Board discussion as the project proceeds. But the Village would then have in place a realistic sum of money to begin to spend as match for the grant monies as they come in. Because we still have the 2008 DOS grant for \$85,000, we still have the Scenic Hudson grant for \$20,000, and we have applied for the 2009 DOS grant, and we may be applying for additional grants, all of which will require a match. It is a very good use of the ARCO fund money because it is not taxpayer money, because the project suits the criteria as very few projects do, because it is not in competition for any other needs of the Village, and because we believe that Riverkeeper will be amenable to it, as will ARCO. That is my suggestion, that a larger amount that the Trustees feel comfortable with be set aside out of ARCO to be spent at the discretion of the Village Manager and further Board approvals, and then we have discussion incrementally as the project proceeds.

Trustee Armacost: Is the ARCO fund already earmarked? Has it been earmarked for special things, or not?

Mayor Swiderski: As a point of education, at the signing of the consent decree for the cleanup of the BP/ARCO property, BP/ARCO set aside \$1.5 million for use on projects related to the waterfront. The three signatories to the consent decree are required to agree on the disbursement of that money. That is us, BP/ARCO, and Riverkeeper, which joined the original lawsuit that led to the agreement. So there is a pot of money there that is intended to cover projects related to the waterfront. Originally, the thought was that this would cover park improvements on a cleaned-up waterfront, perhaps bring the esplanade around if one of the parties were not willing to pay for it in full, or to create other amenities. But in the interest of moving this project along, there was discussion around allocating some of that \$1.5 million to this project. We have not spoken to BP/ARCO or Riverkeeper yet in regard to this idea. We are assuming that BP/ARCO will agree, since they do not have a vested interest one way or another. The only remaining party that we are not sure about is Riverkeeper.

Trustee Armacost: To interrupt you, so is the answer no? It is not earmarked?

Mayor Swiderski: It is not earmarked for any existing project. It is a pot of money.

Trustee Armacost: So then that seems that it is free to be allocated.

Mayor Swiderski: It is available.

Trustee Quinlan: The money is making interest so it has grown. More importantly, we have already used, and gotten the agreement, from Riverkeeper and BP/ARCO, to use \$180,000 for Kinnally Cove. So historically we have already gone into it so we know we can and it is not earmarked. Then the question becomes if the Board can decide to do it, which is a question mark. And then the question is how much. Then can we convince Riverkeeper that the quarry is, in fact, related to the waterfront to such an extent that this would be a permitted use as far as it is concerned. We have already used \$180,000 for Kinnally Cove.

Mayor Swiderski: So we are talking about next steps. There was a consensus, at least before, that it made sense to move ahead with the testing and remediation design. I am assuming that consensus stands. But the recommendation that we do not approach Riverkeeper for multiple slices out of the pie makes some sense. Are we interested in having that discussion tonight about how much money we would be entertaining, asking Riverkeeper to set aside? Or do we want more time to think about it?

Trustee Quinlan: First we have to decide whether there is a majority of the Board that wants to use any of the money, by resolution. I agree with you, Peter. If we do decide to use some

of the money we should talk about a bigger chunk so we do not keep going back to Riverkeeper nickel-and-diming: we need \$38,000 for the testing, we need \$50,000 for the design, we need \$80,000 for this. The first question is, do we want to ask them. And the second question is, what is the amount.

Mayor Swiderski: My understanding from the previous meeting was that there was a willingness to at least cover what would turn out to be half of that \$38,000. Is that correct? Is that what we agreed on?

Village Manager Frobel: I thought we had a pretty good road map for this. When we met in September, we outlined the grants, the program, the dollar amounts. All we are waiting for now, if we get word on these grants being funded we would be in great shape. The whole thing would be moving along forward. If we could just wait another three months we would know if all these pieces are falling into place. Again, Mayor, at that last meeting I think we did reach consensus. Because I submitted the grant, signing it we have got the match, and the match is going to be from the trust. There was nothing coming out of the general taxpayers' coffers.

Trustee Walker: What was the amount we applied for?

Village Manager Frobel: Kevin, upwards of \$200,000? That is what we required: to match the design work, the environmental testing work, the cliff study work. All that was folded together. In three months' time we will know. And if we do not get the grant, then I am going to be back here with a plan like you are talking about: going to the trust perhaps a little more heavily to do some of this work and to keep it moving forward.

Mayor Swiderski: And was the match \$200,000, or was that the entire pot?

Village Manager Frobel: No. The amount of money we were going to need to come up with was \$200,000. Because we were going to match the Scenic Hudson grant; we were going to match the DOS grant we just heard about tonight, which we do not have a contract for yet. So we have already grants that we need to match, and that was all included in that formula. It was upwards of \$200,000, so if we could just wait a little longer.

Mayor Swiderski: I am comfortable with that for the time being.

Trustee Quinlan: I have been waiting three years for this. Another three months turns into six months, six months turns into nine months, and here we go.

Mayor Swiderski: Can we begin work on the remediation testing?

Village Manager Frobel: What is happening now is that Malcolm Pirnie was given the go-ahead to work with the DEC to tell us where they would like the monitoring wells to be placed. Then the thought was, once they are sited, they tell us on paper where they should be because we had to do a topographical survey. I would then work with ARCO or BP to see if they had a relationship with a well driller to get in there and give us a pretty good unit price to place these wells. So I would be coming back to you saying it is costing X amount of dollars to drill the wells and place them. That was the next step. Malcolm Pirnie, in working with the DEC now, is trying to determine the best place to place these wells and how many they might need.

Mayor Swiderski: So work is underway on testing design.

Village Manager Frobel: Yes.

Trustee Walker: Do you think we will be able to move smoothly into the next step, the actual testing? Will there be a gap?

Village Manager Frobel: The testing is going to be the easy part. The difficult part is going to be in the design as to whether or not the rules are going to require us to go out to bid and start that process over again. That is going to be the disconnect, if there is one to be had.

Trustee Walker: But now by doing the testing, we will answer some of the outstanding questions.

Village Manager Frobel: Very definitely. You are going to have a number attached to the cleanup. You are going to know better that it is costing X amount or X-plus. So you are going to be in a much better position as to the framework for your consent decree as to what you are going to agree, and to what degree you are going to agree, to cleanup. You are going to have a lot of those questions answered for you, which was the piece we wanted before we moved towards a park designation. I know it is taking longer than anyone would like, but we have been working on a shoestring. We have had no money at all for this project.

Trustee Walker: I am all for moving the testing ahead as quickly as possible because it will help things move more quickly.

Trustee Quinlan: What you are saying, Fran, is we cannot move it ahead until we see if we get the grant.

Village Manager Frobel: To me, that would give us some working capital.

Trustee Quinlan: And what if we do not get the grant?

Village Manager Frobel: Then I have got to come back to you with a plan, Jerry. I have got to come and say, the \$200,000 is more than that. We are going to need more money if you are willing to take from the trust and spend it on this project. Because the grant is a big part of this pie, obviously: 50% of it.

Trustee Quinlan: How long do you think it is going to take us? Let us just say we wait the 90 days and we get the grant, or grants. Then how long do you think it is going to take the Board to resolve a decision on the discussion about it? Since we have already agreed we are going to use the ARCO fund, which I am happy to hear, then how long is it going to take us to pick out a number between the five of us? Another month or two, or three?

Mayor Swiderski: I do not think that is the issue.

Trustee Quinlan: What do you mean? The number is not the issue?

Mayor Swiderski: Yes. I do not think arriving at that number is a terribly difficult prospect. Not that we could probably have that discussion if not tonight, any night. I do not think that is a particular problem.

Trustee Quinlan: Okay. We will see.

Trustee Jennings: I would like to ask Fran another hypothetical scenario to see how this might flow along. Suppose that the state and Malcolm Pirnie determined where the well should go later this month, or at least prior to getting word on the grants that are pending. Even though the grants had not come through yet, could we not take the next step which you suggested? Talk to BP and try to arrange for a contractor to do the drilling? Again, I am not sure when the money flow would have to come but, like Meg was saying, you can spend a little bit of your match before you get the grant. It is a little risky, but not necessarily because Plan B is going to involve matching also. So we could probably get so far as to even work out and begin the drilling maybe, if necessary, rather than hold things up.

Village Manager Frobel: I want to be careful only because some grants require that you not begin to spend money in advance of final award. I do not want to jeopardize anything. Is that what you are suggesting?

Trustee Armacost: But you could ask them.

Village Manager Frobel: Oh, certainly. But sometimes, in the rules, they indicate that you have got to be careful of spending money, and assuming that is your match, prior to awarding of the grant. I want to go very carefully with this, and we will research that.

Trustee Jennings: I do understand that. But we are also moving money around here, and the money we spend before the grants would not be used to match those grants. It would be used to match something else, like the Department of State grant or what have you. So it does not seem that we are violating any of their grant rules, and we are not even taking too much risk in the sense that we are going to be throwing money away because we will never be able to complete the work we start. It really is just a question of cash flow and timing, since having that pot of \$200,000, at least, just sitting there, the catch is we cannot release any of those funds for anything until we check with Riverkeeper. So that may be the trigger point.

Village Manager Frobel: I am going to give you a copy of this consent decree because there are criteria that Chris Lomolino has pointed out that perhaps you only need the consent of two of the parties to the three-party agreement. There is an appeal that if one party were not to sign, one of the three not to sign off, there is a process you go through.

Mayor Swiderski: Let us ask first.

Village Manager Frobel: Of course.

Trustee Armacost: Fran, do you have a backup plan if the grants are not given?

Village Manager Frobel: The scenario would have to be either the project would be delayed indefinitely, or go to the trust more deeply, to a greater degree. That is the plan. I would not recommend we borrow money for this project, given our current debt structure, at all. That would not be a recommendation.

Trustee Armacost: Do you have concerns that these grants might not be granted?

Village Manager Frobel: Yes, I do.

Trustee Armacost: Based on what? Can you tell us what they are?

Village Manager Frobel: The grant by the Department of State concerns me. We received a grant in 2002 for some work on the waterfront which has not yet been drawn down at all. We have not used 10 cents of it. And although we got an extension to March, my phone call with Department of State staff has been, what is going on? It is getting very stale. Are you

closer today than you were six months ago to using that for your design and your zoning regulation drafting? If so, let us know. I sense that that is still going to be an issue, and it makes perfect sense to me. If you are granting money to an agency the last thing you would want the money to be is held and not used. The idea is to spend the money for the purpose they granted it, and if you are waiting five, six, eight years to spend down then they are going to say, were you ready when you made application?

When I make a recommendation to you I like to make sure we have a realistic time frame. I am not going to get ahead of ourselves like we were when I first arrived here, when we had a lot of old grants with limited dollars now because the purchasing power was so reduced and a lot of pressure to spend it down. Until you spent it down no more applications would be funded. So I do not want to get into that situation again. But in answer to your question, I think there is a concern that the grant would not be funded for that very reason: that there is a \$60,000 grant out there that we have not spent from 2002.

I know we are working on it. I do believe, and I told the staff, we are very close to spending that down. There has been a lot of work on the LWRP. I think by March you will see some of that being used. I hope that raises their comfort level. There is a credibility problem here, too when I call these people. They say, well, I know, Fran. But you just finished Kinnally Cove, and you finally finished Phase 1 of the Quarry Trail. You do not have a real good batting average here. So that is the concern.

Trustee Walker: Even if we were willing to start the testing and use some of the trust fund for testing, can you test during the winter? Can you drill in the frozen ground?

Village Manager Frobel: Yes, those drills can go through. They are powerful and they go deep. They set their testing apparatus down and draw samples. They just pull it up, take a sample, send it back down. There is probably like a three-month interval. There are certain periods of time where they will be grabbing samples. So that is going to take time. The rest of it is in-office. They are drafting the report and coming up with a methodology to clean up what is going to be required. The field work is done. The field work was determining the perimeter, doing topographical surveys, doing samples, digging in the ground with backhoe samples. All the field work is done except for the drilling of the well.

Trustee Walker: If you check, and find out we do not jeopardize the grant by starting the testing, maybe we could discuss at the next meeting the possibility of doing that.

Village Manager Frobel: Yes, fine.

Trustee Walker: And if not, there is also the possibility of using it to match something else. We just figure out a way to match the other DOS grant, or DEC. I am a little confused.

Ms. Lomolino: Again, on behalf of the committee, we do not see the wisdom of waiting for three months to find out whether the DOS approves the 2009 grant that the Board approved the application for just a few meetings ago, because we have \$105,000 of grant money that has already been awarded to us. For example, Scenic Hudson would like to see us spend the money they gave us last year. And the DOS, when I spoke to them recently, said they would look very favorably upon our 2009 application because they gave us \$85,000 for the 2008 application. So I think the best way not to get behind the eight ball in terms of the grant money is to use the ARCO fund for the match money for the grants we already have been awarded and go forward with that. Then, when the 2009 grant cycle that the Village Manager is speaking of comes around, we will have spent some money, we will have moved the project forward, and they will be looking at a project that is definitely happening which, I think, would cause them to look more favorably on our grant application. If they are looking at our 2009 application, and we have not yet spent the 2008 money they granted us already, the \$85,000, that actually puts us in a worse position.

We have the money, we have been awarded it, and we can look to the ARCO fund for the match. There is some good logic to getting the groundwater well situated before the hard part of the winter comes in so the samples can be collected. This is not a big deal to do this. It can be done in a relatively short period of time. And then in the spring we can discuss the results of the lab work and the engineer's report on closure of the site. But we will have made some progress over the winter rather than punting until the end of the winter.

Trustee Jennings: So the 2008 monies we have received can be used for the testing.

Ms. Lomolino: Yes, I do not see why not. Fran, do you see why not?

Village Manager Frobel: No, you cannot.

Ms. Lomolino: Why not?

Village Manager Frobel: Because the Scenic Hudson money was very specific for the design, and the grant from the DOS was for design, as well. We would have to amend the grant and tell them we want to do environmental testing. We do not have a contract from the DOS yet.

Ms. Lomolino: But we are expecting a contract any day on that, are we not?

Village Manager Frobel: We were expecting it any day, and that was months ago. They are so backlogged in getting those documentations out to communities, that is not going to be the penalty to us. That is not going to hurt us. What is going to hurt us is the early grant from the DOS I spoke of.

Ms. Lomolino: Although, interestingly, we did have that grant from 2002 and yet they *did* award us \$85,000 last year.

Trustee Walker: They are finally losing patience. But with Kinnally Cove we got some design monies, which we used. Granted, it was not environmental testing, but it was for doing bathometric surveys, it was for doing some of the tidal research, and other things you need to do. It is doing your due diligence before you go into design. No landscape architect is going to start design until they have all these other ducks in a row. So we could ask: These are the things that need to happen before we can use your money. Can we match? We are not going to use your money for it, but can our match be used for doing this due diligence?

Ms. Lomolino: It would be a simple matter to find out. We have somebody at the DOS who is assigned to our grant who is eager to work with us, and we could let him know what we would like to do in the upcoming period and find out whether it is appropriate.

Mayor Swiderski: That seems to make sense. In the interest of moving along in the agenda, I think that is a logical next step.

Village Manager Frobel: Yes. And if I misunderstood, I, quite frankly Chris, thought the money designated for design was kept for design. I thought that was your priority. That is why you were looking to hire Matthews to do the landscape design. I thought that money was being jealously guarded for design work, not for environmental work.

Ms. Lomolino: From our point of view, it is not so important to reserve it for design work as to get the project moving.

Village Manager Frobel: That was my misunderstanding. Because even with that, we do not have enough money to hire Matthews today anyway. So it is almost immaterial.

Ms. Lomolino: No, not right now. Although my suggestion was, from the committee, that enough be set aside out of the ARCO fund so we can also match the design work monies as we go forward so we can bring in a landscape architect and *can* begin the design work over the winter, as well.

Village Manager Frobel: Let me do some research and get back to you next meeting, or perhaps in the Friday report to you.

Trustee Quinlan: So are we going to put this on for Board discussion and comment next meeting? Can we do that?

Village Manager Frobel: Sure, certainly.

2. Ridge Hill Mitigation Regarding Intersections

Village Manager Frobel: Tom Madden, the planner from Greenburgh will be here at your next meeting to brief you on the Ridge Hill issue. I gave you another copy of the memo, my last understanding of where the project rested. Meg, can you add to that?

Trustee Walker: No. I think he will do a very good job.

Mayor Swiderski: Meg, just out of courtesy to the new Trustee and anyone out there whose eyes glaze over when this is described, could you describe what this is?

Trustee Walker: There was a settlement. I do not have all the numbers in front of me, and I am not very good at remembering numbers, but it was something like \$2.5 million. Do you remember the exact number?

Village Manager Frobel: Five million.

Trustee Walker: So a \$5 million settlement because the Town of Greenburgh, and the villages of Ardsley and Hastings, brought suit against the City of Yonkers and the developer. But primarily it is the developer who has to pay this money to mitigate for the increase in traffic that is going to change several of the intersections that already have heavy volume and very poor levels of service. They are going to be worsened by the increase in traffic that is going to be coming from the Ridge Hill development in Yonkers, which is already under construction. The engineers were hired with this settlement money. It is \$5 million total, but the amount that can be spent on implementation is much less. That is the number I was trying to remember. Of the \$5 million, some of it has to go to engineering and there are other costs involved. Whatever is left is going toward mitigating certain intersections, most of which are in the Town of Greenburgh and the Village of Ardsley. But whether you are driving across Jackson Avenue or driving through Ardsley, many of these intersections affect people from Hastings directly.

The engineers studied each of these intersections and made recommendations as to how they could be improved. I went to one meeting, so I got the last bit of information on this. Mary Jane Shimsky was involved in the lawsuit, and has been going for a couple of years to these meetings. At any rate, the recommendations now from the engineers are about improvements, where we could get the most bang for the buck, which intersections we should spend the money on, and how we should make these improvements. Unfortunately, if we make all the improvements we only have about half the money. Tom Madden went to the federal Department of Transportation and the state Department of Transportation to ask for more money to spend on these intersection improvements so they could get it in the TIP Fund, the Transportation Improvement Fund, going forward. But this is a start. He is going to explain these intersection improvements, and we are going to tell him what our opinions are, what our priorities are, and where we think the money should be spent.

Trustee Quinlan: Thank you, Fran, for this memo. It was very informative and goes a long way to explaining what Meg just explained. Jackson Avenue and 9-A is the intersection that has been identified in Hastings as the place where money needs to be spent to improve that intersection. That was even before Ridge Hill. I cannot even imagine what it is going to be like after Ridge Hill. But this sentence in your memo says, referring to 9-A, that particular intersection will be improved separate and apart from the \$5 million provided by the developer in the escrow fund. My question is, by whom.

Village Manager Frobel: By the developer.

Trustee Quinlan: And why is that?

Village Manager Frobel: But not to the extent that we would like. I will let Meg amplify that. The developer is going to make turn lanes at the intersection, but we believe it should go even further than that.

Trustee Quinlan: Let Ardsley worry about Ardsley and Greenburgh worry about Greenburgh. I am more worried about Jackson Avenue and 9-A. Can we use some of the \$5 million that he put in escrow to cover the costs over and above what he has proposed to give us for this improvement for 9-A and Jackson Avenue?

Village Manager Frobel: That is what you are going to convey on October 20.

Trustee Walker: From the discussion we had at the last meeting most of the other villages are also leaning in the direction of putting some money into that intersection. For example, they are also looking at improving Sprain Road where it hits Jackson Avenue, that takes you to Stew Leonard's. Is that going to benefit the residents of Hastings, or even Greenburgh? It

is going to benefit people shopping at Costco and Stew Leonard's. That is an example of an area where we may not want to spend money. Most of the people at that meeting thought the Jackson Avenue/9-A intersection was definitely the priority. But you should consider one of the things that came up at the meeting. We all struggle in Ardsley, all of us. Hastings residents, Greenburgh residents have to drive through Ardsley at one point or another on our way to shop on Central Avenue. You do not have to, but you frequently do. Ardsley affects all of us, so do not dismiss it out of hand, because it does affect our quality of life, as well. Think about that when he is presenting the intersection, for example, in the heart of Ardsley, the Ashford Avenue/9-A intersection, and other intersections.

Trustee Quinlan: How much is in that separate agreement by the developer for 9-A?

Village Manager Frobel: I do not know. I think there is an estimate as to what it might cost. I do not have my notes in front of me on that.

Trustee Jennings: It was \$600,000, was it not?

Trustee Quinlan: So \$600,000, Bruce? So what we have to try to do is convince Madden and the committee to spend some of the \$5 million to add to the \$600,000 so we can get the improvements we want?

Trustee Walker: Yes, but they are leaning in that direction anyway.

Trustee Quinlan: But they need to hear from us.

Trustee Walker: Yes, they definitely need to hear from us about that.

Village Manager Frobel: The urgency is, the money must be spent by a certain time, or it expires. And all these projects are far in excess of the available money. That is why Tom has been active in getting these projects on a TIP so the money can be matched with federal or state dollars for grants.

Mr. Metzger: Do we know how the state plans to replace and improve the Ravensdale bridge affect this intersection, and what that may bring to this party?

Village Manager Frobel: That has been conveyed to the traffic engineers. They are aware of that work, and have been in communication with the county. You will hear from the transportation planners. I have been very impressed with the quality of their work and their responsiveness. Maris, I think, is one of the firms. But they have been very good and have been in close communication with state, county, and federal transportation planners.

Trustee Walker: It better be good. We are spending almost a million dollars on them.

Mr. Skolnik: Is there some specific information with regard to the intersections that are involved or any of the work that has been done at the meetings that Meg mentioned? The only thing I am aware of is that one we have posted on our Web site that relates to Jackson and Sprain.

Trustee Walker: There are these voluminous reports that the engineering firms have issued, and I do not know that they are available online.

Village Manager Frobel: I gave copies to the Board. I do not know if it was on a CD.

Trustee Jennings: Hard copies should be available at least in the library.

Trustee Walker: We can make sure that it is in the library. When the engineers explain it, and when Tom Madden explains it, it is a lot easier to listen to than to read that report. If you do not get to see the report you will not be at a great loss. They will explain it very well at the meeting.

Mr. Skolnik: The report that is linked on our Web site that says "Ridge Hill Traffic," and is related to Jackson Avenue and Sprain, are you aware there is one?

Village Manager Frobel: That is the most recent report. That is the report that that evening I asked the planner from Greenburgh to send to me, which was sent to Raf and Raf put it on the site.

Mr. Skolnik: No, that is just about that one intersection. Am I right?

Trustee Walker: It is about all the intersections.

Trustee Jennings: The document I saw has about 10 different spots that they identified as needing remediation.

Mr. Skolnik: I will look again. As far as I know, it was just about Sprain. I would like to be able to see a little of that before the actual meeting. Is there a reason why there is not enough money, given that there was this suit and the settlement?

Village Manager Frobel: Because the committee looked at every conceivable intersection within a radius of the site. Realistically, a lot of them were eliminated as we began to focus

our attention on critical intersections. But \$5 million will get us to a point that we would like to be, especially if we match it with federal monies for improvements.

Trustee Walker: And it is not just intersections. There are also recommendations for 9-A as it goes through Ardsley. Then they studied 10 different spots, intersections, and stretches of roadway. Another one is smoothing out the curve on Jackson Avenue just before you get to that triangle intersection. So there is a variety of things in there.

Trustee Jennings: I received a hard copy of that report. There is not much verbal description, but there are a lot of maps and diagrams. It is helpful to look at those, particularly the one for Jackson Avenue and 9-A. I got the impression that what they wanted to do with that intersection would cost a lot more money than Hastings could afford, for example, half a million or more dollars. My other impression was, and I confess to a certain skepticism about traffic engineers, they want to make it a very large intersection, with lots of different turn lanes and new road surface. They have to buy a lot of land now privately held in order to go where they want to go. I am curious as to the local reaction to a large expansion of that intersection. Many years ago, when they were going to do a massive change in the intersection of the Saw Mill Parkway and Farragut Parkway for, presumably, many of the same reasons, it was very negatively received in this Village. Just a few years ago they did a lot of work on the intersection of Ardsley Road and 9-A in Ardsley. They put in new lanes, turn-only, straight-only, new stop lights and traffic signals. I think it is worse than it was before.

Village Manager Frobel: That is their impression.

Trustee Jennings: Putting all these turn lanes and all this fancy stuff in there does not necessarily improve an intersection, particularly if they are anticipating a hugely increased flow of traffic. I am rather dubious in these cases: bigger and massive-er is better and faster. I do not think it necessarily is.

Mr. Metzger: In *Architecture Magazine* a planner said, remember that when you plan for greater traffic flow and density you will get greater traffic flow and density.

Trustee Walker: Right. When you plan for cars and traffic, you get cars and traffic.

3. Proposed Local Law on Fences and Walls & Excavation and Fill

Village Attorney Stecich: These are two laws that have come from the Planning Board to this Board, asking you to enact them. They are both laws that Deven and I worked with the Planning Board on for quite a long time. I will explain each of them. First the one on fences

and walls. Right now there is very little regulation in the code about fences. Our definition of structure does not include fences. It specifically says it is not a fence, which means it does not have to come in for a building permit. You just put up a fence, there is no regulation of it. This would say that it is a structure, so it needs a building permit. That is a way of making sure all the other regulations are met. That is what Section 1 is about.

In Section 2, now you can have fences at 6 ½ feet anywhere. There is no limit on walls, except that it cannot block visibility. That is what all that cross-out language is: taking out the fences or walls greater than 6 ½ feet shall be set back as far as the Building Inspector . . . and then it imposes these regulations on fences.

We separated regulations for fences and boundary walls, and then there are different ones for retaining walls because they have different functions. The boundary walls are a lot more like fences. The first thing, it would say that in a front yard a fence or a wall can only be four feet high, the concern being, right now, that 6 ½ feet in the front yard is a very high fence. B is about what if your required front yard is less than what is required for the district. Let us say you have to have a 30-foot front yard, but your house is only set 15 feet back. To have the four foot fence all the way back, but just in front of the house, this says, in front of the house, unless your neighbor's house is set further back than yours, it has to be only four feet high where it is in front of the neighbor's house, too. So in the front, the fences would be four feet. C says that elsewhere on the lot the fence or boundary wall cannot exceed 6 ½ feet in height. This is essentially in the back. D is an exemption if you have a fence on top of a retaining wall, because if you do have a higher retaining wall, you have a fence on it, it needs to be a certain height for safety. It says it cannot be higher than four feet; 50% of the surface area of the fence has to be open; the balusters or ornamental patterns have to be close enough together that a four inch sphere cannot get through. Those are just safety regulations.

Mayor Swiderski: A four inch sphere being a proxy for a baby's head?

Village Attorney Stecich: Exactly. Then E is a really important regulation we do not have now. A wall almost always looks finished, but a finished side of the fence has to face the adjacent property. Right now you can have the fence finished facing you, but not your neighbor's. That is what that does. Paragraph F says if you are putting in a wall that is under two feet in height it does not need a building permit, figuring maybe a little garden wall would not need a building permit.

Then there is a new set of regulations on retaining walls. It put a limit on them of 6 ½ feet, and, in addition, if there is more than one, parallel to each other: You were talking about driving through Ardsley. If you think about the house on Ashford Avenue past the middle

school, as you are turning towards Central Avenue, a series of retaining walls was put there. This would say that there has to be a space between the retaining walls of at least half the height of the wall. So if it is a six foot wall, there has to be three feet between that and the next one. In addition, the aggregate height of that wall and other walls lined up with it within 16 feet of one another cannot exceed 13 feet at any point. So if you have a series of walls, the height can be just 13 feet.

There is a provision in C that if, in the course of site plan review or steep slopes review there is a retaining wall and it is necessary to exceed those limits, the Planning Board can permit it. Then D is a provision that any retaining wall that is four feet or more in height has to be engineered. You have to have drawings submitted with them.

Trustee Armacost: I am assuming it is not retroactive. It does not apply to walls that already exist.

Village Attorney Stecich: Correct. It would be new walls.

Trustee Armacost: What about repairs on walls?

Village Attorney Stecich: If it is a repair, no. But let us say you wanted to make your wall higher. It would fall within this. Let us say you have an existing wall, and the wall is seven feet high and there is a rock missing at the top.

Trustee Armacost: You are allowed to put your rock back.

Village Attorney Stecich: But I am not sure. If it was not really extensive repairs it probably would not need a building permit.

Mayor Swiderski: If you replace an eight foot fence, at that point you fall under this law.

Village Attorney Stecich: There is a really good point, and I think we ought to add something clarifying the retroactivity. Let me look at the other provisions in the Code to see whether just the general retroactivity provisions would cover it. But I think you are right. I would think the thinking would be that if you have an eight foot fence and you are replacing it, that it should meet this. You cannot replace, I would think, a six foot fence in front of your house with another six foot fence. I would think it should meet the new standards. I am assuming that is what the Board would want.

Trustee Quinlan: How about repair, though? Limit somehow what a repair means?

Village Attorney Stecich: There are generally provisions in the Code about repairs not falling into the general rules. But I will double-check on that, both on the retroactivity for all new things and for repairs. I think the general provisions in the Code probably cover it.

Trustee Jennings: I had a situation where we had a high fence in the back. It was more than 6 ½ feet. We got a windstorm or hurricane and it blew down. We had a new fence, essentially the same fence, put back up. But what you are saying is that maybe we would not have been allowed to do that now, under this.

Village Attorney Stecich: There is a provision about structures. If structures are destroyed by more than 50%, and this would be a structure, they would have to be replaced in compliance with the Code. But if it is less than 50% you can fix it to where it was. Now, that generally is applied to houses and garages so I am going to have to look at that to see how it would apply to fences.

Trustee Jennings: One thing we should avoid is setting up the law in such a way that people who want to keep the high things they have, have an incentive not to keep them in good repair and let them go, and let them go for fear they will have to lower them. That, I think, would not be a good public policy.

Trustee Walker: They have to get a building permit. I can understand that. But to hire an engineer?

Village Attorney Stecich: No, you do not need an engineer for fences.

Trustee Walker: I am talking walls here. You do not want to make it so onerous that people will not replace their walls because it can be quite dangerous if we do not allow repairs and replacements of walls in this village. So in some respects you do not want to make it too difficult.

Village Attorney Stecich: They are really just retaining walls.

Trustee Walker: But there are so many retaining walls in this village.

Trustee Armacost: The other problem with our retaining walls, and I have one, is that it is one height on one level and a radically different height on the other level. So where are you counting the height?

Village Attorney Stecich: There is a form of measurement in here, and I did not go through that in detail.

Trustee Armacost: My wall is about 17 feet on one side and three feet on the other side from the street. There is a great big hole.

Village Attorney Stecich: That would probably be a 17-foot wall. This certainly envisions that there are going to be properties that will require higher retaining walls. We figured that any property like that is going to be before the Planning Board for steep slope review anyway. I am sure your house probably predated the Steep Slopes Law. So we figured anything that is going to be before the Planning Board in the course of the steep slope review they could permit that. There was an application years ago where the person had a really steep lot and had huge retaining walls which would not have been necessary had they built a custom house, a stick built house. Instead, they wanted to put a prefab on it.

Trustee Walker: That is one of the reasons we changed the height limits, or how you measure heights, because people were flattening their sites to put small houses on. So we changed how you measure the height so you could measure it from the slope, allowing a step-down effect. We would allow a custom step-down house on a steep slope instead of flattening the slope with a 20-foot high retaining wall.

Village Attorney Stecich: And in that situation it was not that there was no alternative to the massive retaining walls. There could have been, but the Board felt it did not have the authority to say no because there were not limits on the height in the Code. But this way there are pretty reasonable limits, and the Planning Board was very conscious of the fact that there are going to be a lot of retaining walls in Hastings. Actually, it is pretty easy to have 16 feet as long as they are stepped back. And then, again, the flexibility for the Planning Board to waive that during site plan review.

Trustee Jennings: I gather that this means no more deer fences, because four feet is useless.

Village Attorney Stecich: Right. But at the moment you already have a limit on the height of fences at 6 ½ feet. It is just walls that do not have the limit. And 6 ½ feet does not work for deer anyway. If you put two 6 ½ foot fences pretty close together, then it does not work because they get stuck. That is not a change. The only change in the height of the fence is in the front yard.

Trustee Jennings: I do not know enough about it to have an opinion, but I was driving along Circle Drive the other day and saw a lot of what looked to be very expensive wrought iron, metal fences. I am sure they were not more than 6 ½ feet because they were there. They did not violate the existing law, but whoever spent all that money to put those fences up probably would disagree with you that fences that high did not do any good. There they are.

Trustee Jennings: I think there might be more people who want to do it in the years ahead. We will get to that when we have our deer report, I am afraid, but I do not think we have seen the last of deer fences. The four feet in front of the house, I understand the aesthetics of the policy change you are talking about. I understand our feeling about the look that Hastings should have. I agree with Robert Frost's idea: something there is that doesn't love a fence. But nevertheless, this will impact the deer issue, I am afraid.

Village Attorney Stecich: There was a woman before the Zoning Board seeking a higher fence. Maybe she was just saying it, but she was saying the 6 ½ foot fence was not high enough. I do not really know, but just basing it on that, I should say.

Trustee Walker: The fence on top of the retaining wall does not allow you to have much privacy. We had a four foot high picket fence on top of a retaining wall which was six feet. We felt we wanted more privacy so we built a higher fence that does not have such big gaps. We use our backyard a lot more because of that. So it is something to consider.

Village Attorney Stecich: Was it from the uphill side?

Trustee Walker: Yes, we are on the uphill side.

Mr. Gonder: What is the definition of a fence? At the last meeting I said I wanted to put barbed wire around mine, about 10 feet at two foot intervals. I am looking into it seriously. Is barbed wire considered a fence? The reason is deer. I cleaned up 59 droppings last Tuesday. It took me over two hours.

Mayor Swiderski: We are getting to that topic in a minute.

Mr. Gonder: Yes, but I am talking about fencing. To me, a fence is a lot different than barbed wire. I am wondering if barbed wire would be considered fencing.

Mayor Swiderski: That is fencing.

Village Attorney Stecich: It does not define a fence, but common sense is that barbed wire is. I suppose you could do other things with barbed wire than make a fence, but if you are running it around your property and it is barbed wire I think it is a fence.

Mr. Gonder: On trees to keep the deer out.

Village Attorney Stecich: Then maybe that is not a fence, fastened onto a tree.

Mayor Swiderski: No, but wrapped around a tree is an anchor. And then stretched, that is a fence.

Village Attorney Stecich: That is a fence, yes.

Mr. Metzger: I think you said fences will require a building permit. Is that correct? They are considered a structure. So if they are, I am not trying to be funny here but do you have to go for view preservation. We had the discussion about building a structure in a vision plan district; by law, you have to go for vision plan. I have neighbors that have a multi-family building and they put in one of those little plastic fences. The building is set about eight feet back from the sidewalk, and they put a fence in so they have a place to put their garbage pails, not out on the sidewalk. Would they have to hire an architect, get a building permit, have a set of drawings, go for view preservation? The cost to put in a \$50 plastic fence would cost them tens of thousands of dollars in fees. This need for a building permit for certain fences may not have been thought through quite as well as it should have.

Village Attorney Stecich: No, we talked about those little things. But on the other hand, you could see why a fence would make a big difference for view preservation. And other fences might, like a six foot fence. It is not unusual, and they generally do require, building permits in other places. But that is a good point. I do not know if you want an exception for these little things you put around a garden, those tiny picket fences. It did say that walls under two feet do not require a building permit. You could say the same thing about fences

Mr. Metzger: The other question I have is spacing of the pickets. Typically, the spacing requirement comes in when there is a difference in height from one side of the fence to the other. I believe state code says it is a 30-inch difference, requires a protective fence, with a four inch maximum spacing. So if you are just putting the picket fence on the front of your property, and you do not have an elevation change, I would imagine that that four inch spacing would be normal to hold. It could be any sort of decorative fence in terms of the way you place pickets, or posts.

Village Attorney Stecich: The state building code only kicks where it is a safety fence.

Jeff Bogart, 5 Jordan Road: Would a hedge be considered a fence?

Village Attorney Stecich: No.

Mr. Bogart: If one wanted to go for a variance under this new law, would one be able to do that? And what factors might the Zoning Board weigh when one wants to put in a fence that would exceed the 6 ½ feet?

Village Attorney Stecich: They would be the same standards as for any other variance, for a setback variance or a height variance. They have to balance the detriment to the neighborhood against the benefit to you, the applicant, and they have to look at a) the character of the neighborhood; b) whether it is going to have any environmental consequences; c) whether it could be achieved by a different method other than a variance; d) whether it is self-created; and e) whether it is substantial.

Trustee Quinlan: It would be same as an area variance as opposed to a use variance. They are clearly articulated in the statute, and controlled by the state.

Mr. Bogart: Is there anything that deals with the aesthetics of the fence? Are you setting any regulation in terms of the look or the color, or anything along those lines?

Village Attorney Stecich: There is nothing in here. The Planning Board did discuss it, and decided they did not want to overregulate. There was some discussion of aesthetics, but also some discussion about some people on the Board not wanting really solid fences. They wanted to require that there be a certain amount of open space on the fence. But the Planning Board decided not to do that.

Mr. Bogart: So if someone wanted a chicken wire fence, that would be okay, and if someone wanted a barbed wire fence, that would be okay.

Village Attorney Stecich: There are no limitations in here on that.

Mr. Bogart: I object to lowering the height in the front since we have a deer problem in Hastings. I think a six foot fence is some barrier to a deer, especially fawns and those that go with the fawns. I do not know about the bucks, but the does, if given some hurdle they may go to the next spot, less resistance. And you are giving them entrée. If you are building six feet all around except in your front, and if you have four feet, they will circle around to a point where they find four feet and can make it over four feet. I do not know what the genesis of that regulation is, but if it is deer then you are not helping solve the deer problem. And it seems to me that it probably is deer, the reason for doing this.

Village Attorney Stecich: No, it had nothing to do with deer. I agree 100% that it is not going to help control deer at all. The Planning Board had a bunch of issues that came up about structures and other things over the years. Because there were not too many building applications last year they had some time to consider things that were on their agenda and this was one of the things that came up. But in all of the discussion I do not ever remember, discussing the deer part of it. Consciously or unconsciously, it did not come up.

Mr. Bogart: Discussion of the deer in connection with the fences?

Village Attorney Stecich: The deer in conjunction with the fences. Right.

Mr. Bogart: I guess you guys must have gotten an enormous amount of complaints about fences in Hastings, and that is why you are reacting with something. Is that the reason?

Trustee Quinlan: First of all, this came to us from the Planning Board.

Mr. Bogart: I am talking about the Planning Board. When I say "you guys," I do not mean the Trustees at this point because it is just coming to you.

Trustee Quinlan: The precipitating factor as far as I know was the fence that was built on Euclid, which is a solid wooden fence 6 ½ feet high all around the property. There are no big fences on Euclid, so that started the discussion about fences.

Mr. Bogart: Is this the one near the tennis court?

Trustee Quinlan: Yes. Then they started looking at what other localities had, and the discussion took off from there.

Mr. Bogart: So it is not as if there has been a community outcry for a change in the fencing regulation.

Trustee Quinlan: No, not that I am aware of. Is anybody else aware of that?

Village Attorney Stecich: Just a little more history on the Planning Board. You recall we came up with a bunch of amendments about a year ago for defining structure. A whole series of amendments were put into various parts of the Zoning Code. They sent those amendments on to the Board of Trustees because there was agreement and they had all been thought out. There were a few issues they did not get to, and it was actually the walls they were more concerned about. And because that was included in the Zoning Code section on fences it was dealt with at the same time. While the case you mentioned was brought up as an example, it did not happen because there have been a lot of complaints. In fact, at least one of the Planning Board member's sentiments were that we are not getting any complaints, why do we have to do anything. It was not unanimous that everyone thought it has to be done, but then they did finally settle on this law to pass on.

Mr. Bogart: Maybe since we are going to solve the deer problem once and for all it does not matter about the fences. But I am not so certain we are going to solve the deer problem once and for all. I assume you have not discussed deer yet tonight so it will be interesting to see just how close to a solution we are with deer. And as a result, maybe we do need fences. Maybe, in fact, we should allow people, as-of-right, to erect 10 foot fences because that would solve the deer problem, although at great cost to the property owners involved.

Mayor Swiderski: We are moving on. All right?

Village Attorney Stecich: Do you not want the other law?

Mayor Swiderski: Fill?

Village Attorney Stecich: Yes, excavation and fill. Hopefully, this one is not controversial. Right now we have no statute regulating excavation and fill. Somebody could completely change the landscape of their backyard and there is no regulation. The Village could not even ask what is in that fill. You do not need a building permit.

We looked at a bunch of statutes, some enormously complicated. We based it on Mount Kisco's and Croton's, which were not too difficult. It defines excavation as lowering the existing grade in excess of two feet, regardless of how big the area, or lowering the existing grade at all over an area that is 300 square feet. Filling is depositing material that is going to change the existing grade by two feet, regardless of the area involved, or raising the grade over an area of 300 square feet or more.

That is excavation; that is filling. Then, it says if you are going to do either of those you need to get a permit, unless you are doing the excavation of fill in connection with a building permit you have with the project you are otherwise doing. There is an exception that if you are depositing topsoil to a depth of not more than six inches and placing it in such a way that it follows the contours of the land and then are going to fill that with seed or planting or whatever, that would not constitute fill. So you would not need a permit for that.

For the most part, a permit for excavation of fill would be given by the Building Inspector. The application to the Building Inspector has to state your reason for the application; give a topographical map of the contours before and after; describe the fill material and the origin of the fill material; and if you are putting in fill, there has to be a certification by a lab that it is clean fill. The applicant has to agree that if they are filling they are going to put a layer of topsoil on and that the topsoil is going to be rolled and seeded. Some sort of warranty that they are going to complete it within a certain amount of time. And you have to be able to show there is not going to be any adverse impact or drainage onto neighboring properties; to

put in some sort of certification, engineers drawings, or something. If it is not a big deal, then you just show that it is not going to be.

Before you get this permit you have to notify the adjacent property owners, not everybody that you would have to normally notify for a variance, but the adjacent property owners. The Building Inspector then has to leave the application open for 15 days so the adjacent property owners can say something if they want to. He will review it, review the plans and whether it complies with the law and that the fill is clean, and that there will not be any drainage issues. Then he gives, or does not give, the permit. If the Building Inspector thinks it is appropriate he can refer the application to the Planning Board for its review and approval. We could not come up with any specific standards, but just if the Building Inspector thought, this is a really big job, I think the Planning Board should take a look at it, then they would.

There are some regulations on what you can use as fill and what you cannot, and an appeal provision that if the permit is denied you can appeal. Or if it is revoked, the Building Inspector can revoke it, that the appealing board would be the Planning Board. Finally, if a person starts the work but does not finish it, the Village can finish the work at the applicant's expense. If he does not pay, it will be a lien on his or her property.

Trustee Walker: Could the Steep Slopes Law be activated through this? When someone goes for a building permit and they are doing something on a steep slope, now it is only if it is in site plan review or subdivision.

Village Attorney Stecich: No. Any work they do on a steep slope does have to come in.

Trustee Walker: But in the past, I had this feeling that people could buy a piece of property, level it, and not have to go in for a steep slopes approval.

Village Attorney Stecich: But now they cannot.

Trustee Walker: So now they have to come in and get a permit. That could, in fact, anticipate the steep slopes review.

Village Attorney Stecich: Yes. I am sorry, I did not understand.

Trustee Walker: When before it might not have because they did not even need a permit to do this cut-and-fill, or leveling a property.

Village Attorney Stecich: Right.

Trustee Walker: Good. I think this protects some slopes, then.

Village Attorney Stecich: I had neighbors with a very steeply sloped property. I am in Greenburgh. The person next door just brought in, for six months, truckloads of fill, and filled and filled and filled and totally changed it. I called Greenburgh: no regulation, which made me look at our Code. You do not know what is going in there. It can really be significant.

Trustee Walker: Well, it is good. It was something that I used to think about.

Village Attorney Stecich: Yes, and I know Deven has been bothered by it.

Village Manager Frobel: Marianne, why did you not use cubic yards as an industry standard for the measurement rather than trying to figure out two feet of fill? I am bringing in X amount or taking out X amount, and that would trigger this law. Did they look into that?

Village Attorney Stecich: Yes, I talked to Deven about it. The significant thing was not so much how much dirt was being brought in, especially in a place like Hastings where it is sloped so. How much it deviates from the contour of the land seemed more significant than how much soil was brought in. When it came to the technical stuff I left that to Deven. But I think that was the thinking there.

Trustee Jennings: I am confused about what happens to filling that falls between two feet and two inches. The definition of filling seems to say that unless you are talking about a large area you are talking about two feet, so less than two feet is not filling. Presumably you do not have to have a permit for it. But then you say you make an exception if it is two inches.

Village Attorney Stecich: No, six inches. But that could be over your whole property. Because remember, it is the two feet unless it is over an area of 300 square feet or more

Trustee Jennings: That is what I am talking about.

Village Attorney Stecich: Yes. So let us say you have 5,000 square feet of your lot, and you are putting topsoil on it because you want to do a giant garden. That is the situation if it is only six inches you are putting in. You do not need a permit, even though it is over an area of greater than 300 feet.

Trustee Jennings: I understand that. But if it less than 300 feet, it is filling if you change the existing grade in excess of two feet. So let us say I am doing 100 square feet with wood

chips, and I do not need a permit if it is six inches or less. But I just put approximately 14 inches of wood chips on 100 square feet. I read this, and I do not know whether I need a permit or not. I think I do not.

Village Attorney Stecich: No, I do not think so. Not if it is 14 inches.

Mayor Swiderski: And 100 square feet. It is fine.

Village Attorney Stecich: Right. You do not need a permit. It has got to be two feet.

Trustee Armacost: But why do you need to mention the six inches at all then?

Trustee Walker: Why is there area then?

Village Attorney Stecich: Because it is not going to be an exception for everything. It is going to be an exception for a great big area that would otherwise fit into this, that would otherwise fit into the definition of fill. It says raising an existing grade, if it is over 200 square feet, any raising of the grade is filling.

Trustee Jennings: Right. But B should then mention 300 square feet, should it not?

Village Attorney Stecich: I do not think so, but I will look at it again.

Trustee Jennings: Okay. Because it is really the exception to the 300 square foot rule that you are making.

Village Attorney Stecich: Yes. As long as it is only six inches, and it is following the contours of the land, and it is going to be reseeded with grass seed. There are more things than just the six inches.

Trustee Jennings: A lot of people do the kind of thing that I just did with my wood chips and, of course, this will not come to their attention. Just make it clear that they are not violating the law when they do that.

Mayor Swiderski: Six inches is not a whole lot if you are putting in beds for a vegetable garden. I know more than a few people who technically would have violated this because 300 square feet is two beds 15 by 10 for gardening deeper than six inches. Typically, it is a foot deep if you have raised bed gardening for vegetables. You would be requiring a permit for gardening, and somehow that seems onerous.

Village Attorney Stecich: So maybe the six inches is too small.

Mayor Swiderski: Or maybe an exception for gardening. Also on the fill itself, what I did on my property would not pass any number of restrictions here that you are proposing. I used demolition debris as fill as part of a sustainability effort not to remove stuff from my property, but rather to keep it on-site. I doubt that would pass this. The demolition debris was then covered with dirt and seeded, but what I did would be out of synch with this and I am not entirely sure that what I did was wrong. There is a whole thread on sustainability on trying to keep your construction waste minimalized and using it creatively, exactly like that.

Trustee Walker: Such as we are talking about on the waterfront.

Mayor Swiderski: Exactly. The buildings will come down, and the bricks will stay on-site for use later on. That is my second point. I do not know how you incorporate that. But it is a second point that fill here seems to be defined as dirt and, not only dirt, but laboratory-certified dirt. There are some aspects of this that feel like people who do not have building projects to work on have been overworking an issue that is going to cause building vegetable gardens, or trying to do right, into expensive fulfillment of a regulatory burden we are imposing. I have never heard, ever, of anyone complaining about fill or excavation. Maybe I have missed an undercurrent of dissatisfaction in this village, but I do not know.

Village Attorney Stecich: Meg was just talking about this situation. It does come up.

Trustee Walker: The situation that comes up is when somebody levels a property, does cut and fill without a permit.

Mayor Swiderski: But that falls under steep slopes already.

Trustee Walker: No, it actually has not.

Mayor Swiderski: Then it should be.

Trustee Walker: It was not about what the material was, what the fill was. It was about the fact that they were cutting up a slope.

Mayor Swiderski: But this is not excavation fill of steep slopes. This is period, stop, end of story.

Trustee Walker: This could be any kind of excavation.

Mayor Swiderski: Register me as skeptical, in advance of a law that is yet to be passed, because I did things my way. I suspect a lot of people do things that that they would find astounding would fall under a law. I do not mean to be the wet rag here, but I would have raised eyebrows of a lot of neighbors if I began to lecture them that they cannot do something because they have just laid down eight inches of dirt to plant flowers, or whatever.

Trustee Walker: For example, the structural fill is often rocks. Why would you limit the size of rocks that you can use?

Mayor Swiderski: Yes, precisely. If you are even in the business of limiting, period. Are we compelled to pass something because it was proposed, and is there a problem we are addressing that anyone has ever heard of? I do not know. I do not want to come off here as antiregulatory, but I do want to say I am antiregulatory without a triggering event. I have heard people complain about fencing, actually.

Trustee Walker: But people could use construction debris that is wood or decomposable material that could really cause a problem down the road.

Mayor Swiderski: Or leaded paint.

Trustee Walker: There are all kinds of things you do not want them to use. So maybe you just have to change these restrictions a bit.

Village Attorney Stecich: I think the point of the six inches, with the grass that you are talking about, that was the intention, to permit that. Maybe the number has to be changed. But you do make a good point because it is not only what has to be in the fill. There is a provision that says you cannot deposit fill consisting of some of that stuff. That issue never even came up. Maybe it would be helpful to have a discussion with the Planning Board, or I can just bring these comments back to them.

Mayor Swiderski: If the problem is a steep slope excavation, so that a steep slope is prevented, then somehow work this into the Steep Slopes Law.

Village Attorney Stecich: The steep slope stuff is before the Board. That is not an issue. It is other fill that would not come in because you are just filling. The steep slopes is only kicked in if you have a building permit.

Trustee Walker: If you are building something.

Village Attorney Stecich: So you go in and you fill, and then you come back.

Trustee Walker: I had contractors say to me, that means I can apply for a building permit for the house and go in and change the contours of the land and nobody could stop me.

Village Attorney Stecich: I am going to give you another example that came up on 9-A at the Ginsburg lot. About a year and a half ago they wanted to know if they could put a bunch of soil there that they had excavated from maybe their project in Scarsdale. They were going to spread it, and they said we do not see anything in your law that says you cannot do it. And there was not anything in the law. But I pointed out to them, but if you do it, and you are totally opening up your project because you did those studies based on a certain topography, and it is changing your topography, you will have to go back to the drawing board. Then they decided not to do it. But, in fact, they could have. That could have been a bad thing, because it is right near the river.

Mayor Swiderski: Well, you are raising a floodplain. That is a bad thing, but I do not know.

Trustee Jennings: I want to call your attention to some possible interpretation here. In 135-5, Page 4, Section B, because you are including plant material in this paragraph, I wonder if this would prohibit composting.

Mayor Swiderski: A very large compost heap, but yes.

Trustee Armacost: I blow my leaves down my slope into an area that is quite large. It does not cause Fran any problems taking it away. It decomposes into lovely soil, and it would be tragic to have to ask for permission to do that rather than being praised for doing it.

Mayor Swiderski: The right word is “absurd.” It is absurd, not tragic.

Village Attorney Stecich: I am sure that was not the intent, and I am not sure that I would call leaves plant material.

Trustee Armacost: Oh, they are definitely plant material.

Village Attorney Stecich: Tree stumps and plant material.

Trustee Armacost: But also the language could be waste. Anything that is compostable should be in there, basically.

Trustee Walker: Yes, it is a decomposable material, for sure.

Trustee Armacost: Exactly. I am also a lawyer by training and I do not think you should have laws if you do not need them. Maybe that is heresy, but I feel that we do not need extra ones unless they are serving a very clear purpose. So, sorry to be heretical.

Mayor Swiderski: They are going to have to burn two of us at the stake.

I am going to beg the Board's permission to give Mr. Abinanti five minutes, both to congratulate our new Trustee and to speak on affordable housing.

Thomas J. Abinanti, Westchester County Legislator: Yes, I did come by to congratulate your new Trustee and welcome her to the public realm. I found it an interesting meeting, sitting back there listening. I am not sure most people would find the discussion that interesting. But it is not easy. All of these discussions are very important when you are passing legislation. You have got to think about all the different possibilities. But congratulations, and I look forward to working with you.

I did want to talk about a decision that the Board of Legislators made a couple of weeks ago to settle a lawsuit. When you read in the newspaper about the Affordable Housing Lawsuit, as it has been called, you get a very different picture from what really happened. This lawsuit was not about race, it was not about racism. It was not about affordable housing. The decisions we made were not about those either. At some time I would like to come back when you have a break in your agenda. You have a very heavy agenda tonight. I would like to discuss it with you somewhere along the way. What we were voting on was really about settling a lawsuit. That did not come across. The people who voted yes, and there were 12 people who voted yes, the minimum number necessary, looked and said, we have got a real mess here, we have got a problem, we have got to end this. They decided the best way to end it was to take a settlement that the county executive had negotiated and given to us. Five lawyers, and I was one of them, voted no because we did not think the settlement was a good settlement and we were willing to go further, and perhaps go to trial, perhaps win on appeal. Or maybe if we got enough leverage, get a better settlement. That got lost in all of the discussions in the newspaper and elsewhere. That is what it was about, and any one of us could have voted yes or no.

That is how close it was. In fact, two legislators, during the debate, were waffling back and forth, because the issues were what is the best for the county with respect to the lawsuit. The argument was that if we went forward and lost we could lose \$200 or \$300 million. The argument on the other side was, we do not think that is going to happen. And besides, this settlement is so terrible we do not think we should accept the settlement.

I want to put that out there so people understand because I have had people come to me and say it is great that you voted against that because you are going to keep those people out of our community. I said no, that is not what this was about. That is the wrong attitude. Others came to me and said, how could you be against affordable housing? My answer was, this was not about affordable housing. When we take a look at some of the details of the stipulations, I think they are going to be preventing more workforce housing in the county. I know this community is very concerned about workforce housing, and I have worked with you and the people in the community to foster it. I am very concerned that this stipulation might put some impediments in the way of doing what this Board and this community wants to do. But it gets very complicated, and we have to talk about it.

If people want to talk to me, please call me or go to the Web site. My email is tjaesq@aol.com. That is the easiest way to reach me. I would like to discuss this with people, and I am going around from place to place. I would like to work with you. The Mayor has expressed an interest in doing some workforce housing in the community, and I would like to work with him and the Board to try to do that. I know people want to do that. On the other hand, I am afraid that this stipulation and this settlement are not going to be helping us do that. They might actually be standing in the way. But that is not what you read in the newspaper and that is not what is portrayed in the newspapers. This is talking about putting 750 units of affordable housing into certain sections of our community. From my point of view, the number is irrelevant. I could support 1,000 units if it was under the right terms and conditions and if we did not have some of the strictures we have. There were eight lawyers on the Board of Legislators; we had eight opinions as to what this agreement meant.

Mayor Swiderski: Sue Smith and I have had a number of conversations, as well as with Spano, on this topic. We certainly want to be actively involved in addressing the issues raised by the settlement and, when we have some thought of how to do that, call you in and talk further.

Mr. Abinanti: You and I have had this conversation. I have already conveyed our conversation to the planning department and indicated that Hastings wants to be part of the solution and not part of the problem. So thank you.

Mr. Metzger: On October 28 the Comprehensive Plan Committee is having an open public meeting on taxes and affordable housing. That might be a perfect opportunity for Mr. Abinanti to join us and discuss that issue.

4. Update on Deer

Mayor Swiderski: Working with Bob Marin, we have spoken to Fish & Wildlife and the head of a group called White Buffalo that does deer control nationally; it is one of the few that approach it in a highly controlled and multimodal sort of way. Here are the problems we are encountering. New York State has, to date, only issued permits for gunfire and bowhunting. They have not ever permitted and, in fact, it is illegal to net and euthanize deer in New York. So the one option that probably would have allowed us the widest geographical area to address this issue has been taken off the table by the law. And the other choices, which we have asked the state to react to, which are to dart with anesthetics and then euthanize, to dart and sterilize and, finally, to net and sterilize, are still being considered. The preliminary reaction of the DEC as that darting is the same thing as firearm or bowhunting and requires a 500-foot perimeter. So it does not do anything for us. And that they have issues with netting and sterilizing, but are considering it. Sterilization has to be done as part of a university research project. They do not just allow a community to do it. It has got to be part of a project.

So every avenue we pursue we run into a DEC/Fish & Wildlife roadblock. I continue to try to work with them to come up with something that will give us more options than bowhunting and rifle fire in a community of our density. If you take the 500-radius requirement, which is a 1,000-foot bubble, and start to look for places in Hastings where you can put a 1,000-foot bubble that does not overlap a school or a residence, you are left with a little sliver in Hillside Woods and that may be it. There may be locations by Quarry Park that would require asking a very few number of residents to approve along Broadway, but outside of those two areas it appears that we would have, at this point in time, no legal options available to us, which is outrageous, period.

And the DEC admits it. The DEC is not suggesting that these laws make sense. These laws are an artifact of a time when deer were not an issue in high-density suburbs, and a throwaway admission that netting and euthanizing is not as humane as gunfire. It is not because deer struggle under a net and it is not as nice to the deer. They can break their own legs in panic. So methods were taken off the table historically at a point where they were not needed by anyone because the place where deer were a problem had lots of woods and green space and hunting was an option.

We are now in a different reality. Deer have come into town, literally down Main Street, and the law does provide us currently with an option that allows communities of a density like ours to address a problem that is altogether too real. So here we are. The DEC has asked for, and I provided them with, a letter requesting to start the process of legal change. Fat chance. The amount of senators and assemblypeople in the State of New York who represent high-density suburbs and could care less are probably a small fraction of those who could not care less and probably are going to be moved by animal rights activists who will not want the

law changed. So while I will pursue that avenue, I do not expect results any time soon because it is pushing a solution to a problem in a politically difficult environment when it comes to anything that might be considered cruel and unusual. But I will pursue it because, out of sheer desperation, we need solutions.

I have asked them to consider carefully whether darting is, in fact, firearm. A dart's perimeter is nowhere near 500 feet, and if it should bang off a windowpane or a car the risk there is minimal. They have indicated that they are going to review it yet again with their lawyers, and we will see. I do not extend hope and I do not extend much succor here in what I am proposing. I do not have anything for you yet. When we get a final thumbs down from the DEC, what we may be left with is finding a professor somewhere to host a study where we net and sterilize, in conjunction with limited firearms.

I have been told by White Buffalo that they successfully sterilized more than 90% of the deer in Princeton when they did their effort there. That does yield a result, but it takes years before you see the population of deer drop because deer live 10 years so their population takes awhile to decline to the point that you notice it. Meanwhile, they are polishing off your hostas, giving you Lyme disease, jumping in front of your cars, and polishing off the undergrowth. So during this period you have paid an absurd amount of money, at \$800 a deer, to sterilize them and not seeing a whole lot of return for your money spent any time soon. It is, at best, an ugly set of solutions. And we are trying, but it is what it is.

Trustee Walker: I thought Princeton used White Buffalo, the sharpshooting method.

Mayor Swiderski: They did both. Apparently deer are not at all mobile. If you sterilize, they are tagged in a way that makes them visible. Any new deer that come into the vicinity you are going to have to sterilize, as well. You can manage a population significantly down, but it is expensive. I have located a couple of veterinarians locally who will do this for free. It will bring the cost down from \$800 to \$600 because you are still going to have to call on people to net and restrain and everything else. There are some small savings we might realize from using local volunteers, but you take \$600 a deer and multiply it by 80 deer, 90 deer and Jeez-o-pete we are talking real money. It is \$60,000 or \$70,000 for something you will not see results with immediately. We may come to that. We may, in the end, as a Board, decide that is what we want to do. But it is not where I wanted to be at this point in time. And it is where Fish & Wildlife has put us.

Trustee Walker: What about contacting homeowners and picking a few hypothetical spots?

Mayor Swiderski: I think Mr. Gonder's experience is indicative. All you need is one homeowner in that perimeter to nix it. In the Broadway area I have had Christine Lehner

indicate that there is a string of homeowners there that would sign in a moment because of the problems they have. That is why I mentioned that second location as a possibility, because if you are talking a really limited number of homeowners there is some chance you might be able to find a string, a row.

Trustee Walker: It takes a campaign, does it not?

Mayor Swiderski: It does. But realistically, it is not worth doing in most of the Village because the number of homes required is so great and the likelihood of encountering one single person who says no is so high. I do not know who would go through the effort of getting hundreds of signatures, but then to have one person say no. It would seem frustrating.

Trustee Walker: I had always imagined, though, that we would only be doing it in fairly under-populated areas anyway, which we have very few of.

Mayor Swiderski: You would have to do it in every park greater than a couple of acres. The Andrus property, they have offered their property and that is home to a herd of 12. There are a number of places.

Trustee Walker: Mr. Gonder's park.

Mayor Swiderski: Mr. Gonder's park is home to a herd, but the problem is that a 1,000-foot bubble around that park covers quite a few homes. So we are where we are, and I am hoping that the darting will be approved as a non-firearm modality so we will have something to work with.

Trustee Jennings: When you are talking sterilization, exactly what would the vets do? Is this a chemical sterilization?

Mayor Swiderski: I think it is an actual tubal ligation. The vet is taken off by White Buffalo and trained, first on recently killed deer and then on some live deer, and then brought back into the community and does it. It is not a cheap process. You are doing surgery on an anesthetized deer. You cannot use chemicals because even in Hastings there is some risk that deer are taken down by hunters. Anecdotally, there is some bowhunting going on in some of our woods. Chemically treated deer are not safe for eating, so you are introducing a risk that is not allowed in New York State for that reason.

Trustee Jennings: There is a lot to be thought out in terms of the way in which this would affect the deer's behavior afterwards and so forth. Even if we cannot reduce the deer

population significantly because we are stymied in that way, one of the several problems that we have identified is Lyme disease. There are other measures to interrupt the tick's life cycle to try to limit the infection of Lyme disease. I think we should not simply say we cannot reduce the number of deer, therefore we cannot do anything about Lyme disease. That does not follow. We might have a second project on our hands even after we are stymied. It will be expensive, but it is not something we should lose sight of, because we have ample evidence of the devastation and toll that Lyme disease has taken in our community. There are ways to treat the deer with insecticide, tickicide. There are ways to try to treat mice. Just cut down the number of infected ticks.

Mayor Swiderski: You are absolutely right, and there is a variety of means to do that. There are salt licks that can be set up with gaps where the deer's head goes through to get to the salt, and there are like rollers that are treated with insecticide. The deer's head goes through and it is curtains for the ticks on the deer's head. But those are not cheap devices. They would have to be in a number of locations. But, indeed, you are right.

Trustee Jennings: A conversation about at least a part of the problem will have to go on, because we can attack part of the problem if we cannot attack the whole problem.

Mayor Swiderski: I agree. But the other components of the problem will not. As the biologist pointed out, we are nowhere near the carrying capacity of our deer. I do not think he was kidding when he said you could have hundreds of deer per square mile. There are sections of this country that have 150 deer per square mile. That means we could take 300.

Mr. Bogart: The fences look like a better solution every minute, and lowering the fence height is not the way to go. A fence can be relatively unnoticeable. It does not have to be a solid wood fence. I have seen a fence, and I will not name where it is, in Hastings, about 10 feet, and the yard is completely fenced in. Does not look too bad. That is probably the way I am seeking to go this winter because I do not have faith. I see a lot of good intention, but I have been waiting for more than a few years and I am tired of walking in crap in my backyard. I do think the way to go is legislative. As I said a couple of months ago, you have to go two routes. If there are people who are in the legislature, and they are not willing to give the time of day to it, then you have got to find something they want and trade off with them on it. There have to be enough other people in the immediate vicinity, in other villages, that are willing to go along with it. So it has to go beyond Hastings. That takes some organizing.

5. Update on the Waterfront

Trustee Quinlan: This Thursday I am meeting with Fran and the Building Inspector, and hopefully the Police Chief can make that meeting. I talked Steve Pecylak from the fire department. We are going to go over the demolition plan. It was a good idea brought up earlier about posting when it starts on Maple Avenue and the railroad station. The next day, on Friday, Peter and I are driving to Albany to meet with the DEC to discuss what their current plans are for the remediation of the waterfront and what some of the obstacles may be. Hopefully there is not a roadblock between the remediation division and Fish & Wildlife. But that should be interesting to find out. We are also going up there with Dick Brownell from Malcolm Pirnie, who is our engineer, to discuss some of the issues on the waterfront.

On October 21 I am going up to meet with Riverkeeper to update it on the status of the waterfront. That is after our next Board meeting and I will discuss with the Trustees whether they feel it is useful if I alert them, depending on what happens on Tuesday, with an update on the quarry just to put it on the radar screen. It is a meet-and-greet. I do not know what they are going to be discussing. We will try to set up an agenda. I know that quite a few people are coming from Riverkeeper, six or seven, so anybody who would like to join me is certainly welcome to. It is at 3:30 p.m. on Wednesday, October 21.

Mayor Swiderski: In Albany we are also trying to arrange a meeting on another floor in the same building with Fish & Wildlife about deer while we are there.

6. Update on Comprehensive Plan

Trustee Quinlan: There was a very productive meeting last Tuesday for three and a half hours at the Community Center. My takeaway from that meeting was that there are not as many differences as there may seem to be between the LWRP and the Comprehensive Plan. They have to sit down together, not necessarily with the Planning Board or the Board of Trustees, and try to come up with a consistent vision of what the waterfront may look like in the future.

7. Other

Mayor Swiderski: Meg, you wanted to speak to Friday Night Live, the blowout that we had on Friday?

Trustee Walker: I asked to say a few words about it so we can discuss how the Board would like to go forward with it. The committee is meeting tomorrow. It was a tremendous

amount of work, but it was also a tremendous success. People are energized by what happened on Friday night. Many of the downtown merchants and restaurateurs were very pleased. I cannot say all, but I would say the majority were very pleased and had a very successful night.

The committee is considering taking it forward into November, December. Not to the same degree; we cannot afford to spend the money we did Friday night, and we cannot count on the number of volunteers. We are going to try to figure out how to do a reduced version for the next two months. We are also going to circulate a questionnaire to the shop owners and other business owners to find out how they felt about it, do they want to do it every month, do they want to stay open late every month, and just get their opinions. And we want the Chamber to weigh in and let us know whether they think it should be a monthly event.

We probably will talk about doing something at a much-reduced level in November, but we want to encourage the shop owners to stay open and to use that as an opportunity to invite the public into their shops. Maybe we will not close the streets, but we could cordon off some parking spaces if they want to do outdoor displays. I was very pleased at how many people were shopping. People were saying, wow, I never was in that shop before and I was really amazed at the kind of jewelry, or the selection of wines. Even if they were not shopping, people were exposed to what our shop owners have to offer. The restaurants, for the most part, did very well. Any thoughts on your part, any ideas, any opinions would be very welcome.

Mayor Swiderski: It was outrageously successful. If you looked down the block you would see hundreds of people, some dancing; kids scrawling on the sidewalk with chalk; people thronging around the stores that had figured out how to draw them in; and moviegoing. It was like a great street festival, and entirely successful on every level. There are a couple of merchants who did not enjoy the same level of success, but even they should recognize that they saw a lot of new faces inside their stores. If they do not understand the value of it, well, I do not know what to say. Let us leave it at that. It was something everybody truly enjoyed, and I hope the volunteers find a way to do something every first Friday until enough momentum is built. It is like what happened with the Farmers' Market: at some point, you can afford a part-time person who pushes it forward. We are not there, since we have only taken a first step.

Trustee Walker: Right. But I am not going to wait as long as the Farmers' Market did to hire a super-manager. We should consider that sooner, finances permitting, of course.

Trustee Quinlan: I would just like to second everything Peter said. It was great. The tenant in my building, Pizza Grill, did a wonderful business. They were very happy with it.

Trustee Jennings: I, unfortunately, was out of town on business and was not able to go. But I have heard nothing but wonderful testimony. One of the challenges in the next few months is going to be the weather. I question whether we will be able to have the outdoor event be the central focus always. Maybe you should approach the owner of 45 Main Street. All that empty space that is not yet rented on the ground level, across the street from the Community Center, if you could get permission to use that for the evening and then decorate it in temporary ways we would have two large indoor spaces right next to each other where a lot of different activities, like films or other things for the kids, could go on. The library is great also but not so big, so that might be the natural place for a quasi street event.

Trustee Walker: We are looking at booking a band for November 6 in the Community Center, and picking intervals of every two or three months, and booking some bands way ahead, so we might be able to get some big names. If you do it a year in advance, you could get some great acts. We are talking to Common Ground coffee house about helping us with that. But we do not think we want a musical event every first Friday. We might do something with theater, or art, or dancing, or the culinary arts. We are thinking about coming up with a calendar, going a year forward, to think about what will the themes be. We have to figure out some indoor themes, whether it is an art walk that goes on inside of shops and restaurants, or serving food in a variety of places that do not normally serve food. But I think your idea is a very good one.

Trustee Armacost: Like Bruce, I was detained in Manhattan that evening, much to my chagrin. But I arrived about 10 o'clock and the party was still going on, which convinced me that it must have been an amazing time. So congratulations on that. Having run a lot of these big events, definitely do not underestimate having that key point person in place. You will run out of steam quickly doing it yourself. The other part is making sure there is a budget for the event a year in advance so you know exactly what your outlay is going to be, particularly if you are looking for big names to come in, because your costs can get thrown off by rain and other things.

Trustee Walker: I know you and Liz have a lot of experience with this, so I hope to profit from everything you have learned. We do need a business plan and a lot of other things in order to think of it that far in advance.

ADJOURNMENT

On MOTION of Trustee Walker, SECONDED by Trustee Armacost with a voice vote of all in favor, Mayor Swiderski adjourned the Regular Meeting at 10:42 p.m.