

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
MAY 18, 2010

A Regular Meeting was held by the Board of Trustees on Tuesday, May 18, 2010 at 7:35 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. Frobels, Village Attorney Marianne Stecich, and Village Clerk Susan Maggiotto.

CITIZENS: Sixty (60).

Mayor Swiderski: Today we have Troop 2 of Hastings here as part of a civics merit badge, and they will be leading the Pledge of Allegiance. Stand and approach.

Cecelia Gallagher, 13 Cedar Street: Troop 2 Hastings Boy Scouts would like to thank the council and all the people in Hastings who are here for giving us an opportunity to have the Boy Scouts attend your council meeting. Thank you very much.

APPROVAL OF MINUTES

On MOTION of Trustee Armacost, SECONDED by Trustee Walker with a voice vote of all in favor, the Minutes of the Special Meeting of April 28, 2010 were approved as presented.

On MOTION of Trustee Armacost, SECONDED by Trustee Walker with a voice vote of all in favor, the Minutes of the Regular Meeting of May 4, 2010 were approved as presented.

On MOTION of Trustee Armacost, SECONDED by Trustee Walker with a voice vote of all in favor, the Minutes of the Executive Session of May 4, 2010 were approved as presented.

APPROVAL OF WARRANTS

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

Multi-Fund No. 72-2009-10 \$271,727.98

PUBLIC COMMENTS

Harrison Bloom, 145 Euclid Avenue: Some know me as "H." I live at 145 Euclid Avenue. About a month ago there was a very unfortunate incident in this town in which a wonderful

man was taken to task and put through what I consider four or five days of very difficult time. This is an individual who has probably given more of his time and effort to all of Hastings than anyone else that I have met in my 26 years here. I am not here to talk about him, but because of a tremendous public outpouring of support for this individual my understanding is that the issue has been resolved. I want to talk about the future. It is my hope that nothing like this can ever happen again in this tiny village of Hastings. This is not the Bronx, this is not Manhattan, it is not Scarsdale, it is not Larchmont. I wonder whether someone else who may not have the considerable notoriety and backing and reputation that this gentleman had, I just hope that nothing similar could happen to him or her without the knowledge of people informed ahead of time with the ability to give some input. There was a huge outpouring, totally appropriate, in support of this man. I hope there is a system in place where this cannot happen again. I would ask if there is a way that this type of a system could be made more transparent. I feel as if it is a bad mark on the town and those who perpetrated it. I am hopeful that we can prevent it in the future. Is there a way for a response?

Mayor Swiderski: I think the Board is all about transparency. Part of the problem you allude to was agreements in the past that were not necessarily understood, or known. What the Board has been working on, through that budgeting process and in general, is to service as many issues as possible and understand them so we do not have things like that happen.

Tim Downey, 520 Farragut Parkway: I would like to thank the Mayor for good use of his position and authority in the recent email regarding the school board elections. That was a good, timely statement because it seemed like tensions were heating up in the Village.

The old Hastings House, school board posters got stapled on the plywood door. I do not know how they could do that because that is trespassing on private property and defacing private property. I would like to ask the Board to do whatever they can to move that process along. Anything the Village can do to make that facility come alive again, start bringing in revenue, and take that eyesore away from the Village.

Sometime in June there is going to be a discussion about what Hastings is going to do with the deer. I would like the Board to think carefully and hard about how they are going to format those public discussions. I would like to see this meeting for Hastings residents only so that we do not start having people bust in, turning this into a mockery and a circus. In the *Enterprise* I saw this article about this gentleman Buck Van Deer. I went to YouTube so see what it was all about. It was pretty foul, what I saw on there. I do not want to see our public governance turned into a circus, with people coming here with agendas outside of what we are trying to do. I am neither for or against the process. I just want to see whatever decision

is made done responsibly in terms of financially and ethics. But I do not want people here coming from out of town and turning this into a circus.

John Gonder, 153 James Street: I am glad to see these Scouts; 1946, I was in Troop 2. It was great times, and I hope you keep it up. My oldest son was an Eagle Scout in this Village. I am here about Friday Night Live, the last one. It was tremendous, the weather, down at the train station, everything was going fine. Up at the VFW park a nice band, and someone made an announcement: Donations were made by Chase and Atlantic Richfield. That turned me right off. That announcement made me sort of sick. I went home. Joe Sontchi apparently is the godfather of Hastings. We all know about BP. We heard some of the chief executive officers, and Halliburton, and we are disgusted, even me, as a stakeholder. We know BP was not only the Gulf problem, but in Texas a couple of years ago they had the largest fine. Atlantic Richfield is paying you people off, I think. And I know the Mayor and the Trustees, I used to call you honorable. No more. I think that happened about a year or so ago. You have an ethics committee. You should get them out and investigate your doings with Atlantic Richfield. I know you think I am wrong. I wrote the attorney general of the state. I also wrote BP. I was not really satisfied, but I dropped it for awhile. But again, it is a pet peeve with me. Mr. Mayor, you accepted \$2 million, you said it was the greatest grant Hastings ever got, for Building 52. You got money and a green vehicle. This is payola. This is a godfather giving you money. I do not think it is acceptable. I just hope you look at yourselves, and maybe I plant a seed in one of your Trustees to check the others.

Mayor Swiderski: We will provide you with a list of the Ethics Board members, and you are welcome to write them and ask them to take a look. I am absolutely not nervous about how they would rule on corporate donations. It is a pretty standard practice.

Mr. Gonder: Not when you are dealing with them for a cleanup for 18 years.

Mayor Swiderski: Thank you. I appreciate it.

46:10 APPROVAL OF INTERMUNICIPAL AGREEMENT WITH WESTCHESTER COUNTY FOR SOUTH COUNTRY TRAILWAY PARKING LOT/PATH

Village Manager Frobel: This is a project that the county will be taking the lead in. It is a grant awarded to the county from the federal government and the state DOT to create a parking lot located off the Saw Mill River Road and allow additional parking opportunities for those wishing to access the South County Trailway. At that last meeting, you heard some concerns from the Village Attorney. I believe those concerns have been addressed, and what is before you this evening is authorization to enter into that intermunicipal agreement.

Trustee Walker: I would like to see the plans when they are completed. I am very pleased and do want this to go forward, but I also would like to see what they are proposing in terms of trail and parking lot.

Village Manager Frobel: I indicated to the Board earlier that I had contacted the county and put them in touch with New York DOT engineers for the design of the transition from the pathway to the Ravensdale Bridge. I also wrote to the Town of Greenburgh indicating our concerns about pedestrian improvements at that intersection.

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

RESOLVED: that the Board of Trustees authorize the Village Manager to sign the Intermunicipal Agreement with Westchester County as attached for the maintenance of a new parking lot and path near Ravensdale Avenue and Route 9-A to improve access from lands of the State of New York to the South County Trailway.

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: I want to remind everyone to get their applications in for the swimming pool, take advantage of that early bird special that goes until the end of May. Also, we now are in a period of time that no one is allowed to use a leaf blower. A reminder to the community that we will be watching, and accepting phone calls from neighbors that see folks violating that ordinance where we do not allow leaf blowers as of the 15th.

Mr. Gonder: Unless you have permission from a doctor, right?

Village Manager Frobel: Of course, yes

BOARD DISCUSSION AND COMMENTS

1. Request for Transfer of Property on Mount Hope Boulevard for Affordable Housing

Sue Smith, 645 Broadway: This is a follow-up to our meeting here two weeks ago where we had a discussion about the transfer of this property on Mount Hope Boulevard for an affordable one-family house with an accessory apartment. Subsequently, we have had, last Thursday, a meeting with neighbors to inform them about it, to hear their issues and understand their concerns. It seemed necessary and certainly appropriate that they come here and be able to express their thoughts to you as the Board, the ones who make the decision. What they have to say is what is important. This is Village-owned property. The Affordable Housing Committee is looking for sites always, always, and very few of them come up. This seemed to be an opportunity.

Michael Wagner, 342 Mount Hope Boulevard: I am brand-new to the community. I do not understand where we are or how this all works. They are saying we want to build on this property. I understand that there was some lawsuit that Spano lost. So what does that mean now?

Mayor Swiderski: The Affordable Housing Committee in this Village exists to identify locations appropriate for building affordable housing. To date, we have had two sites on which property was built. One was on Division Street, where 14 units were constructed, and one was on Warburton at Pinecrest, where two units were constructed. Those units are counted as four because they have a rental unit in the basement. It is that sort of structure that is proposed for this site. This piece of property is Village-owned. It does not pay taxes, it is not utilized. The Affordable Housing Committee is asking us to deed the land to the committee, and they then will initiate the process of constructing a unit on this site. That involves an approval process where they go before the Planning Board. Is it going to require Zoning Board?

Village Attorney Stecich: It will require Zoning Board approval because it is not the required width, although it is the right size. So there would be a small variance it probably needs. And there will be steep slopes review. It is conceivable that with the deduction of the steep slopes that they will need some kind of a waive to build on it. But both of the variances, or the waiver, would be minor.

Mr. Wagner: So at this point you are saying that there are variances and issues, but that they are small things that just have to be approved.

Village Attorney Stecich: There may be variances on Planning Board approval and the waiver, if need be, and the Zoning Board variance. There will be notice, and there will be a public hearing on both of those both before the Planning Board and the Zoning Board.

Mr. Wagner: And this is something that you guys have to approve, as a whole. Correct?

Village Attorney Stecich: No. It is before this Board because the Board owns the property and they have to sell it. They have nothing to do with granting those approvals.

Mr. Wagner: I am curious why affordable housing as opposed to putting it on the market and allowing somebody else to buy, or the community or the neighbors to buy it. My neighbor, who has been taking care of it for 30 some odd years, had tried to purchase the property and was turned down. I looked in the records because I just bought next to it and figured nobody is going to build here because it is deemed unbuildable. There is rock on there. It is easily over \$20,000 to get three feet back behind my neighbor on the other side for his property just to have some space in the backyard. So now you are saying that you want to put a whole house there. There is just an incredible amount of rock there, erosion when the property was never taken care of, from what I understand. I do not know how affordable housing would fit into this community as to just coming and building a brand-new house. There are homes for sale which would probably be cheaper, in this case, to buy up some of that property and turn that into affordable housing.

Mayor Swiderski: There are a lot of questions there, and I think I can answer a few of them. Affordable housing is an identified priority for the Village because it's something that is in short supply. We are committed to identify locations where we can build housing that will keep the Village as diverse economically as we can. The county settled a lawsuit where a number of communities, including ours, were listed as places that would need to fulfill a criterion to build 750 units Westchester-wide. We have not been given a set number of units to build yet. The county has not yet delivered that requirement. But there is going to be an expectation that units be built in Hastings.

Mr. Wagner: So it is not really Hastings' money. More so it is more federal money, New York State money, Westchester.

Mayor Swiderski: Money is a good question here. To explain how this works, we are not going to build this housing out of our own pocket. There are multiple pockets we can reach into in terms of county funding and state funding, as well as bank loans that will get the building constructed. Then it is sold to somebody at a price that reflects a formula, which means it is affordable for somebody who is making a certain income level. At the point of sale it is in the deed that it has to be affordable when it is resold. The property becomes an

asset to the Village in terms of an affordable property. It pays taxes, it is not tax-free property, but it falls in the rubric of affordable. It can be purchased by somebody who is making X-percentage of whatever the median income is in Westchester. The idea is that a police officer or a teacher or somebody with an income like that, or two people each making that adds up to that, could afford that property.

Mr. Wagner: I understand that, but there is no guarantee that we are going to get somebody from the town or the community.

Mayor Swiderski: There is no guarantee.

Mr. Wagner: And is there no way that this property could be put up for sale for the neighbors?

Mayor Swiderski: Of course, it could be. But given both the Village's commitment to try to identify places for affordable housing and what we expect to be requirements out of this lawsuit settlement, it is an attractive opportunity.

Mr. Wagner: So let us say you sent a surveyor over and they said \$300,000 to \$400,000 just to clear the rock to be able to build a foundation. Then it becomes not affordable.

Ms. Smith: It has not been surveyed because we have not gotten permission to step foot on it yet. The cost is totally an unknown, but there is a financial threshold beyond which it would not be funded. If it were \$300,000 to repair the property we could not do it. We would not get the funding. So there will be benchmarks along the way where we could be knocked out of the box because there is limited money, they are trying to spread it around as far as they can and they are not going to build a multi-million dollar house.

Mayor Swiderski: At what point in the deeding cycle does that happen? Do we wait for the results of that survey before we deed?

Ms. Smith: Your decision will give us site control so that we can go ahead with the process. Without that, we cannot go ahead. But we do not want the property until we have everything in place. It would be a pending approval, all the approvals: the Planning Board, the Zoning Board, whoever, and also the funding agencies. Only then would the transfer be made simultaneous with signing contracts for the grants.

Trustee Armacost: How is the property value kept affordable, and how does that affect the values of all of the other properties around it?

Ms. Smith: This is something the neighbors are very concerned about. The experience has been that it does not, particularly a one-family house, have any effect on the neighbors' property. In a big city, where there is housing development, that is more of a risk. But that has not been the experience in small communities. The houses are built to fit in architecturally with the community. They are not tiny ones next to gigantic ones. You try to do something which is compatible in both size and style. Bruce Dale can respond to that. He is the liaison for the Planning Board on the committee, and he is a professional in this field.

Bruce Dale, 137 High Street: There have been hundreds of studies done on this issue across the country, by the federal government, by state governments, by academia, by think tanks. The conclusion is that affordable housing does not impact on the value of the land surrounding it. The reason has to do with the houses being valued by their environment, by the community they are in, by many other factors. The assessment of affordable housing is blocked so it is not a comparable in terms of value. It is blocked by the amount of money of the family who can afford to live there, by regulation. So the assessment is much lower, and it is not used as a comparable and has no reflection on the buildings around it. I have all the citations of the studies that have been done, and this is fairly well studied at this point.

Justin Steinhart, 445 Broadway: Are there any provisions to prevent favoritism in the awarding process once the house is built? The two houses built on Warburton Avenue were unfairly prioritized to r volunteers to the community and it was more of a payback for their services rather than the possibility of opening up the community to an entry level family that is coming in that is looking at being here for 30 years versus a family who is 30 years aged and just has given 10 years of service to the community.

Mayor Swiderski: To date, the Affordable Housing Committee has, or moving forward it is going to have, a criteria list where priority was given to those who work in the community and are involved in the fire department or whatever. Part of the point of affordable housing is to try to keep those people within the community. Under the settlement of the lawsuit, the county is requiring, at least at this point in time that those criteria not be used. So the process will be open to families outside the community, and how that will work I am not sure.

Ms. Smith: The implementation plan is not finalized. But I know that the intent is that the county would have a responsibility to advertise any affordable housing that is built in the county widely. I do not know if that is out of the state or how widely, but wider than we would do it. We will continue to advertise heavily locally, which would be in the *Journal News* and in the river towns. But any applications that are made go into a pot and are drawn out in a random lottery process.

Mayor Swiderski: After a screening for the criteria for affordability, I assume.

Ms. Smith: Yes. You try to tell people ahead of time what that is. But it is very expensive to screen them and then have to throw a lot of them out. So, in fact, they would be put in order and then they start at the top and do the criteria, if they meet the criteria, as they go. So people might be thrown out even though they have made application and are on the lottery list. That has certainly happened. So much of the implementation is still up in the air. The county executive has made an attempt to have some percentage of the housing allow for preferences, because there is strong sentiment in the county as well as in Hastings to maintain the preference groups. The Affordable Housing Committee has worked under that for 20 years, and thought that made lots of sense, but we are not able to do it at this point. But they are trying to find some balance between what the federal government wants and what we want. I do not know how successful that will be but there is certainly a desire to do that. I would hope the fact that we advertise heavily locally will mean most of the people are from the Hastings area. I would not say just Hastings, but the immediate area. But there is no guarantee about that. From the local advertising we got 84 applications for 422 Warburton for rental. Most of them were from Hastings. We have people on an interest list, so we can contact people if a one-bedroom apartment would come available, for instance, and at least three quarters of them are from Hastings. Once the implementation plan is agreed upon, at least we will know what the rules of the game are. But if we wait for that before we start affordable housing, time just goes on. We came to you more than two and a half years ago with this and we have been sitting on it ever since because the county could not move ahead.

Mr. Steinhart: May I suggest that some amount of community service hours be given back to the people of this community? It is my money that owns this town indirectly and also my money that owns this property indirectly. The owners should have to donate a certain amount of service back to the community, say 10 or 15 hours, because we are absorbing the cost of their living in this community.

Mayor Swiderski: I do not know if that is an allowable deed restriction.

Mr. Wagner: Is there any way that before we run with the project that somebody goes out and says this is buildable or it is not buildable?

Mayor Swiderski: I think that is what is going to happen. The first step is a survey. That survey you want as honest and good as you can get because the funding you are looking to raise will have to cover the excavation, if necessary. So there is no advantage to not having a good survey done on that site.

Trustee Armacost: But I think the question that you are asking is, are we all 100 percent in agreement that no deeding happens until the survey has been completed.

Mr. Wagner: Yes, there are tremendous trees there that could not even legally be cut.

Trustee Armacost: Right. And I think the answer is no deeding will happen until the survey takes place. Is that correct?

Ms. Smith: That is correct, and a lot of other things like the approval of the Planning Board, if we have to go to the Zoning Board, anything else. You have to have all of that. We do not want to hold property and then maybe not be able to build on it. So we are a long way from the point of a deed, and we want all of that simultaneous at the very last point so that we are not holding onto it. That is not our job, to land bank.

Mr. Dale: The site control that is being asked for is conditional so that we have the authority to talk to the county government about what we want to accomplish, get funding for predevelopment costs. If it functions, then the conditional will become a real deed at the closing of the sale.

Leonard Mastrangelo, 360 Mount Hope: I live on Mount Hope, adjacent to this property. When I moved here in 1975, I inquired about this property. I have papers from the original owner who this property was to be sold to. Those three lots were \$1,100, which the town went into contract with them. Then they had a big argument with the Mayor about all the fees that they were going to pay. The Mayor gave her her \$88 deposit back. So I went to inquire about it, and nobody seemed to know anything about it. They said the Village owns it. So I let it go like that. In 1983 before computers I had a friend of mine that worked for DelBello. I asked him to find out about that property. He sent me some papers back and said the property was in rem in 1959 from the Town of Greenburgh and was donated to Hastings. He understood that this was supposed to be left as open space so that the houses were not built on top of each other as the time went on. He told me I was wasting my money to buy that property because nothing can be done and it is a nonconforming lot. That is how it stayed. I cleaned that property, I put a sidewalk in front of my house which has never been taken care of. Nothing is taken care of there. The whole wall has been done by me, everything fixed. Not on that property, but I clean up on the sidewalk and everything.

Why is that after all these years they can come in and do what they want, but when I wanted to buy it, it was not OK? This is my beef with the whole story. Back then, when I wanted to buy it, it was not all right. It was a nonconforming lot, they want to keep it as open space. I even asked them if could combine my property with that if my brother wanted to build a house. They said no, and that is the way it ended up. Now all of a sudden we can get a

variance. I know it is not wide enough. It is only 93 feet. You take a look at that. The rocks, when I built the extension on my house my friend, the excavator, said it would cost 10 times the amount of money to excavate that lot because the rock outcropping is so big. When I cut a tree to put the garage, they made a big stink about a big tree when Mr. Maleska was there. I had to go in front of the Board when I got the variance to build it that time because they changed the zoning. And now you are going to take away old growth trees that have been there over 100 years? I just paid \$4,000 to have the trees trimmed there. My wife almost got killed in that big storm. Nothing has been ever done there. You want to absolve yourself of the property all these years, and now all of a sudden it is going to be a big asset to you. I think it should be kept as open space. Affordable housing, no affordable housing, that property should be left the way it is. People who want open space it should be that so the houses are not on top of each other anymore. I think that is what you all preach here: you do not want everything on top of each other. That is why you have zoning. But it doesn't seem to be working that way. When it is good for you, it was not good for somebody else. That is my feeling, and I have been here since 1975. I pay taxes here. I have no kids in the school. I paid, and I did what I had to do. So if this is the way it is, this is the way it shall be.

Kim Porter, 17 Washington Avenue: I would like to encourage you. Hastings needs affordable housing. If this is a lot that is being unused for any other purpose, and we are not getting anything from it, and it is not going to cost us any money for somebody else to survey it and develop it and put housing on it I think you should consider doing that. There are a ton of people that I know that are being pushed out of Hastings because they cannot afford to live here. So if this is an option to keep the people that work here in the community, then I think it is something that you should continue to develop.

David Skolnik, 47 Hillside Avenue: Is it possible to clarify what the difference if the property were developed privately as opposed to through this method?

Mayor Swiderski: I am sure there would be. Sue, do we know the likely sale price of a house on that property that would make it affordable?

Ms. Smith: I do not. My guess is in the \$250,000 to \$300,000 zone, relying upon the rent to carry the mortgage, and their income. But the reality is that it can never go to market rate, and it would be assessed according to that. There are so many deed restrictions on these houses that it has 99-year affordability. If a person owns one of these houses and sells it, they can only sell it for their original cost, an annual cost of living increase, any capital improvements that they have made, which have to be approved by the committee. It gets frustrating after you have owned the house for awhile because, not in the last couple of years, admittedly, but usually the value of houses in a community like this has increased. But the

people in a house like this will never have an opportunity to see those increases. That is why it cannot be used as a comparable in real estate appraisals.

Mayor Swiderski: But the number is around \$300,000.

Ms. Smith: It would be something like that. We would put it on the tax rolls, but not like a big house. It is a three-bedroom house with a one-bedroom apartment. So it is designed to fit into the neighborhood, but it is on the more modest side of the neighborhood rather than the high end of the neighborhood.

Jim Metzger, 427 Warburton Avenue: I want to talk to the general benefit to the Village of having affordable housing. When that ambulance pulls up at your door because someone you love has had a heart attack, know that some of the people that are on that ambulance are there in time because they live in the Village. And they can live in this village because we provided affordable housing. We need more of it.

The concept of requiring someone at a certain income level to provide community service hours, if you want to take that to its extreme, we find out who pays the most taxes they do not have to do anything. After that, everybody else has to contribute. Hundreds of people in this Village contribute their time. I do not believe we should single out somebody because of their economic situation to provide more than they might be willing to do otherwise.

Affordable housing is necessary. I believe we need to keep diversity. Economic, racial, all types of diversity is beneficial to everybody that lives in this village. I know that it is a difficult situation when you live in a neighborhood where they are contemplating putting a building up because I lived through that. My neighbors at 422, across the street from where I live, are wonderful. The people that live in the houses down at the foot of Pinecrest are terrific neighbors. We need to encourage more of this.

Mr. Wagner: Obviously, we disagree with the idea that anybody in a certain income should have to do community service. You do not punish somebody because they have gotten affordable housing. I am sure we are all in agreement with that. But the point is that this is a community. I had friends that lived here. My parents volunteered on the ambulance corps, they were EMTs, they took their time and they did it. They did not necessarily live in the town. They commuted and they did what they needed to do, like anything else. You put your time in so you take a ride and you go into the other town, or whatever it is. For me, it was a dream to be able to go to a town that my daughter can have the best education, and my future children can have the education that we have here. That is the whole idea of the taxes, the exclusiveness of the area, the idea that people that are finishing school and doing the right things in their life, and they have made their plans and provisions to set themselves up

properly. This happens to be a wonderful area. That is the whole idea of this. This is not so we can come and build small little apartments so that people can now come in and let us make it diverse. Unfortunately, for me that I am a new homeowner, now it is going to be in my backyard where they are going to be building. So I am a little leaning towards the other side of the unfortunate side. But if any of that helped, we should not be building there.

Ms. Smith: I try to look at it in a more regional way. Hastings needs affordable housing, but so does Dobbs Ferry, so does Yonkers, so does Irvington, so does Ardsley. It may be that somebody who teaches in Dobbs Ferry gets into Hastings' affordable housing, and somebody who lives or works in Hastings and wants to stay but cannot will get into affordable housing in Irvington. The county has been trying to find a regional solution, because it is not just our individual communities. We have to look at a bigger picture. That can be hard when you are a potential neighbor. I understand that. But it is not just Hastings' problem, it is the whole region. There are a number of people in the ambulance corps who are in affordable housing. I wish there were more, but this makes it possible. Sometime maybe this gentleman will be interested in doing that in Hastings, and that would be great.

Trustee Armacost: Is there anyone here who has a view on the Farragut Avenue house?

John Conway, 1 Merrill Street: My concerns with the Farragut property with the excavation would be drainage. If you remove the tree, if you do any blasting to remove any of that rock, you are going to have drainage problems. It might divert some of the aquifer in that area. When I purchased my house at 1 Merrill Street, I put in French drains. I have a dry cellar. Some of my neighbors, when it rains, do not have a dry cellar. If there is going to be any blasting to remove the rock on the Farragut area, that is going to create flooding problems. My property used to be a farm area. There was a spring there, and I was told by a neighbor the cows went there. I still get a pond on a rainy day in my driveway, which I am fine with because I do not want to disturb too much what I do have. But if you were to disrupt what we have now, that could create far more flooding. You may have all the benefits of having people come in and all that. That might be nice. But you might create a flood zone or other ecological problems. Hopefully, that will be in consideration.

Mr. Skolnik: I am not clear what the impending decision on the Mount Hope property would be. Since site control was mentioned, is there any movement in terms of investigating the possibilities that can happen without granting the site control? Or what are the implications of granting site control?

Ms. Smith: Site control is critical just to go ahead with the process. But it would be only site control with conditions that all of the necessary approvals have been accomplished. If you are not willing to give us site control if we can meet all of the requirements then there is

no point is spending the money to get a surveyor to do anything, because the state, the funding agencies, will not look at it. They will not consider an application that does not have site control.

Trustee Armacost: I think that people who may have an objection want to know if, for example, the assessor discovers that the Mount Hope Boulevard property is going to be outrageously expensive, then what is the process to stop things moving forward. My understanding is, if the costs are too high, then the process just ends. It seems like it is not that difficult to grant site control, because the way I hear you describing things, if it does not work out it stops at each point.

Ms. Smith: That is right.

Trustee Armacost: If it does not work out with the assessor, we do not go to the Planning Board. If it does not work out with the Planning Board, we do not go to whoever the next group is. So there are end points all along. Perhaps if you explained that more clearly it might make people more relaxed about the site control aspect.

Ms. Smith: The next thing is to get a survey of the property, which will be a topographical survey also, and to have an architect and an engineer do a feasibility study on use of the property. That will start to define the costs and the excavation needs and the shape of a house that could be there. It cannot go to the Planning Board until we have some kind of drawing to show them. So that is the order in which things would happen. With regard to Farragut Avenue, it did not come before you formally because that is privately owned and is not something that requires an approval by the Village Board. The people who came, in addition to Mr. Conway, are a couple of people who have issues about drainage. I would hope that we would have a chance in the process of building something to mitigate some of the problems that the neighborhood has in terms of drainage. I do not know the specifics of it enough, and we will have to have an engineer look at it, but it might be an opportunity to try to improve some things, in addition to perhaps having a whole sidewalk in front of the house on Mount Hope and having somebody who lives there who will take care of the property and keep the trees trimmed properly, some improvements that help a neighborhood. They even have some drainage issues on Mount Hope with not enough catchbasins. We might be able to do something with that, too. One of the benefits of talking to neighbors is you get some good input for the future in terms of how we might be able to help solve some of their problems.

Village Attorney Stecich: Regarding drainage, under the new state regulations you cannot build anything that is going to have any water going onto anybody else's property; it has to be dealt with on the site, irrespective of what kind of housing it is.

Trustee Jennings: The standards and the rules and regulations that would be applied to anything built on this property for affordable housing purposes would be exactly the same as would be applied to any private developer. So the fact that this is an affordable project does not give it less stringent requirements to be met in the planning and approval process. Is that correct?

Village Attorney Stecich: Yes.

2. License Agreement for Use of Property at end of Ridge Street

Peter Wolf, 433 Warburton Avenue: I am presenting, with Christina Griffin. The project is located at 433 Warburton Avenue. Originally, we had the concept, and this goes back about four years, to transform a dilapidated firetrap into a code-compliant, attractive, energy efficient home that would be the first LEED home in Westchester. It has been completed. It is already a top-rated Energy Star home, and is awaiting final certification from the U.S. Green Business Council. We are here because we have had one major problem, which is the parking. The one point that I want to make before Christina does her presentation is that we must have parking. Section 225-22 of the Village Code states, in part: All buildings enlarged shall be provided with off-street parking. This project necessarily had to be enlarged in order to become code-compliant. Section [295-44] XXX explicitly states, in part: The word shall and must are mandatory and not discretionary. Therefore, we must have parking. We have the mixed blessing of having access both from Ridge Street and from Warburton Avenue, but in going before the various boards the Planning Board had made it clear, repeatedly, that they believe the parking from Ridge Street would be the preferred solution. So we have now evolved a new plan, and Christina will present it.

Christina Griffin, 433 Warburton Avenue: This is a smaller version, a kind of less extensive version, of what we had shown you three years ago. We are planning to have a gravel driveway with a stone edging. This will probably be a reddish-colored type of gravel. This is the type of gravel without a drainage system because it is a pervious surface. We are planning to simply extend this driveway with a very low retaining wall. We looked at this carefully and decided that we would have to reinforce the hill here with a low retaining wall. But we are not going out as far as the existing wall because there is less of a drop. And also, we are just coming out enough so that we can have a turnaround. This access driveway will allow us to have two parking spots in the back of our property. We will have a new retaining wall, and this retaining wall will be made of Allan block. This is an image of what it could look like. The parking area is going to be made of Permaturf, which is a recycled plastic that allows you to have a root system of grass grow below the surface so you can drive on it.

Mayor Swiderski: That is what you have on your front lawn?

Ms. Griffin: We did, yes. It also helps a lot with erosion. In back of our house we have a purplish gravel, and that is the same gravel we would like to use here. I also invited our landscape designer in case you have any technical questions.

Right now there is a safety fence and a wood post that act as bollards. We are planning to remove the center one and have a removable bollard. We are looking at electronic types. There is currently a depression in the curve at the end of Ridge Street. That will stay in place so when somebody comes through the driveway they will remove the bollard and then pass through. We would like to make this the width of a fire truck in case a fire truck would like to have more room to come down the street. And then we are going to recreate the wood bollards and fence down to the end of the turnaround. The length of this driveway is 54 feet, and around the perimeter of the curbing we will fix ground cover. We are going to put in an erosion control blanket just on the edge of this hillside where we are putting the low, 30-inch, retaining wall. Allan Block is a stepped block that is pervious, as well, so it allows a little more to filter down through it.

Trustee Quinlan: The street ends where the concrete ends and then it is a paper street, which means it is land. Those bollards: is that going to make that like a private street for you? You call it a driveway, but it is a paper street. You are only having a licensing agreement to be able to use the Village paper street.

Ms. Griffin: Yes.

Trustee Quinlan: I think that has to be clear. So you call it a driveway, but you are going to have the licensed use. Will that make it private for you, those barriers at the front there?

Ms. Griffin: The answer is yes, but it is really so there are only two cars allowed down here.

Trustee Quinlan: That is a problem with me because it kind of makes it private. If I want to drive down that street, it is a Village-owned street, will I be able to drive down that street? Or will I be blocked off by your electronic barriers? Can I drive down the street after you do this?

Mr. Wolf: No.

Ms. Griffin: We are open to discussion on this. It is not like we are trying to take over land.

Trustee Quinlan: It is going to be private, but you are open to discussion to make it public. OK. That is a problem with me. It is like a private enclave. Now, my next question is, where it narrows down at the end, because I have no problem with you creating parking spaces. I think it is a good idea, because it gets them off the street and everything else like that. But I just want to make sure that the Village is protected. Down at the bottom, where it narrows out, why are you narrowing out the bottom of the paper street? Why not keep it one street of the same width?

Ms. Griffin: We are only doing this to allow us to turn around from the parking.

Trustee Quinlan: I know. But if it was wider, you would still be able to turn around.

Ms. Griffin: Yes, but it is a drop and it is very expensive to bring that wall out.

Trustee Quinlan: How long is the paper street? Does it end where you are going to put the curb? See, I am having trouble with the south part of your paper street, because it looks like you are changing the contours of the paper street to your benefit. I have no problem with you riding your cars down there and pulling them into your driveway. I think it is a great idea. I do not care about the expense. You are narrowing the street, and you are putting a curb at the end. Does the paper street end where you are putting the curb, or does it go down further?

Ms. Griffin: No, it continues.

Trustee Quinlan: So you are basically blocking the paper street with a curb at the end.

Ms. Griffin: The curb is necessary to hold in the gravel.

Trustee Quinlan: That is not the answer to my question. You are blocking the end of the street with the curb. Correct? I cannot drive my car over your curb, can I?

Mr. Wolf: No. I am open to discussion about this.

Trustee Quinlan: There is no curb down there.

Ms. Griffin: We are showing a curb coming across.

Trustee Quinlan: But there is no curb there now.

Ms. Griffin: No, there is not.

Mayor Swiderski: But it is not accessible to cars now.

Trustee Quinlan: I understand that, but it could some day be in the future. It is a paper street. So the problem I have is, Could someone drive down your street, and is there property for sale where someone could build a house?

Mr. Wolf: Theoretically, yes.

Trustee Quinlan: So I have got a problem with that. You are blocking it off.

Mr. Wolf: No, it does not change anything.

Trustee Quinlan: Well, they cannot drive over the curb to get to their new house.

Mr. Wolf: But this is the whole idea of why it is a license agreement. The concept is that if the Village finds other people that need to use that road this license agreement can be altered.

Trustee Quinlan: I understand. But I do not know why we are making the license agreement where we are blocking things off. What I would like to see is improve the road in the same width with no blockage at the front, and the same width all the way down to the end with no curb so that it is a street. And people can use it, and you can use it, and then someone could buy the property and build a house there and they can use it. And you would still have a licensing agreement to drive down there and park your cars in your driveway. I do not understand why you are being so restrictive. I want you to park your cars in your driveway, but I do not want you to be restrictive to the possibility of future development or private uses for your own benefit.

Ms. Griffin: It is very easy to change this.

Mr. Wolf: The answer is that in the prior history people from Ridge Street said they did not want to have a lot of additional traffic. They felt that there was already a lot of traffic, there is a parking problem, and they really did not want to add to having a substantially increased amount of traffic.

Trustee Quinlan: , I do not think there is going to be an increased amount of traffic because it is a dead end. So who is going to drive down there? That is just my question: who is going to drive down there if it is a dead end? I know that was what their complaint was. But I am saying was it a reasonable, common sense complaint.

Mr. Wolf: The idea was that people walked along Ridge Street. So just as they go down to Rowley's Bridge trail and park and walk, theoretically, they would think they would be able to do the same thing here. And then the people that had the units at 433 Warburton would not have a place to park.

Trustee Walker: I want to make a point of clarification. When Ridge Street was improved a number of years ago there was concern about how any cars, but particularly emergency vehicles, would turn around. But anybody going to the end of the street, it was very difficult to turn around: it was very narrow, there was no way that a circle could be put in. So it was decided that there would be a three-point turn. A piece of property is leased from a private property owner in order to allow for that three-point turn at the end of Ridge. As long as it is not blocked, it functions pretty well. I am concerned that people continue to use that and consider that the end of Ridge Street, so that they do not go further down and then find themselves unable to turn around and get stuck. So that is why you put the bollards in, which I think is a wise choice. Yes, you are using it privately, but it is because you are the only property that can use it now. If somebody does buy the property at the end of the street it will be their responsibility to build a retaining wall that will continue the paper street down to their property. I do not believe that you are responsible for building that particular piece of retaining wall that would enable them to have a road. I think it has to be sort of privatized in order to make it safe and convenient.

Trustee Quinlan: So if someone buys the property at the end of the street and wants to build a house, the Board is going to allow them to knock out that retaining wall that these people built and build a new retaining wall?

Trustee Walker: There is no retaining wall there now. Right, Christina?

Ms. Griffin: No, there is not.

Trustee Walker: So you are building one there.

Trustee Armacost: But Jerry's point is that once one has been built it has been built.

Trustee Quinlan: I do not understand why we just do not have the people now build the street as the street exists. It is a street.

Trustee Walker: Because I do not think they should be required to build it as a street in order to convenience the people who are not there yet, may never be there. Also, the slope is extremely steep. The county, as part of a CDBG project with CDBG funds, built the

retaining wall down there. Christina, can you show where it ends? So the Village was fortunate not to have to pay to build that. It was extremely expensive to build that retaining wall. I do not think that Christina and Peter should have to continue that wall the way it was built for the convenience of some theoretical development in the future.

Trustee Quinlan: I am for your project. I want you to have off-street parking in the back. I just think you can do it in a way that does not impinge on future rights and Village rights to their own street. That is all.

Mayor Swiderski: Absolutely. But that is the license language.

Village Attorney Stecich: Yes, the draft agreement that I prepared deals with those issues. It says it is a license agreement. It says it is not exclusive. It specifically says that it will not impair the Village's right to construct whatever improvements it chooses over the Ridge Street extension. If you are concerned about the property owner down the way, you redo the license agreement. It is a license agreement; it is revocable.

Trustee Quinlan: And what about the private nature at the top? How are the fire trucks going to turn around there?

Trustee Walker: They will continue to turn around in the turnaround. We do not want them to come down further, because they will not be able to turn around.

Village Attorney Stecich: But more significantly, this house is accessible from Warburton. It was built and approved without parking in the back. Fire access was determined to be adequate from Warburton. So the fire trucks should not be turning around in there. They should be accessing the house from Warburton.

Trustee Jennings: I am wondering why you have to bother with that area down below your parking area where you are showing room for the car to turn around, why you are not able to use your own parking area. You come in and you pull in. That brown area, that new driveway, is a very short distance. It looks much bigger on that chart than it is, in fact. A person could easily back out of your parking area, back up to the turnaround, and then go down Ridge Street. So I am not sure you need to get into all that stuff in the lower part at all.

Trustee Quinlan: I agree. Let us say you are the first car in. Could you not just back out and kind of turn it a little bit like this, and then turn like that? Why do you need that turnaround?

Trustee Walker: Is that not the way the turnaround now works that we were talking about?

Ms. Griffin: It is. The turnaround up here works that way. The car comes in, backs out. Very similar shape, although it is wider at the bottom. Anyway, I wanted to explain this retaining wall and the small curb. Right now it does not look like anything is necessary. But this is just to make sure that we do not have any problems.

Trustee Quinlan: So in other words, you are saying your turnaround is not for your car to turn around? It is just to make the hill more stable?

Ms. Griffin: No. This is to give us a turnaround. This is, I feel, precaution to make sure when we have a car on here that this is a stable hillside. This is necessary. I think it is a substandard turnaround.

Mayor Swiderski: Otherwise you are backing up 60 feet between two stanchions into the K-turn.

Mr. Wolf: Right. Which is pretty extreme.

Trustee Jennings: You are not backing up between two stanchions if the stanchions are not there. I know a lot of people, including myself, whose driveway is longer than 60 feet and you back up 60 feet. It is not as if this is a busy street with a lot of traffic going all the time. I am indifferent. I am just trying to simply your approach.

Ms. Griffin: I would rather not do that because it is difficult to do. And we do not want to make it so difficult that someone might have to turn the car maybe at angle, and going too far towards that retaining wall.

Trustee Armacost: So for you, it is a safety issue.

Ms. Griffin: I think it is. Once you make it difficult to turn around, some people can handle that easier than others. I do not think that is a good standard, I do not think that is good design. It is a better design to have a turnaround.

Trustee Armacost: How wedged are you to the wall at the very bottom? You are wedged to the wall on the left, but not to the wall on the bottom if I understand you correctly. Is that right?

Mayor Swiderski: There is not wall at the bottom.

Trustee Armacost: There is a little tiny wall.

Ms. Griffin: No, this is a tiny curb. This is loose stone, actually.

Trustee Armacost: So you are not wedded to that?

Ms. Griffin: Not at all, but you have to contain the gravel. It could be a metal edge. You contain it. You can just depress it enough so this is flush. It does not have to come up at all.

Trustee Armacost: Is there anything else you are not wedded to, where your concern is not a safety issue? I think we need to understand the difference between a safety issue versus an aesthetic issue. We have heard that the bottom it can be done in a way where you can get the edge of your gravel without building up at all, which I think solves Jerry's problem.

Ms. Griffin: You just cut down.

Trustee Armacost: And solves your problem. And on the side, do you have an issue on the side, Jerry, or not really?

Trustee Quinlan: Not really. But what is the safety issue of the stanchions at the front that make it private for you, electronically-controlled stanchions. What is the safety issue there?

Mr. Wolf: It is not a safety issue. It is just that we do not want to have people end up parking there.

Trustee Quinlan: I do not like people driving down my street, but they do it. It is a street.

Trustee Walker: Well, it is a safety issue because you do not want people continuing down to the end of what they think is Ridge Street and not be able to turn around, and then having to back out, and you have got a steep slope there. You want them to turn around before they get to that point. So the stanchions tell them that that is the end and they have to turn around before. They cannot drive beyond those bollards.

Trustee Jennings: What barrier is there now?

Mr. Wolf: There is a wooden post there now. We would just move that post down.

Trustee Jennings: We cannot drive our cars down in that area now anyhow.

Mr. Wolf: Correct.

Trustee Walker: I understand Jerry's concern. It looks like we are giving away public property for private use. I think there is no way to kind of avoid that appearance. However, we do not want other vehicles to go down there. But it should be open to any pedestrians who want to pass through there, and that is what the bollards do. They prevent vehicles from going through, but they allow pedestrians or even bicycles if they wanted to.

Mr. Wolf: Sure, absolutely.

Trustee Quinlan: Well, maybe we could put up signs. Instead of the bollards you could put up "Not A Through Way," "No Turnaround," "Dead End." Or if you insist on the bollards, you could put up signs saying "Pedestrians, Bikes, and Everybody Else; Village Property."

Trustee Armacost: "Trespassers Welcome."

Trustee Quinlan: I have a problem with the private enclave. It looks like your license agreement is giving you more than you need. Again, I want you to know I want you to have your parking places. I just do not want it to look like you are taking over the whole street.

Mr. Wolf: I think that was the reason that it was determined by the Village to have a licensing agreement.

Trustee Quinlan: It is just drafted. It was not determined yet. We are determining it now. I have friends that live on Maple lane that is a paper street. It has never been paved, and there are four or five houses on it. I mean, the potential is there.

Mr. Wolf: I lived there.

Mayor Swiderski: But Jerry, nothing here restricts that from happening.

Trustee Quinlan: Well, if you have stanchions that are electrically controlled.

Mayor Swiderski: Those would be removed. I tend to agree with Meg.

Village Attorney Stecich: One way I could clarify it in the agreement is, where it says the agreement shall not impair the Village's right to construct whatever improvements it chooses, it could say or to remove whatever improvements were put there.

Mayor Swiderski: Has everybody walked this property?

Trustee Quinlan: Yes.

Mayor Swiderski: OK, good. It is straightforward, though, that road degenerates pretty quickly south of your property. It becomes a steep slope, and I have a problem short of serious investment seeing somebody create the infrastructure needed to make a usable road there. But in the housing boom of 2020, who knows?

Mr. Metzger: I live just south of the property. I am in favor of allowing the off-street parking. One of the reasons to have that neck-down turnaround at the end of the property is that without that people will more than likely just leave their cars on the paper street so that it is easy to back out. In other words, they would not have a reason to pull into the parking area. That would start to create a barrier to pedestrians and bicycles. It is also one of the nice wooded areas in our neighborhood, and having cars there would be a visual eyesore. So it serves more than a practical purpose. It encourages people to park off the street. One of the other issues when this was discussed originally was that without those bollards people will tend to park on that paper street. Ridge Street is very tight. A lot of housing, not much parking. It is also a spot for people that are running for the train to try and find a place to park. So we would want to make sure that something indicates that no parking is ever allowed on that street. The last issue that was raised the last time this came up was the liability to the Village of maintaining that property when it was going to be paved. A lot of that has been mitigated by simplifying the process and just putting gravel down. So if we can figure out a way to work out the private/public issues I am in favor of this. I urge you to consider a solution to this.

3. Amendment to Village Code Chapter 193 Noise - Music in Restaurants

Mayor Swiderski: As discussed last time around, I committed coming up with the first draft and one approach to thinking about a proposed noise law. It is hardly legal language. It is more conceptual, if anything, trying to capture what we discussed.

Mr. Wolf: Can I have a point of information? Does that project need to be voted on?

Mayor Swiderski: What is our requirement here in terms of timing? You will need to come up with a resolution for the next meeting?

Village Attorney Stecich: If the Board wants it. You can see I prepared the draft agreement, and the Board would vote on whether to enter into that license agreement. There are a couple of other steps that need to be taken. One is that they have to go to the Planning Board for site plan approval. It could be that when they go before the Planning Board, the board will have more specific ideas about the turnaround and the shape of the extension.

They also need to go before the Zoning Board for a variance, which I brought to your attention. I guess you are not going to be on until June because there was no application put in for May, if I understood. But I would say if the Board is comfortable in granting them the license agreement you can vote on it at the next meeting.

Trustee Armacost: But do they need us to vote before they go to the Planning Board?

Village Attorney Stecich: It is not on the agenda as a resolution item. The Planning Board could give approval subject to the Board of Trustees granting the license agreement.

Ms. Griffin: When we went to the Planning Board three years ago they said that their approval of our previous plan was contingent on the Board of Trustees approval. So it sort of goes around and around.

Mayor Swiderski: Can you structure the discussion two nights from now to say one is contingent upon the other, and we can vote on this next meeting? I am not comfortable voting on it tonight without looking through the license agreement and discussing it.

Village Attorney Stecich: It is up to the Board. You might, if you feel ready, say we are disposed toward it and we just need to review the license agreement in more detail, so that the Planning Board does not think that they are spinning wheels going ahead with the site plan approval for something totally hypothetical.

Trustee Armacost: I can say that.

Mayor Swiderski: I can say that, as well.

Trustee Walker: Yes, favorably disposed.

Trustee Quinlan: Wait a minute. I have a problem whether we are favorably disposed or not. This is not on for action. This is on for Board discussion and comment. My understanding, from my four years on the Board, is that we can take no action unless it is on for action. So this would be a complete and total different approach than I have been used to, not only from my four years on the Planning Board but my 10 years on the Zoning Board. If it is on for action we take action. If it is not on for action, then the people have the right to know that we did not take any action. So if you guys want to change the rules, be my guest.

Trustee Walker: But that does not mean we hold up the Planning Board discussion of it.

Trustee Quinlan: No, it does not. I do not understand. The Planning Board gave approvals subject to action, and we will take action June 2. This should not stop the Planning Board from going ahead and doing their work. I cannot see why. Marianne, would it stop the Planning Board from doing their work?

Village Attorney Stecich: No. And I do not think anybody was suggesting taking an action.

Mayor Swiderski: No. It is a sense of the Board. It is not a formal vote. It is just an indication.

Trustee Armacost: It is a bit of a waste of their time if we all decide we are totally opposed. There are so many meetings; to avoid people having unnecessary meetings, I at least would like to not have them.

Trustee Quinlan: Well, I think they have a flavor of what some of us like and what some of us do not like. Except Bruce. I know what Meg thinks and Niki thinks, and you know what I think and Peter thinks, but I am not quite sure what you think.

Trustee Jennings: The pros and cons of the stanchion thing, what Mr. Metzger said, what others have said about not having people come down there and park and turn around inappropriately and all that, I am persuaded by that. I understand what you are saying about the appearance of favoritism, Jerry. But that can be reasonably handled by the language of the license agreement. I want to see that. I do not want to vote tonight to approve anything that I have not read. But I am at a point now where I could say to the Planning Board, Do you work, go ahead; we have not made our decision yet, but we are going to. I do not see any reason why the Planning Board should not get going doing whatever they need to do.

Trustee Quinlan: Correct me if I am wrong, I think at least four members think your plan is great. And the only objection I have, since we are going to knock down the curb now, I understand, hopefully, is that it looks too private and I would like to see it more public.

Mr. Wolf: Thank you.

[Trustee Quinlan leaves the dais.]

Mayor Swiderski: Back to the proposed noise law. The concept here was driven by decibel levels. It is less a focus on what a particular number means or does not mean, but rather an idea that at certain times of the day it is louder or less loud. We can work out later exactly to either direct experience or whatever these decibel levels mean in reality. But the idea was

simply to say 8 a.m. to midnight there is one level; 12 to 2 there is another level, except on weekend nights; and then 2 to 8 there is a third level which is constant across all nights.

Trustee Armacost: My reaction is that I am not convinced we need a new law. We have a situation where a law is not perfectly worded but has done its job for many years. People who were inconvenienced had been able to talk to the proprietors, and say, Can you turn down the music, and the proprietors normally turn down the music. There had been coexistence. People were able to mutually work it out for a number of years.

We had an incident that happened that created an enforcement regime, which threw everyone into a tizzy. We ended up having a reaction, or creating a new law. I do not know that a new law will necessarily solve that problem. What will solve the problem is the parties, who all know each other and have known each other for a long time, working out with one another a reasonable way of behaving. On the one hand, if the landlords say, We do not mind music after midnight, we just do not want it to be loud, I am sure you understand. And the proprietors, on the other hand, saying, Of course we understand you do not want outrageously loud music and we really appreciate that we can continue to have music. And the law is activated only at a point where things get out of control, and enforcement is required only whether things get out of control because that is what these kinds of laws are supposed to do. They are supposed to be for those kinds of extreme cases.

We can talk about the merits of the way that you have redrafted the language, and I think there are some ways in which it clarifies things and in other ways it creates new dilemmas that we did not have before. Sometimes I think the way you worded it is unreasonably intrusive. Maybe we just need to substitute from the other law, interfere with repose, health, comfort, safety or welfare of any person. That is the same intention, it is just a slightly different language. I do not know that this new law is going to solve the problem that we have, which is where trust has broken down between two sets of people who had been able to coexist for a long time, and as a result a particular set of enforcement actions, which actually were not mandated by the way the law had been written before.

Trustee Walker: I do agree that we should not make this unnecessarily complicated. But I think that making it more objective may be necessary. Aside from the ones Marianne gave us, I have been looking at some other ordinances. It seems that at a certain point in the '90s a lot of municipalities started incorporating decibel levels into their ordinances which before had read very much like ours, which were much more subjective. I don't know why it all happened in the late '90s. I am surprised it did not happen in the late '70s, or the late '60s, but it seems like the decibel standards started to be instituted about 10 years ago. It is because perhaps there are now ways to measure sounds in a more accurate way; perhaps before there was no way to measure it.

That is not saying that we want our police to run around with decibel meters every Friday and Saturday night. Because in the end what we want is something that Niki describes as an amicable agreement, and not to have to stand there or run into somebody's apartment and check the decibel level. But I think putting some objective criteria into the law will be helpful. So I agree with your effort to do that, Mayor, but I am not sure what the numbers mean yet. I do think it is the right direction.

Your second paragraph after the chart, where it says in the event that Village officials receive complaints the establishment shall no longer be permitted to issue any noise between 2 a.m. and 8 a.m., I am not sure that I want noise after 2 a.m. I see the argument for 12 to 2. But I am not sure that I agree that there should be amplified music after 2 a.m. If something is quiet and nobody notices it, then it is probably not a problem.

We have to talk about the enforcement. Not just saying, I am sorry, you cannot have music after 2 a.m. What would the penalty be? Is there a monetary penalty? I think there has to be some sort of penalty, but I do not think this is the right response. I think 45 dB sounds like it is a really low number and is probably OK. I am not sure about 60 dB. I am not sure if that is the right number. I am not sure if that should be 55 or 50. So there is where I have a problem. But I do think we are going in the right direction. I wish I could say I know that this number is right, but I do not.

Mayor Swiderski: You are not arguing concept; you are arguing numbers, if anything.

Trustee Walker: Yes. But I think the concept is correct.

Trustee Jennings: I think I disagree. I agree with Trustee Armacost about the need that any law gives us to exercise common sense, to work together to not impinge on each other's quality of life. We definitely need that spirit no matter what the law says. I do not agree with some of what she sees in the approach to the law. The law should provide a level playing field and give people advance information and reasonable expectations so they can plan their lives accordingly and make their business decisions accordingly and decide what apartments to rent or not rent accordingly. If we are going to have a law that specifies a time frame I do not think we should have a law and then not enforce it unless somebody complains because that kind of approach undermines respect for the law.

If we want to have a law that says nobody is allowed to create a nuisance, and then leave it completely undefined and see what kinds of complaints and what kinds of things we can work out after the fact, that is one thing. But our existing law specifies 12 midnight, and that is the rule that applies to every establishment that is making noise, playing music. This is not

just about the River Roadhouse. It is going to apply to every such establishment in the Village. It is not a good idea to ignore the law unless and until somebody complains. I worry that if we do that, then the bar owner who has neighbors who do not complain can play his music and get his customers, and the bar owner who is unfortunate enough to have neighbors who do complain is going to have the law enforced on its business. That seems to me to be unfair. I do not think that is a level playing field when you leave it up to the accident of the feelings and sensibilities of who happens to be living above you or beside you.

Those are some of my philosophical problems with an approach that sets a rule, but then does not apply the rule unless some squeaky wheel leads us to apply the rule. Therefore, I think it does matter what the rule says. And that gets us to how should we approach this. I will not comment about the decibel level numbers. I have to either hear an expert or hear a tape recording in order to have a better sense of what those numbers mean. But I do agree with Trustee Walker that some fairly objective numerical standard is useful. It is useful for the police when they get a complaint and have to enforce, because they are not put in an untenable position of being subjective. That type of thing puts the police in a pretty difficult situation. I would rather be able to allow the police to take a measurement and determine whether the complaint is valid or not. I am not sure we are ever going to get that perfectly objective ideal, but that is better than leaving it up to them to be completely at sea in terms of whether the complaint is valid or not.

The time frame here, Mayor, I think it is reasonable to allow a little later on weekends. I am agnostic about 2 a.m. to 8 a.m., whether we ought to allow anything at all in those hours. I do not have an opinion about right now. I do think it is reasonable to go past midnight and up to 2 for the benefit of the business and the entertainment in our downtown area.

We ought to set these numbers at a level that would encourage, or even require, that the bar owners make sure they have the acoustics right, keep their doors closed, trying to minimize the sound coming out. For the sake of tenants, when renovations are made near these establishments that ought to be kept in mind so the soundproofing of the residences will be a win-win for both the people who live there and the businessmen below. That is part of what I mean by common sense. If we have some numbers to work with, then we can figure out technical fixes to keep within those numbers. Right now we had no incentive to do that because the only thing guiding us was the clock, a time frame. People who like to go to bed at 10 occur are not well served by our present law.

Trustee Armacost: We should reread the present law because there is a triggering event in the present law. It is not that it should be enforced all the time. It is enforced specifically. This is the way it reads: No music of any kind or description, including instrumental music, radio, player piano, jukebox, recorded, electronically reproduced, or vocal music - and this is

the key part that comes up next - 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 liquor, wines, and beers to be consumed on the premises. So there is a triggering event. It is not that this law has not been enforced. It is that this law is only enforced when someone triggers it. And when someone triggers it, they trigger it for a specific event, not ongoing forever ad infinitum. So that is why I think we can probably get some better language in there. But we are on a slippery slope with the decibel levels. What if it is 64 decibels, what if it is 63, what if it is 62? What if it is 64 in the living room, but 63 in the bedroom?

Mayor Swiderski: But other villages and towns handle that pretty gracefully.

Trustee Armacost: My guess is they do not get a lot of complaints because people work it out in a civilized way among themselves. These kinds of laws are not because you expect to have to enforce them every Friday and Saturday night. They are there to deal with extreme circumstances, irrespective of how they are written.

Mayor Swiderski: Granted. But again, what do I do with that?

Trustee Armacost: We can hear from some other people to see what their views are. What will happen is we are going to have our police, who I think could be used better in other ways, coming up to apartments measuring the decibel level; measuring it in one room, measuring it in another room. Let us say we want to go with this, we can get into drafting language to make it clearer where we are measuring the sound. Is it inside the apartment, is it outside the apartment?

Mayor Swiderski: Inside.

Trustee Armacost: Should it only be in the sleeping rooms because this is about helping people go to sleep? Or do we care if it is in the living room or the kitchen? If people want to make it difficult for one another this law can be enforced in a way that makes it just as difficult as the other law. It has to do with how people want to behave with one another.

Trustee Walker: But part of the point in this, and maybe we should enlighten folks so they know what numbers we are talking about.

Mayor Swiderski: I do not think it much matters. It is a number.

Trustee Walker: It is a number, but the point is that it is a number that would be measured from an adjacent property or apartment, whether it is above or next door. The other important point is that the sound, which would be from 8 a.m. to midnight, one noise level would decrease between 12 a.m. and 2 a.m. So there would be a 5 decibel, or some amount, of decrease in the noise level between midnight and 2 a.m. And then after 2 a.m. it gets even quieter, or we discuss no noise at all. We have not gotten to that point. But the salient point here is that Friday and Saturday nights, not Sunday through Thursday, it would be allowed to be more between midnight and 2 a.m. but less than what it is up until midnight. So allowing for the music, but also making sure that it is not too loud. That is the point, and it is hard to then set the criteria in order to achieve that.

Mayor Swiderski: Right. Your loud and my loud might be quite different. That is why something driven by decibels works. Now, laws that are triggered by complaints do not strike me as particularly unusual.

Trustee Armacost: There are many laws that are triggered by complaint.

Mayor Swiderski: Right. So I do not want the police to feel they have got to preemptively monitor.

Trustee Armacost: They absolutely should not. It is not appropriate.

Mayor Swiderski: It is the leaf blower law: if nobody around the person doing it cares, I am not expecting the police to be cruising the Village handing out tickets.

Trustee Jennings: In the first place, this law does not say that it is triggered by complaints. It says it is triggered by a judgment that it is interfering with serenity and well-being, and that judgment could be made by a police officer as much as it could be made by somebody living in the adjacent apartment. These laws have, in the past, largely been enforced in ways that give the police arbitrary power. They go around, and if something seems too rowdy or they do not like it they shut it down. It is not triggered by a complaint by somebody; it is triggered by a complaint by the police officer, as it were. The language says that. So that is arbitrary, in my view. I am not making a statement about how common these laws are. I am making a statement about how fair they are and whether they are good public policy.

I stand by what I said before. In general, I do not think we should have laws that are arbitrarily enforced or triggered only by complaints. Laws should set rules for all of us to live by that are reasonable. And the expectation is that even if someone does not complain about a leaf blower going on now in the time when it is not allowed anymore...

Mayor Swiderski: I already know I made a mistake there. So that was a mistake. I retract those words.

Trustee Jennings: I do not think the police should be driving around and spending their time looking for it. But if they happen to see it they should not just drive by because nobody has called up and made a complaint about it.

Mayor Swiderski: Bad example, but a better example would be a bar without neighbors. A bar without neighbors would not be putting anyone's health or repose, whatever the language is, at risk. Why would a police officer enforce a law on a bar where nobody is complaining because it has no neighbors?

Trustee Armacost: That kind of enforcement corresponds to a busybody phenomenon. If we wanted to go your route, Bruce, we would have to knock out many different laws that we have on our books. They are "just-in-case" laws, I call them. If you have somebody zipping around enforcing all those laws you create a busybody society where I get my decibel machine to see whether you are at 62 or 63. That is the last thing we need, where everyone's checking up on everyone else.

Mayor Swiderski: But, Niki, to your point, I do not think in the end this is going to be a burden on the police because the incentive here is on the bar owner. One complaint and one calibration and it will be very clear roughly where the sound is that is going to get you a police visit. The arbitrariness of these numbers helps in saying if you have to go to a meter, you can. But I do not see a gaming here, where it will be 64, 65, 64.5. We did not even discuss penalties here. Especially if there is a penalty associated, the incentive will be to simply, at midnight, know you turn it down three notches on the amp. The last police visit told us that is at 60 decibels, so I am 5 decibels safe. I do not know if this law causes you more problems than it fixes.

Trustee Walker: The point that we are all trying to achieve here is that we do not want to make music illegal after midnight. We want the bar owners and the restaurant owners to keep their clientele. I do not think that just because the music is going to become quieter at midnight that the bar owner is going to lose his customers.

Mayor Swiderski: Depends upon how quiet.

Trustee Walker: It depends on how quiet. If it gets so quiet that they cannot hear it, then they might leave. This is where I do not have the answer. But we have a particular situation where these are party wall buildings. We might, even in a new building. Rainwater Grill does have apartments over it, as well. So adjacent above or adjacent next door, these are not

stand-alone buildings out in the suburbs. If they were we would not have this problem. These are buildings where there are people trying to sleep upstairs or next door so we have to be sensitive to that. We like the idea that people live in the downtown, and we want to encourage people to live in the downtown. So we have to come to some reasonable kind of balancing act here that meets both parties' needs. I think music should be allowed to be played until 2 a.m., but that people should also be allowed to sleep after midnight. What that level is I am not sure, and it may take some testing to find out what it is. But that is what I would like to achieve.

Mr. Gonder: I know the police, all of them, every one of you Trustees swore to obey the Constitution of the United States, the state constitution, and the Village laws. This law has been in effect for 70 years. Now, all the proprietors of these bars I do not think have been around for 70 years. They should have known what this unique Village has on their books. Ignorance of the law is no excuse. I have been taught that since I have been about six or seven years old. They are breaking the law.

Mayor Swiderski: They are not.

Mr. Gonder: I think they are when somebody complains. When you get to decibels, none of you on the Board know anything about a decibel. It is an instrument for measuring sound. You are going to have to train the police in it, you are going to have to buy several decibel meters. Are you going to measure 5 feet, 50 feet, 60 feet, where? Outside, inside? It is crazy. You have a law on the books that worked for 70 years, and now you want to change it. We will change it from midnight to 2, and this and that. Trustee Quinlan should be up there because he has the types of property. We should hear from him. Maybe he should not vote, but we should hear from him. He has both sides. I hope you listen to Trustee Armacost and keep the law as it is. Do away with this decibel thing. You are going to have to train the police, buy them probably like a radar detector have to calibrate it every couple of weeks or a month by law.

John Neithart: I am a former resident of 17 Main, which was directly above the Rainwater Grill. I just recently moved to what we now call lower Hastings just across on Warburton Avenue. I agree completely with Trustee Armacost that the law, when you read it carefully, is saying there is a triggering event. If noise is happening that someone does not like after midnight, and there is a complaint registered about it, then the bar owner at that point should say, I am offending my neighbors, let us turn it down to such a level that we are not doing that anymore, rather than to say turn it off, get rid of it, whatever. That said, I can also envision a scenario in which an argument will then ensue on what is too loud. So a decibel-based situation might be useful in that. Hopefully it would never get to that level because of many problems that exist with it, like where do you measure it from. Is it the living room, is

it the bedroom, it is peak decibel values or it is RMS decibel values. I do know about these things. Is it an occasional transient spike that we are measuring? Is it an overall root mean square average of this? Seriously, you can get into an incredible argument about the whole thing. Which brings me back to the opinion that we had a law on the books that you can play music until sunrise unless someone complains about it after midnight. And if someone complains about it after midnight, then you have got to turn it down. My wish for civility and civics in a village would be if someone was complaining about a very loud situation at 10 o'clock that the bar owners would say, Whoa, we are not in business to offend our neighbors. As someone who lived directly above the stage at the Rainwater Grill, I have had that situation occur. I am a musician. I love music. I was a patron of that bar, when I lived there, about three nights a week. And on that unusual Friday or Saturday night where the things got out of hand I would simply go downstairs to the bar owner and say, A little loud tonight, can we just dial it back a little. And they would do it, and there was never a question in any civil situation that this would be the reaction of any business owner in this town.

Bill Calderbank, Owner, River Roadhouse: I have read the new law and I like it. It would bring us back to where we were before this fiasco started. The reason this fiasco started was not because anybody complained about the noise. It was because the police shut me down at midnight of a Saturday night, parked outside my bar. Not because a neighbor complained, but because someone went to the police and instructed them to enforce this law. This law shuts us out, shuts everybody out, after midnight. And this other law you are bringing in brings us back into uniformity with the rest of the villages around the area so that people do not go elsewhere. People will come here. As I have said on previous occasions, when we have had a complaint I have turned the band down to a sufficient level that no complaints came in again. I have complied with everything. I have worked with neighbors, as you say we should. But not when a neighbor parks a police car outside my bar and shuts me down at midnight completely. That is my point.

Carol Bennett, 8 West Main Street: For 25 years I have heard music coming out of the Roadhouse, Time Out, whatever. Before they redesigned the bar and took out the kitchen it was much more quiet because the kitchen blocked the sound. Jim Stadler, who was my partner, would call the bar and say could you turn down the music. One night he called there and they said, What? Could you hold on until the band finishes? We cannot hear what you are saying. And he said, Exactly, that is why he was calling. I cannot understand, when a bar opens up and they are going to have music, why they cannot put in acoustic tiles or soundproofing so they do not have that problem. It might cost them a little more money, but in the long run then they will be able to play at night. Saturday night I was watching television and I heard a whole medley of Beatles music, every single word I understood. And when I go to sleep in the back of the house, where it should be quiet in the ravine, I can still hear the music. If I have to go to work the next day, if it is a Friday night, this Saturday

they stopped at 12:30. But normally, the music goes on and on. I like music, but I do not want to keep calling the police. They have better things to do. I think that neighbors should be able to work together. I want the people to make money in the bars. I used to go out dancing with Jim since I was in my thirties, and I just think there has to be a compromise instead of passing a law. Maybe make it mandatory that when somebody opens up a bar that acoustics have to be there. Some nights I go to bed and it is like jungle drums because the bass is so loud. Just turn the bass down and I will be happy. I do not want to know about decibels. My ears know what I hear. I do not want to have a police officer coming and measuring decibels. So now I am going to be awake another hour by somebody's measuring. I just think something should be done.

Eileen Quinlan, 39 Hillside Avenue: I was here two weeks ago, and I want to reiterate that it is not, as the law reads, no music after midnight; it can be played, but that it is tolerable for sleeping. It is a mixed-use neighborhood, and it is very tight. We are very close to each other. I applaud your efforts, Mayor Swiderski, in looking at objective measures. I think we need to have objective measures. It is not working right now.

I am going to read a letter from a neighbor who is over 80 years old, which is why she couldn't be here, but my last thought is, it is interesting that in the summary of all the communities from Tarrytown down to New York City we, with the exception of a cabaret license in Tarrytown, would be the only neighborhood that would allow music to a certain decibel after midnight.

This letter is from Veronica Rapoli:

I live at 6 West Main Street. I have lived here for over 80 years, my entire life. I am writing this letter to let you know how disturbing the noise is from the bar, especially the low tones, boom, boom. It is even worse when the back door is open. The noise fills the back lot, which is the front of my home. The noise in the back does not stop 'til everybody is gone, between 3 and 4 a.m.

Years ago, the noise ended at 11 p.m.. I do not know when it was switched to 12 midnight. I cannot imagine allowing it to go to 2 a.m. Some of the Boardmembers should come down and check it out and see what goes on, in person.

Ms. Porter: I have looked over this. I think this is a great start. I agree with what some of you are saying. There really should not be a need to rewrite a law; there should be basic cooperation, there should be open lines of communication. But those have unfortunately broken down, and I think that necessitates the writing of a new law. The language of the old

one is very arbitrary. It is a judgment call for the police, which is unfair to them. It is a judgment call for us, which is unfair. I work at the River Roadhouse. It is unfair that we have to be required to make a judgment that will then be judged by somebody else whether or not we are in compliance. That is the trouble that I have with the old law. When it is enforced the way it is read rather than the way it is currently being enforced it is fine. But I think it leaves it open to a lot of unnecessary nonsense like what is going on right now. The new law is a good start. I love that you took out player piano because that really bothered me. My only issue with the new law is that I do not know what these numbers mean. There is a lovely little thing at the bottom that equates certain decibel levels with other noises you would be familiar with, but I cannot for the life of me picture right now what a lawnmower sounds like from 30 feet away. I know what it sounds like in my bedroom at 7 o'clock in the morning when I am trying to go to sleep, but I do not know how to equate that.

The other issue, I just wanted to address quickly. I do understand the neighbors sometimes have a problem with the noise and in the past when they have complained we have certainly complied. I also do not think it is fair for people to say that we are opening a bar and we should be respectful. This bar has been here since, I do not want to age my mother, but she was visiting the bar to see her family members when she was 14 years old. I am now 33. It has been there for a pretty long time, and the neighbors, many of them, have not been there as long. If you want to play the moving-next-to-an-airport game, we can do that as well. But we do not need to do that if there is some level of cooperation and if there is a set standard that everybody needs to follow. I think that if there is a set standard people will know where they are coming from, people will know what is expected of them, and people will know what to do and how to run a business and how to address their neighbors. I want to thank you all for all the consideration you have been putting into this.

Mr. Skolnik: It is complicated and it has even more variables than you have been addressing. Are you trying to do something that a rational response to multiple situations, one of them being the fact of a business like this that has been there for a long time, longer maybe than a lot of the people? On the other hand, what if your conception of the downtown was New Orleans, where you really wanted noise in the street? Or what if you were looking at new zoning? What if a new bar wanted to open up right across the street from 45 Main? Is there something within the Code that would force a new business to impose certain noise control as a new establishment? There are a lot of these different parameters that would affect a real law. I do not think as much as you would want to that counting on cooperation is your solution. I am remembering living three years in apartments. There is no objective way of measuring a noise that is an irritant when you have someone who is offended by even the evidence of someone else in another apartment being alive. I sympathize with your task.

Ms. Porter: We keep comparing the issue to what goes on in Tarrytown. I wanted to point out that Tarrytown has a very bustling nightlife. I am sure that brings in a lot of revenue. So Tarrytown maybe should not be viewed as something that we do not want to emulate.

Mayor Swiderski: Where does this leave us? Maybe we do the easy thing, which is make Marianne try to make this more of a law.

Village Attorney Stecich: It is probably easier than it sounds. The focus has been on that antique section of the law because that was the one that was enforced. We actually do have, and I will pass it out to the Board, very specific performance standards in the Code that deal with noise and talk about where you measure if it is residential property, where you measure if it is commercial property. It even deals with some of the issues that you raised about a constant sound. Maybe somebody with a decibel meter could figure out how to do it, but it is all laid out there so it may not be that bad. If there is agreement generally on what Peter has there, I could try to fit it in to the law that we have now and see how it comes out.

Mayor Swiderski: Then we have to figure out what these numbers mean.

Trustee Armacost: But the other thing we have to address is that your law is explicitly a triggering law. It is triggered by X, Y, Z. Which I think this other law is, as well, even though you, Bruce, do not seem to agree with that. That needs to be made very explicit, that it is now a law that busybodies can enforce, including police officers. That it has to be, and I do not mean to say police officers/busybodies, but police officers being busybodies in that particular situation because they think they should be enforcing laws. It needs to be very clear that it is triggered by a person who is inside that building and whose sleep will be interfered with. Do you see what I mean?

Mayor Swiderski: Well, no. I am not sure we need to say that.

Trustee Armacost: So it could be any random person? I do not think we want to have that.

Trustee Walker: Well, it is a quality of life issue, too.

Village Manager Frobel: Mayor, as requested, we went back and looked at our calls for the police department. We looked at 2008, 2009, and to date. There were about 19 occasions of reacting to a caller for excessive noise after 12 o'clock, to diverse locations, to different establishments.

Trustee Walker: To different establishments, so not just one.

Village Manager Frobels: Not just one.

Trustee Armacost: Using our old law. So it had the effect that was intended.

Village Manager Frobels: That you have pointed out: that it had to be after midnight, and there had to be someone complaining.

Trustee Walker: And then the police notified the owner of the establishment.

Village Manager Frobels: They lowered it down.

Trustee Walker: They lowered the music. They did not stop playing, but they lowered.

Trustee Armacost: And how many times was somebody fined?

Village Manager Frobels: I did not go that far, I did not ask. I do not know the disposition of those calls.

Trustee Armacost: Because the point is to help people be reasonable if for some reason they are not being reasonable. The point is not to be draconian.

Village Manager Frobels: I sense that is what happened. As I read the reports, the police would stop at the establishment, they would lower the volume, and I think that was the end of the matter. I am not sure a summons was issued, but I can look into that further.

Trustee Jennings: How did the police determine how much to lower the volume?

Village Manager Frobels: I do not know.

Mayor Swiderski: I do not think the police have determined that. It is just you had a noise complaint, turn the music down.

Trustee Jennings: So you turn it down, and if there is no second complaint it is OK.

Village Manager Frobels: Probably.

Trustee Jennings: If there is a second complaint, you go back, you turn it down some more?

Village Manager Frobel: I suspect. I would rather have the Chief explain to you, but I did the research just to tell you how many calls they have had over a two-year period.

Trustee Jennings: I am just trying to imagine how this went.

Village Manager Frobel: But exactly the way you have envisioned is probably how it would work.

Trustee Jennings: I agree with the sentiment. If the law is there to help people be reasonable when they are being unreasonable, and if we essentially allow the complaining party to define what is unacceptable and they are unreasonable, it is going to go to zero. If they bother to complain again and again, how does that kind of approach help them to be reasonable? It gives them a license to be unreasonable, it seems to me.

Trustee Armacost: Right. I agree with you. Except we have evidence that of all the possible complaining people we have only had 19 cases in the last two years where somebody complained to the police. So what that is telling me is, we do not have like a huge number of outrageously complaining people. What happened this last time is, I think, a complaint was issued, and the enforcement that took place was not in line with what was envisioned in the legislation. The enforcement was way too draconian for what had been envisioned for this, and that is what I am concerned about. Peter's law does not really help us with that. Peter's law does not help us with unreasonable enforcement.

Mayor Swiderski: It does not help with unreasonable enforcement, but what it helps you with is that it is an objective standard. If we degenerate into a situation of bad faith, whether it is an unreasonable tenant or an unreasonable bar owner, neither of which is cooperating, it would be nice to have something enforced as a standard.

Village Attorney Stecich: I just want to make sure I understand this. What this is saying, then, is if somebody complains, and the police come out and it is 12 a.m. or 11 a.m., and they measure and it is under 65 decibels it is OK.

Trustee Armacost: Whereas under the old law, if somebody complained and they went to the bar, and the bar, because they are good actors and they do not want to mess people up, turn it down I just have a suspicion that this law will create intransigence. That is my only concern.

Mayor Swiderski: Do you not think we are there already, though?

Trustee Armacost: I think we are seeing some of that, and I am just hopeful that we can get back to a place which we were in before. But the reason we are not in that place is because of the way enforcement happened. Not because of the way the law was read, or the way the law reads, or the way the law had been enforced in the past. There is a particular enforcement that happened recently that created this problem. I am concerned. We can rewrite the law and make it fancy and everything, but I still think we are going to have a problem on the enforcement side.

Mayor Swiderski: Where does that leave us? What would you recommend instead?

Trustee Armacost: I think people are concerned. We can go with this law and we can go with the decibels and see how it works, and if it does not work we can change the law back. That is an option. Or change it to some other format. I am not convinced that everyone is going to feel happy with the decibels. I am not convinced the landlords, for example, are going to feel happy with the decibels. Maybe we have to fiddle with the decibels for awhile, or the people who are trying to sleep.

Mayor Swiderski: If that person is very sensitive to noise, definitely not. At some point there is an argument to be made about the noisy airport as a neighbor. However, if you do not have some sort of objective standard, then somebody who is unreasonable could demand behavior that is ruinous to an establishment, and vice versa, if you have a bar owner who thinks anything lower than a certain amount is going to drive away business, and does not cooperate. In the end, I come back to some sort of numbers are necessary. Otherwise, we will be back here having this discussion in a year's time.

Trustee Armacost: Let us see what these amounts are like. And let us also be clear where we are measuring from, as per the other guidelines. If the concern is people sleeping, then it should be measured in bedrooms. And that could be arbitrary.

Mayor Swiderski: The property line is the performance standard in most of these laws.

Village Attorney Stecich: I assume the decibel takes into account where it is being taken. Maybe if it is inside the apartment, the number would be lower than it is outside. I am assuming, if the number is 65 at property line, once it is inside it may be 45. I do not know how much it loses. So I assume that the numbers take that into account.

Trustee Armacost: This is inside. It says from adjacent properties. That implies inside to me. That has to be clearer, then.

Village Attorney Stecich: That kind of stuff you need a sound person for, and that could be figured out. So maybe depending on where you measure the number will be up or down, but that has to be done by somebody who understands it.

Mayor Swiderski: But the law has to be clear on it.

Village Attorney Stecich: Yes, you will define it. You can leave it defined the way it is now, and then decide the right number. Maybe if you were measuring from the property line, where it says, the number has to be a little bit higher or lower. Probably it would be higher than if you were measuring from inside. But again, that needs to be somebody who understands the sound.

Trustee Armacost: I would tighten up the language in the old legislation. That is what I would personally do, and make it, for example, instead of saying which shall interfere with repose, etc., say is unreasonably intrusive, which is your language. And make it very clear that it is triggered by an individual who has a complaint, who has some association with adjacent properties without getting into all of the decibel stuff.

Mayor Swiderski: In the interest of trying to get some closure here, that is great homework for you.

Trustee Armacost: I have done it. I can give it to Marianne.

Mayor Swiderski: Good. Distribute that, and then next meeting we will take a look at both and see if it works. Simplicity is always preferable to complexity if it addresses the job. I do not want this to go on forever. Get to some closure at some point before the summer is out.

Trustee Armacost: But if we are going to do that, we need to know where we stand on the sounds. Let us assume we want to go with your version. We all need to understand what the sounds are.

Mayor Swiderski: And the surrounding communities that have a decibel standard will have a decibel meter, and maybe we can borrow a Tarrytown police officer for two hours and get a sense for that.

Village Manager Frobel: I will have the Chief research those communities and talk to them and see how successful they have been in trying to enforce that.

Trustee Armacost: And can you also find out how many people were issued summonses or fines or whatever?

Village Manager Frobel: Yes.

Janet Mercaldi, 465 Broadway: It seems to me like this one particular business is being persecuted. I was wondering if it would be possible, until you make a decision regarding the law, if maybe the police could not wait outside every Friday and Saturday night at midnight.

Mayor Swiderski: Absolutely. That has been the case for a couple of weeks now.

[Trustee Quinlan returns to the dais.]

4. Verizon Franchise Agreement

Mayor Swiderski: Verizon has submitted a draft version of a franchise agreement which seeks to franchise the right to market FiOS TV within Hastings. Right now, we have a single cable franchise in this village, Cablevision. This would be introducing a competitor, Verizon, and that is contingent upon a number of criteria being met. One of several key concepts in granting a franchise agreement is the idea that the two franchise agreements side-by-side are on a level playing field, or competitively neutral. That is not exactly the same meaning, but for purposes of explanation tonight good enough. What that means is that whatever fees we impose on Verizon are roughly equivalent to the fees imposed on Cablevision, so that neither Verizon nor Cablevision in offering services out to the community are disadvantaged vis-à-vis one another.

The determination of what is competitively neutral is ultimately the Public Service Commission's ruling on reviewing the two contracts. The PSC is a New York State body that approves franchises and oversees the law around the franchising process. The agreement from Verizon is substantially different from the one we have signed with Cablevision. The one with Cablevision provided for an up front payment, and I am working from memory here, an up front payment of around \$63,000, and then an annual payment, which is a PEG fee out of Verizon of roughly \$13,000.

Verizon is offering something quite a bit different. They are offering \$25,000 up front, though it is not truly up front because what they are then asking is that the PEG fees that the subscribers pay be applied to this \$25,000 until it is essentially repaid to Verizon. From that point forward, Verizon would pay 55 cents per subscriber per month as a PEG fee. So Verizon's approach is a monthly PEG fee, while Cablevision is paying a lump sum for the year. It is quite a different approach.

If you take what Cablevision currently pays, that \$13,000, and divide it over the number of subscribers they have now which is apparently a little over 2,300, it comes to somewhere around 47 cents, 47 cents a month per subscriber. It is a little lower than what Verizon is offering, at 55 cents a subscriber. But on the other hand, they are paying a single lump sum. And as Verizon chews into their customer base, their subscriber base, that amount divided over a shrinking subscriber pool would go up per subscriber so that it would be more than 55 cents a month per subscriber. They are not quite apples and oranges. It is really, in the end, probably the PSC's determination whether that is a level playing field or not. That is the first issue.

The second issue is that the Cablevision contract, as constructed, specifies that certain triggering events will change the Cablevision contract's terms with us. Specifically, if we go ahead and sign with Verizon a contract that does not pay \$13,000 a year or does not pay \$63,000 up front, what Cablevision will then pay us a year will automatically change to whatever the other guy is paying. Clever. You can determine whether that is fair or not, depending upon your perspective. But if it was successfully enforced, it would mean that, let us say, Verizon did not have great penetration into Hastings and got, at best, what it has gotten in other communities, which is about 30 percent. That is apparently a peak penetration in other communities that Verizon has succeeded in getting against Cablevision. In that particular case, Verizon will be paying us a little over \$5,000 a year in total in PEG fees. If Cablevision successfully enforces its little trigger, what that would mean is that Cablevision would now be paying us a little over \$5,000 instead of \$13,000. So the Village would take a hit.

I use all sorts of careful, hedging language here because Cablevision cannot unilaterally enforce that upon us without ultimately PSC approval because we will complain to the PSC and they will step in and determine this. But there is no guarantee how they may go. The PSC may determine that you as a community signed this contract, you knew what you were getting into, there you go. Or the PSC might say level playing field, wave a magic wand, come up with a formula, and say the Village should be roughly whole at the end of this and pay X from Cablevision instead of \$13,000. Or they might say, Tough, Cablevision. It looks pretty fair to us, so you are stuck with \$13,000. We cannot tell.

So that is the primary issue here that we face a risk on in determining whether this proposed contract is attractive to the Village. Cablevision does not have a right to claw back the \$65,000 or \$63,000 they paid up front. Their contract does not mean Verizon's contract must read like that. But there is some ambiguity about moving forward what they are obligated to pay, and we are not secure one way or another. To some degree, if we move forward, we would be at the good graces of the PSC.

The \$25,000 up front payment would be repaid in full by these PEG payments in a period of time that would likely be between four years and six years depending upon how great an uptake Verizon gets in subscribers locally. It is important to keep in mind that right now there are really three subscriber pools of Village residents: most TV owners who subscribe to Cablevision; a far smaller amount that we do not have a number of that subscribe to Dish, probably 100 or 200; and then a few people left who do not subscribe to Cablevision or Dish. For purposes of thinking clearly about this, it is probably safest to assume those 2,300 are the pool of subscribers you are playing with, and Verizon is winning from them. So whatever comes at Verizon's benefit comes at Cablevision's loss.

There are a couple of other things worth mentioning. On top of this PEG fee which is, in the end, \$13,000 out of Cablevision and 55 cents a month out of Verizon, the actual big ticket number that matters is a flat-out five percent franchise tax that all residents pay. And it comes directly to the Village. It is a pretty big chunk of change, a serious income source for us. Not likely to change substantially because Cablevision customers are paying that now. And if they move over the Verizon, those bills, in the end, after your first-year grace period, tend to be roughly equivalent. So the five percent franchise tax tends to yield a somewhat equivalent revenue source to the Village. And then finally, and this is likely to be of some importance to our deliberation here, both Cablevision and Verizon currently pay us real estate taxes because they have got slivers of land on which their equipment is stationed. In the case of Verizon, they pay us \$30,000 a year; in the case of Cablevision, I think around \$3,000. Under New York State law, those firms have a right to apply the franchise tax as a credit against that money and not pay that franchise tax for the first \$30,000 in the case of Verizon, and for the first \$3,000 in the case of Cablevision. Cablevision has waived that right in their contract. They have said we will not look to offset this five percent franchise tax against the real estate tax that we pay. Verizon also has offered us a contract that has that offset in it. I mention this because in terms of an economic value Verizon is giving up, so to speak, something that is worth \$30,000 to them, and to us if they were to enforce it, while Cablevision is giving up something that is worth \$3,000 a year to us.

So in thinking about what these contracts are, it is a reasonable additional criterion to include in evaluating the value of what the party is offering us. That does not put a penny into our pocket, what Verizon has given up there. It simply ensures \$30,000 will not disappear from our pocket if they were to suddenly start paying franchise taxes and decided, if they did not sign this agreement, not to pay real estate taxes as a result. So all it is doing is ensuring that does not happen, that they do not offset these two taxes and pay us less. It is not money in our pocket, but it is a right that Verizon has given up.

In terms of what happens in this process, the Board here looks at this and mulls it over. We then call for a public hearing. Cablevision shows up, Verizon shows up, somebody from the

PSC will show up to answer questions. And then we would determine if we are signing the contract in its current form. I am not particularly enamored with the contract as it stands, but I think it fulfills some broad essence of competitively neutral behavior. I am convinced that nothing we get out of Verizon will ever match what Cablevision signed with us. And so the triggering event of having Cablevision come after us and say, We have to match what Verizon is paying, is going to happen to us regardless of what we sign or when we sign it. Regardless of what happens, if we eventually sign something with Verizon we are going to land up in front of the PSC arguing with Cablevision and Verizon about whether the payment streams they are offering us are fair, or equivalent.

Trustee Walker: The biggest downside is the risk that we lose \$3,000 or \$4,000 a year from Cablevision's payments. If they go to the PSC and they win the day, and they prove that it is not a level playing field and they get their payments reduced so that they are the equivalent of Verizon's, we stand to lose about \$3,000 or \$4,000 a year.

Mayor Swiderski: If Verizon has an uptick of 30 percent.

Trustee Walker: And if Verizon does not have an uptick of 30 percent.

Mayor Swiderski: We lose more. And if Verizon has an uptick of more than 30 percent we might actually come out ahead. But apparently they have not.

Trustee Walker: So we could lose more if they do not do well.

Mayor Swiderski: I do not know for a fact what the lowest number is, but I think it is around 20 percent, we would lose more

Trustee Walker: So that is the risk. You have to balance that against what we get from this contract.

Mayor Swiderski: People get a choice.

Trustee Walker: I would like to know how the public feels about that. Are there a lot of people in this Village who want that choice, who want Verizon, or do they simply want Cablevision to have some competition?

Mayor Swiderski: It can be both.

Trustee Walker: It may be both. And is it worth it, going through this, potentially. Even if we did sign the contract, as you say we probably will go in front of the PSC. So there is going to be this long, drawn out...

Mayor Swiderski: It is not necessarily drawn out.

Trustee Walker: It is a decision. They make a decision, and that is it.

Mayor Swiderski: Yes.

Trustee Walker: OK, so that is not so bad. There is the risk, though, that we lose money in the future. Is it worth taking the risk in order to give people the choice? What I want to hear is whether people in this Village really want that choice.

Trustee Quinlan: I was involved in negotiations with Peter. We have talked about it many times in many meetings, so I would like to hear what my fellow Boardmembers think, and then I will weigh in.

Trustee Jennings: Just to clarify, on the plus side, in addition to competition and offering people a choice, we are going to get \$25,000 that we would not otherwise get if we do not sign this contract. Is that not so?

Mayor Swiderski: Yes. And while that is essentially an up front payment that is repaid by the PEG fees that we would not collect out of Verizon for four or five years, it would be a chunk of money that would allow us to probably complete the TV studio.

Trustee Jennings: But you make it sound like it is zero, and cancels itself out. It is not. We are going to get \$25,000. We are just going to get it all at once rather than over five years, which is better for us, if you ask me. My other clarification question is, when we have to be represented in front of the PSC what kind of legal fees will we incur?

Mayor Swiderski: That is probably a question for John Figliozzi. He did not indicate the Village has to be there in the process. The Village needs to give an indication of their thought process as to how they came to a determination that it is a level playing field, that they thought about it. The map I laid out is close to sufficient for what they look for; that we thought through the fact that there was a rough equivalence between a monthly subscriber rate. Beyond that, it is not clear to me how deep a legal representation we need.

Trustee Armacost: So the \$3,000 that we would lose only gets triggered if we lose the case?

Mayor Swiderski: Well, no. It is not that we would lose. We do not know what the PSC will do. The worst analysis is that the PSC says tough, you signed a contract, you are now going to get out of Cablevision what you are getting out of Verizon. At that point, we would lose \$3,000, possibly more.

Trustee Armacost: So on the one side we might potentially lose \$3,000 or not, and on the other side we gain \$25,000 and we are able to say that there is competition in the Village for these services.

Mayor Swiderski: I will need to lay the dollar sums out for you more clearly, but it is not quite that way because the \$25,000 ultimately is an up front payment of money that Verizon would pay us over four or five years and that may be coming at the expense of money we are getting out of Cablevision.

Trustee Jennings: If you are right about the closed population it would be a zero sum relationship with that \$25,000 in and \$25,000 out.

Mayor Swiderski: That is right.

Trustee Jennings: That makes a big difference.

Mayor Swiderski: Yes. The \$25,000, all they did was squeeze the income stream up front. What they did was take four or five years' worth of payments and said we will give that to you up front and then repay it out of what we are going to charge our customers, that 55 cents a month. Instead of us getting it, it will go to Verizon and pay off that \$25,000.

Trustee Quinlan: And for every subscriber they get it is going to be one less Cablevision is going to pay. That is why it can be a wash, except for maybe the 12 or 15 dishes. We do not have a lot of dishes in Hastings because of our topography. So there might be a few that switch, but we are only talking about maybe 10 to 20 people. It is not going to be a big deal.

Trustee Armacost: But bottom line, there is not an economic benefit to us ultimately.

Mayor Swiderski: Bottom line, there is not an economic benefit to us. There is potential risk of some amount we cannot determine that we might lose: several thousand dollars to possibly \$6,000 or \$7,000 a year. The money, I should say, is not going directly to our bottom line. It is supposed to be used for PEG-related equipment, for the camera equipment,

etc. Technically, that \$13,000 a year that we are getting is not supposed to be used for anything other than PEG-related activity. It is earmarked for paying Granicus and for new equipment. So it would be a loss to that.

Trustee Armacost: If there is an actual loss to us, that is material.

Mayor Swiderski: There is absolutely a risk of an actual loss.

Village Manager Frobel: t Mayor, you do not see any risk of Cablevision trying to recapture what they advanced us, the \$62,000?

Mayor Swiderski: According to the PSC and according to even the cash we are awaiting on the contract, no.

Village Manager Frobel: That would be my principal concern.

Mayor Swiderski: That is a big concern. But \$62,000 up front is important. That \$13,000 for the next 12 years is actually more money. So seeing that brought down substantially over a 13-year period of the contract could be a chunk of change.

Bob Perlstein, Terrace Drive: I am chairman of the Cable Committee. I sent you all a memo from the Cable Committee, which I assume everybody has received and read. I am not sure that Mr. Jennings' question was answered as clearly as it might be. I want to clarify something on the \$25,000. That is Hastings residents' money that Verizon will hope to collect and pay itself back. That is a big difference from the \$63,000.

Mayor Swiderski: Which was a flat-out grant.

Mr. Perlstein: In other words, they are going to collect PEG monthly taxes from the residents. They are going to apply this to the \$25,000 that they have paid us, as the Mayor said, up front as an advance. So this is, in effect, Verizon returning to the Village, or paying up front, the money from the residents. I would not get too hung up on the \$3,000, because, as the Mayor said, it could be more, it could be less. So when you are doing your calculations I just would not focus on a fixed \$3,000 figure because that might well vary.

Trustee Quinlan: Bob, just to clarify, it could be more, it could be less, it could be nothing. Verizon could win its case in the Public Service Commission.

Mr. Perlstein: They could. I think it is the opinion of the committee that it may be unlikely that they will score a complete victory, given the disparity of the economics.

Mayor Swiderski: I think they would want to settle beforehand.

Trustee Quinlan: There will be something in there. It your opinion as a member of the Cable Committee, and your fellow committee members, that they cannot claw back the \$60,000 that they have, up front, paid.

Mr. Perlstein: That is my understanding from the PSC, that given the contract, they cannot come back and get the \$60,000. They may make an argument that they can withhold, I would have to talk to John about this. But they might make an argument that they can continue to withhold their PEG pass-through. And I did not even think of the franchise fee, but maybe the PEG money until they recouped that \$60,000. I do not know the answer

Mayor Swiderski: John, in discussions yesterday and today, indicated it is really an issue about the income stream moving forward. It specifically says in the contract that there is no claw-back of that \$63,000.

Trustee Quinlan: So they end up doing an argument they can get it back some other way. Who knows what those arguments are going to be. I just want to make one comment to Bruce' question and, again, it is always a risk. When it comes to legal fees, I would like to hear from John Figliozzi. But my guess is with what Peter has written we could rely, hopefully, on Verizon making our case for us, because they are going to appear before the Public Service Commission and say, We want this contract, it is a level playing field. So they are going to throw their legal team and their money at convincing the PSC that it is a level playing field. You take a risk when you rely on someone else's legal team, but I am not in a position to want to spend a lot of money on lawyers on this.

Mayor Swiderski: I agree.

Trustee Walker: You do not go to the PSC before you have a contract, though. You go after you have a contract.

Mayor Swiderski: You sign it, and they approve it.

Trustee Walker: But is it at that point where they have to determine the level playing field, or later?

Mayor Swiderski: No, it is at that point.

Trustee Walker: So if they make this determination that Cablevision can decrease, can we back out of the contract?

Mayor Swiderski: No, though I asked variations of that question to Figliozi. You can ask for determinations that are on file. You can ask for the contract to be returned for further work, and it may be reviewed. But ultimately the PSC's role tends to side with the community. There is a respect for home rule. There are no promises, but the intent is that they are not representing the franchise firms here; they are trying to act as intermediaries to adjudicate a process and safeguard the public interest.

Mr. Perlstein: My understanding is that they can modify the contract. They can approve it, and strike certain clauses and amend certain clauses. So you might get the contract back with some terms modified.

Trustee Walker: And what if we do not like it at that point?

Mr. Perlstein: I do not know. That is another John Figliozi question.

Trustee Jennings: Also, would it be in the same proceeding? If Cablevision made an appeal to say we should give you \$3,000 less or whatever, would that necessarily happen at the same time, or would that happen later?

Mayor Swiderski: No, it would not. The discussion item before the PSC is the Verizon contract. And they approve or do not approve the Verizon contract. The next discussion is only if Cablevision chooses to enforce upon the contract.

Trustee Walker: Which is after we have signed the contract.

Mayor Swiderski: If it is not approved, they are not going to care.

Trustee Jennings: And the Verizon lawyers will not represent us on that one.

Mayor Swiderski: No. At that point, we go before the PSC and make a case again for why it is competitively neutral. And they determine or do not determine what they want.

Mr. Perlstein: At any proceeding before the PSC, I know there is a cost and I am not minimizing the cost issue, the Village would want to be represented. Even though Verizon might be making our arguments for us I am not sure there would be a congruity of interests in every respect, and we might want to have some presence just to make sure.

Mayor Swiderski: Absolutely. Point well taken.

Mr. Skolnik: Is the Verizon offer, at this point, is any different from the point that you broke off from?

Mayor Swiderski: It is not substantially economically different. The \$25,000 payment comes up front, instead of dribbling in over four or five years. Beyond that, a couple of things have changed. To be candid, why are we considering this versus outright rejecting essentially a similar contract from a year ago? There were at least a couple of adjudications before the PSC in other communities like ours where it was made clear that Cablevision's terms cannot be enforced upon us or upon another franchisee. So we have more of a standing to move forward, and less fear of being forced to cough up money we have received in the past, or feel like we are at the mercy of the Cablevision contract. The landscape legally changed a little bit, so our concern for the risk we are at is a little less.

Secondly, candidly, Verizon is rapidly ramping down their franchising effort. They have gotten rid of franchising teams they have had in the past that we have had the misfortune of having to work with. They are down to a couple of employees and, relatively speaking, a handful left of efforts underway because, at least according to them, they have got considerable work ahead of them in rolling out their services in the communities they have signed agreements in, and will be challenged to do so within the time frames they have. There is usually a five-year build-out in a franchise community.

They have shown ample willingness to walk away from the table for years at a time now. I am not entirely sure I want to wait years more on a forlorn hope that we are going to do any better. I think at this point in time it is just worth considering whether competition has its own value, even if it may not have a direct financial value to the Village municipal authority. It may have a value to the average citizen. And at some point maybe you suck in the pride a little and say what is best for the citizens of Hastings, let us move on, sign the thing, get on with our lives.

Mr. Skolnik: Are there are other localities, and I am sure there are, that Verizon and Cablevision already coexist in where all these things we have been talking about can be viewed, and how that has worked out.

Mayor Swiderski: Nothing quite like ours, no. We are never that lucky.

Mr. Skolnik: Is there a point where the Cablevision contract gets renewed?

Mayor Swiderski: In twelve or thirteen years.

Mr. Skolnik: Is there any reason to think that we can see in other situations where the competition forces them or encourages them to do something about that product?

Mayor Swiderski: That is not my determination to make. Every community around us has that competition. The price offers and wars engaged in, and all the advertising they engage in, we are seeing here on TV and if you get mailers. I cannot tell you if it is a better deal or not.

Mr. Skolnik: The theoretical idea of competition is one thing. Whether the actual result of competition is there...

Mayor Swiderski: Competition is probably the wrong word. Choice is probably the better one. If you are sick of a provider because you have gotten faulty customer service, it is a choice to move to another provider. They are competitors. It is arguable whether they are going to undercut each other substantially. It all seems to be \$100-plus for either service if you have one or two premium channels. One has channel 12, one has whatever, I do not care. It is a choice. If you hate your service, and you cannot jump to somebody else, it does not feel like you have a choice. Whether that is a better choice, it is a choice.

The next choice we have is scheduling a public hearing for our next meeting. I do not see the loss to it. It does not mean we are committing to signing a contract. I would love to have Figliozzi here and I would love to have Cablevision and Verizon here. It should be a regular circus, and we might learn something in the process that will help us to come to a conclusion. I clearly have some small bias to taking at least the next step in thinking about it. But beyond that, let us see what the public meeting yields.

Trustee Armacost: Public meeting, normally scheduled. That is fine.

Trustee Quinlan: But we will not take action.

Mayor Swiderski: We might.

Trustee Quinlan: After the public hearing?

Mayor Swiderski: We might. It depends upon our eagerness to move on with this process. The Public Service Commission has schedules. There is a meeting on June 15, then August 15. So if we want to make a decision at that meeting we could, and we could also determine that we still have a lot to think about and not do so.

Trustee Quinlan: It is very complicated and I am very torn. I have been intimately involved in negotiations, and at this point in time I am totally undecided. I doubt very much whether after listening to the public in the public hearing, and hearing Cablevision and John Figliozzi and everything, that I am going to ready for action that night. You guys can do what you want, but I am going to want to think about what I heard.

Mayor Swiderski: We can schedule it for action, and coming out of the public session look at each other and say we need time, and have that flexibility.

Trustee Quinlan: I am almost positive that is what my reaction is going to be because I am going to need time to think about it. I do not think anybody is going to convince me totally one way or the other, and I would like to hear what my fellow Board members have to say after the public hearing. When I am undecided, I take what you say very seriously in making my decision.

On MOTION of Trustee Walker, SECONDED by Trustee Jennings with a voice vote of all in favor, the Board scheduled a Public Hearing for June 1, 2010 at 7:30 p.m. to consider an initial proposed franchise agreement for cable television service with Verizon New York Inc.

5. Designation of Village Poet

Mayor Swiderski: Jerry, you passed around a note about how to talk about this.

Trustee Quinlan: Trustee Armacost has reminded me that we should have taken this up so she gets the credit for that. I sent everyone the email from Llyn Clague. We have already talked about a lot of this stuff and I do not want to repeat it. The Village poet is an honorary position, no monetary benefits. He or she would be a resident of Hastings; have recognized work as a poet, including publication in magazines or his or her own books; be active in various ways of bringing poetry to the public, which is the purpose of it, as I understand, and thank you for pointing that out, Bruce; and have a facility for diplomacy and tact, as well as outreach. The appointment would be two years, renewable and could be made by the Trustees or the Arts Commission. It probably should be us. There are no specific duties except promoting poetry. I do not see the downside in doing it

Trustee Armacost: I am in favor of it. There are a number of other municipalities that have got poet laureates. It turns out that Greenburgh has one. We feel quite strongly that as an arts-oriented community we should not lag behind the Town of Greenburgh and should have our own poet laureate for our village.

Trustee Walker: Speaking from the perspective of staging a literary event in March for Friday Night Live, I realized how many great writers and poets we have in this village and how much interest there was in poetry particularly. The poetry was extremely well received. There was a great response. It seems obvious to me that there is tremendous interest. And I think the poet laureate, or whatever we call this person, we can certainly find things for him or her to do and honorary poetry to read at events and so on. I am definitely on board with it. I wonder how we choose somebody. How do we go about receiving nominations?

Trustee Armacost: Given how many poets we have we might not want to make it a renewable term. We might want to give people the opportunity so there is an option to have it renewed. But having two years, and then someone else does two years and someone else does two years, could be a nice way of sharing the honor among a bunch of different people. I know that is not typically the way it is done with poet laureates. You tend to be a poet laureate until you die, at least in England. But maybe we want to be more democratic.

Trustee Jennings: I think the poet laureate of the United States does turn over quite frequently, unlike Tennyson in the U.K..

Trustee Armacost: Exactly, where you are there forever and ever. But there are criteria that others use to choose their poets, and we could certainly borrow from Greenburgh perhaps or others, or improve on some of those other procedures. But it should be objective. It should not just be your best poet friend.

Trustee Quinlan: There are some objective standards in this memo. We could follow those without getting too complicated. If we cannot find anybody, and the person is willing to do it again, that is fine. In theory we should not have to think of things for the poet laureate to do. They should think of them themselves. If they are active, then they will want to do it. And maybe at two years they will be happy to give it over to somebody else and somebody else will be willing to do it.

Trustee Armacost: The eligibility criteria which he outlined is not necessarily the same as the criteria for choosing, because I am sure there could be many people who meet the eligibility criteria. I think Meg's question really is how do we choose the first one. Not just how are you eligible, but how do we actually choose you?

Trustee Quinlan: And it is good to see how many people would actually want it. Maybe we find no one.

Trustee Jennings: Jerry mentioned a couple of different ways to go. I believe that we, the Trustees, should make the appointment. We ought to set up an advisory body made up of some local poets, maybe some teachers of literature and poetry from our school system. We should get advice certainly, but we want to stay away from having a group pick the person who would be conflicted by personal relations and professional jealousies and all that kind of stuff. So it is better to leave it to us total ignoramuses to make the appointment. It is going to be one of these deals probably where the first three or four are pretty easy to select, and only later will we wonder if we have run out of qualified people.

Trustee Armacost: And we certainly should not create a scenario where you cannot be the poet laureate more than once then. There are only a finite number of poets that we have.

Trustee Jennings: I also, finally, agree very much we must not allow a poet laureate gap.

Mayor Swiderski: So next step, do we agree and want to create the position tonight.

47:10 CREATION OF POET LAUREATE POSITION FOR HASTINGS-ON-HUDSON

On MOTION of Trustee Armacost, SECONDED by Trustee Quinlan with a voice vote of all in favor, the Board of Trustees agreed to create position of Poet Laureate for the Village of Hastings-on-Hudson.

Mayor Swiderski: And the selection criteria to follow.

Trustee Armacost: I will take that on.

6. Update on Deer

Mayor Swiderski: Slowly, this process begins to ramp up. I am not sure it will ramp up in time for June meetings, given that already our first June meeting will be spoken for with Verizon. But this is what we have so far.

Regardless of what we do or do not do, we are kicking off a metrics-gathering effort. What that specifically will entail are two separate efforts, unrelated. The first will be a citizen-run effort of around 30 people who have already been identified. Those people will keep a journal of sightings. Monthly or quarterly those journals will be gathered and inputted in a database to develop a sense of where there are herds or groups of deer, how they might be traveling. That effort would extend over a period of time, multiple years ideally, so that regardless of what action we take it would provide one baseline we could use to determine

whether, for starters, there is an issue in terms of numbers; whether what we do has an effect on those numbers; and whether there are local patterns that change because of what we do.

If anyone else is interested in volunteering I cannot say you will be added to the roster because it is going to take some effort to collect these journals and do it, but if there are dropouts, or there are holes in the collection network that we need to fill, it would be nice to have extra names on board. So please write to me, and I will pass that on to the people running this effort. I am mayor@hastingsgov.org.

The second effort is a bit more formal. It is a species count, where plots of land will be identified in a couple of places within Hastings as well as in control communities that will be doing nothing. In a species count you typically stake off whatever it is, 50 feet by 50 feet or 100 feet by 100 feet, and at a couple of points during the year you count every species and the number of species in that area. Then the idea is, after action, you see is there a richer diversity of species coming back as the grazing of the deer result in more ground cover and more wildlife perhaps attracted to the ground cover, or is there no change. This effort is likely to cost some small amount of money simply for hiring people likely to be college students or grad students who would consistently do this over time. That effort, right now at least, is going to be largely privately financed, possibly with small seed money from the Village if we determine it is needed. I would not call it necessarily academic quality, but pretty close. We are seeking something that is usable, and I am announcing tonight we are kicking off those two efforts.

The next step beyond that is a new round of information-gathering. The Greenburgh deer study is old by a couple of years, and things change. Both opponents and supporters of action have sent in links to studies. Westchester County had taken action and Pound Ridge,. All this needs to be reviewed fairly because what we think is true may not all be true, and it is worth examining. Essentially, it is a check on the data. Specifically also, we want to review the options. While we have a permit for a lethal option, I am not convinced by a long shot that we should stop and settle on that as the only option open to us. To that end, I have reached out to, and engaged in dialogue with, people who have information about non-lethal options, specifically sterilization and immunocontraception, including a professor out of a university who runs immunocontraception tests. Some of the studies referred to in the Greenburgh deer study are old. There have been more recent successes with non-lethal options and they are worth examining. They have not been permitted in New York to date. That is an issue. But that does not mean we should not take a look at them, and also press the state to verify whether those options are shut down to us conclusively.

This is the gut check. We have got one option in hand that allows us to do something, but it should not be the only option, ideally, we have. We should examine everything heading into

this so when we face the public, and that is why I am skeptical about June, we have before us all reasonable up to date information about the options and how to do this. It is going to take a little bit of time. And out of it, hopefully, we can have an intelligent conversation, if not in July because people are off, then in September. A discussion in September does not preclude action this winter because, once again, we have got a permit in hand. But that permit involves action that all Board members would want to examine carefully and compare against other options.

Other than responding to a number of emails, I did not focus on this much until the last two weeks because we have had budgets and other issues. Now this moves up our agenda and we begin to spend more time on it. An informal group of individuals interested in the topic will be helping on the research. They have been told, and I will be enforcing, that this is a clean look at this stuff. We are not looking for a bias toward a lethal option or non-lethal option. Let us see what works not just in the first year, but five years out: how much it costs, what we think the community can take and, ultimately, what makes sense. The process begins.

Trustee Walker: So what are you are saying is that the deer committee is working on it. This research and reading the studies and the information in terms of the counts and the species count are all going to go on this summer, so that by the time we have a public meeting there will be more information. And it will be an opportunity to share this information in not such a formal way. I think we need to have some meetings where it is not just us sitting on the dais.

Mayor Swiderski: Totally. We need something in the Community Center, we need people from different perspectives and backgrounds.

Trustee Walker: And it has to be a discussion. There has to be a lot of give-and-take. And we have to give people an opportunity to feel comfortable to express their views. That is really important whether or not we have new information to share with them. Your point, a good one, is let us update our information. If we have more data or we have some better studies, that could help inform folks, and that might change the whole tenor of the discussion.

Mayor Swiderski: Dobbs Ferry is going through this process and are wrestling with these issues, as well. I have told them in the past I would like to work with them as well as with Irvington. While in the past I have mentioned lethal options, I did reach out to Dobbs Ferry and say we are willing to work with you regardless. If you feel you are interested in pursuing non-lethal options, and those are permitted, we would be interested in working with you if the Board feels comfortable with that. We are clearly better off if we work as a larger set of communities and if we are aligned in approaches.

Trustee Walker: There is nothing wrong with them doing some of the legwork. They could look into these other options, and they can deal with the DEC on these non-lethal options, and come back to us.

Mayor Swiderski: Supposedly, and this is more hearsay, Westchester County is doing that, as well. They did a take up on Pound Ridge that maybe was not as successful as planned. There is also some concern about long-term sustainability of lethal options. There is at least, again anecdotal, some interest in pursuing other things. I want to give this a chance to play out. The DEC may not be permitting it now, but if there is substantial interest in a number of communities I would love to have that choice to consider.

Trustee Armacost: Peter, could you confirm the makeup of the deer committee? Is it a broad range of perspectives, or is it a particular set of perspectives on our deer committee? We should make sure that there is a broad range.

Mayor Swiderski: That is entirely fair. I want to add a couple of people to it to make it broader. I am going to be intermittently involved in ensuring that data flows freely and that everything is considered. Everything will be vetted through us, as well, and the people we bring before us. I would seek to have several viewpoints in any public meeting.

Trustee Armacost: If the deer committee is charged with doing the research we are more likely to get a broader set of research if the perspectives are a broader set of perspectives.

Mayor Swiderski: I agree entirely.

Trustee Jennings: I agree with what you are saying. We need to gather the best and most up to date scientific information we can get. We should not fail to consider a range of options. The net and bolt approach that we have a permit for right now has not, to me, yet been shown to be the most effective way or the best way to go. So I want to keep an open mind, and you cannot have an open mind if you do not have any options to consider. I agree with Meg that we need to have an educational as well as a listening kind of activity in the community so people are given through emails or the Web site accurate indications of this information. One of my big fears is that we do something in year one and two that is expensive, both in terms of money and in terms of moral and political conflict, and that in year five or six or seven we are right back to where we are today. That is a fool's errand and we have to avoid that pitfall at all costs.

Mayor Swiderski: That is what drives the search for options that look out beyond one year, and a desire to see evaluations over five years' time. We are beginning to see studies that

show various approaches, and it is important that that feed our thought process here. We are not stepping into a quick fix, and that is not the right way to think about this. It has got to be deliberate.

Bessie Giges, 765 North Broadway: I am very interested in what you said about the deer committee having a range of opinions. How does one get in touch with the deer committee? I did not even know there was one.

Mayor Swiderski: Write me.

Ms. Giges: The option that you have now I believe is culling, correct? That is what you have the permit for, sort of.

Mayor Swiderski: No, we have a permit.

Ms. Giges: In other words, you could go next month and start doing it?

Mayor Swiderski: Theoretically, but that is not the way we operate.

Claire Filipelli, 11 Berkeley Place: The count that you have 30 people in Hastings doing is, totally unscientific because they are going to be counting the same deer. As the deer move, it is the same deer that is being counted.

Mayor Swiderski: Absolutely, and I hope we get numbers good enough to see that sort of movement: that somebody reports at 11 o'clock that they saw six deer, and two blocks later another person reports at 2 o'clock they saw six deer.

Ms. Filipelli: So you want to see the migration.

Mayor Swiderski: That is right. Without a doubt, that is expected. This is not intended to be a count of the number of deer conclusively in any way. There will be other ways we would expect to do that. It is not scientific, but it is useful, because if there are enough of these observations and they give us some sense of patterns, it is useful for determining where we take action, where we decide, if we are going to do sterilization, we would dart the deer. It is useful to know where the herds generally are, and about when.

Ms. Filipelli: I am glad that you are looking into other methods because at the beginning everyone was geared for the culling. I hope you are as vigorous with the information and the feelings toward looking at other means as well, because that is not how it started.

Mayor Swiderski: The process in applying for permits from the DEC lead you in certain directions because of the DEC process. But it is not a place I think any of us are terribly comfortable settling on that as the only option.

Ms. Filipelli: OK. Because the net and bolt was also illegal until you got the permit. You know what I am saying?

Mayor Swiderski: That is right.

Ms. Filipelli: So the fact that sterilization or birth control is illegal, if you do not push for it they will not give that to you either.

Mayor Swiderski: Exactly.

Diana Barrella, Irvington: I did work on the Greenburgh deer committee for many years. I know that information is old, so many new things came up. You have paved the way with the net and bolt. We can do it for sterilization and immunocontraceptive. But do you have a deer count in Hastings?

Mayor Swiderski: Not accurate.

Ms. Barrella: So how did you get a permit from the DEC to allow you to kill a certain number of deer without having a count beforehand? Which definitely goes to show how irresponsible they are in giving out permits. And it really should be considered that before, God forbid, you decide at the end to do net and bolt that you have a scientific count.

Mayor Swiderski: A better count, right.

Ms. Barrella: There are so many things that have to go into it. I know you said we may not have another hearing, or the species gathering until September, but we still could do it during the winter. Because that is going to raise a lot of controversy with all the towns: Irvington, Dobbs Ferry, many people. So t get ready. Make sure you have all your facts before you decide.

Mayor Swiderski: We never doubted that no matter what happens here it will not be easy.

Ms. Barrella: It is very scary that you received a permit to cull so many deer when you do not even know how many you have.

Danielle Salzberger, 61 Amherst Drive: I want to thank you for looking into other options. It would be really great if Hastings was a pioneer and implemented immunocontraception or other non-lethal methods. Colorado just passed a bill. They were having a lot of problems with wildlife crossing the roads, and there have been a lot of fatalities both human and animal. They have passed a bill that will implement a right of passage for wildlife. They are going to do studies to find out where the animals have their major crossings, and put up signs and make sure that people are aware of where their herds are crossing, and that it is the people's responsibility to take caution such as when children are crossing the street in school areas. They are going to set up fines for people who do not pay attention or disobey the signs. It could be something to look into when you do the studies, the migration, where they are crossing.

Mayor Swiderski: That thought occurred to me, as well. The police stats on impacts, 16 to 18 a year. You get those numbers for three or four years, and if there are areas where it is more often and they are not signed now, maybe they should be. The Saw Mill is signed periodically with indication of deer. I do not know if there is any spot within the Village like that, but it is worth looking into.

Ms. Salzberger: On Broadway there is a certain area right around a blind turn. Deer are always crossing into the Burke Estate. There is a path there. But it might be something to look into if you can warn people ahead of time. Maybe if people also take it upon themselves or get awareness out about deer and twilight hours, to keep your eyes open, maybe we can educate the public and let them take some responsibility on keeping their eyes out. There are deer, wildlife, raccoons. Thank you again for looking into that.

Mr. Gonder: We lost a lot of time, Mr. Mayor. January through March was a great time to count deer. Now the foliage is out, they are watching us instead of we are watching them. You mentioned something about pacing off a certain area and seeing what animals come back. Is that true? I think you would have to do that in the evenings because the raccoons, the possums, and all those things come out.

Mayor Swiderski: It is typically not fauna. It is typically plant species.

Mr. Gonder: In regard to your mentioning 18 deer killed in Hastings.

Mayor Swiderski: There were 18 impacts. There were not 18 killed here.

Mr. Gonder: Thank God no one was killed in the auto. We have been after this for quite a few years, and now you are still delaying, delaying. We have to get this information out quick if you are going to make a cull in December or January.

7. Update on Waterfront

Trustee Quinlan: On May 26 at 4 p.m. we are going to have a meeting in the conference room with the DEC, the Riverkeeper, and some Village officials, myself included. Fran, I hope you come to that. I will report to you more in two weeks.

8. Update on Comprehensive Plan

Trustee Quinlan: On May 27 they are going to have an open house and presentation, on June 2 there is going to be an open house, and the CPC plans to meet on June 8 to formally recommend the plan to the Village Board. Then it is in our bailiwick. We will get to it as soon as we can, considering everything else we do, and it will not be delayed at all.

9. Other

Trustee Jennings: The Hudson River Foundation and New York City Parks and Recreation, the DEC, the EPA, the Army Corps of Engineers, and a number of environmental groups are undertaking a project to restore oysters to the Hudson River. These are not harvestable oysters that one can eat. What they do is clean up the river. They are proposing that Hastings right off of Kinnally Cove be a site for the attempted creation of oyster beds and reintroduction. They have found some in their surveys off Hastings already, and that is one of the reasons they want Hastings to be a site. There is nothing we have to do right now. As this goes forward perhaps Hastings will have the good fortune of being a place where the oysters make a comeback in our river.

Trustee Armacost: Is there any conflict with the cleanup?

Trustee Jennings: As the cleanup evolves, as we see what is going on and where, if this will disturb what they want to do with the oysters, they will deal with that at that time.

Trustee Quinlan: My understanding is it is going to be due west of Kinnally Cove. And that is not anywhere near where the cleanup is going to occur. But a good question.

Mayor Swiderski: The Popcorn and Puppet Festival this Sunday was yet another lovely event. Yet another Liz Liebeskind little miracle, with a lot of help from the Parks and Rec crew preparing MacEachron Park, cleaning up after it. These things take a lot of time of a lot of people, and they are the unsung heroes in this village. It was attended by 500 people who enjoyed it immensely. Thank you to everybody involved.

Village Clerk Maggiotto: The Historical Society has prepared this wonderful house tour this weekend, and I understand the sale of tickets is not overwhelming. This booklet is your ticket and it talks about all the homes in Hastings on the tour. You can contact the Historical Society to get your ticket. Teams of volunteers have done extraordinary research on the homes and the inhabitants of these homes, the most illustrious people who were part of Hastings' history. I urge you to go.

ADJOURNMENT

On MOTION of Trustee Quinlan, SECONDED by Trustee Armacost with a voice vote of all in favor, Mayor Swiderski adjourned the Regular Meeting at 11:35 p.m.