

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
MAY 4, 2010**

A Regular Meeting was held by the Board of Trustees on Tuesday, May 4, 2010 at 7:30 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

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

CITIZENS: Twenty-seven (27).

APPROVAL OF MINUTES

On MOTION of Trustee Walker, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Public Hearing of April 13, 2010 were approved as presented.

On MOTION of Trustee Walker, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Public Hearing of April 20, 2010 were approved as presented.

On MOTION of Trustee Walker, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Regular Meeting of April 20, 2010 were approved as presented.

On MOTION of Trustee Walker, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Executive Session of April 20, 2010 were approved as presented.

APPROVAL OF WARRANTS

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

Multi-Fund No. 70-2009-10 \$90,092.04
Multi-Fund No. 71-2009-10 \$ 6,533.79

PUBLIC COMMENTS

John Gonder, 153 James Street: The budget process, you did a pretty decent job. I know you all worked pretty hard, especially Trustee Armacost, watching how the dollars are spent. Seniors appreciate that, and people that are out of work and that are having hard times.

I hope there is money in the budget to repair that pipeline that runs through Pulvers Woods and through my yard. I see a lot of gnats there and a lot of water. The West Nile prevention begins Monday. Westchester County says, you have any problems with latent water, contact the Board of Health. I would rather not. I would rather have you fix it. Not the old Band-Aid thing that you did six or seven years ago, but fix it right and bury it. Mr. Mayor, in regard to the deer permit: January we are going to get one, February, March, April?

Mayor Swiderski: I will be addressing that.

Mr. Gonder: It is not on the agenda.

Mayor Swiderski: No, but that is my omission. We will get to it.

Mr. Gonder: I have been watching the deer for eight months. Now the deer are watching me when I am working out in the yard. I come in, they are in my yard after I go in the house.

Trustee Quinlan, one of my favorite Trustees. The last two meetings you were pessimistic about the DEC and Fish and Game, where six months ago you were very optimistic of things going on down there on the waterfront. The DEC sucks. Eighteen years, I think it is Peter Grannis is the commissioner. He was also a member of the state senate. That is why I think there is nothing done; those people in Albany cannot do anything. Atlantic Richfield, you should take them to court, and the DEC. BP now probably has a \$750 million cleanup, at least. And so ARCO is going to delay everything they can because they are going to have to be spending a lot of money. I went to the school system here. Probably a 7th grader in my class could have given you better solutions on how to clean up this mess. Just take a few buildings and a little asbestos, 18 years nothing really accomplished. Accepting gifts from Atlantic Richfield, monies, vehicles, and you do not have much to show for it. Why do you not take an adversary position and tell Atlantic Richfield and the DEC just divide the property up in little sections and give Joe Sontchi a couple of shovels and protection, and let him start shoveling and clean up some of this stuff.

Trustee Walker, I know you have Friday Night Live. Maybe you should consider a protest dance or something at MacEachron Park or River Street or Southside Avenue, and we protest the DEC and Atlantic Richfield for taking so darn long. You do a good job in those things, and maybe we could get something accomplished.

Tim Downey, 520 Farragut Parkway: I have been keeping tabs with Dobbs Ferry's cleanup throughout the springtime: They essentially used a system I have been suggesting here. The cost for their entire cleanup this spring from all the storm damage is about \$10,000 because they had both the space, the proper machinery and the trucks; and they had the

mindset, the willingness to go in a certain way. Do not know if those are the hard and true numbers, but that is what I heard this morning. They brought all the material to one site, ground it up, and they chose to truck it out versus keeping material on-site to reuse. There is a big savings to be realized if we look at the possibility of doing this stuff in-house. This goes right to Trustee Jennings as far as sustainability and green thinking.

Budget reserves. I was almost in disbelief last February of '09 when we talked about the fund balance being very low and depleted. Yet there were monies last year to do all sorts of ball field renovations. We had dugouts put in, we had infields put in up at Zinsser Park. To me, that looks along the lines of needs versus wants. Like Trustee Quinlan has said, if you don't have the money you live within your means. I would love to see where we partition a certain amount of money each month to go directly into the reserve account, bolstering that account. We cannot come back in 2011 and say, we don't have the money, we are down to 100 grand, we are down to 80 grand. We have to live with what we have and boost that account. Otherwise, when we go to the bond market we are paying a dollar plus for every dollar we need for operating our budget.

A way to find money would be the paving contract. Every year we go through this whole thing in the late summer and autumn where they mill up the roads. The roads are 80 to 90 percent serviceable. There are some bad areas in some of the roads. But if we had \$125,000, \$150,00, \$100,000 allocated for that, why could we not say just take 50 grand or 40 grand, use it for a good patch repair. If we cannot do it in-house, then we subcontract it out to the type of companies that come in and do all the work for Con Ed. They do a quick, clean, swift job. We can take that difference, the 60 grand, and throw that into the reserve account. I would like the Board to look at measures like that to try and create funds and revenue for the reserve account going forward.

45:10 APPROVAL OF CERTIORARI SETTLEMENT – HASTINGS GARDENS

Village Manager Frobels: This matter comes before you on the recommendation of special legal counsel. This defense has been coordinated with the school department and involves property on Broadway, an 86-unit cooperative apartment complex. It is the advice of legal counsel this matter be settled rather than to go to trial.

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

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

<u>Property Owner</u>	<u>Address Description</u>	<u>Year(s)</u>
HASTINGS GARDENS OWNERS CORP.	737-751 North Broadway Tax I.D. No: 10-14-P133, P135	2003-2009

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

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

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

Years	Current AV	Reduced AV	AV Reduction
	1997-2002: DISCONTINUED		
2003	370,000	321,950	48,050
2004	370,000	304,350	65,650
2005	370,000	269,100	100,900
2006	370,000	254,250	115,750
2007	370,000	247,250	122,750
2008	370,000	240,550	129,450
2009	240,550	240,550	0

The refund of Village taxes amounts to \$108,065.48±.

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: Mayor, I am going to yield my time to the other topics that are coming right after this.

BOARD DISCUSSION AND COMMENTS

1. Rowley's Bridge Trail Restoration

Mayor Swiderski: Meg, did you put this on the list?

Trustee Walker: Yes, in combination with Ray Gomes and Village Manager Frobel, for a couple of reasons. I wanted the public to know the amount of work to restore the trail after the county trunk line break during the winter: major excavation work, major reconstruction work. The county trunk line had a major leak. It was causing flooding even in the commuter lot of untreated waste water. It had to be fixed. And in so doing, they had to rip up our beautiful Rowley's Bridge Trail which Fred Hubbard, who passed away two years ago and was our Village Naturalist, put so much of his time and energy and heart into. I wanted folks to know, because a lot of people in Hastings have put volunteer time into everything from cleaning up that trail to planting trees and flowers; Girl Scout have planted trees; Boy Scout troops have done cleanups over the years. It was very disheartening to see what was done by the heavy equipment. But the county did a lot of patching and re-landscaping, and provided the Village with funds to buy trees and trash cans and re-gravel the road. So it is being restored. It does not look the way it did before, but it will have wildflowers and trees, and it will be beautiful.

I wanted to recognize Superintendent Gomes because he put in probably hundreds of hours into the work, along with help from a number of Hastings residents, and Carolyn Summers, who helped to specify the trees that would be planted and where they would go. I wanted to recognize them and thank them for their hard work. But I also wanted to pose it as a question going forward, now that we have got kind of a restored trail, how do we maintain it, how do we manage it; can we have programming along it, can we have events; should there be walks and tours? We want to make sure that it stays pristine going into the future and does not become a dumping ground again, as it was years ago before Fred Hubbard discovered it and mobilized the cleanup effort. That leads to the topic that Mr. Gomes can address, which is a trailway committee and how it would function and what it would do in the future.

Village Manager Frobel: Ray and I began to realize we needed a lot of volunteers to pick up where Mr. Hubbard left off. We assembled a meeting at the Community Center, and we had a good number of people turn out. But we need to keep that spirit alive. Ray, why do you not talk about the effort that you have led in trying to keep that legacy going.

Superintendent Gomes: Thank you, Meg, for the kind words. We have a meeting already set, June 13 at the Community Center. It is going to be made up of most of the people that were involved with the Rowley's Bridge restoration, and there were quite a few. I remember Meg called me on a Friday and asked what is happening down at Rowley's. I sat at my computer for about an hour and just sent her out emails with all the different people that were involved in it. It was a nice mesh between the Village, the county, and the volunteers to accomplish what we did. Moving forward, we recognize that we need someone to facilitate not just Rowley's Bridge but the work at other trails, and communicate to the Recreation Department the things that need to be done. We are hoping to send out a publicity blitz. We want to start up again the Adopt a Trail program that Fred and I started. It is a great way and an economical way for the Recreation Department and volunteers to make sure our trails are well-kept and safe. Hopefully in June we will get a nice turnout and we can start to get back to the level we were when we had Fred.

Trustee Walker: Thank you so much. It is important that people understand that the reason we have these trails and they are in the condition that they are is thanks to not only our wonderful Parks and Rec department, but also because of volunteers over the years who have put time in. We have to go forward with a joint effort. We cannot expect the Village to do it all. We do not have the money or manpower, and it really has always been a partnership between volunteers and the department. We need to remobilize and move forward, so thank you for that effort.

2. Amendment to Village Code Chapter 193 Noise – Music in Restaurants

Mayor Swiderski: The source of this item was a discussion raised by residents at the last meeting regarding the curtailing of music after midnight in one particular venue in town, and a concern that it was impacting finances and the liveliness of nightlife in Hastings. It is on the agenda today for Board discussion. Board discussion is exactly what it sounds like. We talk to each other. At the end, we will allow for public comment though, again, we ask that the comments not repeat each other and speak to the salient issues you might have just heard in the Board discussion. I wrestled with how to address this issue and have it progress usefully. Our Village Attorney has provided us with the laws in many of our neighboring communities.

Trustee Quinlan: My apologies, but I am going to have to recuse myself on this issue. I own a mixed use building on Warburton Avenue that has commercial and residential apartments. So therefore, I think this discussion is held better off without me.

[Trustee Quinlan exits the dais.]

Mayor Swiderski: There are three parts to the discussion. Should we take some sort of action? If we do, what sort of impact does that have on the hours that exist in the current law. How do we effect change? Is it simply moving hours, or is it setting new standards? What is the change we are looking to implement here? By taking a look at the surrounding villages' laws and regulations, it helps to understand how other villages have tackled this particular topic. I am going to step through six different laws here very quickly so people get a sense for where things are. Dobbs and Irvington have very similar, word-for-word in fact, regulations that prohibit noise between 12 midnight and 7:30 a.m.; the terminology is "plainly audible from adjacent properties." The penalty there is \$50 and \$250. That is subjective, but fairly clear.

Greenburgh, a little more mixed: unreasonably intrusive noise with a residential district, and the restriction is described in decibels as 65 decibels; private property from nearby adjacent commercial district, also \$65; and then in any other districts the limit is 70 decibels and the time frame is from 8 p.m. to 8 a.m. Sunday through Saturday, and then 5 p.m. to 10 a.m. Saturday through Sunday. So the restriction there is in decibels, and it is 65 decibels.

Tarrytown has done something a little different. They have got a noise law that is almost identical to Dobbs and Irvington, with a midnight to 7 a.m. restriction and a plainly audible on adjacent properties restriction. But then they have a cabaret license which goes until 4 a.m., and says that if there are any noise complaints are received the cabaret will be limited to 2 a.m. Even with that, the restriction is that the music cannot disturb peace, tranquility, and good order. In the noise section of their law they also use a decibel number, and there it is 62 decibels. That is measured from 60 feet away from the noise source.

So those were the five laws in the Greenburgh townships. What we have is two laws that refer to decibels, in both cases 62 and 65, and the others which use this plainly audible from adjacent property standard. They all, with the exception of the cabaret license, speak about midnight to 7 or midnight until 7:30.

For New York City, I had a hard time plowing through that. It is complicated. In the end, it is decibel-driven as well, and the best that I could ascertain from that law was that it was 45 decibels for legally-occupied mixed buildings, and 55 decibels for high-density residential

and 70 for commercial districts. The restrictions there for those decibel levels kicked in at 5 p.m. and go until 10 a.m., and it did not specify day of the week.

Finally, in Yonkers the restrictions are from 10 to 9, and it is 50 decibels. There are extensive rules for exceptions that can be written for licenses granted to particular establishments if they submit a form. Again, New York and Yonkers seem to go for subjective numbers, decibels, that drive how loud sound can be from within a residential property next to, or near, somebody who is making noise.

What we see here when we look at these is either two standards. One is this plainly audible from adjacent properties, and then various decibel standards that go from a low of 45 to a high of 70. Tarrytown has a cabaret license, Yonkers probably permits quite a bit. But that is where we are. That is sort of a framework for what other villages and municipalities have done in the vicinity.

Our noise ordinance pales in terms of complexity. It is all of three or four lines that apply here:

“No music of any kind or description, including instrumental music, radio, player piano, jukebox, recorded, electronically-reproduced or vocal music, which shall interfere with the repose, health, comfort, safety, or welfare of any person shall be played, cause to be played, or permitted to be played between the hours of 12 midnight and 8 a.m. in any restaurant, bar, tavern, and/or public place licensed to sell liquors, wine, or beer to be consumed on the premises.”

This is in the spirit of the more subjective laws in Dobbs Ferry, Irvington, and part of Tarrytown, where “shall interfere with the repose, health, and comfort” as a subjective rule. There is no mention of decibels, and the time limit here is in accord with what we see in a number of communities, though Tarrytown has something different.

So we have a request from a number of residents who would like to see music be played at bars after midnight. The habit, or custom, at this particular establishment, and it is probably true in others, has been that there has been live music past midnight until 2 a.m. I think the request is that this be allowed. And I think there was one person who specifically threw out Fridays and Saturdays. I throw it open now to Board discussion.

Trustee Armacost: I have two questions. What is the penalty if this law is enforced? And how often it has been enforced since it was enacted. Do we know when it was enacted?

Village Attorney Stecich: In 1939, and then it says as amended through '70. The penalty is not less than \$25, no more than \$250.

Trustee Armacost: And how often has it been enforced since it was enacted?

Village Manager Frobel: I would have to check with the Chief. I do not know.

Mayor Swiderski: I do not think it has been enforced often.

Village Manager Frobel: That is my sense, but I do not know the number.

Mayor Swiderski: Let us start with the basic question: is there a sense that the 12 o'clock time frame is fair? Should it be 2 o'clock? Let us start with is there an issue.

Trustee Armacost: A question to ask before that is what are the purposes of these kinds of ordinances. Why do you have them in the first place, why do you continue them, what interests are they balancing. My understanding of the interests that are being balanced is that there are two sets of interests. There are people who are living in a particular place who want quiet at night, and then there are businesses that are trying to make a living and do their core business. A number of those businesses happen to be at their hottest late at night. I know about that because my husband is a musician and he plays until 4 in the morning. So I know all about the kinds of businesses that are supporting not only themselves, but a set of other actors, artists, musicians who are playing late into the night. But there are two sets of interests, and both of them are valid interests. And what is important with an ordinance like this is to create a fair system, where you are able to do justice to both sets of interests. So we should first of all be clear why we have this little ordinance and what our goals are, what interests we think we are balancing, whether the rest of the Board agrees with the way that I framed it, or whether there are other interests that we are not articulating here that are important to be weighing, as well.

Mayor Swiderski: I think that nails it. I also think it is worth saying it does not apply in this one instance. But should we face development elsewhere on the waterfront, and if it is indeed mixed use, you want to think ahead and make sure whatever you pass can apply not only there, but also within Hastings. There are other restaurants open or refurbished that may have music so this is not site-specific. Whatever we do here has to be balancing these interests, period.

Trustee Armacost: Right. And the key thing is to define what the word "fairness" means in this context, because there are competing sets of economic interests, all of which are valid. So whatever we decide needs to take that into account. An ordinance that has not been

enforced or never been enforced or rarely been enforced is usually there for an extreme type of situation, where something very unruly happens that needs to be checked. That is usually why you have those kinds of rules on the books.

The concern probably from the people who run establishments in town are whether the fact that this law happened to have been enforced on this one occasion would mean that it would be enforced on a continuous basis into the future. So another thing for us to consider is whether this is a law that is about stopping specific instances that are outrageously loud, or whether it is something that is going to stop all music at all time. And obviously, if it does the second then one set of business owners are deeply disadvantaged vis-à-vis the other set of residents and owners

That is another thing that we should be considering. Is this an ordinance that we want to have there in order to be able to call on if something extreme happens, or is this something where the intention is to enforce it on a regular basis, because that is where you are going to get a lot of people who are running bars, establishments that have music and have them into the early hours of the morning, that is going to severely impact their ability to do business.

Mayor Swiderski: I do not argue. I am not sure what that means.

Trustee Armacost: That means if those sets of business owners believed that the intention was to enforce this every time any music went beyond 12 a.m., they would lobby very seriously for a change in the law because that is going to clearly impact their ability to do business, whereas if they felt that this law was there but could be framed to make it clearer that the intention is to stop extreme cases of noise, then they would probably be more relaxed about having some kind of a noise ordinance there. I do not know.

Trustee Jennings: Mixed use is very important to our community for lots of reasons that we do not need to talk about now. But I think that it is the way to do towns and it is the way to go. So this kind of problem is not solved by separating the commercial noise-making entertainment places from the residential places. That is not going to work. That is not our future. Our future is to find out a way to live together. So something like this is very important, because mixed use development is very important. That is my first general observation: we have got to figure out how to do this right, as you say, the waterfront eventually.

Second general point, I am not comfortable, as a matter of public policy, with having laws on the books that we do not enforce. That leads to capriciousness and maybe undermines respect for the law itself. Part of the function of a law is to allow people to make plans based on settled expectations and known rules. So if we have a situation where we want to protect

against a very unusual and extreme situation that only occurs from time to time, then the solution is to write the law in a way that kicks in if something runs amok. But the solution is not to have a law on the books that we only enforce when we feel like enforcing it.

Solution? I do not know if it is the decibel approach. The time approach seems to me to be a blunt instrument. I wonder how much of this might be mitigated by acoustics. Is it possible to have the noise, the music, the decibel level that goes along with entertainment be containable so that the entertainment can take place up here, and the peace and tranquility and sleep can take place over there? Is it just impossible to cordon off these spaces with acoustic measures rather than have a, well, you can knock the roof off until midnight but then absolute quiet. I do not know. Maybe the answer to that is no, it is not physically possible. Or maybe the answer is the bar owners and the landlords need to retrofit their buildings to be able to live and let live in a better way. In terms of reasonable accommodation and working this thing out in a mixed use neighborhood, that seems to be something we ought to think about so that we can have our entertainment and our tranquility at the same time. That would be, the ideally fair compromise of the balance of interest that Niki refers to: an imperfect thing, where it is a little too noisy for some people, but it is not that noisy. Maybe we can aim for that, and maybe that is what these decibel laws aim for. Maybe that is a more reasonable approach than the time-based laws.

Trustee Walker: Thank you all for separating these issues into understandable components. Bruce, picking up on what you said about the expectations of those who would be living in a mixed use district, that speaks to the need to come up with some objective standard. I think that the New York City laws had a different decibel level for a mixed use, commercial and residential, district than they have for residential. A purely residential neighborhood was 45 decibels. A mixed use, with commercial and residential, was higher. If you distinguish between residential and mixed use that way then you are giving people a signal that we are going to tolerate more noise in a mixed use neighborhood than we will in a residential neighborhood. How we enforce that and the decibel levels I do not want to get into at this particular moment. Having those criteria may be important, especially moving forward when we think about more mixed use development.

I do think that the timing is important, and that between 12 and 2, if music is allowed, that it could be quieter. I think that there has been an expectation, perhaps. I am not sure if there has been an effort made in the Village to be quieter after midnight, or not. But there is that possibility of looking at it in that way; you could say raucous until midnight and quieter, or no booming base, after midnight. Something like that.

I see both sides. It is really important that these businesses protect their livelihood and that they be allowed to play their music. It is very important to the liveliness of the downtown in

creating a great destination, and we want Hastings not just to be a sleepy little residential bedroom community. We really want our downtown to have restaurants and bars and, I believe, nightlife. On the other hand, I lived in an apartment building during the disco era next to somebody who played music every night until 3 a.m. with the speakers up against my wall. If you remember back in the disco era, and it is still true to some extent, the bass was just this boom, boom, boom. That is all we ever heard; we never heard the music, we only heard the bass. I could not sleep night after night. So I understand the anguish of somebody who is kept awake by that kind of sound. It is not music anymore. It is just noise, and you cannot sleep through it. I have been in that situation and I know how horrible it can be. But that said, I do think that people should be forewarned that they are moving into a neighborhood where there may be music until later in the evening than you would have in a residential neighborhood at perhaps louder levels.

Mayor Swiderski: Meg, you are nailing all the major components. There has got to be a time frame. I think objective is better than non-objective. What is intolerable to one person, and I can certainly relate this to my wife and I when it comes to noise at night, her tapping on the computer is absolutely unacceptable, to me at least, and she can sleep through almost anything. So subjective is not good. A law that does not have something that can be verified with a police officer with a device, I imagine, will just lead to, that is too loud to me: he-said, she-said. So that does not work.

I do not want to have a 45-day drafting period for this law. It would be nice if we could find something out of these that are here, and settle on it fairly quickly. But a law that respects the fact that there is a difference between mixed use and residential is probably a smart law because what is too loud coming out of a neighbor's home in single-family parts of the Village may be completely acceptable downtown because the level of noise is expected to be different. So I agree that there is a distinction there we should be making. I hesitate getting too complex about that because, again, I do not want the noise law to be bigger than the rest of the Village code combined. We kept it to a couple of pages here. But there is probably a distinction there that is meaningful. And the midnight rule here, there is probably a break point where beyond which it makes sense to say it is lower but not nonexistent. I tend to feel that weekends are different than weekdays, so I am not sure if we should start distinguishing 55 decibels on a Friday and Saturday night but 45 decibels the other nights. But maybe you come up with a matrix that does that. It is a combination of time, date, and place, and that becomes your law. It respects the fact that places playing music can go later, but are not blowing somebody out of bed in the building next to them at 1:30 at night. That sounds like a mouthful to operationalize into a law, but is that somewhere that people are comfortable heading?

Trustee Armacost: I think distinguishing between weekends and weekdays does not make much sense because most businesses that are musical businesses are doing their big business on a weekend. Unless what you are saying is that the law would go until 12 on Sunday night to Thursday night, and then it would go until 2 a.m. on Friday and Saturday night. Is that what you are saying?

Mayor Swiderski: Possibly, or possibly it steps down to 55 from 65 on weekends but to 45 on weekdays. I do not know.

Trustee Armacost: We also need to hear what 45 is, what 65 is, what 70 is. I have no idea. We need to have an understanding of that before we do any enactment of anything.

Mayor Swiderski: No, tossing around numbers does not do anything. Obviously, I agree, but conceptually trying to frame this in a way that you think in terms of crank down the dial after midnight. If the neighbors are perceiving this as making the mirror jump on the wall, and it sounds like there is a radio in your own room blasting at high volume, that is too loud. It has to be reduced to something, I think, fair. So you do not see a need for distinguishing between a weekend and a weekday? You think it will sort itself out?

Trustee Armacost: If the idea is to give more leeway on the weekend, that will satisfy one set of constituencies: the businesses that are running bars, that are running musical establishments.

Mayor Swiderski: In theory it will satisfy also by quieting these down at midnight on the other nights.

Trustee Jennings: It would make sense to make some differentiation between the rules that govern a club and Meg's scenario: the neighbor who blasts the stereo across the wall. I do not see why we have to have the same regulations for both of them. Maybe this is what Tarrytown means with this cabaret classification, or that they have a way of carving out a special set of rules for particular places.

Mayor Swiderski: Why would you care to differentiate?

Trustee Armacost: Because the neighbor is not running a business. That is just the pleasure of that person to have loud music, whereas the drinking establishment or musical business is running a business. That is how those people make a living. That is how all those musicians make a living. There is a whole different business imperative there than if you are just cranking your dial up.

Mayor Swiderski: Fair enough.

Trustee Jennings: What she said. But also, in addition to being a business and making a living, some of these establishments are, in fact, contributing to the community because they are creating a nightlife quality of life for the community as well as making money.

Trustee Armacost: An atmosphere, yes.

Village Attorney Stecich: There are other sections of the Code that do regulate that kind of noise. We already have it. This section just happened to come up because this was the section that referred to music in restaurants. But there is this chapter of the Code called Performance Standards, and it has a list of prohibited noises, one of which is: "the operation of any radio, television, phonograph, or use of any musical instrument in such a manner or with such volume so as to annoy or disturb the quiet comfort or repose of persons in any residence". There is also a section on prohibited noise levels that is in decibels: no person shall operate or cause to be operated any mechanism or device which shall create a noise within the Village exceeding, and it has got a table which I do not understand, octave band center frequency in hertz. That is column one. It has it, by the way, for daytime operation only and special limit for noise of an impulsive character and noises of periodic character. It is pretty specific. So that is in there.

Trustee Walker: That does not specify where that can happen. It could be in the downtown, it could be a residential neighborhood.

Village Attorney Stecich: Within the Village, yes. So it is anywhere in the Village. It has where it should be measured from.

Trustee Armacost: To Bruce's point about having laws that are not enforced, these are exactly the kinds of laws. As a lawyer, I can tell you there are many laws on the books that are there just in case. You have to sometimes go back and look at why you have certain laws in place and the mindset of people when those laws were enacted, and whether they are relevant today or whether they are hindering people's ability to go about life as it is today in 2010 versus when it was enacted in 1939 when there was a bar on every corner.

Mayor Swiderski: We must defeat the scourge of the player piano.

Trustee Armacost: Right. It is fine sometimes to have laws that are not enforced. But we have to be really clear why they are there. And if we are fiddling with them today, we need to know why we are fiddling with them today.

Mayor Swiderski: I think we understand why. I am trying to come to some sense of whether we want to take some action. I think what you are saying is right. A law that has not been enforced, it is probably because there has not been live music as much as there is now, and perhaps no one was complaining about it or no one was living near that music to complain about it. But whatever the reasons, it has been sporadically enforced, at best. We are facing, at least in one case, a bar that is not playing music after midnight because they have been instructed not to. So this law perhaps is serving exactly in that function of being utilized when it is needed because somebody complained. But the question is, is it too blunt an instrument.

Trustee Armacost: But even the way this law is worded now should not prevent that bar from playing music at another time. The way it is worded is: shall interfere with the repose, health, comfort, safety, which is specific in time. Unless the claim is made it is interfering with my repose, health, comfort, safety every single night. It has to actually be reinforced every night. This is not a general statement. It is saying only when it meets those criteria. So that bar should continue operating, I think, after 12. The law does not say it can never; it says only under those conditions.

Mayor Swiderski: But that is not terribly useful. It is going to trigger a police event each time, and that begs the question of when exactly do you get fined. Is it the first incident, is it a second warning?

Trustee Walker: And there is nothing that says it would be all right until 2 a.m. and not beyond 2 a.m., for example. So at this point, they could play music softly until 4 a.m. if it does not interfere with the repose of the neighbors, or all night long for that matter. Except a bar has to close at 4 a.m.

Trustee Armacost: But there is nothing in this law that stops people from continuing to play music, provided it does not do all those things to whoever is objecting. Right?

Trustee Walker: One group we have not heard from is the local residents. We want to take a balanced approach. We have heard from a lot of the establishments and people who play music there and people who work there, and I respect their need to earn their livelihood. But it would also be interesting to hear from people who live in the downtown and are subjected, or not, to the music.

Mayor Swiderski: This is the public hearing we would face if we managed to come up with something here.

Trustee Walker: Right. But it might be better to come up with something knowing what people are complaining about.

Trustee Armacost: Or not, or maybe they like it. Some people really love it and move next to bars.

Trustee Walker: One of the things I have heard complaints about in the downtown is not so much the music, but noise on the streets until 4 a.m., and particularly at 4 a.m. when the bars get out. I do not know how you prevent that, but what wakes people up is the folks outside, not what is going on inside the bars. At least that is what I have heard from residents who live on Warburton Avenue. Where does that leave us?

Mayor Swiderski: The law, as it is now written, does not automatically shut down music, but there is no objective standard. So in fear of a fine, an establishment, not knowing whether repose is in danger, once it is has been warned once would be gun shy in moving forward and playing music until it found that perfect balance. Right?

Trustee Armacost: What is happening at the moment is, people who run establishments that are musical are afraid because they cannot predict whether this law will be enforced in the way it was enforced on one occasion. What they are doing is reacting accordingly because they do not want to pay fines. That seems like not a good way to run our village. What we have to do is change the wording to make it a much clearer standard, because it is subjective and loose: interfere with the repose, health, comfort, safety. So either we have to do that, or we have to uncover whether the law is going to be enforced again, what the intentionality is vis-à-vis enforcement. I think we do not know really what will interfere. We do not know what the specific triggering event was that did this interfering that had never happened before.

Mayor Swiderski: We cannot know that because any resident, as a human with a full range of sensitivity, can react at any point without objective standard to any music in any way.

Trustee Armacost: So then maybe what we should do is work out what the level of decibels are; test out 45 decibels, test out 60 decibels, test out 75 decibels, and see how that matches up. If people want to go in that direction, then we need to have some data. We cannot come to some agreement, whether it is midnight, whether it is 2 a.m., whether it is 4 a.m., whether it is 6 a.m., without knowing what the loudness factor is. We have to be able to measure the loudness because that is the point of this. It is a noise ordinance. I do not think we have that information. I could not hazard a guess. What is sensible is to look at these numbers that are quoted in other municipalities because, apparently, someone put some effort into identifying what those are.

Mayor Swiderski: I would prefer not to reinvent the wheel here if others have done most of that job for us and we can gain, borrow something that makes sense.

Trustee Armacost: The cabaret license idea, which is basically creating an exception for businesses that are specifically focused on music and nighttime drinking and other such things, is another thing for us to consider. What that does, though, is create a scenario where you have wiped out the purpose of the law as it currently is worded. It does not allow anyone whose repose or health or comfort is interfered with to say anything if you create a cabaret law, which is that basically they can do what they want until 4 a.m. So that is a downside of that.

Mayor Swiderski: In the interest of trying to get to something tangible, how about I float some sort of grid that tries to address the issues you have all raised in terms of decibels. I went on the Internet the last couple of days to try to understand what it was: radio played at medium volume in a room, they are described in various ways. I am not sure we need to sit in a sound room and test what these all are. Like you say, others have done the work for us and the levels here are probably chosen because they represent levels like 65. It seems to be a repeating number here, or 55. So these are comfort levels that a lot of municipalities seem to have agreed on. We write up a grid. There will be a key that describes what those different levels are. It gives us a straw man to shoot at, and we can see what you think.

Trustee Armacost: I think we need to hear it because I have no idea when those pieces of legislation were drafted. Were they drafted in the '30s, in the '40s, in the '50s, in the '60s? How was it measured; what was the equipment like to measure? We have none of that information. We really need to know, and the establishments need to know what 65 is, what 45 is, and what 75 is; on both sides, the landlords and the residents both need to know.

Mayor Swiderski: Fair enough. I am trying to crank this down from a major engineering project into something we can pass within our lifetime. I do not know how you go about doing that, but let me poke and see what we can do.

Village Attorney Stecich: Rather than the decibels, you could have quiet, loud, and in between.

Mayor Swiderski: Those key clicks on my wife's computer are pretty loud to me.

Village Attorney Stecich: No, I meant as a way of getting some agreement as to days and times, and you avoid the engineering part of it but you know what principle you are getting at. Then later you replace those with the decibels

Mayor Swiderski: You are making a distinction on cabaret license, and I guess I get itchy on yet another level. Why the distinction?

Trustee Armacost: We could look at the minutes of when the cabaret license was created in whichever municipality that was. But I am sure the intention was to allow people to run their businesses until they normally run their businesses, which is 4 a.m. What it is doing is giving dispensation to that set of businesses to do something differently than another business, or standards that another business would be held to. For example, if it was a hardware store and they decided to have a rock band at night for some reason, to promote some items, they could not do it past midnight, whereas if you are a bar that has rock bands you could do it until 4 a.m. I think that is the purpose of a cabaret license.

Trustee Walker: But is that not explicit in our law because it only applies to establishments that have liquor licenses. So without actually creating a cabaret law, it is already in our ordinance because it applies only to those businesses.

Trustee Jennings: We have the reverse: the hardware store could blast away until 4.

Trustee Walker: No. But then there are the other laws that Marianne pointed out.

Village Attorney Stecich: You do have the noise ordinance, which should be circulated, too. Remember, the other noise law was the one where we plugged in the leaf blower so we have dealt with it recently.

Trustee Walker: So everybody has to comply with those other laws.

Mayor Swiderski: So we are just modifying the one that deals with these establishments.

Trustee Armacost: Then we have an incredibly restrictive cabaret law. The cabaret law in Tarrytown goes until 4 a.m., and ours until midnight. So we are the puritanical cabaret law compared to the Tarrytown version.

Mayor Swiderski: Compared to Tarrytown, but Tarrytown is the only one that is using that term and making that distinction.

Trustee Armacost: Right.

Trustee Walker: They respond to complaints, as well, in Tarrytown.

Mayor Swiderski: I am still confused as to where that leaves what I should try to do.

Trustee Walker: I think you should create a matrix. It would be useful as a starting point. There must be some very recent laws out there because there are now so many mixed use districts around the country that are probably facing these issues. The ones in this region are probably dated. I can look through my planning documents and see if there is any recent literature on this topic. I am sure other municipalities are wrestling with it. Also, music has changed, and music may be measured differently than decibels. When you think about the frequency, I was complaining about the bass. There may be other ways of measuring it.

Mayor Swiderski: Sure, go ahead and try. Again, I would love to try to steal one of these community's basic concepts rather than over-engineer us into a parody of a village noise law. I do not want to be the freakish example.

Trustee Walker: No, I think our goal should be to keep it as simple as possible, and brief, and easy to understand.

Trustee Armacost: The simplest is to keep what we have and understand what we mean by enforcement. That is much simpler, but feel free to make it more simple by creating matrices.

Mayor Swiderski: But I disagree that it is simpler. Because as long as there is a disagreement, because it is subjective, of what is "repose" and all those other words they use and, given again, that we are humans with a wide range of how we view the world and define the sounds we hear, it will never be a useful arbiter when two parties disagree on whether something is too loud or not. That is the problem. Otherwise, we would not be sitting here.

Trustee Jennings: It is also disadvantageous to the businesses because it is not based on a standard that remains constant. It will shift depending upon who is living in the apartments. So the law is always shifting under your feet. You do not know how to do a business plan because the next day somebody else could move in who would make complaints every night. So that does not make any sense to me.

Mayor Swiderski: No, it has to be somewhat objective. So the homework is on me. I will try to get something out well before the next meeting and try to keep it simple. So I have some guidance from the Board, the time component here, am I to distinguish between weekends and regular days?

Trustee Armacost: I think you make it 2 a.m.

Mayor Swiderski: OK, but Friday and Saturday?

Trustee Armacost: It depends how simple you want to make the law. If you want to make it simple you just make it 2 a.m. every night.

Mayor Swiderski: Then it would be a quieter standard, period, if you are imagining that people are going to work the next day Sunday through Thursday. Right? What may be acceptable to somebody who is going to be sleeping in anyway might be unacceptable for the people who have to work the next day.

Trustee Walker: I guess it depends on whether we want to be the Greenwich Village of the Hudson Valley.

Mayor Swiderski: I am reality-based here.

Trustee Armacost: OK, a less simple version is to have it staggered so that it is 12 from Sunday to Thursday, and then 2 a.m., recognizing that weekend is 2 a.m. on Friday and Saturday. But simpler is 2 a.m. every night. Then nobody has to remember which night it is.

Mayor Swiderski: It is not that wild and crazy a village. I think most people typically keep it straight.

Trustee Armacost: OK, so then do it staggered. I am personally in favor of 2 a.m. just because I know how these businesses work.

Mayor Swiderski: But live music in Hastings, right now I do not see it being a seven day a week thing. So maybe that very fact will self-regulate it, but I do not know.

Trustee Armacost: Well, it definitely will not be a regular event if it is 12 p.m.

Mayor Swiderski: But should it be?

Trustee Armacost: If you speak to people who are in that business, that is what they are doing every night.

Mayor Swiderski: Yes, but not in Hastings.

Trustee Armacost: I guess because we have laws like this. It is a chicken and egg situation.

Mayor Swiderski: But we did not know we had laws like that until a couple weeks ago.

Trustee Armacost: No, it was going on until 4 in the morning, apparently. It was not being enforced.

Mayor Swiderski: I know, but only on Fridays and Saturdays, unless I am mistaken. There is jazz on Thursday nights at the Rainwater Grill. I do not know how late that went. Let me take a crack at it, you can take it apart, and we will see where that goes.

Trustee Walker: Yes, and I would encourage residents to come as well as our local restaurants and bars.

Mayor Swiderski: So let us y open up the floor here, and that might influence how this looks as we hear some input.

John Neidhart: I was a resident here until very recently and, in fact, I lived above the Rainwater Grill. I was one of those people who had to deal with bands playing downstairs when I was the tenant above. Two a.m. is a reasonable time pretty much for any establishment here. Limiting this to a weekend situation would be counterproductive. Sometimes you will have St. Patrick's Day on a Wednesday, Cinco de Mayo tomorrow night, Sunday nights where you have a Monday holiday, those kinds of things. Most bands would be happy to play until 2 a.m. on any night of the week, and it would accommodate a bunch of different scenarios. It was nice to see everybody at the Hastings Education Foundation the other night, where I was the bass player.

Trustee Walker: I have nothing against bass players, or bass for that matter.

Bill Calderbank, 47 James Street: I am the owner of the River Roadhouse. As this law has been enforced on me, in the last four weeks I have lost \$1,500. I have lost over 25 percent of my customers. Just last Saturday night we had a load of unhappy residents, 12 of whom turned around and left to go to another establishment. The law is being arbitrarily enforced. As for your question of sound, since we have moved in I have soundproofed the fire door at the back, I have put an acoustic ceiling in, I have double-doored the front door. We have got drapes over the windows. The complaining building is a brick wall which separates the bar. There is no way I can stop a brick wall from vibrating. I have lost so much on this going on and on with your talking which, of course, you have to do. But in the meantime, I keep losing money and, more importantly, customers. It took me six years to get those customers to come in there, and now they are going off again somewhere else all because this was arbitrarily enforced.

Kim Porter, 17 Washington Avenue: Ms. Armacost, you had brought up the fact that you thought this was a one-time enforcement issue. It has actually been continuous since April 5. The past four weekends on Saturdays a police car has pulled up outside of the bar exactly at midnight and we have to cut the music. I have been told by the police department that there has not been a called-in complaint on those occasions, but that they were asked to enforce the law and that the law says that we have to stop at 12 o'clock. The door issue, the noise complaints: I have been working there for about 15 years. I cannot remember more than three occasions where we have had a noise complaint, and on those occasions, the back door had been left open. As soon as the door was closed the noise complaint went away. Somebody else had brought up laws that are not being enforced. As for noise in the Village, there is ordinance 116-1, that says no child under 16 years of age is allowed out on the streets of Hastings without a parent or guardian after 10:30 p.m. I can tell you 1,000 percent that that, as somebody that lives in the Village, this is not being enforced. And I can tell you that this is a huge source of noise in the Village and in the residential areas. I would like to point out that there is only one residence that is adjacent to the River Roadhouse, which is where I work. There are residences across the street, which we do not have complaints from. There is one apartment in the adjacent building. The second floor is, I believe, at this point office space and the first floor is a pizzeria. We have had no complaints from the tenants on the third floor or the office space as far as I know, or the pizzeria.

Mayor Swiderski: In terms of clapping, anyone here who might have an opposing point of view may be dissuaded from talking. So if you could just suppress that.

David Skolnik, 47 Hillside Avenue: My feeling is that you are running a little too quick to the details of this. Even though it is more than you want to bite off right now, the underlying issues are significant and, at some point, you have to find a way of dealing with them. One is this whole idea of mixed use and what the expectations are both for the people that live there and as part of a community. It is important because the concept of mixed use has clearly been at the root of a lot of the discussions of concept of development in the Village. So it is, completely apart from the specifics of this case, an issue that you have to think about, what the rights are and what the obligations are as you create that kind of environment.

Meg's comment that people should expect, I have a little a difficulty about what people should expect with either people who have been living in the environment and have a situation like this now, moving into it, or if they move in. This question, the after-hours noise, Meg did raise. That is an important thing to consider, too, what it has been like, and what it would be like if you were successful in encouraging more businesses to come into the downtown, this kind of business.

Cabaret license. One benefit of the cabaret license that occurred to me would be revenue. I do not know if that has always been at the heart of that, and controlling code specifics about safety. And then the only other thing to consider, do we have the means to regulate a number of such establishments? Could you have a whole strip of cabarets, given our current laws, and what would you be creating as a village? I will put these into writing for you.

Harry Amsellem, 65 Summit Drive: Thank you very much for the considered thought and the process that you are going through. There is clearly a lot of thought and intelligence during this process. I would make three points. One, there are more than just two interests. It is not just simply the people who are complaining and the economic interests of the businesses. It is also a First Amendment right of citizens to freely associate together at places, protected under the First Amendment, and also the right to listen to music and art, which is a right to receive information which is protected by the First Amendment, which is something that all of us enjoy. I like to go, and many of my friends like to go, to places and we would prefer not to go all the way to New York to listen to music. So there is another set of interests that I would ask the Board of Trustees to consider.

Mr. Jennings' point about soundproofing is an interesting one and a good one. Are those decibel levels being read outside or inside the establishment?

Mayor Swiderski: Outside.

Mr. Amsellem: Outside of the establishment. And obviously, if it is soundproofed then it is a very interesting approach. The third thing is simply a response to the comments of the Roadhouse. When I hear this in my community I get very concerned. I have heard the law. I realize I do not have all the facts, but it would appear to be somewhat arbitrary and capricious for the police to be out there at midnight every night, or every weekend, based upon one complaint. I would hope that the Board of Trustees, you as the Mayor, would be talking with the police to make sure that from the perspective of liabilities for this Village, which then comes back to us in terms of taxes, that we are not suffering potentially a lawsuit, an injunction, whatever from the owner of the Roadhouse against the Village for the arbitrary and capricious application of laws, which interferes with his rights and the First Amendment rights of others to freely associate.

Eileen Quinlan, 39 Hillside Avenue: My husband, Jerry, and I own a building on Warburton Avenue. A month ago, when the young couple that moved out of the third floor left Hastings, they were effusive about what a wonderful town we have. What they really complained about was the 10 to 2 a.m. noise that would come from River Roadhouse. I would invite all of you to come up and sit on the second and third floor apartments and hear, feel the music that is coming from the building. My husband and I have been patrons of that bar. We have gone to many a concert. Our son's classmates frequented that place. There is

no ban on music in the current law. You have to take into account, and we will get some of the Village residents, that there are families and very old people in town. This mixed use, there is a community downtown. There are many apartments where people spend much of their life. There has to be a balance between coexisting parties. The restaurant/bar owners and patrons have to reside and coexist with residents and landlords. There has to be a respect for each of our needs. When I read the law, I think it is much too subjective. It is very hard for the Village to interpret the way the law is written now. It is even harder for the cops to enforce it. I encourage Mayor Swiderski in making it a more objective criteria that affords an allowable level of music at a reasonable hour, and that we have a fair law for all the shareholders that live and work and go into that area.

Jim Metzger, 427 Warburton Avenue: I lived in a similar situation that Trustee Walker did. An illegal club moved in next door. We had a four brick-wide wall separating our lot space from that club and, generally, the only sound you could hear was the bass notes because low frequency causes the mass of the wall to vibrate and the wall becomes a large speaker. The only sound that is large enough to do that is bass frequencies. The problem with setting a subjective decibel level is, you might go into the apartment that is complaining about the noise and, if you will excuse me, you will hear this: [knocks on wood]. That is not 65 dB, but try living with that for four, five, six hours.

That being said, I believe the bars that play music in this town serve an incredibly valuable function. I believe people come to this Village, which is something we are trying to encourage. We are trying to encourage commercial use in the Village. Residential use has tax implications that are not beneficial for us at the moment. So the point of all of this is, despite the fact that you do not want to get into an engineering study I think you have to do a certain amount of engineering study to understand the implications of what you are doing. It may involve bringing in an acoustician for an hour to two to describe the various types of sound and how they affect structure, and how they affect the decibel levels. We have to realize that residential generates the highest use; "highest" meaning the most restrictive use. Anything that we do in the Village moving forward, whether it is on the waterfront or on other large tracts or future development in the downtown, the law that we pass today is going to affect how we can upgrade our commercial while dealing with the residential facts of life. So I want to make sure that we know residential is high-level, commercial is a lower level, and we want to make sure to not set one thing in place that is going to restrict something else.

Talia Rayow, 5 Spring Street: I am also an employee of the River Roadhouse. I have been working there for two and a half years, and one of my shifts happens to be the Thursday night shift. I close anywhere from 2 to 4 a.m., and in my time working there I have had one complaint. As soon as I shut the door, they were OK with it. So although Fridays and

Saturdays would be preferable to have a 2 a.m. restriction, Thursday is not a horrible night for me to have it 2 a.m.

Mayor Swiderski: Do you have live music on Thursdays?

Ms. Rayow: It is not live music, but the jukebox is also being enforced on us so that has been a problem for my business for the past three weeks. I do understand the concern for the tenants that live next door, but as Trustee Walker also stated people do understand that they are moving next door to a bar. I am not looking to blow the rooftops off until 2 a.m., if that was the restriction, but if there was a restriction I would obviously comply.

Mark Casella, 7 Ridgedell: There are a lot of relatively inexpensive soundproofing systems you can get on the residential level to help reduce the sound in your own home. From another point of view, it is hard for these businesses to make a go of it. I did own a tavern in Dobbs Ferry years ago, and it is really tough to make these places go, make them viable and nice places for people to congregate. When you put limits on people and squeeze them, you are going to have more empty stores and more vacant spaces, and it is going to make the town not what you want it to be.

Mayor Swiderski: I have the homework here. I will put out something that will also be posted on the Web site, and I am going to put out something within a week. I will put on something by next Tuesday.

Trustee Armacost: I might not be here on the 18th.

Mayor Swiderski: You can respond to it by comment, and we can share that in the next meeting.

[Trustee Quinlan returns to the dais.]

3. Request for Use of Village Property at End of Ridge Street

Christina Griffin: This is Peter Wolf. We own 433 Warburton, and we are here to ask the Board if you would consider the use of the end of Ridge Street for an access driveway to a new parking area at the rear of our property at 433 Warburton. We are asking if you could put it on your agenda for the next meeting so we could discuss it in more detail. I did bring plans in case you would like to look at them tonight, so you can get familiar with the area of Ridge Street that we are talking about.

Mayor Swiderski: Let's pass it out. Maybe we will individually make plans to walk that property. Is there a reason why you do not want to describe it now?

Ms. Griffin: No. I did not know if you were ready to discuss it tonight, that is all. I certainly can.

Mayor Swiderski: If you describe what you want to do, we can take a look and have it in our mind's eye. So why do you not give us five minutes on what is involved here.

Ms. Griffin: We developed the property at 433 Warburton. It was a two-family house, and we have renovated it. It is now a LEED platinum home. We received all the approvals we need for variances. Now that it has been built, we have been trying to sell the house and we do not have any parking. So we have come back to ask the Board again if they would consider using the end of Ridge Street so we can have access to a small parking area at the back of the property. We plan to do this in a way to make it very green and have pervious surfacing such as gravel on the end of the road, and then PermaTURF, which is a driveway made out of grass, for the parking space on the property. We are not planning to do a turnaround for the public using Ridge Street, but we will have a small turnaround just for our parking space on our property.

If you look at that plan, you will see that the extension is about 52 feet. The length of the access driveway we are asking for is about 52 feet, which is a little further than the end of the existing retaining wall. We are going to reinforce about 10 linear feet of the embankment on the west side just so we can have a small turnaround for the cars going onto the parking space on our property.

Mayor Swiderski: Ridge Street terminates there but continues as what is known as a paper road. And legally, a paper road is owned by the Village?

Village Attorney Stecich: Yes, the Village owns it. Legally, and what this board would have to do if you approve of this scheme, would be to grant them either a license agreement or an easement. I would prefer a license agreement, but if you were going to do it you would want to require them to insure the Village, and it is not clear to me that an insurer would insure a license. I know an insurer would insure an easement.

Mayor Swiderski: What is a paper street legally?

Village Attorney Stecich: A paper street is a street that is shown as a street on the official map, but is not improved. We have them frequently.

Mayor Swiderski: So in this case, the gravel you are talking about laying down they would be responsible for the maintenance?

Village Attorney Stecich: If the Board wanted to allow them to do it, I would craft an easement agreement that would say that they have the right of passage over that street. Because right now they do not, it is your property. You would give them the right of passage. They would be responsible for any improvements to it. It is going to involve some more curbing; it would involve some surfacing that they would be responsible for. Make it clear that they are responsible for clearing it and everything else, that the Village has no responsibility for trash removal there or plowing or deicing or anything. They would also have to indemnify the Village for any harm that happened there. Their insurance would have to cover that, and name the Village as an additional insured because they are using Village property. Something along those lines. But we can put whatever terms we want in it.

Trustee Armacost: Can you tell us why you initially said you would prefer a licensing agreement to an easement? It is less permanent?

Village Attorney Stecich: Exactly. Although it probably does not make any difference because right now it is a street. Another term you would make sure you put in there is that if the Village needs it for any purpose, because you want to improve it or want to connect through to something, that they cannot interfere with your right to do it. All you are doing is giving them a right-of-way.

And Niki, yes. It does not make a lot of difference whether it is an easement agreement or a license because you can make either one open-ended or for a term of years. Licenses are generally assumed to be more easily revocable although, as you know, there can be revocable licenses. But this is a little different because it already is a street. The only way that a village can make a paper street not a street anymore is to say there is no use for it. And almost by definition, there is a use for it to get to these properties. It may not make much difference. It is sort of how many angels can dance on the head of a pin.

Trustee Armacost: But there is a practical thing. If you cannot insure it, then this is more of a reason to make it an easement.

Village Attorney Stecich: Absolutely. Generally when we have dealt with these things in the past I have recommended a license agreement. But I have never dealt with a situation like this exactly. And the insurance is critical, so you just want to make sure it could be insured.

Trustee Walker: There is a property at the end of this paper street that is only accessible from this paper street, which could be developed in the future, and it could require, then, that

this becomes a public road again. That is one reason we might have to revoke the easement in the future, or at least modify it.

Ms. Griffin: I may also bring the landscape contractor in case you have any very specific questions about how we are going to handle the pavement, the curbing, the PermaTURF.

Village Attorney Stecich: One other thing. In addition to your approval, if the Board does approve an agreement, we will call it a right-of-way and a maintenance agreement, it does require site plan approval by the Planning Board. Right now the approved site plan for this property did not have parking back there, so they have to go before the Planning Board which will be reviewing it for safety and so forth.

Mayor Swiderski: And what is the sequencing of that? Do they approve first, or do we approve?

Village Attorney Stecich: Either one is going to be subject to the other. Your meeting is the 18th and the Planning Board is the 20th. If the Board felt ready at the next meeting, let us say I had some agreement drafted and the Board was ready to pass it at the next meeting, you would make it subject to their getting site plan approval. They are also going to need a variance, but only a variance to permit parking in a required yard.

Ms. Griffin: Just to refresh your memory, a couple of years ago we went to the Planning and Zoning boards, and they made their approvals a condition we get the approval from the Board of Trustees. So we are going back to that, and they need to hear that you are going to consider that we move ahead on this before we get any approvals from those boards.

Peter Wolf: Just to add, without going through the entire three or four year history, the last time we were at the Planning Board, they encouraged us to go back to the Board of Trustees to get the parking off of Ridge Street.

Trustee Armacost: Are there any neighbors, apart from the one that Meg mentioned, at the end of the road that have any views on this?

Mr. Wolf: We do not know if they have any views on this, but everybody gains access from Warburton Avenue. Our neighbors on both sides have off-street parking from Warburton Avenue. And the new project across the street also has off-street parking.

Trustee Armacost: So is there a residence in the white space above? It says paved parking area, neighbors property. What is in this space here?

Ms. Griffin: The property just to the north has that driveway and that little parking area for two cars. The property just to the south also has a driveway and parking for three cars, from Warburton, not from Ridge.

Mr. Wolf: It would be good to visit it because there is a very, very steep slope and nobody is accessing anything from the rear at this point in time.

Mayor Swiderski: So if the weather is nice, it might behoove us to take a walk there at some point before you come back so we have a better visual image. Should we be saying anything else right now?

Village Attorney Stecich: No. There does not have to be a public hearing on this, so you do not have to have a special notice. But to notify the neighbors might make sense.

Mr. Metzger: I encourage all of you to come down and see the first LEED platinum house in Westchester County. It is really quite beautiful, and the views are absolutely spectacular. I know the Village looked at this as a much greater engineering position a couple of years ago. Doing it this way makes more sense for the neighborhood. But as somebody who lives a little further down that paper street on Ridge Street, I would like two things. One, I would like to know that should my neighbor, myself, and possibly someone beyond us would want to continue that drive, what would be involved with that and how might that affect what the applicant is asking for. Should this be granted I would like to know that the Village is going to put some sort of barricade or the applicant would so that we do not end up with cars coming down Ridge Street and getting stuck on that dirt road. I think this would be good for the applicants.

4. Affordable Housing Committee – Request for Village Property

Sue Smith, 645 Broadway: We have sent you a memo and some plans that indicate what our request is. Some of you were on the Board two and a half years ago which is incredible, when this came to you. This is how long it takes sometimes to get affordable housing going. You have to be persistent. We have tried hard to find any property to develop in Hastings, and we particularly wanted to find something away from the other projects that we have done because it is important to spread affordable housing around the community. We have come up with two pieces. One on Farragut is privately owned, and a Village-owned property on the back side of Mount Hope Boulevard.

We have been to the county. We got delayed because of the county lawsuit and their development of the implementation plan. But they are ready to move ahead with anything which was in the pipeline, and they are eager to move ahead with this one if we can get all of

our ducks in a row. The first thing we need to do is come back to you and ask for your additional support for it, which I hope you will be willing to give; before you gave us the green light to go to the county and talk about negotiations and whether they would accept this as a project, or not. They have, and they are happy with it because it is in the part of the community that they want us to get into and get away from our other affordable housing. Their goals are very similar to ours in that regard. They are all steamed up and want us to move fast, so here we are. This just happened in the last 10 days to two weeks ago. There was a grant deadline looming, so that was also an incentive.

The property on Mount Hope which you own, which happens to be a building lot, came to the Village, we found out in a title search, along with all those paper streets around Hudson Heights from the Hudson P. Rose Company, and then through a foreclosure that the Town had on those properties back in the 1970s. It has just been sitting there and not identified. I think years ago the committee had looked at it, but it is rocky, and you look at other things first. But it is not an old gas station. That is something. But those are the kinds of properties that are available these days for affordable housing to use. If we were going to pick the perfect land it would be a field of some kind, flat somewhere. But that is not what Hastings has. What we would request is that you have some discussion about it, and then try to move ahead and hopefully will give it to the affordable housing fund for this purpose.

Mayor Swiderski: Is it a buildable lot?

Ms. Smith: It is buildable. It has restrictions with a steep slopes situation. So it would minimize the part that could be built, the one on Mount Hope. The other one is not.

Village Attorney Stecich: It would require a variance because it is not the required width. Right?

Ms. Smith: It has got excess front, but it does not have the rear. It is in a 7.5 zone. Not the one in Mount Hope. I am talking about the one on Farragut.

Village Attorney Stecich: Oh, I am sorry. I thought Mount Hope.

Ms. Smith: The privately-owned one. It is a separate issue. The one on Farragut will have to be subdivided.

Mayor Swiderski: What exactly are you asking us for in terms of timing and approval?

Ms. Smith: Approval would be first, and as soon as possible after that you would approve giving the land for this particular purpose to the Fund, which is the corporate arm.

Mayor Swiderski: The land in this case is the Mount Hope property. We do not have to weigh in on the Farragut as a transaction, so that is your business.

Ms. Smith: That is right. That is a separate thing. We are trying to combine the two because you get some financial benefits of having a little bigger project rather than just doing one.

Mayor Swiderski: For Mount Hope are you seeking to replicate what you did on Warburton Cottages?

Ms. Smith: Yes, it would be a three-bedroom ownership unit, and then an accessory apartment which is not permitted under Village Code for new buildings. But an exception was made in that case, and I would hope that would happen again. They have to be affordable for 99 years, so the money that the state, the federal government, and the county are putting into this is for good use. In fact, more of the communities are being required to go longer terms. It used to be 15 years. I think the Mitchell-Lama thing scared everybody, and every year it seems like it is longer.

Mayor Swiderski: How many years did you say?

Ms. Smith: For Hastings it is 99 years. That is in the Village policy: any affordable housing we create has to stay affordable, under the HUD guidelines of affordability.

Mayor Swiderski: Is the intention here that, from the county's perspective, we are earning credits against the settlement? Will this count in our numbers for whatever it is that will eventually be imposed upon us?

Ms. Smith: Yes.

Mayor Swiderski: Are we early at the trough for financing for this?

Ms. Smith: Yes. It is a green light on that. It does have to go through a state grant process, but the state apparently is being very supportive of the county's requirements at this point.

Mayor Swiderski: Did that require any changes in the way we select people for these houses?

Ms. Smith: The implementation is not known but yes, it has. The county will be marketing any affordable housing much more broadly than it has done before. There is discussion

going on about some limited kind of preference, or community selection, but it will be much more limited than it was before. This is for the period of the settlement, which is seven years. Eventually seven years will be by. And the next time around when houses are sold, or people move in, perhaps the law will be changed and we can go back to what has worked well for us and what we have wanted to do, which is the full preference list.

Mayor Swiderski: So with these two properties, that would be four units counted against whatever ultimately the county might impose on us.

Ms. Smith: Right.

Trustee Walker: Does the county also provide funds to acquire the private property?

Ms. Smith: They will, yes.

Trustee Walker: So all of this will be done at no cost to the Village?

Ms. Smith: That is correct. In the past the Village has waived some of the fees. Obviously the contribution of land is a very significant thing to do, and that makes something like this possible, just as it did in the case of Warburton, because we can never buy things at market rate. We cannot compete.

Mayor Swiderski: While we are talking about money, while we are not enjoying taxes on property we currently own, is there any sort of pilot or payment that the Village will receive on the Mount Hope property?

Ms. Smith: It would be taxable as any residential property would be. But in fact, because it has the affordability requirement for 99 years, they are taxed less than a full-market rate would be. They can never increase in value with the market which is a funny thing to talk about right now. But a couple of years ago it was not. They are capped, the purchase price, plus a cost of living increment each year and any capital improvements that are done by the owner that have to be approved by the committee. They can never sell at full market.

Mayor Swiderski: That is far better. I was working off the model on the rental units on Warburton.

Ms. Smith: The rental was a whole other situation. Quite different.

Mayor Swiderski: So these will generate real estate taxes where there are none now.

Ms. Smith: They are fee simple ownership homes.

Mayor Swiderski: It is sounding like a pretty huge win-win. We hit a need in the community, we satisfy the county, and we get some taxes out of it. I was bracing to hear that we would be piloting it at \$1,000 a year for 99 years.

Ms. Smith: No, I am glad that is not part of it.

Trustee Jennings: I do not suppose there are any outside funds available to purchase it from the Village.

Ms. Smith: I do not think so. It has been assessed so low for so long that any appraisal even now would be somewhat restricted. But unfortunately, the county is limited.

Mayor Swiderski: Trustee Jennings just raised an interesting idea. What if the Village deeded the property to the Hastings Betterment Fund or something like that, and it was then purchased from that Fund by the state.

Ms. Smith: I do not know. I would have to make some inquiry. I have not heard of anything like that. But I know that the acquisition funds are limited. They are trying to spread them around.

Mayor Swiderski: Right. It is probably a little late since you have already telegraphed it as Village property.

Ms. Smith: I am happy to make an inquiry about it to people who know if there is some other mechanism. But nobody else has any bigger pots of money, I do not think.

Trustee Quinlan: Since both of these pieces of property are in one-family zones, I assume that you are thinking about a one-family home with an accessory unit.

Ms. Smith: That is correct.

Trustee Quinlan: Planning Board approval, right?

Ms. Smith: Yes. Is it Planning Board approval, Village Board approval, for the accessory apartment in a newly-built building?

Village Attorney Stecich: No, I thought we amended the affordable housing law to permit it.

Ms. Smith: But that is the intent. So the owner would have the income, it would help them pay the mortgage. It is an essential thing.

Mayor Swiderski: Doubling the affordable units. There are all sorts of good things.

Ms. Smith: Yes, but somebody who could not afford a home otherwise has an income base.

Trustee Quinlan: I voted in favor of it in 2007, and I see no reason why I would change my mind in 2010.

Mayor Swiderski: Well, same here. I do not have enough words for your perseverance.

Ms. Smith: We have got a long way to go yet.

Trustee Walker: Do we need to do something formal?

Mayor Swiderski: We could say verbally we are clearly inclined, but you need a formal resolution?

Ms. Smith: We will need that. The resolution from before indicates we could only go so far. We could not have somebody step on the property and take a survey, that sort of thing. We cannot do a phase one, which will be necessary.

Mayor Swiderski: Are there reservations on the Board with deeding the Mount Hope property, or does it still remain acceptable?

Trustee Walker: I find it acceptable, and I am very pleased that you were able to find these properties.

Trustee Jennings: Absolutely.

Mayor Swiderski: So perhaps you and Marianne can work out the language for the resolution, and next meeting we will pass it, whatever you need.

Village Attorney Stecich: We amended the accessory apartment law to say that a newly-built building can have an accessory apartment only if it is in affordable housing.

Mr. Skolnik: What is the exact location of these two properties?

Ms. Smith: It is 184 Farragut Avenue, and between 360 and 342 Mount Hope. I should mention that the next step for us would be to have a neighborhood meeting in each case so people would have a chance to have their concerns expressed and to be part of the planning in an early stage so we can minimize the effects for them.

Trustee Jennings: Can you have that done before our next meeting?

Ms. Smith: That might be tough in terms of notice. We can give it a try, get a letter out the end of the week.

Trustee Jennings: And, of course, they could always come here and discuss it with us. But there is a difference between having a neighborhood meeting that is a discussion versus an announcement.

Ms. Smith: Absolutely. Let me see if we can do it sooner.

Mr. Metzger: I am assuming there will be a public comment session on this, on the Village deeding property? I am thrilled that we have found two other pieces of property for affordable housing in the Village. I know how incredibly difficult that is, and I support this wholeheartedly. But we want to make sure that we do not have neighbors showing up at the eleventh hour challenging this. So there will be a public hearing on this, I am assuming?

Mayor Swiderski: The property on Farragut is a private transaction, right?

Ms. Smith: That is correct.

Mayor Swiderski: I do not think that involves the Village, but you would probably be well advised to have a local private session.

Ms. Smith: We still would have a meeting with those neighbors close to both properties.

Mayor Swiderski: Right. Because that is not something that comes before us. Do we want to do this as a public meeting ahead of the next one, make it a formal public meeting? Legally, do we need one?

Village Attorney Stecich: No, you would not need a public hearing. I would call it a public meeting or something rather than a hearing and announce it; then you might want to send notice to people. If you put it as a public hearing, you have to pay for notice in the

newspaper. If you have a public meeting you can just notify whoever you want to, like the people in the neighborhood, ahead of the meeting. Makes more sense, actually.

Mr. Metzger: Why is this a private negotiation between a Village committee and a private owner, not in the public purview? Even though it is a piece of private property that is being sold to the Affordable Housing, being that they are a Village committee it seems to me that that should be a public process.

Jim Keaney, 27 Villard Avenue: The answer is, the negotiation is not with the Affordable Housing Committee, which is an arm of the Village, but it is with a separate nonprofit entity which is utilized to accept funds from private and public sources. So it is not with the Village.

Mr. Metzger: And this raises a question that I raised a number of years ago. Who in the Village is overseeing this private entity that is acting on behalf of the Village to create affordable housing? This is money that is being dealt with very quietly and that may be legal, I do not know. But it seems to me that this should be an open process. We should not be able to create an entity that is acting on behalf of the Village that nobody in the Village knows about.

Mr. Keaney: The Affordable Housing Fund is not acting on behalf of the Village. We have been empowered by the Village fathers to afford the policy to create affordable housing. But it has always been a separate entity. The members, officers, and directors of that are specifically not empowered by the Village. We have always been kept a separate arm, and that is very important legally to do.

Ms. Smith: The role of the committee is to be an advocate for affordable housing in the community, and to try to put projects together. But they have, as Jim says, no ability to enter into contracts or to accept money. There is a requirement that you have a corporate entity. Our meetings are open for people to come to. We have had, at times, an active liaison as a Village Board member who is part of what goes on, and our committee minutes are shared with the Village. Many of the people who are on the Fund, on the corporate entity, are some of the people who are on the committee. The committee is larger than the Fund. We try very hard to remember which hat we have on when. That is a difficulty for me sometimes to realize when I am talking with an architect and talking about hiring an architect I am talking from my Fund hat; when I come to you I am talking as the committee person. But there is no secret about what we do. We file tax returns each year. When we have had a project, we have had the work audited. So if anybody wants to look at these things, they are there. Sorry, I am not getting great vacations out of it or anything.

Mayor Swiderski: There was just a concern about oversight. I do not think it is an implication that there are vacations.

Mr. Metzger: That is absolutely correct.

Ms. Smith: I realize that. But it is something that if somebody in the Village is interested, it is a separate corporate entity. We do all the things that corporations are required to do by law. If any of you as Board members or the Village Manager are more interested in the details, I would certainly be happy to share it.

Mayor Swiderski: All right. Legitimate questions, thank you.

5. Stormwater Management Annual Report

Village Manager Frobel: Each year the Village is obligated to submit an accounting of our accomplishments over the past 12 months in compliance with our stormwater maintenance permit that goes to the DEC. This year we have a group of employees, Deven Sharma, Mike Gunther, and Susan Maggiotto, taking the lead in preparing that report. Tonight we would like to give you a brief summary of what it contains and get your direction to submit to the DEC for compliance. Susan, would you like to offer some comments about the work?

Village Clerk Maggiotto: You have the report in your packets, and we are trying to distribute it as widely as possible. It is available in the Clerk's office and the library and on the Web site; I have some here. We welcome comments on any section of it between now and when we have to submit it, which is June 4.

What we tried to do was capture, from the preceding year, the efforts we have made in this effort to comply with the federal regulations to protect our rivers, lakes, and drinking water supplies. Waste water management is handled pretty well in terms of sewage; anything that goes through your sewer pipes and waste water. But stormwater is different. Now the focus is on how can we keep the contaminants out of the water that rushes into our streets and then into our storm sewers and, eventually, into our beloved Hudson River and other water bodies. This water does not get treated. It goes through our storm sewers and right out.

We have to report, in six very detailed sections, public education and outreach, public involvement and participation, what we are doing to track illicit discharge, what we are doing on construction sites and post construction control, which is a big element, and then what we are doing as a municipality when we handle our own stormwater. I think we are making some progress. In fact, I got a phone call the other day and a woman said that she understood that there are obligations when we are doing construction to manage our

stormwater, what can you tell me about it? So I transferred it right over to Deven and they had a conversation.

Now we are really into the public education part. We have a wealth of materials available to us from the county through a grant from the DEC, including this banner sign. This gives you visuals of what we are trying to get at. We are trying to prevent all these pollutants from going into our stormwater. They want you to remember that whatever you are doing on the ground is ending up in our bodies of water, whether it is your pet waste or you are fertilizing your lawn, or your car is leaking oil, or you are washing the car in the driveway. All that soap goes right down the storm sewers and ends up in the river. You are much better off using a car wash, where the water is treated afterwards, or at least washing it on grass or ground that would somehow dissipate the pollutants.

I also have a lot of giveaways, which you are welcome to take and we are spreading around. One of them is a little plastic container that holds plastic bags. My assistant, Samantha Perry, devised this label for it with a sad face that says pet waste pollutes, and then, use plastic bags, and a happy face that says throw in trash cans. We have talked about pet waste. You had complaints coming from people on Warburton. I thought that as our first initiative this year we would target pet waste. I have a volunteer, Mitch Koch, who is the local poop control person. He has built boxes along the Aqueduct that he stocks with plastic bags. I do not know where else he has put them. He encourages people to use the plastic bags, and then sees that the barrels are emptied periodically. So we are going to start the effort on that stretch of Warburton.

Mayor Swiderski: That is insanely heroic of him.

Village Clerk Maggiotto: Yes, it is. It is wonderful, and he is very happy about doing it. So we are going to proceed with that. That is going to be our first public education. We have things running on TV, little video clips. As I said, we tried to capture what we have done this past year and put numbers on it. It was a little difficult because we did not have point people in the Village for the past year. But now we have myself doing the public education, and Deven is doing his part and Mike is doing his part, and we are all keeping our notes so next year when we do this report we will have lots of things that we can point to that we really made the effort with. I do hope that people will be thoughtful about this kind of thing. If we keep hammering at it, every little bit helps. If everybody did it, we certainly would improve.

Trustee Walker: One of the reasons we are having trouble with Sugar Pond is because the properties around it, for years, have been using fertilizer which gets into the watershed and ends up down in Sugar Pond feeding this extensive flora which is filling up the pond. If we

reduced our use of fertilizers or used different products, then we could be preserving Sugar Pond in its more natural state, if you want to call it natural. But it would not be filling up with weeds to the extent that it is. That is a very graphic example right in front of us.

Village Clerk Maggiotto: Absolutely. And we are trying to identify ways that we can get the word out to people about this. We will just keep plugging at it.

Trustee Jennings: This is terrific, Susan. Some of us just saw today the little thing that was done at Hillside about recycling, a little video. Part of the sustainability plan includes the stormwater management component. There are many elements that are going to be addressing education of people, what they do in their own lives and on their own property, and how that relates to sustainability and maintaining the biodiversity and good ecological health around us. As we move forward with the water issues I am sure we will want to coordinate with similar and parallel things that are going to be discussed concerning solid waste management, recycling, and so forth. It would be great if these things would be mutually reinforcing. There is a common set of ideas that inform all of the public information and public awareness that we are trying to achieve. For example, one of those common threads is that there is no such place as away, as in, I am going to throw it away. There is no such place as away. Things like that we can coordinate with the Conservation Commission and all the others that are going to be working on public education and parallel waste with this one. I applaud you on this. This is very important, and I am so glad we are getting into the public outreach phase of it.

Village Clerk Maggiotto: Kerry-Jane King and I had a conversation today on this very subject. You are right. We want to work together, we do not want to duplicate efforts unnecessarily, and it is all a piece.

6. Agreement with Westchester County South County Trailway Parking Lot/Path

Village Manager Frobel: In 2006-2007 the Village joined with the county and the New York DOT to apply for federal money under the transportation enhancement program. The project scope was to create a path from the Ravensdale Bridge to the former Mount Hope train station, a few feet into the wood line create a parking lot for upwards of 12 cars, and then continue the trail over a small bridge, ending on the South County Trailway. The concept was to improve access to the South County Trailway and to add parking spaces for people that have had difficulty at the other site finding a convenient location.

There were a couple of scenarios. The Village's match was going to be paid for by the Ginsburg development as part of the Saw Mill River Lofts program. That project has stalled and the project this time has lapsed. What has happened is that the county is willing to step

up and pay the Village's portion of this work. The estimate for this project right now is in excess of \$200,000; \$148,000 would be paid for by the federal government and the balance would be paid by the county. Originally the Village was going to be responsible for the maintenance of the 500-foot walkway, the pathway that would lead from Ravensdale Bridge to the entranceway to this property. What has changed now is the county would like us to also be responsible for the maintenance of all the improvements: the trailway, the pathway from the bridge, the parking lot, the parking lot and the pathway to the trailway.

The pathway from the bridge to the parking lot would be gravel, about a 500-foot path about six foot wide and paved. The parking lot, although they have not determined exactly how it will be built, it is probably going to be gravel or some kind of a permeable substance rather than paved. The path from that parking lot to the South County Trailway is about 400 feet, and it would have an 8-foot wide trail which would probably be paved as well.

Mayor Swiderski: Paved, or gravel?

Village Manager Frobel: Paved. Part of the concern is for those people in wheelchairs or pushing strollers; it would make it more difficult if it was gravel. It is a seasonal trail. We would not be responsible to plow it or sand it or keep it open during the winter months, much as the South County Trailway is not paved. Those that can access it do, but there is no obligation on our part to clear it.

I thought it was a good project when it first came before you. I still think it is a good project. The responsibility to the Village is very minimal. We will probably have 10 to 15 years of trouble-free maintenance. Our responsibility would be to pick up the trash. There would be a couple of barrels at the parking lot. I do not see that as an extra burden. Any maintenance to the trail would be minimal. With bituminous asphalt and built to good standards, it should last for a number of years. The parking lot, I am not sure whether it would have to be regraded periodically. But again, I think it is something we can handle.

We still have a long way to go. I am just introducing to you the concept tonight to get some reaction from the Board, if you are inclined to support it. The reason for that is, there is still a lot of paperwork the county has to go through. And if the Board is not inclined to support this, then it pretty much will stall the project further. If everything moves smoothly, they hope to be under construction winter of 2011. They would also give you an opportunity to see the design plans as it proceeds, at 70 percent, 90 percent so we would have an opportunity throughout the project to be active partners. But what I am looking for tonight is some indication that you would like me to call the county tomorrow and tell them that it is a go, and at the next meeting, have you consider entering into an intermunicipal agreement to formalize that relationship.

Trustee Walker: I really like this project. Who maintains the existing parking lot to the south?

Village Manager Frobel: I assume the county.

Trustee Walker: The county does that one, yes. The one that is off of Farragut Avenue.

Village Manager Frobel: That is the one that is jammed and overflowing.

Trustee Walker: Right. Which is why they need an additional parking lot. The Village would be maintaining the little trestle bridge? Do we know the condition of that bridge?

Village Manager Frobel: I have not been down there to see it. It will be rehabbed to current standards.

Trustee Walker: This really improves our access to the South County Trailway and provides us with a much safer trail. Now what we have to do is ride down 9-A and it is so difficult. I feel like it is dangerous because for kids it is dangerous. In fact, for me it is the difference between using the South County Trailway and not using it because I do not like riding down 9-A. This gives us direct, safe access which is terrific. We may want to think about how to create a good bike lane all the way from, let us say, Broadway which is supposedly a bike route, and the Aqueduct down Ravensdale Avenue, across Ravensdale Bridge to have a safe route to get to this point. It is not easy because Ravensdale is pretty narrow. It may not be a lane. It just may be signage. So what can we do to make that improvement. But I think this is terrific.

Trustee Quinlan: I agree with Meg. Also, it gives us access from the South County Trailway to Ravensdale, through the back streets, past my house, to the Aqueduct. So therefore we can defeat the argument of building something through Hillside Woods to get to the Aqueduct to connect the trails. So here we have our perfect connector, and it is improving what we have and it is not impinging on the nature of Hillside Woods. It is a great idea.

Village Manager Frobel: I will call tomorrow and tell the county.

Trustee Jennings: I know you are eager to make the call. I agree. I think it is a great idea. Could you describe what happens at the base of Ravensdale. When you are walking on this gravel path that we are going to have, right there at the intersection is a bus stop. And this is kind of behind that?

Village Manager Frobel: This will be behind it.

Trustee Jennings: And are you able to get up onto the bridge and the sidewalk easily? Are there going to be steps, or how is that going to work?

Village Manager Frobel: I do not know the detail at that intersection. I can tell you that originally this was going to try to be worked into the reconstruction of the Ravensdale Bridge. As you know, a few years ago the state came before us and talked about the plans and the surveying. I have it on very good authority that the improvements to the Ravensdale Bridge are not scheduled to occur until the year 2016. That project has been pushed off indefinitely. They are attributing it to fiscal problems.

Mayor Swiderski: Let us hope there is not a physical collapse prior to that point.

Village Manager Frobel: We have got to figure out what that transition would be from the bridge to the trailway. But the planners are aware of that. They are the ones who shared with me this information and confirmed with the New York DOT the 2016 date. So they are going to have to transit that somehow easily, because the whole purpose is to get people on bikes smoothly onto that trail.

Trustee Jennings: When the reconstruction does happen, I hope we will have a bike lane or a better sidewalk or a better way across that bridge, which is not such a great thing now. Great, I think it is fine.

Village Attorney Stecich: I did look through the agreement, assuming that the Board was OK with the substance of it. There is one provision in there, one tiny thing, on the duty to defend. It is broader than it should be. I do not think it is really what they meant. It is section 3.3, paragraph B, on page 4. Usually with these county agreements there is not much you can do about them. This one is a pretty fairly drafted one. But that provision, I think, is broader than they mean it to be.

Mayor Swiderski: From Five Corners to South County Trailway via this is 1.15 miles, which is actually the closest connection I was able to find on the map between the Aqueduct and the South County Trailway. If we went through Hillside Woods it would have been 1.75, and absurd terrain in terms of difficulty. So it is close and easily signed. I computed it to be all of three signs to point your way from Five Corners there. So it is not terribly difficult to sign if we ever find somebody to pay for those signs. Setting aside that issue, dozens of people will use it on the weekends without a doubt. That is pretty good for an amenity. And it is unbelievable for an amenity we do not have to pay for, at least up front. The maintenance costs over a prolonged period of time are fairly small, given how many

people will use this. That will increase over time when it becomes apparent how graceful a connection this provides. It is a big deal. I think it is great. My only regret is that Ginsburg will be back, and we need to extract another amenity out of him because he is being let off the hook for this one.

Trustee Walker: Was he also going to provide a parking lot and a bridge?

Trustee Quinlan: No.

Mayor Swiderski: This was just a path. If my memory serves me correctly, that amenity was extracted out of Ginsburg by Jerry.

Trustee Quinlan: Yes, it was.

Mayor Swiderski: So log and note it. Make sure you extract another one in return.

Village Manager Frobel: I did speak to staff at Ginsburg's office today to find out for certain whether they were not going to be partners financially in this. They affirmed that, but Patrick indicated that they would be willing, when they come back with a proposal and they are going to come back with a proposal, to make some contribution to the special needs of the community.

Mayor Swiderski: Who owns the woods?

Village Manager Frobel: All these improvements are in the New York DOT right-of-way.

Trustee Walker: I know it is not a designated wetland on the DEC map, but I think it is considered a wetland.

Village Manager Frobel: It is. The planners indicated that to me. They know it is a wetland and it will be treated as such.

Mayor Swiderski: And build something that will be underwater at least three times a year.

Mr. Skolnik: I am not clear, exactly where this path is. Does it go from Ravensdale north or south?

Mayor Swiderski: North. About 200 feet beyond the bus stop you will see the remnants of an old road. There used to be a road there, actually. You will see that there is that level path.

Mr. Skolnik: The description was a gravel path.

Village Manager Frobel: No. Both paths will be paved.

Mr. Skolnik: Are you sure? Because I heard the description.

Village Manager Frobel: If I did, I was in error. The parking lot will be perhaps gravel. It will be some permeable surface. It will not be paved. But both pathways, the 500-foot from Ravensdale from the parking lot and from the parking lot to the South County Trailway, will be probably bituminous asphalt, some kind of a paved area.

Mr. Skolnik: If I recall, when the state was here explaining this, this bridge was rated hazardous. There was an urgency about this project. If that is true, then I am wondering, given this new time frame, what that does either in terms of the fact that it is no longer urgent or the absolute hazardousness involved in this situation that we are being put into.

Mayor Swiderski: That is a worthwhile question.

Mr. Skolnik: I hope you can find a way to pose this to them. I know that money is an issue. The Jackson intersection as related to the Ridge Hill agreement, as far as I understood there is already a certain amount of work being laid out for that project. Is there an overlap? Does that project only go from the east up to 9-A, or as part of the intersection reconstruction, which was the separate part, the turn lane was something that had been worked out with Ridge Hill.

Mayor Swiderski: That is a good question.

Mr. Skolnik: Because as you know, Mr. Frobel, I was disturbed that in that project there was never any planning for crosswalks. If something is being done, especially by the county, at this point I am wondering whether it is possible to work into that some accommodation for pedestrians and bicycles, some kind of crosswalk even at this late date.

Village Manager Frobel: We can. But when the planner for Greenburgh was here that question was posed, and he was closely grilled as to whether that was feasible. I left with the impression that it was too far gone in their design to make those kinds of changes.

Trustee Walker: Not only will people be using the trail potentially from Hastings, but people may want to use the trail from the other direction. Getting across that intersection is going to be even harder than it is now. Maybe the county can exert a little pressure.

Village Manager Frobel: When I call tomorrow I will remind them of that project. They have been involved with the consultants designing that reconstruction of the intersection. But I will heighten their awareness of our desire to have a safe pedestrian crosswalk there.

Mr. Skolnik: You are talking about making a path going from the bridge up to this parking area. The path is not for cars. The path was either going to be for somebody walking or somebody taking a bike. The question is, how did they get to that point. They have to be walking across the bridge or riding across the bridge. And we are talking about the northwest corner, right? Even if they were riding a bike, they are going to be riding a bike going from Hastings across that bridge. They are going to be riding on the south lane of the bridge, the eastbound lane of the bridge. So they are still going to have to be crossing that intersection just to get to that point where they can then take the path. And that is only people coming from here.

Mayor Swiderski: His point is very well taken. It is worth reminding the county what is in the way. That is very well taken.

Mr. Metzger: What liability do we assume if we assume the maintenance of these paths and parking area?

Village Manager Frobel: No more than we do in any of our public places. We have insurance for all our properties.

Mr. Metzger: OK. It is hard to see from the way this map was reproduced, but the pedestrian path from the Ravensdale Bridge to the parking area seems to be hugging the road pretty closely. I walked that road, when this issue came up with the Ginsburg project, and it is a scary road to walk along. Despite whatever the speed limit might be, cars come through at a pretty rapid rate. Do we know if there is going to be any barrier, barricade, planting?

Village Manager Frobel: We do not know because if the Board is not inclined to support this scenario then there is probably not going to be a project. Those kinds of things will be fleshed out during the design. I got the impression from the planners that they have not spent a lot of work in the design yet because they do not want to spend their time with something...

Mr. Metzger: I like the concept. I think it is a nice solution to a problem that we have been looking at for many years.

Mayor Swiderski: You have got your verbal?

Village Manager Frobel: Yes, thank you.

7. Update on Waterfront

Trustee Quinlan: There is another technical meeting on Thursday, which I usually attend by teleconference. I will not be able to this Thursday, so anybody who is willing can do it.

Mayor Swiderski: I will see if I can do it. One of us should be on it.

Trustee Quinlan: I think that there is a cooperation, and this goes to Mr. Gonder's point, between BP and the DEC on the remediation design to choose a remedy that we can all live with. I have been in contact with Ned Sullivan, who has been in contact with his contacts in the DEC, and it does not look like Fish & Wildlife are going to join the conversations. But they are going to be closely monitoring them, and they are going to give their feedback as they go along to remediation. So it is not the greatest scenario that I was hoping for, but I cannot control Fish & Wildlife whether they want to come to the meetings or not. But there is a little more positive news that we think it is going to work out better than I originally had thought.

In terms of the Tappan Terminal site, the DEC is expecting from ExxonMobil draft work plans by the middle of May. They are going to review them, and if they approve them we are going to try to set up a public meeting. The DEC is talking about June, and I would like to get some feedback from you. June is a crazy month in Hastings, as I recall when my kids were in school. I was out almost every night doing something; concerts, Little League, you name it. I do not know if that would be such a great month to pick a date. We have the comprehensive plan meetings. Then they were thinking about July, but we have people that are away. Then September, so I do not know.

Mayor Swiderski: I am not inclined to push this up until September.

Trustee Quinlan: They were talking about July. So it is either going to be pushing into June, if they approve the work plans. That is a big if.

Mayor Swiderski: OK, June.

Trustee Quinlan: We are talking about creating some land in the river. And there will have to be wetland mitigation for taking that somewhere.

Mayor Swiderski: Somewhere, but necessarily in Hastings.

Trustee Quinlan: Not necessarily in Hastings, and I do not know the true proportions. It might be 1.5:1 or 2:1. It might not be just 1:1.

Mayor Swiderski: You mean 2:1 wetlands to one created. And is there a number on how many acres are going to be created?

Trustee Quinlan: No, they still have not decided that. There are two different plans. But they are talking about somewhere between a half and an acre. We are going to have to try to find a mitigation for taking that out of the river somewhere either in Hastings or nearby. So that is an interesting concept that the public should know about.

8. Update on Deer

Mayor Swiderski: One item not listed here, but I do want to just briefly touch on since it will impinge upon our consciousness sooner than later, deer. A correction to my previous statement on the topic: the permit we have out of the DEC is actually a standing permit. It is not considered a draft. They asked for our input but, in fact, upon being sent to us it was considered a valid permit.

I have asked for it to be revised to have a larger number of deer in the cull, but as it stands now it is legal and will be legal when it is reissued with a higher number, as it will be. So we now have a permit for a methodology that is specific just to Hastings. We can ask for a standard nuisance permit if we want to entertain or consider a bow hunt. Given the geography of Hastings, that would be highly limited. But we now know the range of lethal options before us.

With that in hand, at some point this summer probably, I do not want to say June now because that sounds scary with how busy it may be, but this summer, we have the public discussion about what we do here. At one of the meetings soon we should talk about how we want that public discussion to occur. I will put forth proposals. What we did to get to this point was develop the options we know the DEC will permit us, and we have those in hand. We now need to consider whether we want to act on them. It is not clear whether non-lethal options are going to be permitted by the state. The letter that I issued to them requesting a permit included non-lethal options, and they did not give us that. They are not giving it right now to other communities. However, who knows. If we went back and asked strongly that we felt that was a viable option, they might, though right now they are not doing so. We have ahead of us a discussion. We do have some money set aside if we should choose to act this winter, and I think it is going to be a difficult discussion.

9. Update on Comprehensive Plan

Trustee Quinlan: They are still trying to pick dates, in May and June. They are talking about May 27 to hold a combination open house/public presentation. They are talking about a follow-up open house the first week of June, and voting sometime in the middle of June to send the plan to us.

10. Miscellaneous

Trustee Walker: Friday Night Live is going to be very exciting. This Friday we are going to feature dancing in the streets. We have three wonderful guest producers; two of them are ballroom dancers, and one is a choreographer. We are going to have a range of dancing opportunities, performances by local talented youth from the Broadway Training Center and On Hudson dance schools, as well as the karate school. That is going to be happening at the Station Café beginning at 5:30. From 5:30 to 6:30 we will have the performances. And then from 6 to 7 we are going to have ballroom dancing demos: salsa, tango, cha-cha at the VFW. And beginning at 7, we are going to have a samba band and that is when the samba dancing begins. That is going to continue until 8:30. Warburton Avenue will be closed until 9 o'clock. The band will then move into the Community Center for another hour.

Trustee Quinlan: And when will the band be finished?

Trustee Walker: Inside 10 p.m., outside 9 p.m.

EXECUTIVE SESSION

On MOTION of Trustee Walker, SECONDED by Trustee Jennings with a voice vote of all in favor, the Board scheduled an Executive Session immediately following the Regular Meeting to discuss collective bargaining and other negotiations.

ADJOURNMENT

On MOTION of Trustee Walker, SECONDED by Trustee Quinlan with a voice vote of all in favor, Mayor Swiderski adjourned the Regular Meeting at 10:30 p.m.