

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**BOARD OF TRUSTEES**  
**REGULAR MEETING**  
**JUNE 1, 2010**

A Regular Meeting was held by the Board of Trustees on Tuesday, June 1, 2010 at 8:45 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 Attorney Marianne Stecich, and Deputy Village Manager Susan Maggiotto.

**ABSENT:** Village Manager Francis Frobela

**CITIZENS:** Twenty (20).

**APPROVAL OF MINUTES**

**Trustee Armacost:** The name of the poet should be spelled Llyn Clague.

On MOTION of Trustee Walker, SECONDED by Trustee Armacost with a voice vote of all in favor, the Minutes of the Regular Meeting of May 18, 2010 were approved as amended.

**APPROVAL OF WARRANTS**

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

Multi-Fund No. 74-2009-10 \$70,229.90

**PUBLIC COMMENTS**

**Dave Skolnik, 47 Hillside Avenue:** I belatedly sent the Board some notes. I do not know if they were all received. But my question is the disposition of comments like this, as opposed to speaking them at a meeting. Is there a way that comments can be included in some fashion. Do they constitute the same thing as letters sent?

**Mayor Swiderski:** Susan, do emails or letters become a formal part of the record, or do they have to ask for it to be part of the record?

**Deputy Village Manager Maggiotto:** It does not necessarily become part of the record.

**Mayor Swiderski:** So it is on request. Would you like your email a part of the record?

**Mr. Skolnik:** I would. Thank you.

**John Gonder, 153 James Street:** I want to thank the Mayor and Village Clerk/Deputy Manager for sending me the ethics code of the Village. I have studied it, but you have got a long meeting tonight. Maybe you will give me two minutes next week.

**Mayor Swiderski:** I would like to adjourn briefly for advice of counsel for contract issues.

A quick clarification. A comment was brought up by a resident who is no longer here regarding the potential loss of PEG money in the cable franchise agreement. PEG payments are only for equipment associated with educational and government access: cameras, switching boxes, et cetera. It is not general revenue. Franchise fees, however, go into the general fund.

[Adjourn 8:47 p.m.]

[Resume 8:55 p.m.]

**48:10 AWARD OF CABLE TELEVISION FRANCHISE TO VERIZON NEW YORK INC. TO PROVIDE CABLE SERVICE TO THE VILLAGE OF HASTINGS-ON-HUDSON AND APPROVAL OF CABLE FRANCHISE AGREEMENT WITH VERIZON NEW YORK INC.**

**Trustee Jennings:** I will vote in favor of this resolution. I believe that our responsibility as elected officials is primarily to the best interests of the Village and people of Hastings. But as a matter of public policy, we are also responsible for having fair competition. I believe that this agreement does not put its thumb on the scale. I believe that it will pass the public policy tests. I also believe that it is important for a number of residents in our Village to have a choice of cable provider, and for those reasons I am going to support the resolution.

**Trustee Armacost:** I am in favor of competition. It is healthy for societies that are free and democratic, and a market-based system works. I do not think that this agreement is as advantageous to the Village as it could be, and it would have been nicer if the agreement was more favorable to the Village. But I am, in principle, in favor of competition.

**Trustee Walker:** I am going to echo what Bruce and Niki said. I am not altogether happy with the contract and the terms of the agreement. I wish it were the agreement that we had two years ago. But it is not, and we are in a different place, in a different economy and a different time. In order to provide the citizens with a choice and competition, it is in our interest to approve the contract. I have weighed this decision against the risks that might be presented in terms of a decrease in revenue to the Village which would be, indeed,

unfortunate. But I am reminding myself that the PEG fees pay for equipment and it is not a loss to our general revenue. That is a comfort. Weighing these things, I am in favor of the choice and will vote in favor of the contract.

**Trustee Quinlan:** My vote will speak for itself.

**Mayor Swiderski:** It is not what it was three years ago. It is not what it could have been three years ago. That was before my time, and for reasons uninteresting to go to, since I tend not to gaze backwards, that contract was not signed. However, times have changed, economies have decayed. Perhaps competitors have recognized penetrating markets is more difficult than otherwise considered. But more importantly, another three years have gone by for the community without a choice. I do not know if choice leads to competition, but choice leads to choice. If I absolutely despise a provider, it is sure nice to go somewhere else. It may not put more money in my pocket. It may not give me better service. But it is certainly sweet to go somewhere else, and that is worth something. It is, in my book, worth a lot. As I am swallowing a bit of my pride, it is not what I would prefer. But pride goeth before the fall, and I would rather not have that get in the way of the choice that people have been waiting a long time for.

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

**WHEREAS,** the Village of Hastings-on-Hudson (the “Village”) is a franchising authority in accordance with Title VI of the Communications Act of 1934, as amended (the “Communications Act”), and is authorized to grant one or more cable television franchises pursuant to Article 11 of the New York State Public Service Law, and Title 16, Chapter VIII, Parts 890.60 through 890.6 through 899, of the Official Compilation of Codes, Rules and Regulations of the State of New York (the “Cable Laws”), and

**WHEREAS,** Verizon New York Inc. (“Verizon”) is upgrading its existing telecommunications and information services network pursuant to the authority granted by Section 27 of the New York Transportation Corporations Law, and Title II of the Communications Act and Verizon desires to use portions of its network now or hereinafter installed within the Village to provide cable service (as defined in the proposed Verizon Franchise Agreement), and

**WHEREAS,** Verizon has submitted a written application for a cable television franchise to the Village on May 19, 2010 (the “Verizon Application”), which the Village has had an opportunity to review, and

**WHEREAS,** due negotiations between the Village and Verizon have resulted in a proposed agreement entitled “Cable Franchise Agreement by and between the Village of Hastings-on-Hudson and Verizon New York Inc.,” which proposed agreement was filed with the Village on May 19, 2010 (“Verizon Franchise Agreement”); and

**WHEREAS,** on June 1, 2010 the Village held a Public Hearing on the proposed Verizon Franchise Agreement at which members of the Board, Verizon and the public were given notice and opportunity to comment; now therefore be it

**RESOLVED:** that the Village of Hastings-on-Hudson Board finds that it approves the character of Verizon; and be it further

**RESOLVED:** that the Board finds that Verizon is legally (pursuant to NY Public Service Commission Rules and other statutory requirements), technically, and financially and otherwise qualified to meet the cable-related needs and interests of the Village and that Verizon will meet all statutory and regulatory non-discrimination requirements; and be it further

**RESOLVED:** that the Village authorizes the award of a non-exclusive franchise to Verizon to own, construct, operate and maintain a cable system along the public rights-of-way within the Village in order to provide cable service, which authorization is made in accordance with the applicable provisions of Title VI of the Communications Act and the Cable Laws; and be it further

**RESOLVED:** that the Board of the Village of Hastings-on-Hudson authorizes the Village Mayor to enter into a franchise agreement with Verizon New York Inc., in a form approved by the Village Attorney, and to execute any other documents

necessary to effectuate the granting of the franchise on behalf of the Village of Hastings-on-Hudson.

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

**49:10 TRANSFER OF PROPERTY TO THE HASTINGS-ON-HUDSON AFFORDABLE HOUSING DEVELOPMENT FUND, INC.**

**Trustee Armacost:** I am in favor of this resolution and the intention that it has of providing affordable housing, which I think is a laudable goal for us to have as a Village. My only concern is that the issue that kept coming up in the public hearing was that a series of trigger events will happen. What is not clear in this resolution is who owns the property if we transferred it to the Affordable Housing Committee and they do not get the approval. The implication here is that they still own it.

**Sue Smith, Affordable Housing Committee:** When this question came up before, I said we would like your approval so we have site control and can go before the Planning Board and all the necessary approvals can be gained. We do not want the transfer to happen until all those parts are in place. We do not want to land-bank property if we are not able to get some permit or it is too expensive to build for the grant funding provided. We would not want the transfer to happen until everything was in place. But you could approve it and give us site control until that time. This is what happened with the other one.

**Trustee Armacost:** Then I think it needs to be worded differently.

**Village Attorney Stecich:** No. I understand your point, but it is covered. You do not get the funding until you have gotten all the approvals. Am I right?

**Ms. Smith:** Right.

**Village Attorney Stecich:** So the funding is the last thing that has to happen. They are not going to get the funding until they get all the approvals from the Planning Board and for any variances, and if they need additional funding they get the additional funding. That all has to happen before they get the funding.

**Trustee Armacost:** But this resolution approves the transfer of the site.

**Mayor Swiderski:** Read the sentence in full.

**Trustee Armacost:** On condition that all...

**Village Attorney Stecich:** So until that condition is met it is not transferred.

**Trustee Armacost:** Until all necessary funding is received, not necessary approval.

**Mayor Swiderski:** But the funding is not received until all the approvals happen.

**Trustee Quinlan:** Could we not just change it to say funding and approvals?

**Mayor Swiderski:** Do you care?

**Ms. Smith:** No. I do not care, if that satisfies you.

**Trustee Walker:** In approving this resolution we are not committing any funds to the Affordable Housing Committee, whether for construction or surveying or hiring of architects. None of that is intended with this resolution.

**Ms. Smith:** That is correct. However, the fact that the Village is willing to provide the property is looked at very favorably by the granting organization because you have made a substantial non-monetary contribution, probably with which it could not happen otherwise.

**Trustee Walker:** This is important to pursue both because it is important to have affordable housing in Hastings, and it is part of the policies we enacted over 12 years ago. This property is interesting because it is in another part of town away from Warburton Avenue where a lot of our affordable housing is; it is making an effort to distribute the affordable housing more equitably throughout the Village. Second, because of the federal lawsuit, whatever we can do now to move our affordable housing ahead. The court case was a settlement, but the terms are still being negotiated. This will lead to us being looked favorably upon in terms of what we have to do in order to meet the requirements of that settlement. It is important for a variety of reasons, and I am happy that you found this property.

**Trustee Jennings:** Approving this resolution should send two messages, three messages if you count what Trustee Walker mentioned in terms of this is not going to be funded by

Village taxpayers. It sends a message that we support affordable housing. That should be loud and clear. The second thing is that the transfer of property will not take place until all the normal review processes and approvals have been gone through. It is important for the public to understand that the Board members are not saying we want rubber stamp approval on this. That is not what this resolution is about. This resolution sets in motion a process which is going to be exactly the same for this site as it would be for any other site. The fact that it is destined to be affordable housing does not affect the rules, the scrutiny, the rigor with which the site will be looked at. I know everybody in this room understands that, but I think it is important for the Village to understand that also. There are not two sets of rules, one for affordable housing and one for everybody else. There is one set of rules.

**Trustee Armacost:** One of the houses is very close to where I live, and I am very happy that it is going to be there if it ends up being approved. I think it is important that these sites are all over our village and not just in one little tiny area.

**Ms. Smith:** We have tried hard to accomplish that, and it has been hard to find property. Ideally, every neighborhood in town would have some fair share of it, but that is hard to do.

**Mayor Swiderski:** But now you have a rocky slope that is going to be devilishly difficult.

**Ms. Smith:** We also had a rocky slope and an old gas station on Warburton, so none of these are easy, because they are all compromised sites. That is all that is left.

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

**WHEREAS,** the Hastings-on-Hudson Affordable Housing Development Fund, Inc. ("Fund"), a not-for-profit corporation, has requested the transfer of Village owned property located on Mt. Hope Blvd. designated on the Village Tax Map as Sheet 33, Block 707, Lots 19, 20, and 22 ("Site") for the development of two units of affordable housing; and

**WHEREAS,** the Board of Trustees at its Regular Meeting on Dec. 11, 2007, indicated by resolution its support of the project in view of the salutary purpose of the project which is in furtherance of the Village's Affordable Housing Policy, and

**WHEREAS,** the Board of Trustees held a duly noticed Regular Meeting on May 18, 2010, at which time the Board heard all comments both for and against said proposed transfer; now therefore be it

**RESOLVED:** that the Board of Trustees does hereby approve the transfer of the Site to the Fund on the condition that all necessary funding and approvals are received by the Fund to develop the site for affordable units.

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

**Mr. Skolnik:** My reluctance to mention anything earlier, even though I did, as I said, submit this, was because usually the instructions are public comment is for anything that is not on the agenda. So my conclusion, perhaps erroneous, was that because these resolutions were on the agenda that was not the appropriate place for public comment. However, it seems that the procedure that you are using now does not invite public comment.

**Mayor Swiderski:** You are entirely right. I very often give the public a chance to comment on resolutions before us. It is not a requirement. I have done so in the past out of courtesy. The formal public comment period is behind us, but I did neglect to do so here.

**Mr. Skolnik:** I would not abuse the privilege, especially since the vote has already been taken. I wonder the impact of comments made, and submitted in writing; they at least add a bit of courtesy, too, so that you do not have to see me up here all the time. I do not know if I would be correct in expecting any kind of response, even to a written set of questions. I think, for the most part, with these decisions it feels as though you all have thought about this, and at this point, anything I might say is not going to affect it.

**Mayor Swiderski:** That is a good point about resolutions. By that point in time the public discussion is typically over.

**Mr. Skolnik:** It is theater.

**Mayor Swiderski:** You would have to pull out the bloody dagger to make the case.



**Mr. Skolnik:** I will consider that.

**Trustee Armacost:** But there are people who say things in meetings, and emails that I receive, that shift my opinion on things if they are cogently framed. I did read your arguments. I did read the piece, I have it right here, that you sent. So it does affect the way I reason. I do not disregard material that is sent to me either by email or presented in person. I am sure the others do the same thing.

**Trustee Walker:** Yes, I would say the same thing. I read your email, and I took it into account when I was thinking about this as well as when I was asking my questions. So we appreciate it.

#### **50:10 APPROVAL OF LICENSE AGREEMENT FOR USE OF RIDGE STREET EXTENSION**

**Village Attorney Stecich:** Christina Griffin and Peter Wolf appeared before the Planning Board at its last meeting. They needed site plan approval to put a parking area at the rear of their property. It was on the original site plan, but not the final approved site plan. The Planning Board did take a look at the Ridge Street extension and had some comments, but did not feel it was their place to take a vote or even make a recommendation on it because they did not need site plan approval of the extension, it just needed site plan approval of their property, which they got.

But in the course of their looking at it, they did suggest a few modifications. One was the gravel surface. The plan that they showed us was pretty much the whole width of even the paved part. The Planning Board suggested that that be narrowed to permit only one lane of traffic so that it was less inviting to be a road continuation, and that along the side vegetation be planted, and they had the boundaries of the vegetation. Appropriate signage should be installed at the northern end of the Ridge Street extension to indicate that this extension is open to the public, but not to motor vehicles except the motor vehicles going to 433 Warburton. I do not know whether it is in their plan now, but the plan they had before the Planning Board had a movable bollard that goes up and out of the ground that would be operated by the drivers, the people who live at 433 Warburton. The Planning Board did not like that because they thought it made it look too private, and suggested maybe they try it without the bollard, and if it did not work they could put the bollard in.

Christina has a new plan today. I have not seen it. Presumably it responds to their requests. I gave you a revised draft of the license agreement. Peter got back to me with a couple of minor changes: the name of the owner, the principal place of business. A couple were

somewhat more substantive, and Peter can raise them tonight. I would not incorporate those without the Board reviewing them. So we should see what Christina designed for the road.

**Christina Griffin, 433 Warburton Avenue:** This is a modified plan in response to comments made at the Planning Board meeting. Instead of having a full width of gravel, we looked at minimizing the width for access to the parking space at the back of our property. This will simply be a 10-foot wide driveway in the beginning, and then come straight in back of the parking area, with a small turnaround. We also looked at the amount of sun this area gets, and I think we can do the Permaturf. We experimented with that at the front of the property. That holds the root system of the grass below where the cars drive. We were so successful in the front, but we can do that up to a certain point only because there is so much shade here. This access driveway is now only 10 feet wide, so that a car would come in just to park in the back here and use this curved areas as a turnaround. These would be green spaces. This would probably look less like a road extension and, hopefully, would not encourage any traffic. The Planning Board also would like us to have a trial period for a few months to see if we can do without the bollard and simply have a sign that says No Authorized Vehicles or something to that effect.

**Trustee Quinlan:** This would be Exhibit A to the licensing agreement, I assume.

**Ms. Griffin:** Yes.

**Trustee Quinlan:** My last question, because you know I had problems with the bollard, is, who is going to ultimately decide whether the bollard is working or not? I do not think it should be you.

**Ms. Griffin:** This plan has a note that says removable bollard.

**Trustee Quinlan:** So you are saying there is going to be no bollard, we are going to see how it works out. After a few months go by, who is going to make the decision whether the bollard should be installed or not installed?

**Ms. Griffin:** I am not sure. We could come back.

**Trustee Quinlan:** I think that should be with either us or the Planning Board but certainly not the applicants because they want the bollard.

**Mayor Swiderski:** The point is well-taken.

**Peter Wolf, 433 Warburton Avenue:** I want to clarify one thing. The plan would have the bollard installed. We would not use it for a period that was agreed upon, and we are certainly flexible to some empirical test as to whether people are parking there or not. However you want to do that is fine.

**Trustee Quinlan:** You make a good point. How do we know if people are going to park there or not? I would suggest, since you own the property, if people park there, run out and take a picture. If you got a lot of pictures with dates on them, with strange cars past the point of the bollard, then I am willing to say maybe the bollard should be there.

**Mr. Wolf:** Right. But the thing would probably go to the residents because we are only there very occasionally and do not know whether people are parking there or not. It is when the residents actually inhabit, they would find out, they could take the pictures.

**Trustee Quinlan:** It is not a matter of who takes the pictures. It is a matter of us seeing a picture of your street and a car there. I think there is an easy way to determine if there are cars parked there, how many, and how often. The question is, who decides. I do not care if it is the Planning Board, or us, but it should be some official board.

**Village Attorney Stecich:** It should be the Board because it is not in the Planning Board's jurisdiction.

**Trustee Quinlan:** Here is what I suggest. If you decide, after a few months, that you need a bollard because you have the proof, pictures, put it on the agenda for Board discussion and comment and we will talk about it, and we will decide whether the bollard should go up. Is everybody OK with that?

**Trustee Jennings:** I agree with that. I do not think you are going to need a physical barrier operable by the owners of the property. Properly worded signage should do the trick. You are trying to get at the idea that nobody, including the owners of the property, are supposed to park their car in this straightaway. They are going to park in the two spaces that are on your property. This is only for them to manipulate their cars in and out of those two private property spaces. Nobody else is supposed to drive their car down there at all, and certainly not park there. So anybody that is parking beyond where you wanted to put the bollard and where the sign will be should get a ticket. It is not just a question of taking pictures. Somebody parks there, and blocks you in your parking spaces, you call the police and you have them towed. It is no good if you cannot get your cars out of your parking spaces. That is like somebody parking at the bottom of my driveway and trapping me in there. I would call the police. What is the difference here?

**Mayor Swiderski:** Because it is a paper street.

**Trustee Jennings:** No. The signage will say it is against the law to park here. You will be towed, whatever the signage says. It is our street. We can make that. Right?

**Village Attorney Stecich:** We have to agree on the signage. The signage has to be on the plan because you are responsible for putting the signs on. I think the Board should agree to it. It is a Village street. Once you put up signs that say No Parking, it could be enforced.

**Deputy Village Manager Maggiotto:** I thought it had to be in the Code.

**Village Attorney Stecich:** You are right. All the no parking places are listed. All the traffic regulations are in the code.

**Deputy Village Manager Maggiotto:** Which we could do.

**Village Attorney Stecich:** Right.

**Mr. Wolf:** That was the whole idea, exactly as Bruce described. It was only for egress and access. The parking was supposed to be on the private property.

**Village Attorney Stecich:** OK, but I do think we need to agree what is on the sign. The no parking ones are easy. But whether you want a sign at the exits of that driveway that says Residents Only, or whatever you want it to say, because that has got to be on the plan.

**Mr. Wolf:** It could just say Violators Will Be Towed.

**Village Attorney Stecich:** No, that is the no parking. I guess that is the only concern. Before they talked about a sign that said No Motor Vehicles Permitted, or whatever. Are you suggesting that by the fact that it is only this narrow 10 feet of gravel that nobody is going to want to go there anyway, and if they cannot park there they will not go there and maybe no other signs are necessary?

**Mr. Wolf:** You could have No Vehicular Access – Violators Will Be Towed.

**Trustee Quinlan:** You are not going to tow somebody that is just driving up and down. First of all, we are going to put No Parking, that is easy, by anybody. Just No Parking and, I guess, No Motor Vehicle Access.

**Village Attorney Stecich:** No unauthorized.

**Trustee Quinlan:** No Unauthorized Motor Vehicle Access. Because we certainly know the police are going to be able to use it and the ambulance.

**Village Attorney Stecich:** And the people who live at 433 Warburton.

**Trustee Jennings:** But it is an important clarification of understanding that the people who purchase your units should not park out here blocking their own two cars, and have a third car parking there. Then that would be you are allowed to park on street, nobody else is, which is problematic.

**Trustee Quinlan:** They should understand that they are only allowed to park on their property in the parking spaces.

**Trustee Armacost:** Which raises the issue we spent a lot of time on at the last Board meeting, this little zone becoming a private street rather than a public street. The drawing makes it look much more private and restrictive than it did the last time. It looks like you have got new curb. The discussion was what happens if something gets built further down. There is y property there that could eventually be buildable. Is this design somehow prohibiting that? I t wonder if any of those comments went to the Planning Board, or whether they made their decision totally independently of anything we said. In that case it feels very redundant.

**Village Attorney Stecich:** The Planning Board made no decisions about the street. They said it is not in their jurisdiction. It was before the Planning Board for something else. Christina, point to the part that was before the Planning Board. That is all site plan.

**Trustee Armacost:** So why is the design now different?

**Village Attorney Stecich:** Because they made some suggestions to Christina and she incorporated them.

**Ms. Griffin:** One thing was to increase the amount of greenspace.

**Trustee Quinlan:** There was a suggestion made by Trustee Armacost that the curb at the end not be a stone curb. We still see the stone curbs.

**Ms. Griffin:** No, the curb can be flush. Even the Permaturf needs an edge, but you can make that totally flush so you can drive right over it. It is the way you build it. You dig down. It can be flush. We mentioned that last time.

**Village Attorney Stecich:** No stone curbing should be on the drawing

**Ms. Griffin:** I can add that note.

**Trustee Armacost:** Now there is a curb up the side and on the other side, too. There are more curbs now.

**Ms. Griffin:** There was always a curb, whether it was gravel or Permaturf.

**Trustee Armacost:** But this is new. This down here is new, and this is new.

**Ms. Griffin:** Yes, that is right. That is in response to the Planning Board. They thought it would be a nicer trailway if we had more greenspace.

**Trustee Armacost:** But is it flush?

**Ms. Griffin:** Yes, it can be flush. It is a matter of detail.

**Trustee Armacost:** It is an issue of keeping it more street. It becomes a driveway versus a street the way it is currently designed. Jerry, maybe I am defending your point unnecessarily and you do not care anymore. But you seem to want to preserve it as a street of the Village, and this feels like it has shifted away from that and become more a private driveway.

**Trustee Quinlan:** It is a street of the Village. I want them to use it, but I also want to protect the Village and its street.

**Trustee Walker:** But we cannot have our cake and eat it, too. We want it to be a street but we do not want it to look like a street because we do not want people to use it as a street. The Planning Board's recommendation was ingenious because there was a lot of wasted area that you were paving in gravel, and it was, indeed, more of a street then because it was as wide as the rest of the street. But that is unnecessary. I do not think it has to look like a street. It is important that public access like pedestrians, bicycles be maintained, but we do not want other vehicles going down there. Pinching it down to 10 feet will not prevent everybody but will prevent most vehicles from driving through there.

**Ms. Griffin:** I thought it would be less attractive to people coming down if they saw a narrow passageway. Also, it would be more attractive because there are eight families in the building next door. I see the children playing there. I just thought it would be more attractive to the people in the neighborhood. I know there is someone who goes down to the

bottom of the street and does gardening there. So we have to decide what is most important. Originally I did see it as a street extension, so I thought maybe it would be all gravel. But now I think it might be more attractive to people living there if it looks more like a trail.

**Trustee Quinlan:** Which leads us to maybe another sign: Pedestrians Allowed But No Motor Vehicles, or something like that. Do we have too many signs now?

**Village Attorney Stecich:** It could be on the same sign: Pedestrians Allowed – No Unauthorized Motor Vehicle Access.

**Trustee Quinlan:** It is kind of like the Aqueduct. Everyone knows, and that is exactly what the Aqueduct says.

**Mr. Wolf:** The thing that struck me when the Planning Board suggested this was that by narrowing it, it would give pause to someone who was driving down, and they would then see that this is not just a continuation of a street. That pause, hopefully, would get them to read the sign and not go down there.

**Trustee Walker:** I am not sure who, whether it is the people in the multi-family building or others on the street, but they have had vegetable gardens on that site. I do not know if they have had them in the last couple of years, but I have seen vegetable gardens there. That is another possibility. They could turn the edge into a community garden.

**Ms. Griffin:** It is very shady there, but maybe some parts.

**Village Attorney Stecich:** There are a few things that have to be on the plans. The plan has to indicate that the curbs have to be flush. It has to indicate what signs you are going to put on there. You have to take out the bollard. I will put a provision in the draft agreement that says if, after a certain period of time, it is determined that a bollard is necessary, the property owners can come to the Board of Trustees and the Board of Trustees can determine whether they want a bollard.

**Trustee Jennings:** Peter, did I understand you to say before your notion was put the bollard in but do not use it?

**Mr. Wolf:** Yes.

**Trustee Jennings:** That seems to me to be a bad idea. You should put it in only if you get permission to do so.

**Mr. Wolf:** If it is in the agreement, that is fine. There was one other item that we had discussed, and that was that I had gone to the insurance company with the request from the draft agreement and they said that our policy is \$1 million and virtually all policies that they know of are for \$1 million rather than the \$3 million mentioned there. It would be a substantial expense to us if we had to increase it to \$3 million. I think \$1 million is standard for municipalities so I would like that changed to \$1 million.

**Village Attorney Stecich:** He is referring to paragraph nine, where it says: the licensee, during the term of the agreement, maintain general liability insurance in the amount of \$3 million. I generally put \$3 million in agreements just because it has been \$1 million for so long. I do not think it is a realistic number, but Peter is probably right that generally people agree to \$1 million insurance. The county, in its agreements with us, requires us to provide \$1 million worth of insurance. But I did not feel comfortable making that change. It is up to the Board whether you want it be \$1 million instead of \$3 million.

**Trustee Quinlan:** I agree with Marianne. One million is not what \$1 million used to be, but the common practice is \$1 million.

**Village Attorney Stecich:** So you are OK with \$1 million?

**Trustee Armacost:** Yes.

**Trustee Walker:** Yes.

**Trustee Jennings:** Yes.

**Mayor Swiderski:** So in terms of process.

**Trustee Quinlan:** You have to draft the agreement again.

**Mayor Swiderski:** Is it draft, or can we say license agreement as attached and amended?

**Village Attorney Stecich:** Yes, because the only changes I need to make to the license agreement are changing the \$3 million to \$1 million, changing the address, and adding a provision about the bollard, that they can come back...

**Mr. Wolf:** We are amenable to that.



**Village Attorney Stecich:** ...to the Board of Trustees with a request to put in a bollard or a similar device. So that gives you entire control. And then it will come off the plan. And obviously Exhibit A has to be revised.

**Trustee Armacost:** Did you include the signs in that?

**Village Attorney Stecich:** I will repeat. The drawings have to be changed. It will be Exhibit A, which is part of the license agreement, to include the signs, both the No Parking signs and the sign that says No Unauthorized Motor Vehicle Access - Pedestrians Allowed, and that the curbs have to be flush and that removable bollard has to be taken off the plan.

**Trustee Armacost:** OK.

**Trustee Quinlan:** Good.

**Mayor Swiderski:** Then let us vote on this.

**Village Attorney Stecich:** For the next meeting I will draft an amendment to the vehicle and traffic law about the no parking saying on the Ridge Street extension. You could call for the public hearing tonight.

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

**WHEREAS,** Christina Griffin and Peter Wolf have requested permission from the Village of Hastings-on-Hudson to improve a portion of Ridge Street leading from the paved portion of Ridge Street to their property at 433 Warburton Avenue ("Ridge Street Extension" and to use the Ridge Street Extension for the purposes of access and egress to 433 Warburton Avenue, and

**WHEREAS,** Ridge Street Extension is an unlisted action under the State Environmental Quality Review Act (SEQRA), and

**WHEREAS,** the Board of Trustees determines the action will have no significant impacts on the environment, now therefore be it

**RESOLVED:** that the Board of Trustees issues a Negative Declaration under SEQRA, and be it further

**RESOLVED:** that the Board of Trustees approves the license agreement as attached as amended for the use of Ridge Street Extension for access and egress to property at 433 Warburton Avenue.

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

On MOTION of Trustee Jennings, SECONDED by Trustee Armacost with a voice vote of all in favor, the Board of Trustees scheduled a Public Hearing for Tuesday, June 15, 2010 at 7:30 p.m. to consider an amendment to the Village Code, Chapter 282 Vehicles and Traffic to prohibit parking on the Ridge Street extension.

**Mayor Swiderski:** Chief, what is the width of a pumper?

**Fire Chief Gagliardi:** The width of a pumper is eight feet.

**Mayor Swiderski:** So a 10-foot entryway is enough for you to get your pumper in there if you have to.

**Village Attorney Stecich:** No, that would not be fire access. They have an approved house now without any access from Ridge Street. Their access for firefighting is going to be on Warburton, which is what it was before.

#### **51:10 DECLARATION OF EXCESS VEHICLE AND AUTHORIZATION TO SELL**

**Fire Chief Gagliardi:** I know \$1,000 does not seem like a lot of money for a vehicle, but this is a 21-year-old vehicle that has no use to us anymore. In 2008, when we got the new ambulance, we tried a trade-in. But there is no market for vehicles like that anymore. At that time the salesman said you would be lucky to get \$2,500 to \$3,000, and that was over two years ago. It has been advertised, we have been looking around.

**Trustee Armacost:** This is a fantastic use of it. Having been to Ecuador and other countries like that, believe me they are happy to have your 25-year-old or however old it is ambulance.

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

**WHEREAS,** the 1989 Medtec Ambulance is no longer serviceable, and efforts to sell the ambulance have not been successful, and

**WHEREAS,** a Tennessee based charity called Good Neighbor Foundation and a New York based charity called Mutual Aid Americas, Inc., have offered to purchase the ambulance for \$1,000 and subsequently donate the ambulance to the Cuerpo de Bomberos de Montecristi (Montecristi Ecuador Fire Department), now therefore be it

**RESOLVED:** that the Board of Trustees declare the 1989 Medtec Ambulance an excess vehicle, and be it further

**RESOLVED:** that the Board of Trustees authorize the sale of the vehicle for \$1,000 to the Good Neighbor Foundation and Mutual Aid Americas, Inc.

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

**52:10 ADOPTION OF CLIMATE SMART COMMUNITY PLEDGE**

**Trustee Jennings:** This resolution is detailed and says a lot. Let me add a couple of points. In our Sustainability Action Plan, Section 1.1, we call upon ourselves to do exactly this, so that will be something we will be able to check off. Joining this Climate Smart Community, a community of New York State, does not call upon the Village to do anything that we are not already planning to do in our Sustainability Action Plan. This is a public affirmation of what we have already publicly affirmed once with the sustainability plan. The benefits of it, besides making a statement to the rest of the state of New York as well as about our own values, is that as a member of this community we will receive notification of state and federal assistance for low-carbon technologies, efficiency improvements, and energy conservation, and get priority for state-funded programs. So there are some benefits to

joining this Climate Smart Community in terms of our competitiveness in getting grants to do the work of sustainability that we want to do in the Village. The Conservation Commission has looked carefully at this program and they have endorsed our joining it. They recommend to the Board of Trustees that we do adopt this resolution and become one of however many, 50 or 60, cities and towns and villages around the state that have already joined. So I recommend that we do adopt this resolution.

**Trustee Armacost:** I think it is fantastic.

**Mayor Swiderski:** I agree. It is not just a symbolic. It commits us to the process in which we are already underway, and has some tangible possible side effects that we could enjoy.

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

**WHEREAS,** the Village of Hastings-on-Hudson believes that climate change poses a real and increasing threat to our local and global environments which is primarily due to the burning of fossil fuels, and

**WHEREAS,** the effects of climate change will pose a danger to our health, infrastructure, economy and livelihoods, farms, orchards, and ecological communities, including native fish and wildlife populations; allow for the spread of invasive species and exotic diseases; and reduce drinking water supplies and recreational opportunities; and

**WHEREAS,** we believe that our response to climate change provides us with an unprecedented opportunity to save money, and to build livable, energy-independent and secure communities, vibrant innovative economies, healthy and safe schools and resilient infrastructures; and

**WHEREAS,** we believe the scale of greenhouse gas emissions reductions required for climate stabilization will require sustained and substantial efforts; and

**WHEREAS,** we believe that even if emissions were dramatically reduced today, communities would still be required to adapt to the effects of climate change for decades to come, and

**WHEREAS,** on April 4, 2010 the Village Board of Trustees approved a Sustainability Action Plan that outlines actions supported by the Village government that will promote a more sustainable form of living through energy conservation, reduction of greenhouse gas emissions into the atmosphere, and protection of biodiversity, ecosystem services, and the natural beauty and characteristics of our local landscape and watershed, now therefore be it

**RESOLVED:** that the Village of Hastings-on-Hudson, in order to reduce greenhouse gas emissions and adapt to a changing climate, pledges to combat climate change by becoming a Climate Smart Community.

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

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

**Mayor Swiderski:** I did not mention at the beginning of the meeting that Mrs. Maggiotto is sitting here and not the Village Manager because he has been down and out five days now with a virus he cannot shake. It is the first time that he has been sick for a meeting. We wish him the best, and in his stead are you providing a report?

**Deputy Village Manager Maggiotto:** No, I had not planned to.

### **BOARD DISCUSSION AND COMMENTS**

#### **1. Amendment to Village Code Chapter 193 Noise – Music In Restaurants**

[Trustee Quinlan leaves dais]

**Trustee Armacost:** I asked Mr. Frobel at the last meeting how often people were fined under the old law.

**Deputy Village Manager Maggiotto:** Yes, I did ask the Chief today, and he said no one has ever been fined. He also said that of the 19 instances that Fran mentioned last time...

**Trustee Armacost:** Over the two years.

**Deputy Village Manager Maggiotto:** Yes. That only one of them was a repeat call.

**Trustee Armacost:** And did he mention whether they related to the same establishment or to different establishments? And only one repeat means only one time did the same person call again? Is that what that means?

**Deputy Village Manager Maggiotto:** I thought he meant that only once did they go back to the same place. I thought he meant different locations.

**Mayor Swiderski:** No, there are not 18 bars.

**Deputy Village Manager Maggiotto:** I can find out. But it is not only bars. People call because there are parties or loud music. There are all kinds of noise complaints that are not emanating from a bar.

**Trustee Armacost:** Well, it depends. If it was 19 complaints related to the ordinance that is under discussion, then it related to bars. Because that ordinance only relates to bars. If it was 19 noise complaints, then it is different.

**Mayor Swiderski:** Page 37 from the last minutes: There were about 19 occasions that were reacting to a call or for excess of noise after 12 o'clock to diverse establishments. That is Fran quoting the Chief. And then Trustee Walker asked for a clarification: To different establishments, so not just one. And Village Manager Frobel responded: Not just one.

**Trustee Armacost:** And then I say, Our law. So it is implying that it is a law relating to bars.

**Mayor Swiderski:** Yes.

**Trustee Armacost:** I do not know how many bars there are any more.

**Village Attorney Stecich:** But the noise law is also our law. So if he got a noise call, it is just as likely to be a noise call under the performance standard section, I think.

**Trustee Walker:** But I think he said establishments. That sounds like a restaurant or a bar as opposed to a residence or some other locale within the Village. So is it clear?

**Trustee Armacost:** Basically, it is unclear. I do not need to know.

**Trustee Armacost:** Susan is calling the Chief to ask him.

**Mayor Swiderski:** Marianne, you go ahead. I am going to hold you responsible.

**Village Attorney Stecich:** All I did was write down what you wanted. I am not a proponent one way or the other. The peculiar thing is you have this section called noise, but most of the regulations of noise were under the performance standards. I think you should pull them out and put them in noise. They would then be part of Section 193. Most of it is just the same. I would move the stuff from the noise section of the performance standards. There are no changes on the first page other than to add a definition of dBA, which is a particular decibel measurement. The rest of it follows what is there now. On page three, I added a notwithstanding the other section because it should have been in there. That is not really a change related to what is under discussion now.

But 193-4 lists prohibited noises, and it says these things are prohibited. So for B, one of the things is: the operation of any radio, television, phonograph or other musical instrument in such a manner, with such volume, so as to annoy or disturb the prior comfort or repose of persons in any residence. That is prohibited noise in there now. But you would have to, if you were going to use Peter's approach, say except as provided in the next section, because the next section would permit it in bars and restaurants. The last section has permitted noises and you could see some of the permitted noises are noises for lawnmowers of certain size, or the government or public utility. And then you add to that: music of any kind, whether live or electronically produced, in a restaurant or bar in a commercial district provided that the music does not exceed the decibel levels listed below.

When I was reading it again before the meeting, it occurred to me that there is a hole there, and there should be a third column which I wrote up and printed and forgot to bring. . But the third column would say 2 a.m. to noon, and then it would be 45 dBA all the way down. Then it had: Music shall be measured at the property line of the nearest residential use.

**Trustee Armacost:** Is property line defined somewhere? Is it inside or outside?

**Village Attorney Stecich:** There is an earlier section in the Code that says where the measurement is. On page three, where noise measurements are supposed to be taken: Noise originating on business or commercial property shall be measured at the property line of the

nearest residential property. So you have to assume it is outside. The measurement would be taken outside.

**Trustee Walker:** But if it is a party wall.

**Village Attorney Stecich:** The wall would be, if that is the property line.

**Mayor Swiderski:** Right. But a mic inside the bar does not make any sense. It has got to be inside the residence on the other side of the property line. The line theoretically runs down between the two buildings.

**Village Attorney Stecich:** Between the wall.

**Mayor Swiderski:** On one side. It is within the residence on the other side.

**Village Attorney Stecich:** That could be clarified.

**Trustee Jennings:** Several people, Niki especially, made a point last time about the virtue of having a prohibition that is only triggered by a complaint. I was wondering if there was a way we could state this such that if someone complains, then the investigation of the complaint would involve a decibel reading in their premises just to see if they were complaining about something that was actually a violation of our law. So it would combine the complaint-triggered aspect with the more objective standard aspect, which was what we were talking about last time; not leave it up to the police to have to make a subjective judgment in their premises about whether it was too loud or not. Would that violate the spirit of what you are trying to incorporate in the rest of the Code? Would it be too big of a difference? The rest of the Code talks about noises that are just prohibited, period, but not whether or not they are complained about. But this one would be.

**Village Attorney Stecich:** Are you saying write into this?

**Trustee Armacost:** The dilemma I have with this is it can be anyone. You can be living where I live on Overlook and have an objection to this.

**Trustee Jennings:** You could make a complaint.

**Trustee Armacost:** Yes, you could make a complaint just because you know. Maybe you just do not like that band, you know it is playing that night, and you are going to call up and say I have an objection, under the way this is worded. To me, the point of this is to help people who are having difficulties communicating with one another ease that. Law is always



cumbersome to help people be civil with one another. But what you want is the person who is discomfited in some way to be the person who makes the complaint, not just anyone.

**Village Attorney Stecich:** I might know a way to do it. If you took H, music of any kind... blah, blah, blah, if the music disturbs the repose, blah, blah, blah, and then you say music that exceeds the levels presumptively. You could do it that way. You see, if it disturbs the repose then it is only if somebody is complaining and saying it is disturbing them. Then you say that it presumptively disturbs the repose if it exceeds these decibel levels.

**Trustee Jennings:** You are taking it in a slightly different direction, though. My suggestion was to get away from the ambiguity of where property lines are. The person who is making the complaint, where that person is hearing the noise is where you want to take the readings.

**Village Attorney Stecich:** OK. I see what you are saying.

**Trustee Jennings:** If we get into disturbing the peace and tranquility of the people, then we are getting back to the subjective problem. We might as well go with Niki's much simpler approach. But simply making a complaint is not, by definition, that it is violating the law. That is the point. Obviously they are disturbed or they would not make the complaint, but that is not enough. There has got to be something more. I think, Niki, your example would be better instead of saying, well, I did not like the band. Suppose you are just driving past on the street and you hear what you think is a very loud band coming out of an establishment. You could presumably call the police, and say that is too loud on the street, go check it out. Whereas what we were trying to do is not trigger that sort of complaint, but only those who live nearby and were trying to cope with peaceful living as well as having the entertainment in the neighborhood. So I do not think it should be out on the street, I do not think it should be an arbitrary property line. I think it ought to be where the complaining problem is.

**Village Attorney Stecich:** Shall be measured at the residence of the complaining party.

**Trustee Armacost:** Then you are pretty much at my language. The only difference between the two is that I have a bit of objection to the decibels because first of all I have never heard them so I do not know what they are. Have you guys actually heard the decibels yet? No one?

**Mayor Swiderski:** Fran did poke around and come back to me to say that while other police departments have a decibel reader he did not encounter one that ever used it.

**Trustee Armacost:** That is the point that I am making. We are creating a lot of language and drama around helping people to be civil with one another. We can get into the details of

this decibel or that decibel, but really it is about the person who lives next door; protecting that person's right to be able to go to sleep at night. That is the party who is affected, the people who are right next door. Not people in another part of town or people who happen to be wandering by or people who have an objection to a particular type of music. You do not want the law to incorporate all of that kind of stuff. I do not think that is the intention, but maybe it is. I do not know.

**Trustee Jennings:** The phrase that you just suggested gets at the point that I was trying to make.

**Village Attorney Stecich:** It is not too artful, but I think it might work.

**Trustee Jennings:** I had a question myself about the decibels. I do remember watching the meetings and being glad that I was not on the Board at the time. Everybody seemed to think that they needed to put the decibel stuff in the leaf blower law, so I wonder why that was OK to do that for leaf blowers but it is such a big deal problem to do it for music. The other thing is, Marianne, your draft, the way we have come up with these decibel columns here for music, it does not look at all the same as the other columns of data that we have earlier in the law. So I am thinking this is apples and oranges in the way this whole law, from section 193-3 versus section 193-5, they are treating the data of decibel levels very differently. That seems to me a problem.

**Village Attorney Stecich:** I have no idea. I do not know what decibels are. All I did was take the existing law and took the numbers Peter gave me and put them in.

**Trustee Jennings:** But we will have to fix that. Right?

**Village Attorney Stecich:** In typing this up I did notice the numbers did not go together at all. With the leaf blower law, nobody really paid attention to whether those other numbers made sense. It was just assumed they made sense, the old decibel things in the Code. But definitely that is something that has to be looked at closely. I think those numbers might have come from one of the other codes, the numbers you gave me, the 65/45 decibels. They may be outdoor measurements. They could be higher than if somebody is measuring from inside the apartment, because 65 dBA inside an apartment is going to be a lot louder than if it is 65 dBA outside. So I think those numbers could be high, and somebody is just going to have to look at them.

**Trustee Armacost:** And that is why the definition of property line becomes a real fairness issue.

**Village Attorney Stecich:** Property line would not be in there anymore.

**Trustee Armacost:** This way of framing it makes it very difficult to do that kind of measurement. So if it is inside the room with the adjoining wall.

**Village Attorney Stecich:** Well, it is not necessarily adjoining.

**Trustee Walker:** Across the street?

**Village Attorney Stecich:** It could be across the street. That is where I think it should be, the complaining person. The next door neighbor may not care, but it is so loud and you are two doors down maybe it does bother you because you sleep with your windows open or something. So to say it should be measured from the residence of the complaining party, I think that might make it work. And somebody who lives far away, obviously it is not going to read very high.

**Trustee Armacost:** So if you are on Mt. Hope you hopefully will not be able to hear it.

**Village Attorney Stecich:** If it is registering that on Mt. Hope, then it is too loud.

**Trustee Jennings:** I do not think the leaf blower decibel requirements have triggered the police running all over the Village with their meters. It has not worked that way. As I remember the debate and deliberation in the legislative history, it was supposed to give the companies that run these yard services a standard, to say tune your machines in such a way that they are not louder than this. Apparently, there have not been a huge amount of complaints, not a huge amount of readings have been taken by our police. It seems to be working OK and it is doing what it is supposed to do: it gives everybody fair advanced notice of acceptable behavior and, hopefully, everybody will pretty much attune themselves to that and there will not be that much of an enforcement issue. But if you do not have any standard, then you do not know what is too loud or what is not too loud. You just have to kind of let it fly and see who complains, and that is kind of arbitrary, it seems to me.

**Mayor Swiderski:** That is why we are here. That is why we are doing this.

**Trustee Armacost:** Part of it has to do with if you are being inundated with complaints, then you know you have got a serious problem. But if you are not being inundated with complaints, and they are being resolved fairly effectively by people independently upline, the real issue here in this situation was the way it was enforced. That is my concern with this language, because this is not triggering language, it is not triggered by a complaint. It has exactly the same problem as the last law has which allows it to be triggered at any time by

anyone. That is the problem we have. It allows for a scenario where somebody can just sit outside the bar.

**Mayor Swiderski:** Agreed.

**Village Attorney Stecich:** Not anymore. Not if you say that it is measured from the residence of the complaining party.

**Mayor Swiderski:** Right. We made that modification.

**Village Attorney Stecich:** But I think everybody has agreed to that change. So the person sitting outside the bar lives two blocks away. You go to his house, and it does not register.

**Trustee Armacost:** For me, the problem is that it is setting up a very strict situation. Say, for example, I am in the adjoining room and I have got a splitting migraine headache. Normally I do not have such a problem, and normally 65 would not be such a big deal for me. But that night, it is a real problem. Because of this law, if I say to the proprietor, I am really sorry, I have got a migraine tonight, is there any way we could have a civil agreement, he can say, No, it is 65, that is the law. This does not allow for that. Hopefully, it has not got to that stage. But the way it was worded before allowed for that kind of scenario. And this is pushing into a strict enforcement: if you are 64 you are fine, if you are 66 you are not.

**Mayor Swiderski:** Whether it is under the old version of the law, your version of the law, or your reformulation here, ultimately, without a hard number, it is good will on both parts. At least the hard number allows for a hard number. It is some objectivity. You hope and assume that, good will being what it is, the establishment owner will understand, not pull out the law and say, It says 65 here, I will crank it down.

**Trustee Armacost:** I think we are in that place already. I do not think we need 65. It is like the leaf blower situation. I think people do know what is reasonable ultimately. But if everyone wants to go with that, we should go for it. It is important to hear what 65 is, and to decide specifically which room it is going to be measured in. But I do not think this is going to resolve the problem. We had this last time, which has now been resolved because we do not have policemen sitting outside the bar anymore. No one was fined in this situation. So the law was not actually enforced. There was no penalty.

**Mayor Swiderski:** No. Economic cost was incurred. You do not have to have a fine to incur economic cost.

**Trustee Jennings:** I am not sure we are back to a comfortable place. If I owned a bar I am not sure I would feel that I knew I had permission to play music after midnight. Somebody pointed out the law to me, it says midnight. The fact that I am not being reprimanded by the police does not necessarily mean that I feel comfortable going until later. I do not think the thing has been resolved or repaired at all.

**Trustee Armacost:** With the way that it is being redrafted.

**Mayor Swiderski:** No, in the current situation.

**Trustee Jennings:** No. Status quo.

**Mayor Swiderski:** Right now, any establishment owner remains vulnerable to a complaint, reasonable or otherwise, from a resident in the surrounding area. The definition of repose and rest, and whatever other terms there are, are subjective.

**Trustee Jennings:** The clock time is written into the law. The numbers are there.

**Trustee Walker:** My biggest concern is that we not make it illegal to play music after midnight. We do not want to say that.

**Mayor Swiderski:** But we were not before.

**Trustee Walker:** We were not before, but it was being interpreted.

**Mayor Swiderski:** But we allowing an individual's judgment. And in this particular case, those residents may be gone but the next one might be hypersensitive.

**Trustee Walker:** The objective criteria are critical in order to allow both parties to come to some kind of agreement if, in fact, they cannot in an amicable way, friendly way, work it out and resolve it in other ways.

**Mayor Swiderski:** I expect the first call will always be between the resident and the bar owner, regardless of a law or not.

**Trustee Armacost:** I do not think that happened this last time.

**Mayor Swiderski:** I cannot speak to that, but you hope.

**Trustee Armacost:** Of course. You hope that the law does not ever get invoked.

**Mayor Swiderski:** Right. But if it is, in fairness, you assume at the point it is invoked there is always a risk of bad blood. You do not want to land up relying on subjectivity at that point. You do not want one person being able to shut down an establishment after midnight because they have decided they have it in for the owner. And, vice versa, the owner pushing his luck every Saturday night because nobody is complaining. Something about hard numbers ultimately give you something to rely on.

**Trustee Walker:** But there may be some people who would maybe be shy or intimidated and might be reluctant to complain.

**Mayor Swiderski:** Well, 19 have called the police. So that is what tends to happen.

**Trustee Walker:** What I mean is that setting some regulations means the bar will start to play the music a little lower at midnight whether there are any complaints, or not. We are sending the signal that the level is going to go down at midnight. That is important. This is the only way we have our cake and eat it, too. We get the music after midnight at a level that people can tolerate, presumably. About the levels, the earlier sound levels are taking into account frequency, which might be a good idea particularly with the type of music that we have heard can be really annoying, which is often the low-impulsive frequencies. Actually, high frequencies, of course, can be even more annoying. But these are not, really, referring to music. So the other table of noise levels is really referring to high-pitched noises like somebody sawing or somebody screaming. But we might to look at frequencies relative to music. I hate to get into this.

**Mayor Swiderski:** How about we first try this before I begin to weep that we are spending too much time on this, and try the dBAs first.

**Trustee Walker:** That is fine.

**Trustee Armacost:** Can we listen to them before we pass any laws?

**Mayor Swiderski:** Yes. We have got to get Fran to get some willing police officer to cough up his device and help us demonstrate it against sound sources.

**Trustee Armacost:** And can we make sure that there is a triggering complaint?

**Mayor Swiderski:** Yes.

**Trustee Jennings:** The trigger determines the locale where the reading will be taken.

**Village Attorney Stecich:** You want something in here that says if somebody complains, blah, blah, blah?

**Trustee Jennings:** I think that is what we are saying.

**Trustee Armacost:** You cannot just have people wandering around measuring and then calling up the Police Chief.

**Trustee Walker:** That is the part that I think is unnecessary. I want to send a signal to everybody that noise levels should go down every night.

**Mayor Swiderski:** I think the triggering event should be measured at the property line of the complaining party. If the police get a call, logically the question will be where do you live. They can gently describe that it is none of their business at this point in time if they live across town. The implication is if there is a complaint.

**Village Attorney Stecich:** To put it in context, I just opened the property maintenance law. There are lots of provisions in the code that do not come up unless there is a complaint. Property maintenance says the grass has to be kept a certain depth. Nobody goes around checking that everybody's grass is cut to a certain level. But if a neighbor cannot stand looking at waist-high grass, they will complain to the Building Inspector.

**Mayor Swiderski:** We have a grass law?

**Village Attorney Stecich:** There is property maintenance, or you have to keep your property disposed in a clean and sanitary manner of all garbage, refuse, and debris. Nobody goes around looking for that unless somebody complains. It is endemic in a lot of the laws we have. I would feel uncomfortable writing just in this law if there are any complaints we should do this.

**Trustee Armacost:** But how can you measure it, then?

**Mayor Swiderski:** But you are technically doing that by that sentence about the complaint.

**Village Attorney Stecich:** Yes, that will stay in there, where you are measuring. You are measuring from inside the residence of the complaining party. It is there, but it is not saying this is only enforceable if there are complaints. Lots of laws are only enforced if there are complaints.

**Trustee Armacost:** And it is very clear that it is the residence, or is it the property of the complaining person?

**Village Attorney Stecich:** The residence.

**Trustee Armacost:** Who is incorporated into it? Because if you say residence of, the person has to live there. It has to be affecting them personally. If you property of, the person can live somewhere else.

**Village Attorney Stecich:** I would think that is what is relevant is the residence. The only thing that would exclude it, and I do not think it is an issue, is if it were a neighboring business. But I cannot imagine a neighboring business having a problem because most businesses would not be open that late. So that probably would not be an issue.

**Trustee Armacost:** What if it is a folk bar next to a rock bar?

**Village Attorney Stecich:** I do not know.

**Trustee Jennings:** Does resident necessarily mean residence?

**Village Attorney Stecich:** That is what I have, residence.

**Trustee Jennings:** The people who are dwelling in a place who want to do business, or have enjoyment of whatever it is. Why could it not be an adjacent business that is also open at night?

**Village Attorney Stecich:** I think residence usually implies the place where you are living.

**Trustee Jennings:** OK, so a folk bar cannot complain if they are being drowned out.

**Village Attorney Stecich:** Yes, they are just going to have to work it out.

**Trustee Jennings:** That is right: the battle of the bands.

**Village Attorney Stecich:** This is so unlikely. I guess you could think of a lot of things, but if you are comfortable you can settle on the numbers. Once you get settled on the numbers, try it. This is not a lot different than what you have now. It is not like you are making a huge change.



**Mayor Swiderski:** So the next task is to get a meter and a test so we are comfortable with these numbers, but adjust them accordingly. Then we will have a final draft.

**Trustee Jennings:** Have a public hearing on it?

**Mayor Swiderski:** A hearing and decision whether we are moving forward, or not. Sue, if you can reach out to Fran to corral some department into providing a meter.

**John Neithart, 1116 Warburton Avenue:** There was some conversation at the beginning, just to alarm you a little bit. There seemed to be no distinction made between noise and music. There is a big difference between rowdy people on the street at 1:30 in the morning, and the music coming out of an establishment. I just wanted to make sure that was clearly defined in the whole thing. Thank you for your work on this.

**Trustee Walker:** There is a distinction.

**Mayor Swiderski:** It says music.

**Eileen Quinlan, 39 Hillside Avenue:** I ask that the simulation be known to the public so the public can come down and hear it. You are talking about law that is happening in other towns. Before you sit up here and say inside the residence, outside the residence, this is already on the books in many towns. We are talking off the top of our heads here. So let us go to places that use this law, and are they measuring on the property line or are they going into the bedroom? Have we asked other towns?

**Village Attorney Stecich:** I have read so many laws on this, mainly on the measurement, to give me some help on the measurement. They are all over the lot on where to measure. I think there has been enough discussion here that we have a sense of how the Board wants to go.

**Ms. Quinlan:** So all these towns that have these decibel levels do not talk about whether you are taking it on the property line or up in the bedroom.

**Village Attorney Stecich:** I am not saying all the towns. I am not saying they do not. They do, but they are all over the lot.

**Ms. Quinlan:** It would be interesting to see. Maybe when we have the simulation we will be able to appreciate that more.

**Village Attorney Stecich:** Yes. I think a lot will come out from that. When you are inside and then measuring it from the next place, and you are turning the music real loud, I think you will see.

**Ms. Quinlan:** Because I think some of the people that have come before you do not live adjacent to a property. They are complaining about the noise that is coming across.

**Trustee Armacost:** Not the same. Marianne, in your researching I think it is worth talking to some of these municipalities about how they have enforced it, what the pros and cons are, whether they are regretting some of the laws that they created that it is difficult for them to enforce.

**Mayor Swiderski:** I am regretting it already.

**Village Attorney Stecich:** That should be something for the Manager to do.

**Mr. Gonder:** I heard you say the police no longer park in front of the bar. Apparently that may have been a problem. But this law worked for 70 years, and you want to get into the decibel things again. If your law worked for 70 years, and people complain, then the police could go and ask them to quiet it down. It is like the leaf blower. You rush into something, and all of a sudden Trustee Goodman two weeks later says hold it, we forgot about senior citizens or people that have handicaps. We have got to change the law so they can use a leaf blower. I think you are rushing into it. You should think a lot. Hastings is unique. We do not give a damn about Dobbs Ferry, Ardsley, Irvington, Tarrytown, Greenburgh. You should make your own law. Something that worked for 70 years should still work. If somebody complains, a resident, I cannot sleep or whatnot, then the police should go there and say quiet it down, please.

**Mr. Skolnik:** Seventy years ago they did not have amplified bass. So with due respect, there have been some differences. I am still uncomfortable at this point with the emphasis on the trigger mechanism, which has been stated even more strongly this time. That needs to be thought through a little more, because there are situations where that imposes a significant added burden on the complainant. If you are to the point where you feel compelled to make a complaint, and then you have to host a police officer in your home, the pressure under those circumstances is so much against the complainant that I do not think that is realistic. I agree with Eileen Quinlan. You have to think seriously about what the implications are of where you are measuring.

**Janet Mercaldi, 465 Broadway:** This law worked for a long time and no one ever had any problems with it. Someone complained and they happened to be in a position of power, and

I think that we all know who that is. That is why we are all sitting here today. I think that if you recuse yourself from an issue, then that should include your family also. I do not think you need to change anything about this law. I think everything worked perfectly fine for a really long time.

[Trustee Quinlan returns to the dais.]

## **2. Designation of Village Poet**

**Trustee Armacost:** I was asked to do research on criteria that had been advanced by other groups that have chosen poet laureates. Poet laureate is an honorary title given to a person who has demonstrated excellence in the literary arts. Usually the first criterion is that the person is a resident of that place. What was interesting was to see the range of years. One state had one year; another borough had 10 years. The question for us is how many years do we need the person to have been a resident of Hastings. Another thing that comes up is that the person has to remain a resident. If you leave Hastings, you have to give up your mantle. Another one that comes up periodically is whether there is an age specification. Sometimes it has to be age 21, but there are also youth poet laureates in certain places. I do not know whether we want to have a criterion that it has to be over 21, or whether we would be willing to accept younger poet laureates.

In pretty much every case the person has to be a published poet – not self-published – who has made some significant contribution to the literary community. That is the way it was framed by one organization. Another group identified that it was important to be able to assess the excellence of the candidate's work, that the person had published a significant number of works, and that the person had a reputation as a poet of stature.

**Mayor Swiderski:** How many are living in Hastings?

**Trustee Armacost:** How many poets do we have that fit into that category? I do not know. The person has to be active in the poetry community. That is something that is consistent with all the places I looked at. Another issue is how long the person serves. Typically, in the U.S., a person serves for two years. That can be a renewable post, although for the poet laureate of the U.S. it seems that there is a shift after two years. I am used to having a poet laureate for life, which is the way it is in England. Greenburgh has the provision of two years. But the first poet laureate served for four years so that must have been a renewable term. The final qualification is that the person is willing and able to promote poetry and perform the duties of poet laureate. Then there is a set of duties outlined, most of which relate to promoting poetry and/or literacy all year round, including during National Poetry Month; making public appearances at town hall meetings and sponsored events; and in one

case, the person was required to compose an original poem in honor of that state, which I thought was rather lovely. I do not know if we want to go to that level. In some cases a poet could nominate him or herself. In other cases, the poet had to be nominated by someone else. In a bunch of cases, the arts commission presented a set of nominations so it was an arts commission that selected the person. Sometimes they created a special poet laureate advisory committee that was made up of poets that selected the other poet. In other cases it was the Board of Trustees, or the equivalent, who made the selection. So there are a number of things for us to decide on and I do not know how you want to proceed, if you want me to just make some decisions myself and present them.

**Mayor Swiderski:** Yes, excellent.

**Trustee Quinlan:** That is what I was going to say, too. I was going to respectfully suggest to the Mayor that he put you in charge of deciding what the criteria would be.

**Trustee Armacost:** Lovely. So if I could then ask two bits of input from you. How long do you think the person should be resident in Hastings? I think one year is too short, 10 years may be too long. Five seemed reasonable, so does that seem reasonable to everyone?

**Mayor Swiderski:** Yes.

**Trustee Armacost:** And do any of you care whether there is an age limit, or we just will not mention age. Do you feel it should be a two-year term that is renewable? Does that seem sensible?

**Trustee Quinlan:** Just like our terms, two years.

**Trustee Armacost:** I think I can come back with something next time. I would like to thank Llyn Clegg, who was the inspiration behind this, and Jerry for re-reminding us after we had raised it and then forgot it a little. Thanks to both of you who really made this happen, and to all of you for being so helpful in this last set of discussions.

**Trustee Walker:** I would like to see the poet laureate be the guest producer of our literary event at Friday Night Live. We do not have to put that in as the criteria, but it would be a great thing to have, somebody who could oversee something like that.

### **3. Update on Waterfront**

**Trustee Quinlan:** There was a meeting May 26 at the Village. We had three representatives from the DEC, three representatives from Riverkeeper, the Mayor, myself,

the Village Manager, and Dick Bromwell, our consultant from Malcolm Pirnie. A lot of ground was covered in terms of how the technical meetings have gone and the remediation of the waterfront by BP/ARCO, the 28 acres in the north. It was very useful. The most important thing was that after the meeting I insisted politely that the members from the DEC accompany me out to Fulton Park to our 9-11 memorial and look at our waterfront that had no buildings on it. They were just blown away. They could not believe what it looked like. I thought it made a very good impression on them. I am hoping that this will spark everyone's interest and hard work to resolve the issues that remain to start the cleanup.

#### **4. Update on Comprehensive Plan**

**Trustee Quinlan:** On June 2 the second open house will be held at 7:30. I wish everybody would attend. I went to the first open house and it was very interesting. It gave me a good overview of what is coming our way.

#### **5. Other**

**Trustee Walker:** I attended a forum called Shared Services and Consolidation: Right-Sizing Local Government hosted by Historic Hudson River Towns. I will give you some of the materials that were handed out. I will try to write some notes up about what I found particularly interesting. What I think was most interesting was people recounting their experience with different forms of shared services and consolidation, to hear the pros and cons, difficulties, the obstacles.

**Trustee Jennings:** The last few days have seen a flurry of communications by the Planning Board and the Conservation Commission on our amendments to the building code to have sustainable requirements. That is alive and well, and one hopes that we will be hearing from the Planning Board and getting their recommendations along those lines reasonably soon.

**Trustee Armacost:** I want to find out what happened to the architectural review guidelines.

**Mayor Swiderski:** A new version was sent about a month ago to me. It is sitting in my in basket, and I need to circulate it.

**Trustee Armacost:** The only other thing to mention is that for some reason we are having difficulties getting certain potholes filled. I have raised this a couple of times with Fran, and I know there is movement on it. But I went into a pothole that gave me a flat tire, so it has become personal now. If we could get the action plan on the potholes it would make me happy, and it would make some other people happy.

**Trustee Walker:** Friday Night Live is not this Friday, the first Friday of the month, for a number of reasons. We already closed the streets once this week. We are fortunate to have Liz Liebeskind again as a producer of an event working with Lisa O'Reilly from the Parks and Rec Department on a joint event combining Spring Thing, which has vendors and a crafts fair, with a performance art festival. Liz calls it the town square. She wants to give the impression of a lively village green in the heart of the Village, with a fountain and performances and music and concerts, and a variety show. The idea is to create a community gathering around all these events and make it feel like the town square.

**Trustee Armacost:** And the Take Me to the River children's chorus will be singing.

**Mayor Swiderski:** Last Thursday there was a village officials committee meeting with school superintendents in attendance. Far too much time spent on the assessment process and how we would work better with Greenburgh, and a small fraction of time about how the schools would be let into our process for joint contracts and how any discussion of a joint contract will involve the schools. The schools are now drawing up descriptions of the things they would like to see shared, and we are going to go over that next week.

### **EXECUTIVE SESSION**

On MOTION of Trustee Walker, SECONDED by Trustee Armacost with a voice vote of all in favor, the Board scheduled an Executive Session immediately following the Regular Meeting to discuss personnel.

### **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 10:55 p.m.