

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**BOARD OF TRUSTEES**  
**REGULAR MEETING**  
**MARCH 5, 2013**

A Regular Meeting was held by the Board of Trustees on Tuesday, March 5, 2013 at 7:40 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Mayor Peter Swiderski, Trustee Bruce Jennings, Trustee Marjorie Apel, Trustee Meg Walker, Trustee Nicola Armacost, Village Manager Francis A. Frobels, Village Attorney Marianne Stecich, and Village Clerk Susan Maggiotto

**CITIZENS:** 45

**Mayor Swiderski:** The guest of honor has arrived; we can begin. Tonight's meeting is marked by a couple of big discussion items. After Bill, we have the presentation by BP that is likely to go on for an hour, and eventually public comments. If there are people here with public comments on parks and recreation, we will have time set aside at the next meeting specifically for that. While you are certainly welcome to speak your piece tonight, after that we have at least another hour discussion on 9-A. So it would be great if you could save that for the next meeting.

With that said, the Board of Trustees regular meeting, Tuesday, March 5, 2013 is called to order.

**PROCLAMATION – Bill Finkeldey**

**Mayor Swiderski:** You know, 31 years of service is not properly acclaimed by a room of people, especially your sort of service. And while what we will read here and say here touches what you did for us, it does not come close to thanking you for what you did for so many. So while we go through these honorary moments, there are a lot of people who will believe nothing comes close to what you really deserve, what you did for them.

I would like to read the proclamation. Whereas Bill Finkeldey, with roots here going back to his grandparents, came to Hastings from Waterville, Maine at the age of three; and whereas Bill received a B.A. from Connecticut College in 1973 and an M.A. from Columbia University in public health in 1976; and whereas Bill worked in a residency program with the Massachusetts Department of Mental Health and then in the family therapy program with the New York Hospital Cornell Medical Center; and whereas Bill was hired in 1982 as a youth advocate in Hastings and became director of the drug abuse prevention program in 1984; and whereas through Bill's efforts the Youth Advocate program received a certificate of recognition in 1987 from the New York State Division of Substance Abuse Services for

outstanding contributions in the substance abuse field; and whereas Bill assumed the position of youth services coordinator in 1988, in which he continued for the next 25 years; and...

**Donna Hart, Chair, Hastings Youth Council:** ...whereas under his direction and with the Youth Council, many innovative programs were initiated for youth and families, including Friday YAP, the Summer Bridge program, Summer YAP Splash Parties, Safe Rides, prom buses, Youth Theater, Help a Child, evening study program, Project Charlie and student assistance counselor; and...

**Nancy Gagliardi, former co-worker of Bill's:** ...whereas Bill reached out to the youth in our community, offering a safe and secure harbor to those who are floundering, giving direction and influencing countless lives with empathy and compassion; and whereas Bill is a beloved man who, through his leadership, service, example and dedication has been an integral part of the fabric of life in Hastings ...

**Mayor Swiderski:** ...Now therefore be it resolved that on the occasion of his retirement, in honor of the significant impact on so many young lives, I, Peter Swiderski, Mayor, do hereby proclaim March 6 through March 13, 2013 as Bill Finkeldey Week in the Village of Hastings-on-Hudson, New York. Thank you very much.

[long applause]

**Bill Finkeldey:** Looking around the room, I see a lot of friends and people that I have gotten to know over the years here in Hastings. I think that I have been pretty lucky. I found the right job for me, at the right time, and felt that I could do something positive for my community of many, many, many years. I have a lot of fond memories and a lot of happy memories, and some sad ones. Mostly, I am sad that I cannot continue to do what I love to do so much. But that is the way things turn out these days. So we will turn it around a little bit, and just get my little political jab in here. I noticed that the stock market hit an all-time high today.

[applause]

I have a problem with that in regards to I believe in redistribution of wealth.

[applause]

And I think that I have been helped for so many years in Hastings to do what was necessary to be done by caring people in Hastings who wanted to make sure that their neighbors were taken care of. And in a very quiet and subtle way, this is what we strived to do over a long

period of time. And it was wonderful. I got the advantages of things like this, and smiles and thank yous when I came and provided Christmas gifts or whatever gifts or a new hearing aid or whatever. I have had wonderful people that worked with me along the way. One is Nancy Gagliardi, standing sitting right there; Donna Hart, certainly appreciated, chair of the Hastings Youth Council in a very turbulent time.

So I challenge Hastings to continue to look after those that are not quite so well off and remember they do exist in our community. And while someone might be building a \$71 million house down the road, I would like to think that Hastings can continue to support those that are not quite so affluent as that. Thanks very much.

[long applause]

**Mayor Swiderski:** Our county legislator, Mary Jane Shimsky, will present a proclamation.

**Mary Jane Shimsky, Westchester County Legislator:** Thank you to Bill. I feel very honored to do this today. The amazing thing about this event was, out of all the things I have come to Village Hall for in the past 17 years I have lived here, tonight, I think, was the night I had to park furthest away. And it is all because Bill did his job so very well and helped so many, many people. Bill understood that all of the children who came through his door were individuals. He treated them as such. He understood that his job was not a paint-by-the-numbers job, but every individual was different, every family was different, the needs were different. And the lengths he would go to make sure that everyone was provided for, taken care of, maybe got a little bit of tough love where it was needed. When you help a child you are making an investment in the future. It will be amazing to see, as we go on, what a wonderful world this is because of all of the achievements and all of the great loving and caring kindness brought forth by the children and the families he has helped over the years. For that reason, the county board of legislators declared today, March 5, 2013, Bill Finkeldey Day throughout Westchester County.

[applause]

**Mr. Finkeldey:** My political committee will start soon. I see so many people that I have known, and I am a little overwhelmed, maybe a little bit more than overwhelmed, in fact. Thanks so much.

[applause]

**Lee Kinnally, former Mayor of Hastings:** The Mayor has asked me to say a few words about Bill. I have been privileged to know Bill since 1979, when Sue and I moved into our

house on the corner of Villard and Croton and I used to see this then-skinny guy every weekend putting his canoe on a car and going to points north and, over the years, got to know him as Bill Finkeldey. And, as everybody knows, a pillar of this village. The legacy that Bill leaves here is not the people who are here, but it is the people whose lives he has touched, I think it was Nancy who said, in quiet and subtle ways. It is amazing how many people will learn you are from Hastings, and they will say you have quite a program there, or people who have gone through the program. The identity of the people who have been helped is generally not known, and that's a testament to how professional the program has been. But I have spoken for a long time about the safety net that Bill has created and is still in place in this community, and it just been terrific.

Bill started the program from scratch. It is the model throughout the state. My first involvement in Hastings was with the forerunner of the present council, the Drug Guidance Council. Bob McEvoy, with whom I had worked in Yonkers in 1969, asked me to get on the Drug Guidance Council. With Jim Davis, we started the process. Bill came along in 1982. I did not know how many years it was. But, Bill, everything you have done, the structure is in place, that safety net will continue to be there. I would not fear. As President Kennedy said, a rising tide raises all boats, and that is what is going to happen. This community is such that when new people come in they take on the culture of this community. And I am sure that everything that you have done will continue, and that is your legacy. Thank you, Bill.

[applause]

**Nancy Gagliardi:** I did not plan on doing this, but I just wanted to say that Bill has a heart of gold. He could have gone anywhere, with his vast knowledge and his skills and everything he had to give to so many, but he chose to stay in Hastings and we are all better people for that. He might not be going away with bags of money or anything, but he should know that he has so many people who really, truly love him and appreciate everything he has done to change their lives.

[applause]

**Mayor Swiderski:** That concludes the presentation. Bill, thank you very much.

**Mr. Finkeldey:** Thank you very much.

**Mayor Swiderski:** A few years ago my son had an accident. The EMS did their work, but you were the guy who showed up by his bedside in the hospital. Thank you.

[long applause]

## **PRESENTATION – BP/AMOCO – Hastings Waterfront Building 52**

**Mayor Swiderski:** We are going to move on to a presentation by BP/ARCO regarding Building 52. The presentation is being given by Allen Peterson, the strategy manager assigned to the site, and Wayne Hardison, a program manager with Haley & Aldrich, an engineering firm hired by BP. This meeting was requested because we have gotten to the point where we have to figure out what is going to happen here.

Three years ago, when Building 51 came down, BP committed \$2 million to the preservation of Building 52, the remaining structure on the waterfront. The idea was that this money would go toward the mothballing of the structure. Some portion of that money was spent on an engineering study that identified the issues with the building that would require remediation to save it. Last October we asked BP to cost that out. That process did not go quite as we had preferred. Rather than multiple bids, we got one. That bid was for \$6some-odd million, which begged the question of now what. That is not a question for us to answer because ultimately it is BP's structure and BP's land, and \$6 million is more than the Village is going to part with to save the structure. So we requested that BP come before the Board and the public, explain their perspective on the building, and answer our questions and the public questions.

**Allen Peterson, BP/ARCO Strategy Manager:** I am with BP out of Naperville, Illinois. I would like to kick off the discussion tonight on Building 52. Wayne Hardison is going to discuss some of the technical details of what surrounds the building.

Our presentation includes a brief history and some of issues regarding the building: PCB data, the current condition of the building, the cost estimate to mothball for eight years, aspects of reuse versus demolition. On February 24 the Village presented some questions to us, and we have some answers to the questions and issues, our position with regard to the building, and then further discussion.

In 1928, Anaconda Wire & Cable purchased the site and manufactured a number of different wire products. One of them was a PCB-enhanced cable for warships that was water resistant and flame retardant, as specified by the Navy. The Navy issued a number of contracts for Anaconda to manufacture that wire for the war effort. In 1975, the plant closed. In 1977, Atlantic Richfield became the new owner of the property in its purchase of Anaconda. In 1978, the land was sold to unrelated parties, but in 1988 Atlantic Richfield acquired it to manage the property's liabilities.

**Wayne Hardison, Program Manager - Haley & Aldrich Engineers:** During the war years the PCBs were brought to the site, and in a building located approximately here were mixed with a solvent to make it into a pumpable-type fluid. From there, they were transferred over to Building 52 where the primary manufacturing operations went on, where they injected the PCB saturant into the cable as they manufactured it. Building 52 sits on a concrete slab, brick structure steel frame, sitting on probably wooden piles. We do not have as-built drawings from when that building was built, but the reports are that that building and most of the buildings on the site were supported with wood piles. The site is completely manmade. It was a series of materials that were placed out into the river over years in order to create this almost 28-acre parcel.

A couple of regulatory programs come into play for us. One is TSCA, the Toxic Substance Control Act. The issue that TSCA brings is that any future use of the building would have to address the abatement in order for any porous materials that might have absorbed PCBs: things like concrete slab, brick, the concrete roof deck. And then the record of decision that we have been talking about for several years, that was released last year by the DEC that defines what needs to be done with soil on the property that contains PCBs.

This is a copy of an old drawing, probably from the '50s, that shows some of the types of operations that were in that plant. What I want to point to is these red circles, the areas where we have done some screening samples to get an initial idea of what PCBs might be in either the slab or the wall. All those are areas where we know that there is an accedence of the criteria that would require some kind of abatement in order to get the slab walls into a condition where the building could be reused.

This is an aerial photograph of Building 52. What is shown here is the location of various soil samples that have been taken over the year. There has not been a complete investigation inside the building, but there is enough to know that we do have spots where excavation would be required. In fact, one of the requirements of the ROD is that we complete the investigation of old trenches, anything associated with the operation that might have PCBs or release PCBs to the soil underneath the building.

**Mayor Swiderski:** What do the colors mean?

**Mr. Hardison:** The red and blue are areas that are known to exceed the cleanup criteria. The black would be a non-detect. The green is a detection, but not yet at the point where we would have to do something. Not a complete sampling, but at least enough to know that we have a problem. Here are some close-up photographs to show some of the things that were starting to be of concern, the cracks in the exterior brick. This is a picture on the roof looking down at the concrete deck, and you see that some of the concrete is starting to

deteriorate. In fact, inside the building we have observed various pieces of the building falling, and so most of the building is fenced off, as we show here. We do not allow any of our people to go into those areas. We store a few pieces of equipment inside there, but that is the only use that we permit any of our staff to do at the moment.

Atlantic Richfield asked us to put together a cost estimate. The first line item is the foundation testing. The building is predominantly supported, reportedly, by wooden piles, so one of the questions regarding this building and anything that might happen in the future is, do you have a sound foundation to work from, what condition is it in. There is the planning-mobilization steps that would happen with any construction project. The PCB and asbestos abatement, currently estimated at just over \$1 million in order to deal with the asbestos that remains that has not already been abated and to deal with the PCBs that are impacting the brick, the slab and perhaps even some of the roof. The site work line item is the basic, traditional construction to repair walls, put a new roof on the building. Then since we were asked to consider an eight-year time frame, then allowance for ongoing maintenance, because whatever we do, there is still going to be some maintenance cost to get the building from today to out eight years.

To put this together we engaged a contractor, Envirocon, who has done a lot of work at the site in the past. They are an MSA contractor for Atlantic Richfield. They understood the site, the local conditions, the market in this area. We asked them to generate the construction part of this estimate. We added to that the planning, engineering aspect. In the planning, one of the things that will have to happen is a lot of coordination with the agencies, both TSCA and DEC, if we were to go forward with this.

**Mr. Peterson:** Under a reuse scenario, I thought I would paint the picture of what the conditions would be for that reused building. PCBs will remain in the shallow soil under the building, because under TSCA regulation, the building is allowed to be preserved, capping the PCB below it until a future date. The DEC remedy, which is what we are doing everywhere else on the land, will be constrained adjacent to the building because we need to protect the building. We cannot let it fall into a hole or unearth the foundation. So we will have to design around the building to do the remedy. There will be an extensive soil retention wall around the building. The remedy calls for installing five feet of fill above the current grade. The building's foundation is going to stay where it is; the floor will stay where it is at. So it will, in essence, become a bathtub effect. A developer will need to restore the slab and brick after decontamination because left in place there will be scoring of the brick and the floor to remedy the PCB that is embedded in the inside of the building.

The compatibility of the structure, foundations, drainage and site grading for future use is not known because there is no definitive future use of the building yet. A developer has not yet

been brought on board to determine if it is an asset or a hindrance to waterfront redevelopment. So that is an unknown at this point.

Those are some of the aspects of a reused, mothballed building. With a demolition scenario, demolition would involve removing the roof, the steel infrastructure, walls and then portions of the slab to access the PCBs that can now be found and remediated through the floor. There will be a clear path for better and safer access to complete delineation of the PCB impacts to the soil under the slab. We will be able to get a drilling rig in safely, people can work inside safely and find out where it is and where it is not, and then address it. The impacts beneath the building slab will be addressed per DEC requirements, which is the overall process that we have been going through here for a number of years.

The only negative is that the extent of remediation under the building might be greater than expected. But we want to know that. We want to address it now rather than later. With the building up, and the safety concerns of working inside the building, we really do not know everything about what is under the floor of the building. We would like to know, we would like to address it, and we cannot do that with the building in place.

On February 24, the Village sent us some issues and questions that needed to be addressed. The next few slides present those issues, and are Atlantic Richfield's answers to those questions. Some of the questions are a bit paraphrased to fit on a PowerPoint slide, so if I miss the intent, Mayor, correct us and we will get the right answer. But I believe this is either the question or the essence of the question that is being asked.

First was, the estimate for mothballing the building should only include the difference in cost between PCB and asbestos abatement inside the building for a building that is torn down versus one that is being planned to be preserved, so the incremental cost to keep the building up versus take it down. Our response is, the screening samples that we have taken suggest that the estimated incremental abatement cost is half a million dollars instead of the \$1.3 million that was in the cost estimate. So that is true: it does make more sense for the mothballing estimate to contain the difference in cost as opposed to the whole cost. However, the cost may increase once the full scope is known, because at this point, we just have screening samples. Full work has not been done to define the exact remediation on the inside, or the abatement. The wall and floor screening samples indicate the need for extensive brick and slab abatement, the scope of which would be determined by additional sampling. Roof deck removal, which is concrete, may also be necessary. So it is going to take additional sampling before we really know the full scope of the interior abatement that is necessary.



Is the cost to meet current code included in the estimate? No, it is not. Occupancy requirements, such as a monitored fire suppression system, as noted by Fire Inspector Drumm, a day or two ago in an e-mail, are not included. So code requirements will be a developer responsibility later, and not part of this current estimate.

Is the cost to rebuild the missing roof monitor included in the estimate? No, it is not in there. Again, that would be a redevelopment expense, and not a mothballing expense.

The question comes up why is the foundation or pile study part of the estimate? Also, comment on the need for a retaining wall or shoring, which was not included in our memo. We believe that the cost of a simple screening of pile conditions would give the Village better information on whether the building is worthy of further investment. First check the foundation, do a screening, make sure it is good enough to keep on moving forward. And so we put that kind of a cost into the mothballing estimate. The building is built, or we believe it is built, on top of wood piles. There could be follow-up testing, repairs and modifications for specific use that are additional that may be incurred later on and could be included in the estimate, but it is unknown at this point.

Outside of the building, we discuss briefly, the site remedy includes removing impacted soil and installing substantial cover. Additional cost will be incurred for grading and drainage around the building, but that is difficult to estimate at this time. But, again, you can imagine that a covered site now higher than the building, how to deal with that difference in grade, will have to be addressed.

Is the existing slab to remain? How would the required remediation under the slab be achieved? And what would remain at the end of the cleanup? Safety and foundation integrity concerns prohibit us performing complete remediation below the slab while the building is standing. We have talked about that.

Should the building remain, TSCA allows PCBs to remain in place with a deed restriction protecting the interior impacted area as a no-dig zone until such time the building is removed and the soils are accessible and can be removed safely without damaging the foundation. So it is an allowable preservation of a building, with a temporary capping of what is beneath, for now. Should the building be demolished, the slab would be removed where required for excavation in accordance with the current state ROD. The entire building floor would now become part of the site. The remaining slab likely would be broken up for proper drainage, and then site cover installed on top of it.

Should not the soil and radiation cost included in the estimate only be the difference between remediation with demolition versus that without? Once again, kind of a difference in cost?

The estimate does not include soil remediation, since these costs will be borne by Atlantic Richfield. However, if the building remains standing but is demolished in the future, the process will begin again and a cleanup will have to be conducted at that time that the building is demolished.

Here is the cost estimate that Wayne provided revised for some of the questions and issues that we just discussed. Foundation testing, again, is just a preliminary to help understand if it is worth further investment. Same price. Planning, same price. Mobilization-mobilization, that is s same. PCB and asbestos abatement, instead of \$1.3 million we have corrected that to \$0.50 million. So it is the incremental cost standing building versus demolished for the interior abatement. Site work, the actual work, remains the same. Annual maintenance the same. What should be considered is a future remobilization to remediate the soil some day that the building is substantially altered or demolished. It will be more expensive to come in a second time and start all over again for the building slab. So that will add to the cost of keeping the building. Grading and drainage is another issue that nobody has gone far enough to know what that is going to cost. But that will add some additional cost. After going through all those thoughts, the total estimated cost is still greater than \$5.9 million. So it is a very large industrial building with a lot of issues.

What is our position on Building 52? Atlantic Richfield's primary concern is the safety of the area surrounding the decaying building and restoration of its underlying land for future use. While understanding and respecting community interest in historic preservation of the waterfront, Atlantic Richfield's preference is to remove Building 52 to reduce a significant safety risk, terminate unproductive annual maintenance and, most importantly, to enhance the opportunity to deliver a safe and effective environmental cleanup of the site. So that is where Atlantic Richfield is positioned, and coming from.

**Mayor Swiderski:** I would like to offer the Board a chance to ask questions first, and then turn it over to the public.

**Trustee Walker:** The screening sampling of slabs and wall, I wondered what you mean by "screening sampling," and how significant is it, or how deep is it? You are talking about brick and concrete so how far do you go down into it in order to test for the PCBs?

**Mr. Hardison:** What we are looking for is in the first one to two inches. If I start grinding down brick more than two inches I do not have much left. So we were sampling the outer two to three inches, taking slices, to get a sense of how deep the penetration might have gone. From a screening sample standpoint, there is no specific statistical analysis. It is basically looking for do we have a problem, do we not have a problem. To define the extent of it would be the next step, to go in and try to map a detailed analysis.

**Trustee Walker:** So at this point you have only done a few spot tests.

**Mr. Hardison:** We have done probably 50 percent more than the red circles. So everything did not come up bad, but that was just the representation of the ones that did come up bad, bad in the sense that it exceeded the criteria.

**Trustee Walker:** And those were found throughout the building.

**Mr. Hardison:** They were.

**Trustee Walker:** Whereas the areas of contamination that you think might be below the building are primarily at the south end of the building?

**Mr. Hardison:** That is the only place that samples have been taken.

**Trustee Walker:** You have not taken it on the rest of the site.

**Mr. Hardison:** So the soil figure that you saw is all the soil work that has been done in the building.

**Mayor Swiderski:** The soil figure meaning the diagram that showed the dots?

**Mr. Hardison:** The colored dots, correct.

**Trustee Walker:** Was there a reason that they were concentrated at the south end and not at the north end?

**Mr. Hardison:** Primarily because those were some of the trenches that we knew about had occurred. Our experience is that in an industrial facility typically drains and trenches are your most likely suspects, not your only suspects. Wee bias the sampling in favor of trying to find something because we are looking for a yes-no: is there a problem, or is there not.

**Trustee Walker:** The screening samples, you said that there were others taken but nothing was found, and so it did not exceed material in the other areas, this is where it did, and that is in those in the surface that we are talking about.

**Mr. Hardison:** It is predominantly, again, in the southern half.

**Trustee Walker:** So in the walls; we are not talking about the entire surface. Are you talking like at the wall near the concrete floor where you might have PCB spillage?

**Mr. Hardison:** We do not know. I know that the underside of the roof deck is not zero, so I am suspicious of the upper half of the wall. I know that at least the lower 15 feet has a high probability of needing to be ground down.

**Trustee Walker:** And your concern about the roof is more structural than contamination?

**Mr. Hardison:** If it is a porous surface, then it is above the criteria. Then it is going to have to be taken out in order to meet the TSCA criteria, to reoccupy the building.

**Mayor Swiderski:** How would PCBs end up on the roof?

**Mr. Hardison:** The suspicion, and I was not there so I do not know and we do not have the data, but what we do know is that in order to make that saturant pumpable it had more liquid in it than was necessary in the final product. Then they would bake the cable in an oven. At least for a portion of the period during the operation those ovens were unvented and so there were fumes throughout the entire building. I cannot testify to that, but my mental model of what was going on is the fumes from the operation and the baking. And handling practices were different.

**Trustee Walker:** You estimate a cost of demolition. You talked about the remediation that would be required, but just the demolition of the building.

**Mr. Peterson:** I do not have a number. I do not know if you have ever developed a number over the years.

**Mr. Hardison:** I do not have an estimate that I would be willing to go on the record with. It is not six, but the balance is I have got to go now dig up a lot of soil.

**Trustee Walker:** In terms of your responsibility for the site, let us say 20, 50 years from now, and the developer decides to tear the building down.

**Mr. Hardison:** The more years you go back, it comes to me.

**Trustee Walker:** Is BP still responsible for the contamination under the building once the building is removed?

**Mr. Hardison:** Yes.

**Trustee Walker:** And so one way or the other you may have to remediate that soil.

**Mr. Hardison:** Yes. And it is our desire to eliminate the liability sooner than later.

**Trustee Apel:** Is there any benefit, for those people that are interested in keeping the building, in only keeping part of the building? If the northern part is not as polluted as the southern part, would it be a benefit to keep half the building, which you do not have to dig up and mediate? I do not know what the cost benefit is. It would make everybody happy. We would have some building and you would have some cleanup.

**Trustee Armacost:** My variation on that is what would the cost be. The image with the green and red dots, it looks like half the building I did hear you say you did not test. So it is possible that we would get a lot more red dots over there if there were more testing, but it looks like the problems are along one wall and to one side.

**Mr. Peterson:** We only have screening samples to date, and the screening samples indicate that there is a general problem in the building. Atlantic Richfield's position is that we would like to access what is under the floor throughout the entire building, which we cannot access now because the building is not stable to work inside. And Atlantic Richfield does not have a need for the building. Others may have a desire for the building. I guess the question would be more does anybody want half a building as opposed to a whole building.

**Trustee Apel:** It is a pretty big building. Half a building is better than none.

**Mr. Peterson:** It is.

**Trustee Walker:** When we did a plan with The Regional Plan Association, a number of architects and engineers back in 2000, one of the proposals was to preserve half the building. In fact, that is what we drew up in the plan.

**Trustee Apel:** I would like to know where Atlantic Richfield is. Is this just an exercise in futility? Are you just going to rip it down? We are having this meeting and you are bringing this to us. You want our opinion. You are telling us it is going to cost over \$6 million. We are not going to spend the \$6 million. So what is this all about? What is your serious intent? Tomorrow are you going to say, well, we presented it to the Village and, in all reality, we are going to rip it down? So why do you not tell us what you are really thinking, the bottom line.

**Mr. Peterson:** We would like to continue being good neighbors, good citizens, and address concerns of the Village to your satisfaction. So we are here to go through the process and

walk through it and discuss and, hopefully, be on the same page. Our desire is to take the building down.

**Trustee Apel:** So you have already made that decision.

**Mr. Peterson:** Yes. But the next step might be asking ...

**Trustee Apel:** What would help you change your mind? Tell us what it is that we have to tell you to change your mind.

**Mr. Peterson:** Change our mind? I do not know if you can do that. It is a liability situation, it is a health and safety risk situation that we want to clear. I do not know if the Village wants to or can take that from us. It is a cradle-to-grave situation that we are obliged to resolve.

**Trustee Apel:** Then it seems to me you have already made up your mind. It is very nice of you to come and give us this presentation so we have a better understanding when you take the building down. But is it a fait accompli. Unless you can tell us how you are going to change your mind, then I do not know why we are going through this, other than to educate the public as to why that building is going to come down, thank you very much. We appreciate it. We do want to work with you, we have been working with you for years, and we do want to have a good relationship with you. But unless we come up with something we can do, we have come to the end of the line on the building and the decision has been made. That is how I conclude and see this.

**Trustee Armacost:** I heard someone say that there was an intention to partially remove the slab. If safety concerns are the utmost concern, then I am curious to know why one would not fully remove the slab and get everything out that is under there, and pull up all the bits of wood that may or may not be supporting it.

**Trustee Walker:** You mean if the building were to be demolished.

**Trustee Armacost:** Yes. I think there are lots of questions one can still ask, even if the decision is to remove the building.

**Mr. Hardison:** So is your question about the slab, then?

**Trustee Armacost:** My question is to see whether I heard you correctly saying that you would partially remove the slab, and why you would only partially remove it if the goal was making it as safe as possible from here to eternity.

**Mr. Hardison:** Once the building is down, the health issue is to make sure that we remove the PCBs that are in the soil. With the building down, the next step would be to do the complete investigation to define where, under the building, we have PCBs that need to be removed. Then anyplace that we needed to do the excavation, the first step is to take the slab out so that you can go in and do the excavation. There is no reason to remove a slab that is uncontaminated if there is no contamination beneath it.

**Trustee Armacost:** How would you be able to tell if the contamination had not seeped underneath?

**Mr. Hardison:** We are going to be drilling a lot more holes.

**Trustee Jennings:** Looking beyond the demolition of the building, do you have any reason to believe that the future use of that approximately 100,000 square feet or whatever the footprint of Building 52 is, that the future uses will be constrained by the extent of the remediation that you are able to do? There is a portion of the northwest corner which is so contaminated, and you cannot dig it all out because the site collapses and so forth, there are certain things that can never be done there, certain things that can never be built there. Do you see that as a possibility in the Building 52 area, given what you have found so far?

**Mr. Hardison:** The data that we have so far, and I will cover it that way, does not indicate that there is that same DNAPL present that we have in the northwest corner. We have contaminated soil, but not the still-liquid material present that creates the problem in the northwest corner. So to date, no, there is nothing to indicate that this area is going to have that same type of issue.

**Trustee Jennings:** The reason I ask is that if there is a good aspect of the demolition it is that we have a large space that we can do a lot of different things with eventually. And that's good. But if we end up having very few things that we can do with that space, and we do not have a historical building either, we are kind of left. I was t trying to get an indication, at this point, of what you might be foreseeing. I know you will not know until you do it. Do you also plan to take out all the other slabs on the site?

**Mr. Peterson:** I can take a guess, but Wayne is the expert here.

**Mr. Hardison:** I could not tell you a percentage. A lot of them will come out because we have to dig in those areas. Those that do not come out would most likely be broken up in order to have proper site drainage once your final site is constructed. I could not tell you what the split is, but there is a fair amount of concrete that has got to come out.

**Trustee Apel:** So you are saying the concrete is just chopped and left there?

**Mr. Hardison:** It can be broken in place or it can be crushed and reused. There is more than one option.

**Trustee Apel:** But it would stay on the site.

**Mr. Hardison:** Right. To the extent possible, everything we have looked at is to reuse site materials to the extent we can.

**Mayor Swiderski:** What changed here? Three years ago you were willing to give us \$2 million to save this building, and at the time you seemed not only open but welcoming of the idea of the TSCA approach of leaving a slab in place. So we built some dreams around the building, to the point that we are in an infrastructure process designing the waterfront, and I asked those people to design the space for the waterfront both with and without 52 because we thought there was a chance of having it there. We spent some of this money, about a quarter of it, on this engineering design study, and yet it does not sound like it much mattered because, in the end, the argument seems to have shifted. Lead me through what happened, that three years ago we had these ideas and now it seems clear you have changed your mind.

**Mr. Peterson:** I would say two significant things changed. One, through the assessment work that we did to determine the current state of the building and the need for repairs, the study determined that there is a much greater, extensive need of repair than we imagined. The cost of further investment in the building seemed cost-prohibitive. So that was one constraint. The other is that our company's view on retaining liabilities into the future has shifted over the years. Atlantic Richfield is much more focused on eliminating concerns, taking care of the land, restoring it to its previous use, and resolving those long-term liabilities. Probably the main driver is for a safe, long-term cleanup now as opposed to bringing it way into the future. So our view on the building has changed.

**Trustee Armacost:** You mentioned that there was only one quote that you received. I wondered whether you approached more people and they chose not to give quotes, or whether you only approached one person and you got only one quote, and whether you think that that quote might look different if another company bid.

**Mr. Peterson:** Made the quote. I am confident that the quote would look different. However, I am also confident that what has been presented is reasonable for an estimate. Multiple bids were not solicited because the bidding process typically uses the prospect of future work to be the carrot to refine the bids and to be as competitive as physically possible.



There was going to be no reward here. We simply wanted to give the Village a number for planning purposes, and there was no guarantee of a job at the end. So we felt that we would still satisfy the general interests of the effort to work through a BP master services agreement supplier, or engineering firm. They, in turn, used a subcontractor who does this kind of work to develop an estimate rather than competitive bids. I am sure the price would be different with different companies, but I do believe that the numbers we are showing you are realistic.

**Trustee Walker:** I understand your reluctance to incur future liabilities and your desire to finish it up once and for all. But I question your statement that the building is structurally unsound. I thought that the Silman report showed that most of the structural issues were not really serious, not endangering the building. The building was not in any danger of collapsing. I understand that there might be some superficial concrete falling apart or falling, or bricks cracking and settling of the site. But I thought all of that was fairly easy to repair, that the building, in fact, is not a dangerous building in which to work. That is the impression I got from the Silman report. But you are saying that you cannot do any of the remediation within the building because the building is inherently dangerous.

**Mr. Peterson:** I do not think I used the phrase structurally unsound. If I did, I withdraw it. What I did say is we have observed pieces of the building falling while we were in there.

**Trustee Walker:** Meaning?

**Mr. Peterson:** Chunks of concrete.

**Trustee Walker:** From the roof?

**Mr. Peterson:** Which means I am not going to have my people in there walking around. And means I am not willing to put subcontractors in there with drill rigs causing vibration and potentially unknown other circumstances. I am not saying the building is going to fall down tomorrow, but it is not a place that I want people working in.

**Trustee Walker:** I want to make one last plea. I am an architect and a planner and I work on sites around the country with industrial buildings that are in much worse condition than this, and the owners, and I understand the contamination issues here, are striving to save them not only because there is historic legacy attached to it but because now there is such an interest in adaptive reuse of historic buildings for all kinds of things. We may not have a user because the cleanup is seven or eight years away, but I am confident we would find wonderful uses for that building, and the kinds of things that we are not going to be able to find a developer to build from scratch; the kinds of things that you can only do in a historic building of that scale. I do not think we will ever have that opportunity again on that site.

Whether it is cultural uses, sports uses, wonderful high-tech companies that could move in and use that large space, it is valuable in a lot of ways that new construction will not give us and does not have the potential for. It also is an important part of our legacy. Apart from the water tower, it is the only thing left.

**Mr. Peterson:** I understand your frustration. I am sorry they used PCBs in that building.

**Trustee Walker:** It is not your fault.

**Trustee Apel:** Your concern about the liability in the future, BP and ARCO need to think about the public relations value of doing something for this building. In my mind \$6 million to BP is a little dot on their budget, and would be an invaluable investment in their future public relations for not only this community but the Hudson River. If BP was here, and BP was making a big issue out of this and saying we are going to do something about this building and maybe even move in, that would say a lot more than just saying we are worried about our liability in future years. The public relations person is sitting here and he knows what that means for the company because it has had some pretty bad press in the past and this would say a lot for the Hudson River and the communities around it. That is my feeling in terms of public relations and concern, liability versus public relations.

**Mr. Peterson:** Thank you. I understand. There are just a lot of compounding factors with regard to reuse of the building that we wanted to make you aware of. Thinking through where is the floor going to be relative to the elevation of all the surrounding soil at the end of the remedy; the scouring of the interior; possibly the removal of some of the roof deck for PCB. There are a lot of compounding factors in considering reuse of the building.

**Trustee Apel:** I have faith in the engineers. They are very bright and they are very clever, and they will come up with alternatives. They have not been asked to at this point. They have only been talking about the remediation and the liability. But asked to figure out what else would happen on that property and elevation, I have faith that they can do it. Give them the opportunity to come up with a creative idea. Sometimes engineers have it in them. They can do it, I know. I know a lot of engineers, so they can do it. I have faith.

**Stuart Cadenhead, 5 Valley Place:** I The questions from the Board tonight have been so excellent.

I would like to change the subject. The term "daylighting" is used to describe the restoration of rivers that have been with concrete, usually as the result of past public work in urban areas. On November 15, 2011 the city of Yonkers daylighted the Saw Mill River for the first

time in 90 years. The result is a 14,000 square foot aquatic habitat, including two freshwater pools. As part of the continuing revitalization of the waterfront, Yonkers is working with businesses to develop this new space.

The Hastings waterfront, as the gentleman from BP pointed out, is an entirely manmade environment. Prior to the existence of waterfront industry, the Hastings waterfront consisted of a large and inviting open ravine. Oyster shells have indicated that Indians have been using this ravine for 8,000 years. In 1849, the Hudson River Railroad cut off access to the ravine. That same year, it was filled in and industry moved into the Hastings waterfront, where it remained for the next 100 years. Today, the ravine is home to the commuter parking lot, a site that is entirely owned by the Village of Hastings-on-Hudson. There are, as far as I know, no environmental concerns with what is buried underneath. The only thing under there is a freshwater stream flowing out of Hillside Woods that has flowed through the same course for the last 160 years underground, and for the previous 8,000 years pretty much along the same course.

The reason I bring this up is because I feel like we are on the verge not of getting rid of Building 52, the big problem on the waterfront, but are on the verge of getting rid of Building 52, which is the only solution to our waterfront problem. A multistory commuter parking deck is something that has been talked about by Doug Alligood and others. If we were to move the commuter parking to the waterfront side of the tracks, it would open up a large area for development that poses none of the problems that the waterfront site poses. If we continue down the path of trying to create this pristine waterfront, I fervently believe nobody is going to be happy with what happens. There are going to be traffic issues, there are going to be global warming flooding issues. It is just not going to work. The real future is to develop on this side of the train tracks, something that is contiguous with the downtown, that is not creating a competing commercial center on the other side of the train tracks. I fervently believe that everyone is going to come to this conclusion eventually. It would be nice if we could come to it now.

**Mayor Swiderski:** Is there a question here?

**Mr. Cadenhead:** There is no question.

**Robert Kornfeld, Architectural Review Board:** I am an architect with Thornton Tomasetti also, and I have extensive experience with masonry restoration projects, stabilization of damaged buildings like 90 West Street at the World Trade Center site. We were also involved with the Deutsche Bank building, which I would have been the project manager for if it had been restored. It was demolished. The demolition of that turned out to be more difficult than if it had been repaired.

But I am here speaking on my own behalf. I have been involved with this process for a long time, with the Historic Waterfront Committee in the past, and I was at BP's attorney's office for a meeting in 2006 or 2007, where everything that has been shown tonight was already known. At the time that this money was committed for doing mothballing this was already known. My sense is that a lot of the small items that we have seen here are like a shell game, that there are things that maybe would have had to have been done anyway, or things that were already known.

It was my assumption that \$2 million was for the mothballing of the building, not for things related to the cleanup. I think this is exactly the same slide that we saw five years ago. So there is not that much new known. I am disillusioned by this meeting. I thought we were here to talk about the mothballing of the building, and there is this \$3.6 million number thrown out there. We have not heard any detail of what that is. That is an extraordinarily large number for the mothballing of this building. That is a number more for a complete restoration of the building. I do that type of work all the time. This is not that large a building in those terms. When you think of mothballing that does not mean you have to restore everything. All that we saw having to do with that was a photo of a crack and a photo of a damaged slab. That is routine stuff, not that expensive to stabilize. There is not that much cracked masonry on the building. It is not millions of dollars worth. You need to see a breakdown of what this \$3.6 million worth of repairs is. That is the 800-pound gorilla here in this whole presentation. Without that \$3.6 million it is not much of a deal breaker.

I am disappointed by BP's presentation because I feel like it is disingenuous. Like that was just cooked up to come here, and this board was scared into demolishing Building 51 on a moment's notice because it was so dangerous. This is a very robust building. These masonry conditions are not that serious. If you have a highway overpass and a chunk of concrete falls they do not say that is it, you cannot use the highway anymore, we are demolishing the bridge immediately. They put a lift there, they knock off loose concrete. They put netting under it and the traffic is back on a couple of days. There is nothing inside this building that is not in that category. I believe that it is being fenced off like this for public relations value, for the shock value of it. You can look at the columns in this building. It is a massive building.

I have been involved with mothballing at a lot of buildings, like 90 West Street, incredibly devastated by the World Trade Center collapse. It burned, the façades were partially collapsed. When that was mothballed, it is more like you do some shoring, you cover it with plywood, you put netting over things. It does not mean you need to do a major restoration.

I was planning to come and talk about historic issues. I have some documents, one a letter from Tom Rinaldi, who was the co-author of *The Ruins of the Hudson Valley*, and the other is the termination of eligibility. This building was determined eligible. I believe that you are required to have state and/or federal permits for this work that kicks in even though it is a private property. I did not say anything with that with the Building 51 issue because there was a concern about safety. But that is an issue that you need to address because there are always issues of minimizing problems, avoiding problems or mitigating problems. And I have not heard any of that kind of language connected with this building.

**Mr. Peterson:** That is a lot to respond to. I do want to assure all that that fence in the building was not put up for public relations value. That was put up for safety, as agreed by our safety experts and our contractor and our operations management. That is not a staged picture. That is what it looks like after going through that process. The detail behind the numbers we can certainly provide and allow further review. But again, we believe the estimate is a fair representation of the magnitude of the work required.

**Doug Alligood, 157 Rosedale Avenue:** I wanted to point out a couple things because my name is mentioned in a few documents and it has been mentioned tonight. In 2010, when the latest report was commissioned, the Mayor and the Trustees came to me and said that I should be the liaison between the Board of Trustees and ARCO. I worked with your predecessor, Allen. Did a walkthrough of the building and we had a couple of conversations where I described how the floor might be structured and what issues might be studied. Unfortunately, that was the last point of communication for a couple of years, up until you contacted me in December when the cost estimate came out. The report was more intensive than what I had expected for a mothballing or adaptive reuse situation for a building that has a slab rating of about 650 pounds per square foot and we are looking at uses that might be up to 100, maybe 125 maximum. It seems to me it is going a little overboard to consider extreme, in-depth probing of the structural slab and the integrity of a building that is about five times more structurally sound than any projected use.

I would like to point out that Mayor Swiderski issued a letter in October, 2012 requesting three bidders and asking me to go through exactly what should be included in the bid. I was never contacted, I was never informed or included. I completely agree with Bob Kornfeld that this cost estimate seems to have missed the point and includes a lot of remediation issues that should not have been included and might have to be done whether the building is torn down or remains. Some costs, like the slide with the below-slab remediation, might increase if the building is demolished because there is some sub-slab investigation that needs to be taken care of. That is a grave concern because the rest of the site has similar issues when the buildings are torn down but the slabs are still there. We are not clear on what you plan to do with those slabs, even though you have told us you are going to break them up and, do not

worry, you can trust us, you are going to excavate the PCBs or contaminants underneath the slabs and then leave whatever else is there. I am not quite convinced that we know what is there in the remaining areas of the slab.

A couple years ago, when the \$2 million grant was given, we were all expecting that money to be focused on mothballing this building, what needs to be done. So far, perhaps 25 percent, perhaps more, has been spent on proving that the building should come down instead of focusing on what could be done to save it. The initial goal of the estimate, when I was talking to your predecessor, was to see what could be done with \$2 million rather than to see what is the most we could do or how much it would cost if we did not have any plan, just abstractly throwing ideas out there and saying what does all of that cost. A number of these issues do not seem to add up to a \$3.6 million. That is the number that is left when you take away the remediation costs. There is \$3.6 million, perhaps another \$400,000 for upkeep over time. I would like to know exactly what is in that \$3.6 million. And as the Board of Trustees has tasked me to do, I would like to have input in the scope that is included in that number, and then go back to the original goals of this estimate, which was to figure out exactly what could be done for \$2 million or less than \$2 million.

In answer to Trustee Jennings, you said that the slab is the cap until a future date and that if it ever comes down, ARCO always has the liability to remediate. Another question was how the building, when it is in place, might impact the remediation adjacent to the building. That is a new statement. We have never heard that one before. I would like a specific answer to that one, because as far as I know, the plans for remediation design have not been completed yet and we do not have any plans that show the remediation coming up adjacent to the building. The last I heard, it was several hundred feet away.

I will echo what Trustee Apel said about \$6 million should not be considered such a big deal to BP. The building has been effectively mothballed for 30 years. The next eight years seem to cost you \$6 million, but over the past 30 years it seems to have cost nothing. It occurred to me that a goodwill gesture might be for you to go ahead and remediate the building, restore a portion of it perhaps, and put in a futuristic-looking next generation technology, sustainability infrastructure, gray water, stormwater retention tanks, something in that building that speaks toward the future, that helps our community and is not simply looking out for your own liability and protecting yourself for the future, but a gesture towards our community and saying this is how much we think of your town and we are going to put this futuristic technology in your building.

**Mr. Peterson:** Thank you, Doug. First let me go back to the after-preservation list. One key aspect at this point is that I do not believe work has been performed and developers been involved to really know if the building, in its current ...

**Mr. Alligood:** Sorry, that was not the question. The question was related to remediation, not to a future developer. How does the building's continued existence affect the remediation? That was the statement you made that would affect how close you could remediate next to the building.

**Mr. Peterson:** I am going to pass the baton to Wayne to address that issue.

**Mr. Hardison:** The bottom line is, we do not know exactly what the outline of the excavation is. What we have is a number criteria saying this level of PCBs needs to be excavated. The next phase of the work is to get out there and fill in the data gaps so we know what the outline of the excavation is. We do know this is an excavation that is going to have to go right up against the building. We do know we are going to have some shoring issues if I am going to be working that close to this kind of building. We agree we do not have a design, but we do know we are going to have some issues doing that shoring work. .

**Mr. Alligood:** So you are talking about bucket excavation, not full removal of site next to the building. You are talking about point remediation.

**Mr. Hardison:** My expectation would be that this is going to be more than just a bucket scoop. This is going to be several feet deep next to the building. But the issue is, we do not know exactly yet. I have got enough data to know that I have a problem. I do not know exactly what it looks like. Our primary goal is design the remediation in accordance with what the DEC is looking for.

**Mr. Peterson:** I believe that is the thinking behind the one issue. The DEC remedy is everything outside of the perimeter of the building. Should there be something that needs to be addressed right next to the building, then addressing it would be compromised to preserve the foundation of the building. Spots like that might not be able to be addressed because they are right up against the building and they will remain until the building comes down.

**Mr. Alligood:** So that hotspot there next to the building would remain until the building came down, outside of the building? Is that what you just said?

**Mr. Peterson:** There will have to be a judgment on how to address spots like that right next to the foundation of the building.

**Trustee Apel:** I am sure the DEC is not going to let you leave it there. You are going to have to shore up the building and you are going to have to dig it out. That is my feeling. If you know it is there already it is a liability. And once you have knowledge you are

responsible. So you are going to have to move that, and you cannot tell me if it edges the building.

**Mr. Hardison:** We do not know what the shoring requirements are going to be. That is the bottom line until I know exactly what that box looks like. All I know from experience is that when I start working next to an old building it is never as easy as I expect it to be. I am not saying it is not our job to do it, I am just saying I have had experience with other regulators who recognize that disturbing the foundation of a building is a legitimate reason to leave material behind. That is neither here nor there. . But that is the concern: how are we going to get that done without damaging the building.

**Jeremiah Quinlan, 39 Hillside Avenue:** I have been involved in the waterfront for years. When I voted for knocking down Building 51 there were a lot of people in the room that were not too happy. Some guy cursed me out on the way down the stairs after that vote. But I never had such a positive response from the Village residents for a decision that I made on the six years I was on the Board of Trustees. People came up to me on the street and said I cannot believe those buildings are down. The waterfront looks pristine, the views are absolutely gorgeous. It looks like it can be cleaned up. There was a tremendous response, the most for any decision I made in six years.

They talk about historical significance and history. Most of the people I talk to that are still alive that worked at Anaconda do not feel that way at all. When they worked there it was unsafe, it was polluted, they were not paid that much. They were happy to have a job, they were glad to live in Hastings, but not too many people here have come forward who worked there and said please save this wonderful building for historical significance.

I think it is so important that we get as much of the pollution that we can out of that land. There are hotspots under that building, there is no doubt in my mind. The preliminary spots indicate it, but if you look at what they have been able to test where there are no slabs we know that the site is full of not only PCBs but other chemicals like lead. If we take the slab out or we get rid of the building and do the slab we can have a more significant cleanup, which is what we need as a village, even if we are going to either possess it or sell it, or when BP sells it, it is going to be a lot easier.

It does not take an engineer to realize that it would be a lot easier to clean up around the site, under the site if the building is down. Common sense will tell you that if the building is down it is going to be a lot easier to clean around it, under it. The other thing that is hard for people to realize is that although BP is not wild about it, they consented in 2000 on the consent decree that five feet of fill is going to go over that site from exactly where it is now. So at the end of the day, if the building remains and all the engineers do a beautiful job and



everything is cleaned up, there is going to be a moat around the building because there is going to be a five foot fill. That is something the Village is never going to agree to reduce, as far as I know, unless you guys change your mind. But I would highly recommend that we need that few feet of fill to protect ourselves environmentally. So a developer is going to come up, and he is going to see this clean land. Then there is going to be five feet of fill around the building, and the building is going to be five feet lower. That is going to look ridiculous, and it is going to be a problem for any developer or anybody that owns the building.

**David Makulec, 60 Dorchester Avenue:** Jerry touched on most of the things I was going to say. I t wanted to try to bring some balance to this, in that I know there are some strongly held feelings about preserving the building. But I think you would be surprised what a minority of the Village feels that way. That said, I will not speak to that at length and I will ask a question.

Let us say we proceeded down the road outlined at roughly \$6 million of trying to mothball the building according to the scenario that you are describing. You have indicated that the screening samples that have been done so far were relatively limited and that more testing would have to be done as part of the process. How would you rate the likelihood that after we have gotten a couple of million dollars farther down the line that we discover we had to take the building down anyway because it was too dirty to keep it standing?

**Mr. Peterson:** No comment.

**Mr. Hardison:** There is no way to know. I have worked on so many sites, and there is no way to predict what you are going to find. I tell my staff, if you tell me what the data is before we do the work I will tell you what the answer is. And there is no way to know. The only indicator we have is, this is the building where all the PCBs were used, and so that is the thing that gives me the most concern about what we might find when we start doing the other drilling.

**John Gonder, 153 James Street:** I know why Jerry Quinlan was my favorite Trustee. He said it very briefly and very nicely. Stakeholder of BP, worked in Anaconda 18 ½ years from the southern end to the northern end, as management and I know all the processes. I was a field engineer and also supervisor, and a senior process engineer for making cables. We have BP with a very bad reputation. Alaska, the pipelines. Rust, cover-up. Then Texas, you bought a big refinery. What happened? Explosions, poor safety. And then the Gulf. BP, \$20 billion right now, being sued by the government. And \$6 million is nothing? I was a stakeholder for a couple years, no dividends. I live in Hastings, very high taxes, schools and whatnot. A lot of people had to move out. I am a survivor. Take that building down. I

have been telling these people for years take it down. It is in the best interests of the Village. I know our architects love saw toothed buildings, and the two Trustees over there who love them. Well, go to Irvington. They have them. I go see them every day, six days a week, Monday through Saturday unless it is a snowstorm I do not go up there. I do not love that type of building, but they are there. You have a priority to take that building down for your stakeholders, and also for the public and the Village. As Mr. Quinlan said, what a beautiful view. Take this one down. The building you should have saved was the one that you blew up that was built on piles in the '60s. Not one window in it. It was a high-voltage research lab. That is the building the Village should have kept.

**Jim Metzger, 427 Warburton Avenue:** It would be nice if BP was known as a bold preservationist. In answer to the gentleman before who said he believes that the vast majority of the Village would like to see this building come down, after three years of putting together the Comprehensive Plan, chapter four, objective six: preserve the historical architectural features in the area. Strategy 6.1: reuse Building 52 if fiscally possible. What is the projected cost of the cleanup on the waterfront, and what percentage would be used to save this building?

**Mr. Peterson:** The current estimate, as stated by the DEC, is \$250 million.

**Mr. Metzger:** So you are looking at 1.5 percent, a small price to pay for the potential benefits. We keep looking at this building as a liability. I believe that this building is an opportunity for the Village. Mr. Gonder says he goes to see a saw tooth building six days a week. It would be nice if people were coming to Hastings to see a saw tooth building six days a week. Other adaptive reuse buildings in the area: DIA Beacon, the Irvington waterfront, Eileen Fisher, Red Hat Restaurant, in Yonkers X20. The Glenwood power station is now being renovated. South Street Sea Port, Faneuil Hall, Chelsea Pier, Ghirardelli Square in San Francisco. What do they all have in common? They are successful adaptive reuses. We should have that here. This building will become a magnet, not an object of derision for future development. We need to consider saving this building in order to save our waterfront.

You say you will keep the liability if you keep the building and someone decides to tear the building down in the future. The concrete cap in place now, this 650 pound per square inch slab, is that not a better cap than the five feet of construction debris that you are going to be putting in? Any building that gets built on this site after the cleanup is done, any foundation work is going to have to penetrate that five foot construction debris that they are putting in as fill. As soon as they go through that, every developer on the site is going to be responsible for whatever residual pollution is down there. So I say that is not a reason to not do this. That problem is going to exist on this site whether it is inside or outside this building. The

screen, I assume, was done on the interior brick, the little bit of screening you have done. Was any screening done on the exterior brick. Has the pollution migrated through the brick?

**Mr. Hardison:** The focus at this point has only been on the interior. We do not know the condition of the exterior.

**Mr. Metzger:** So can we cap the interior with a parging that would solve the problem of pollution in there. When you have asbestos problems you can either remove or you can cap it. I believe that we have that possibility.

In terms of finding out what is underneath the slab. I understand there are issues with safety. In my basement, pieces of plaster come off the ceiling. I have a 100 year old house. It is part of having an old building subject to high humidity, temperature variations. As several other people have said, and I am an architect as well, you see these types of situations that are abandoned. This building has been sitting empty, open to the weather, for 20 years. I would say that what we are seeing here shows a remarkably strong and resilient building, not something that is about to fall down immediately. Put a screen in, put plywood up, put scaffolding in, go in and do some core samples. Let us see what is in there. It would not take that long and it would not be that difficult to build a small enclosure, do some core samples and see what is in the ground underneath. Is that a possibility?

**Mr. Hardison:** The real problem is, we can do all that and we still have not removed the contamination that is in the soil beneath the building.

**Mr. Metzger:** Again my question is, with the slab in place I would say that gives you better protection from the contamination than the five feet of fill you are planning on doing.

**Mr. Hardison:** No. The regulators do not view a slab as a sufficient barrier.

**Mr. Metzger:** But you do not know what is under there so you do not know what kind of remediation you have to do. You are making suppositions about what may or may not have migrated through that slab.

**Mr. Hardison:** I know that at least in some areas it is beneath the slab. So I know it is in some places, I do not know how much.

**Mr. Metzger:** I will raise the question that a gentleman raised 20 years ago when the original work was being done on the site. We took a look here and we took a look there, and he said that is not the way you do this. You grid off the building, you do core drilling in each of those grids. If you find that there is pollution in a grid you then subdivide that grid to see

the extent. So to make suppositions about the value of this building, and I believe this building has huge value for the Village, I think you are putting the cart before the horse here.

**Mr. Peterson:** The grid work and further delineation would be performed for a resolution under the DEC guidelines once the walls and roof are down. Like Wayne mentioned just a minute ago, the samples that have been taken show there is an issue below the slab. And to date, the DEC does not accept a slab as reason to not remove the source beneath the slab. That is why we are breaking slabs and going through the slab elsewhere on the site. The slab does not satisfy DEC requirements.

**Ellen Hendrickx, 63 Clarewood Drive:** To address more fully what Jim brought up with regard to the Comprehensive Plan, and with all due respect to Mr. Gonder and Jerry Quinlan, the Comprehensive Plan incorporates retaining and reusing Building 52. We invited the community to give us feedback on every part of the Comprehensive Plan so we included in that plan what most people wanted. In that case, it was because people wanted the building.

I can understand why people would be happy to get rid of what, right now, is an eyesore, and Building 51 at the time. Because they have been left, whether they are boarded up, they are not attractive. It takes some imagination, and sometimes all of us have to be led in reimagining how a place can be beautiful. I would ask that BP and ARCO be our partner in giving us something that incorporates adaptive reuse, which the Village and its new green building code is anticipating. The county, in support of the mid-Hudson Valley directive to incorporate greener standards, includes adaptive reuse. I can read something from a resolution that is now being discussed, which I will just describe, saying that is a part of the greening and the sustainability of our beautiful country, village and state. This all generated from the state, from Governor Cuomo's 2011 state of the union, in which he asked that we look at a greener New York. If we can adopt that spirit, rather than thinking about all the negative aspects, if we can surmount those negatives and make it into a positive as partners, it could be a great P.R. for BP and ARCO. As Mr. Gonder said, there has been a lot of negative P.R. Well, let us turn that around. We would like to help you do that.

I do remember that the slab was considered a good layer at one point. But to the point that you made about how do we handle the different heights once you put the five foot fill on the exterior: there is enough height in that building to raise the floor. Could that not create having an additional layer or additional fill within the building because that will also serve as a conduit and so forth? Could that act as fill and protection?

**Mr. Peterson:** With the building standing as a building, the PCBs beneath the floor are managed under TSCA rules, which allows the building to remain, the floor to remain. And the PCBs are beneath the floor. As long as the building is standing the floor is OK. There is

a difference in DEC regulation that does not allow that if there is no building. I guess the definition of a building is roof and walls. Slab changes definition, either being part of the building or not a building. So a floor above the floor is not necessary for either remedial strategy. That is just a grade issue to get a second floor to the same grade as the surrounding soil. I am not a construction expert but I envision a basement now that would have to be drained, kept dry. Maybe a way to run piping and so forth for the building. But dealing with that below grade would be necessary and would present some complexities.

**Ms. Hendrickx:** There are complexities, no doubt. You are talking a lot of what ifs when the building comes down in the future. But if it is adaptively reused to create something wonderful that will stand for at least as long as it has already stood, hopefully a lot longer, as a testament to the ingenuity of our collective minds. I hope that you will consider that.

**Trustee Jennings:** It is my impression under the consent decree that because it is impossible to remove all the PCBs to whatever depth in some parts of the site some contamination is going to be left. It is OK with the DEC, it is OK with the consent decree. There is going to be an impermeable surface cap put down, there is going to be clean fill, there is going to be topsoil. That impermeable surface is not to be breached. If that is the case elsewhere on the site, the same liability concern, about what is under the slab of Building 52 would exist if someone were to breach that impermeable surface cap. I do not understand why the same kind of situation would not be acceptable to BP under the slab of Building 52, surely as good or better a barrier to protect the people from the contamination as the impermeable surface and other aspects of safety remediation that are going to be done on places where there are no buildings.

**Mr. Peterson:** I will pass it to Wayne, since he is the regulatory expert. But it is a regulatory thing, TSCA versus the DEC. It is not a BP choice.

**Mr. Hardison:** The issue is the depth of the contamination. Unless the building is there in perpetuity, somewhere in the distant future our grandchildren take it down, those shallow soils would be subject to remediation. The remedy does leave behind some PCBs, but it is at a depth the DEC considers to be protective.

**Trustee Jennings:** And we do not know where they are.

**Mr. Hardison:** The locations where we do have information they are two to four foot deep, so they are in the area that will be subject to remediation.

**Trustee Armacost:** Mr. Kornfeld was talking about buildings being eligible for preservation, and that that required state and federal permission if anything is going to be

done with those buildings. Can you clarify whether permission needs to be sought in a situation like this?

**Mr. Kornfeld:** I do not believe that the state Historic Preservation Office has been consulted since they issued the determination of eligibility. But typically private properties are not regulated in that way. An owner could demolish a property without permission from the state, even if it is listed on the National Register. But in a case where state or federal permits are required or where state or federal funding is involved, then they would have to be consulted. But they would have to say what they require.

**Trustee Armacost:** So can you tell us whether they have been consulted?

**Mr. Hardison:** I am not aware of any federal or state funding that is going to be used to help us with the remediation, so I am not aware of a requirement to consult, at this point.

**Trustee Armacost:** I do not think it was funding. I thought it was the DEC permits.

**Mr. Hardison:** The permit process has not begun, so there has been no consultation at this point.

**Trustee Walker:** You are saying that even if it is not on the Register of Historic places but eligible that you still require SHPO approval?

**Mr. Kornfeld:** Yes. The entire site, I believe in the 1970s or early 1980s, I do not remember, was determined not eligible for the National Register. A large percentage of the people in the Village had very bad associations with it due to the pollution. A lot of people that had worked there did not like it. I think the state felt they were doing a favor to the community to not stand in the way of our redevelopment. But our committee asked the state to reconsider that when there are only a few buildings left and society had changed to the extent that these historic industrial buildings throughout the region were considered to be valuable. It is a perception difference like the way art deco buildings used to be considered kitsch and now they are considered masterpieces. There is an increasing sensitivity to that. At this point, there is a near extinction of buildings like this in the lower Hudson Valley.

The state was willing to reconsider, which they do not typically do once they make a determination. But they considered it when there were, I think, three buildings left. It was 51, 52 and the small square building and the water tower. They determined that that group of buildings was eligible, which, in this sense, has similar protection to if it were listed. Also, there are economic advantages if something is listed if you are doing redevelopment. The redeveloper can get tax advantages. If they do it to preservation standards, they are also

eligible for grants. It is something that you can give as a perk to someone who is putting together a development proposal that involves historic restoration.

**Ben Diep, 385 Warburton Avenue:** I am a newcomer in this town. If the building goes down the waterfront is not going to be flat forever. It is going to be built again. So you are not going to have that perfect view that you would wish. The slide show is five years old and you have not done new digging or exploration. The hurdle you have is that things are falling down, you cannot do the excavation or testing. Have you considered maybe you have to remove the roof. Take off the load, and then you would do your true testing to find out what is going on. With all that happened in the Gulf with BP this would be a perfect that speaks louder than anything you have for your P.R. I wish you would consider that.

**Mr. Hardison:** We have not considered partial demolition as an approach. In either case, the long-term goal is to do the remediation to fully meet all the requirements of the DEC. That is our primary goal. But that is an interesting idea.

**Mr. Diep:** I do not mean to remove the roof as a demolition part. I mean just to take off the lower so you can further your process. But that means if you choose to keep the building, then you can rebuild the roof which you are going to have to do anyway if you are going to keep the building.

**Mayor Swiderski:** In terms of next steps, there is no request, there is nothing before the Board. There is no action for us to take. The action for you to take is to consider what you heard. You have been requested by the Board to provide a breakout on the \$3.6 million. We do have a Village engineer who is here today. He has been, asking you for backup details and is doing his own independent verification.

**Len Warner, Louis Berger Group, Inc.:** We have been retained by the Village to assist them with issues and questions related to the site. Wayne and I have talked by phone, and I have requested some additional information. BP-ARCO gave us a tour of Building 52 today. I have here with me Steve Bedford, our building historian. David Good is a senior engineer. We received a copy of the scope that you gave to Envirocon to guide them in the cost estimate. We are looking at that. We have asked for detailed backup on the cost estimate because that is probably the best way that we can independently evaluate the estimate if that is what you ultimately request us to do.

**Mayor Swiderski:** Ultimately can be considered now. Please do.

**Mr. Werner:** As soon as we have that information we can look at that in conjunction with the reports that we have already downloaded from the Village's Web site, including the 2007

report on the building preservation impacts. We have the current letter, we have the 2006 structural report. If there are other documents, Wayne or Allen, that you think we should look at, please let us know.

From what we have seen today and the dialogue that has gone on, it would be worth considering to install safety netting or other protective measures that would enable further investigation to allow some of the broader questions to be answered of the extent of the contamination. Also, it is probably worth exploring with the DEC ultimately what is the feasibility of transitioning between a site cap and the building. There are so many questions that have to be answered regarding the excavation footprint outside the building, balancing the excavation depths between what fill is put back. So we will look at the questions the Village asked us to take a look at and give you our best subjective opinions.

### **APPROVAL OF WARRANTS**

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

Multi-Fund No. 43-2012-13	\$69,531.24
Multi-Fund No. 45-2012-13	\$85,138.09
Multi-Fund No. 46-2012-13	\$30,555.57

### **APPROVAL OF MINUTES**

On MOTION of Trustee Armacost, SECONDED by Trustee Apel with a voice vote of all in favor, the Minutes of the Public Hearing and Regular Meeting of Feb. 5, 2013, and the Regular Meeting of Feb. 12, 2013, were approved as presented.

### **PUBLIC COMMENTS**

**Tim Downey, 520 Farragut Parkway:** I have not heard anything about the update on the deer. If we are going to be going forward with this program you are running out of your window of time to set up the exclosures. This is critical that we capture a snapshot, starting with the spring. Things are pushing out and blossoming. It has to be happening. In addition to capturing the new blossom and bloom, it is the safety of going out and doing this work, not exposing yourself to the possibility of setting up these exclosures, carrying materials and having ticks fall upon you. If you are doing it in the cooler weather before they start to emerge it is that much safer. When can we get rolling with the?



**Mayor Swiderski:** We are waiting for the DEC, which has been promising now for several weeks, to respond to our draft request for a permit that was sent in last year. I have reached out to them several times this year, asking for them to provide comments. Because if, in fact, we are going to get a negative result, and there is always a chance, I have not said it is guaranteed, I am not going to gin up a whole process in this village only to be dinged by the DEC. However, your point is extremely well taken and you are giving me another reason to goad them. Professor Rutberg also is under some time pressure to figure out how this is going to sequence out over the next nine months. I will be having a conversation with him in later March, but it is tentative until we hear something from the DEC, and Fish & Wildlife specifically. You have given me another reason to reach out to them, and I will do so.

**Mr. Metzger:** I have not seen this personally, but someone has seen it. There is construction at the top of Aqueduct Lane and Washington. There are three houses being constructed. I understand the construction debris from that site is being dumped in the quarry. I see that our Building Inspector is in the room. I would like to ask that somebody look into that and see if that is what is happening.

I see that you are about to look at resolutions concerning the MR-C district. I want to know if the Board had an opportunity to discuss parking issues that I raised at the last meeting before voting on this in terms of square footage, whether it is applicable to an entire building or per business within the building, and for parking for use such as a movie theater.

**Mayor Swiderski:** The answer to the first question, please, Deven, take a look. That is scary. And to the second, no we did not have a further conversation.

**Anne Schnibbe, 8 Edmarth Place:** Two seniors that accompanied us to represent us had to leave because it got so late. This in reference to the Mayor's e-mail of last night.

Why have the residents of our village of Hastings not been told until now of the planning and consideration of hiring a part-time superintendent of parks and recreation to share duties of our village and our neighboring village of Dobbs Ferry? According to the Mayor's e-mail of last night, I cannot call this a merger. I will say it is a cross-utilization, an exchange of services. With all the busy planning and discussing all this effort, according to your e-mail, this has gained the support of our Mayor and the mayor of Dobbs Ferry and their boards of trustees. But where in the e-mail does it mention resident input? No input from the public went into these discussions. Why? Or more to the point, why not?

**Mayor Swiderski:** The next meeting, March 19, we will have a segment dedicated exactly to that. Why not to date? These were initially exploratory discussions involving personnel. It was not clear whether this was something that was going to happen or not. And it was

only after we spent some time, and realized it made some sense before we began to gin up a discussion for the public. My e-mail that I sent out yesterday was mostly to head off some concerns that were percolating in the community. I was going to put out that e-mail later this week. I felt there was so much on the agenda this week that I did not want to crowd people's inboxes with weighty issues, but rather space that out. But we were intending to have a public discussion in the second meeting in March. That discussion will involve a detailed description of the proposal, which is still being worked out, and an opportunity for public input and participation.

**Ms. Schnibbe:** At the March 19 meeting, which is in a couple of weeks, is that when you are going to vote?

**Mayor Swiderski:** No.

**Ms. Schnibbe:** Is there going to be a lot of time in discussion with the Village residents before the vote? I mean other meetings besides March 19.

**Mayor Swiderski:** If it makes sense, sure.

**Ms. Schnibbe:** Why would it not make sense to hear it?

**Mayor Swiderski:** I am not knocking it down. I am saying depending upon the quantity of input and whether it makes sense to have further discussions, we will, of course, schedule them.

**Ms. Schnibbe:** But Village input will be important, will it not, in the decision?

**Mayor Swiderski:** Yeah, of course it will.

**Ms. Schnibbe:** OK. And it will be very much considered in the vote, correct?

**Mayor Swiderski:** Yes.

**Ms. Schnibbe:** OK, thank you.

**Valerie Harmon, 185 High Street:** When I came home from vacation, I was asked if I saw the article in the paper that had a statement regarding the rec department and the sharing of a superintendent between Dobbs and Hastings. Unfortunately I missed it, but somebody kept it for me. I had a lot of questions, and no matter who I asked they did not have answers. I went to our commission meeting. I figured those were the people that would have the

answers. They did not, they had nothing. At that meeting was Trustee Meg Walker, who suggested that I come down here to ask my questions. So I am here, and since it is very late I will keep my presentation until the 19<sup>th</sup>. I have a tremendous amount of concern about not only what is going on, but how it is being handled. This concerns all the people of Hastings. I have, I think, a very good way of saving even more money than your proposal. And it seems like I have to wait until the last minute to propose it. I think that is not good timing.

**Mayor Swiderski:** Village Manager Frobel and I met with the Parks and Rec Committee prior to that meeting for over an hour, and laid out what we were proposing, in detail. One of the Committee members is part of the working group that has been working on this issue and has been fully in the loop. I am not sure what happened there, but we do have a member of the Parks and Rec Committee on our group.

**Gloria Brkich, 27 Southside Avenue:** I am right here.

**Male Voice:** Could you state the approximate date of when that conversation came about?

**Ms. Brkich:** It came before us at the recreation meeting, the last one we had, which is February, was it not?

**Mayor Swiderski:** It was in January.

**Ms. Brkich:** It was convened not at the public meeting. It was convened as a private meeting after that meeting. The last meeting we just had, I told them that I was completely against this proposal. Our Community Center is a beautiful community center for this village. It represents the residents of this town beautifully. The activities there are always ongoing all day long. There is no reason why we should have to combine with Dobbs Ferry our recreation department. I am very much against it. I do not know about the other residents in this town, but I feel the recreation department does a beautiful job of providing all activities from toddlers to students to teenagers to the seniors, because I am a senior. They do a fabulous job. I really love living in this town, and I feel that this belongs to Hastings. It does not have to be combined with another community.

The Community Center fills this community great for the residents. If you go to the aerobics class, the yoga class, the line dancing class they are always busy. There are a lot of seniors that go to those groups. It is not just a few people that go to the Community Center. It is a very busy center. And the pool is great. I love the pool because I go there every day. So I do not see why we have to combine with Dobbs Ferry. I do not know about the rest of the committee, but that is my opinion. I would love it to stay the way it is, and I hope we can continue doing it the way it is. That is the way I feel, and that is my opinion.

**Mayor Swiderski:** Just a clarification. We are not proposing combining departments. We are proposing sharing a superintendent.

**Ms. Brkich:** But I think the superintendent is going to be splitting his time between two communities.

**Mayor Swiderski:** That is what will happen when you share a superintendent.

**Ms. Brkich:** But that is too much. We need a Parks and Recreation superintendent just for our village, for our community center. The job is a very big job, as far as I am concerned. They do a beautiful job of providing things for this community, for the residents of this village. I do not think we need to combine with Dobbs Ferry to share a superintendent. Ray did a great job and he filled the job very well, and I cannot see why we should have to split a superintendent between two villages. What is he going to work? Two days at the Community Center and two days in Dobbs Ferry? What if I need him the two days that he is not here, or anybody that comes to the Community Center, any of the residents. They are going to say he is not here, you cannot talk to him, you have to come back two days later. He works five days for us, and that is the way it should be. I pay enough taxes and all the residents in this village pay enough taxes to have their own superintendent.

**Dave Skolnik, 47 Hillside Avenue:** Is there any point where it would be appropriate for the Board to get involved in the discussion brought up by Paul Feiner about the Yonkers development project that is beginning to be discussed more publicly. I was wondering whether there is some action that you would be considering taken within the bounds of what is your responsibility.

**Mayor Swiderski:** I would imagine I would as the Planning Board to review what is being proposed and prepare and offer comment that we could sign on to. But beyond that, I am for a lack of creativity right now. But yes, it is a major proposal. And it is what we did in response to Dobbs Ferry's proposal for Rivertowns Square. We prepared comments and submitted it as part of the DEIS process there. I imagine we would do the same thing here, since the traffic impacts are going to hit us.

## **RESOLUTIONS**

**Village Attorney Stecich:** The first three resolutions all relate to the amendments to the MR-C zoning district and parking in the MR-C and the central commercial district. At the time you called for the public hearing, the amendments were referred to the Planning Board, the Zoning Board and the county for their comments. The Planning Board recommended

passing both laws. There was an issue that somebody picked up on the motor vehicle use, which was a typo that was corrected. That is in the law, in the form you have it. But the Planning Board also had some concerns about the 40 percent limit on the area use for the production and processing of goods. I explained to them that the Board of Trustees had the same concerns, and after a lot of discussion decided to go with it because that is what is in the CC district. But we will keep an eye on it, and the Planning Board encouraged the Board to keep an eye on it. We got a letter from the county saying that they saw this as a matter of local concern and they had no concern. The Zoning Board raised one concern. All the members were concerned that we not make any of the businesses nonconforming. Remember, it used to provide retail for the sale of books, antiques and stuff like that. We changed it, and that had no size limit. But when we changed it, we intended to broaden it by saying any retail use, provided it is not greater than 2,500 square foot in size. The concern was, are you rendering anything illegal. So I sent a memo around, and I asked Deven to check on it today, in particular on what I think is the biggest business down there and somebody raised a particular concern about it, the bookstore. And, in fact, it is under 2,500 square feet. So that was the only comment from the Zoning Board. They also recommended approval. We went through the Environmental Assessment Form. The Board agreed that there would be no negative environmental impacts. That is what the first resolution is about, and the other two are on the two local laws.

**Trustee Apel:** Which law was the one that pertained to Jim's question?

**Village Attorney Stecich:** I suppose it was the parking one because it eliminated the parking requirement for retail uses and restaurants under 2,500 square. There was some discussion by the Board. The Board just recognized there is not parking down there.

**Trustee Armacost:** One should be able to walk to the Zinsser parking lot if you need parking. It is not very far away at all.

**Village Attorney Stecich:** And, Jim, about the movie theaters. Movie theaters are not a permitted use in the district. I know that question came up because movie theaters are big traffic generators. So movie theaters are not a permitted use.

**John Kaftor, 19 Washington Avenue:** That was not said to the Zoning Board, was it, that it was going to be a movie theater. We talked about that and I understood that, but we were going to try to make it like a coffee shop with a gimmick.

**Village Attorney Stecich:** Or a studio, whatever. But movie theaters are not a permitted use in the district.

**Trustee Apel:** Have we addressed all of Jim's comments, then? I want to make sure.

**Mr. Metzger:** If I might, because Marge was not at the last meeting. My question was, if there was a business use that would bring a large number of cars into the area that would stay for a fairly long period of time you would not have the turnover in that particular neighborhood if you have 15 or 20 cars showing up to go to a business for two hours. I like the concept, but if a movie was being shown and those cars did not turn over it would create a problem for the other businesses that are trying to make a go that have been in that neighborhood, historically, for decades. It had to do more with the term of parking for a given use, as opposed to retail uses in general.

**Trustee Apel:** So does this answer your question?

**Mr. Metzger:** If a movie theater is not permitted, then the answer is yes, it does. My question is, what if someone is running a business and they are starting to run classes and people show up for three hours and they have a class of 20 people and 20 cars show up, this could be a serious problem in that neighborhood. It could cause other business to fail.

**Village Attorney Stecich:** But they are not exempt from parking. The two uses exempt from parking were small retail uses and restaurants.

**Mr. Metzger:** There used to be the hot mud studio there.

**Village Attorney Stecich:** If you had a school, you are probably going to have to come in and get a parking variance. For the business to be there it is going to need a variance because there is no off-street parking.

**Mr. Metzger:** I am a little leery, but it is going to be a case-by-case basis. The other question I had was if a building has two floors of commercial in it, and the two floors together are over the 2,500 square feet, does the building have to then provide parking. They may be the same business occupying two floors, but two separate businesses; is the 2,500 square feet per business or per building?

**Trustee Walker:** It is per business, is it not?

**Trustee Armacost:** Per business is what we discussed.

**Trustee Walker:** Per use, which is the business.

**Trustee Apel:** They would have to provide parking.

**Mr. Metzger:** So potentially there could be several thousand square feet of business use and they would not have to provide off-street parking.

**Village Attorney Stecich:** Theoretically, but it is unlikely that you are going to get a retail use on the second floor unless it is combined with the first floor. Once in awhile you would see, like in Georgetown, there are buildings that go two floors. But then that would be 5,000 square feet of retail use. It is unlikely that you are going to have a stand-alone retail use on the second floor.

**Mr. Metzger:** So as long as it is the same use, even if it is occupying the two floors, if it is over the 2,500 square feet, regardless of the number of floors it would have to comply with off-street parking.

**Village Attorney Stecich:** I have seen [anthropology] XXX stores that are on more than one floor. But it is all one use because it is one store.

**Trustee Apel:** I would suggest that the store that is going to provide movies and other things that they might encourage people to come and advertise that there is parking in other areas, and that they should be given passes or whatever to encourage them. You want to keep your neighbors happy.

**12:13 NEGATIVE DECLARATION - AMENDMENTS TO THE MULTIFAMILY RESIDENCE/COMMERCIAL (MR-C) ZONING DISTRICT**

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

**WHEREAS,** a Short Environmental Assessment Form (EAF) by the Village of Hastings-on-Hudson dated February 21, 2013, a copy of which is attached hereto, has been filed with the Board of Trustees in connection with proposed amendments to the Village of Hastings-on-Hudson Zoning Code Multifamily Residence Commercial (MR-C) Zoning District, and

**WHEREAS,** the Mayor and the Board of Trustees, the only involved agency, have reviewed the EAF and the criteria for significance set forth in 6NYCRR § 617.7(c), now therefore be it

**RESOLVED:** that the Mayor and Board of Trustees find that that the proposed action will not have a significant adverse impact on the environment and does not require an Environmental Impact Statement (EIS) for the reasons as set forth in the EAF.

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

**13:13 APPROVAL OF LOCAL LAW NO. 2 OF 2013 ADDING PERMITTED USES TO THE MULTIFAMILY RESIDENCE/COMMERCIAL DISTRICT**

**Village Attorney Stecich:** The new uses are retail uses with a gross floor area of 2,500 square feet or less; personal service establishments; other services establishments, but excluding gasoline filling stations and motor vehicle storage, repair or service establishments; copy, offset and incidental job printing. Those are as-of-right uses.

And there is a special permit use: the production and processing of goods, provided that goods produced and processed are sold at retail on the premises; the area use for the production and processing of goods does not exceed 40 percent of the use; and no offensive noises, gases, fumes, odors, vibrations or other objectionable influences or hazards shall emanate from such use; and the operation of such use shall not be detrimental to the health, safety or general welfare of neighboring properties or the community.

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

**RESOLVED:** that the Mayor and Board of Trustees hereby adopt Local Law No. 2 of 2013 amending the Zoning Code of the Village of Hastings-on-Hudson, Westchester County, New York, to add permitted uses to the Multifamily Residence/Commercial (MR-C) District.

Be it enacted by the Board of Trustees of the Village of Hastings-on-Hudson as follows:



Section 1: Subsections A and B of § 295-72.2 of the Zoning Code are hereby amended to read as follows (new language in *italics*; deleted language ~~stricken~~):

A. Principal uses. The following uses are permitted principal uses in an MR-C District:

- (1) Any principal use permitted in a 2R-3.5 District as set forth in § 295-70.1A above.
- (2) Dwellings for three or more families, provided that suitably improved and usable recreation area and open space shall be provided in accordance with the following requirements:
  - (a) One hundred square feet for each studio (efficiency) and one bedroom dwelling unit; and
  - (b) One hundred square feet for each additional bedroom thereafter for all other dwelling units.
- (3) ~~Retail sale of antiques, books, art, gifts, or other similar specialty items~~ *uses with a gross floor area of 2,500 square feet or less.*
- (4) Restaurants with a gross floor area of 2,500 square feet or less, and outdoor dining areas accessory thereto.
- (5) Artist studios.
- (6) Health, fitness or athletic clubs.
- (7) Business and professional offices.
- (8) *Personal service establishments.*
- (9) *Other service establishments, but excluding gasoline filling stations and motor vehicle storage, repair or service establishments.*

- (10) *Copy, offset and incidental job printing.*
- (11) Mixed-use buildings, provided that any residential dwelling unit contained therein has a minimum gross floor area of 500 square feet and further provided that suitably improved and usable recreation area and open space shall be provided in accordance with the following requirements:
  - (a) One hundred square feet for each studio (efficiency) and one bedroom dwelling unit; and
  - (b) One hundred square feet for each additional bedroom thereafter for all other dwelling units.

B. Principal uses requiring a special use permit. The following uses are permitted principal uses in an MR-C District but require a special use permit issued pursuant to Article X of this chapter:

- (1) Any use permitted in an MR-1.5 District requiring a special use permit as set forth in § 295-72B above.
- (2) *Production and processing of goods, provided that:*
  - (a) *Goods produced and processed are sold at retail on the premises.*
  - (b) *The area used for the production and processing of goods does not exceed 40% of the use.*
  - (c) *No offensive noises, gases, fumes, odors, vibrations or other objectionable influences or hazards shall emanate from such use, and the operation of such use shall not be detrimental to the health, safety or general welfare of neighboring properties or the community.*

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

Section 3: This local law shall take effect immediately upon filing in the office of the New York Secretary of State.

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

**14:13 APPROVAL OF LOCAL LAW NO. 3 OF 2013 EXEMPTING CERTAIN USES IN THE MULTIFAMILY RESIDENCE/COMMERCIAL DISTRICT FROM PARKING REQUIREMENTS**

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

**RESOLVED:** that the Mayor and Board of Trustees hereby adopt Local Law No. 3 of 2013 amending the Zoning Code of the Village of Hastings-on-Hudson, Westchester County, New York, to exempt certain uses in the Multifamily Residence/Commercial (MR-C) District from parking requirements.

Be it enacted by the Board of Trustees of the Village of Hastings-on-Hudson as follows:

Section 1: Subsection E of ' 295-36 of the Zoning Code is hereby amended to read as follows (new language in *italics*; deleted language ~~stricken~~):

Within the CC and MR-C Districts, a *restaurant or retail use occupying or proposed to occupy a building, structure or portion thereof*, with a gross floor area of 2,500 square feet or less, shall be exempt from providing off-street parking spaces as required by this chapter.

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

Section 3: This local law shall take effect immediately upon filing in the office of the New York Secretary of State.

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

**15:13 APPROVAL OF TAX CERTIORARI – JP MORGAN CHASE, 565  
WARBURTON AVENUE**

**Village Manager Frobel:** You have received a copy of the memorandum from Attorney Levy, in which he summarizes this case. As indicated in the resolution, it involves a tax certiorari matter, the Chase bank building on Warburton Avenue. We have coordinated our defense with the town and school. It is his recommendation that it be settled in the amount so indicated.

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

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

<b>Property Owner</b>	<b>Address Description</b>	<b>Year(s)</b>
<b>JPMORGANCHASE</b>	<b>565 Warburton Avenue Section 12, Sheet 10 Block 630, Lots 24 and 26</b>	<b>2007- 2012</b>

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

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

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

<b>Years</b>	<b>Current AV</b>	<b>Reduced AV</b>	<b>AV Reduction</b>
2007	40,000	31,000	9,000
2008	40,000	31,000	9,000
2009	40,000	31,000	9,000
2010	40,000	31,000	9,000
2011	40,000	31,000	9,000
2012	40,000	31,000	9,000

The refund of Village taxes amounts to \$11,902.05±.

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

**16:13 SCHEDULE PUBLIC HEARING – INCREASE IN RECREATION FEES**

**Village Manager Frobel:** This is a recommendation from the Parks and Recreation Commission. In our continuing effort to seek out areas where revenue should be enhanced, where there are some inequities or we have fallen behind or expenses are not being covered, this is an example. I gave you a memorandum that I received just this afternoon, and apologies for the lateness. It talks about in great detail the reasons why we believe these three action items are appropriate. The pool fee impacts non-residents only. There is no recommendation for an increase for our residents. The proposed camp fees are not the principal camp that we provide at Hillside Camp, but rather some of the advanced programs we run either before the program or throughout the year. We believe they should be addressed. What is new this year is a proposed non-resident camp fee. We believe there is a market out there of upwards to 20 or 25 families that may not live in the Village but are part of the community, insofar as either they work on the schools or in the Village. We believe there is some interest on their part to have their youngsters participate in our camp.

At the next meeting we will be in better shape to go into greater detail about some of these specifics. Tonight, all we are looking for is setting a public hearing. The urgency is only that our fliers are going to be prepared and we would like to have as much advance notice to the community if, in fact, the Board were to support these initiatives.

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

**RESOLVED:** that the Mayor and Board of Trustees schedule a Public Hearing for Tuesday, March 19, 2013 at 7:30 p.m. or shortly thereafter to consider the advisability of increasing 2013 recreation fees as follows:

**2013 Proposed Chemka Pool Non-Resident Fees**

	<b><u>Current Fee</u></b>	<b><u>Proposed Fee</u></b>
<u>Family Membership</u>	\$636	\$700
<u>Individual</u>	\$369	\$400

**2013 Proposed Camp Fees**

	<b><u>Current Early Bird Fee</u></b>	<b><u>Increased Early Bird Fee</u></b>	<b><u>Current Regular Fee</u></b>	<b><u>Increased Regular Fee</u></b>
<u>Early Learning Camp</u>	\$350	\$450	\$375	\$475
<u>Sports Camp</u>	\$270	\$370	\$300	\$400
<u>After Camp</u>	N/A	N/A	\$330	\$400
<u>BeforeCamp</u>	N/A	N/A	\$330	\$400

**2013 Proposed Non-Resident Camp Fees (New)**

	<u>Early Bird Fee</u>	<u>Regular Fee</u>
<u>Early Learning Camp</u>	\$540	\$570
<u>Sports Camp</u>	\$444	\$480
<u>After Camp</u>	N/A	\$480
<u>Before Camp</u>	N/A	\$480
<u>Hillside Day Camp</u>	\$630	\$678

**ROLL CALL VOTE**

**AYE**

**NAY**

Trustee Bruce Jennings	X
Trustee Marjorie Apel	X
Trustee Meg Walker	X
Trustee Nicola Armacost	X
Mayor Peter Swiderski	X

**Trustee Armacost:** Can I ask that in the public hearing, or in preparation for the public hearing, that the issue of scholarships is addressed so that we have more contextual information about how people of different income levels are able to participate?

**Village Manager Frobel:** You mean more than the written documentation I provided to you?

**Trustee Armacost:** Yes. Just make sure that it is articulated for other people as an introduction to the session.

**Village Manager Frobel:** Of course. In the weekly report I gave you some narrative. In follow-up to that, I have spoken to the Village Attorney and she is comfortable that the Hastings program is appropriate. But we will comment on that the next meeting.

**Village Attorney Stecich:** I do not know what the criteria are, but you may give scholarships, yes. It is permissible to give scholarships to people in need.

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

**Village Manager Frobel:** I received a call a few weeks ago from State Assemblyman Tom Abinanti's office. The Village is the recipient of a grant of \$4,000 to be used to offset the expense of our business sign program that Trustee Walker headed up over a couple of years. We are going to be reimbursed for our expenses up to \$4,000 for that program.

And on the heels of that, I indicated to his office that we are also interested in receiving a grant in this upcoming session to offset the cost of our emergency power generator initiative. They were inclined to support that. Obviously no guarantee, but at least we let them know that we are interested in receiving another grant.

**Trustee Walker:** Under what program do these fall?

**Village Manager Frobel:** I do not know exactly. All I know is they have those member grants, and this is one we had asked for a number of years ago when we first started. That will cover almost half of our expenses, so certainly well received.

Second item, to elaborate on Mr. Metzger's comments this evening, and Deven is here of course, there is one building permit, one home that is being built at the corner of Washington and Aqueduct Lane. The over-burden from the excavation of that foundation, permission was granted to the developer to deposit that material, clean fill, on the quarry site. We are going to desperately need fill for that site as we transform it into a park or as part of our closure, and we felt that was certainly a good idea to have that stored for him on our behalf. It is clean fill, and we had no problems crossing the Aqueduct. We had their authorities out there and, as you know, that was the major stumbling block when we had a missed opportunity to have a great deal more fill brought to the site from another home that was being built. We were never able to work out the details in terms of bringing it over the Aqueduct because of the weight limitation. This is a much smaller amount, and certainly part of that overall effort to find fill, at no expense to the Village, which is going to be needed to close off that site eventually.

**Mayor Swiderski:** So ultimately, in sequencing, there is a remediation component, whether it is removal of any white goods or whatever that is left there, and then a covering.

**Village Manager Frobel:** We have always taken the approach, and the DEC is agreeable to it, in fact in your packet you received the engineering report for the ultimate closure permit



for the site; we are not looking to remove any material. The idea is to cap it with clean fill and then topsoil, then transform it into a passive park. We believe we have avoided all those expenses having the excavator move in that material. That was part of our approach to that problem from the beginning. It looks like we are being successful in that effort, as well.

## **BOARD DISCUSSION AND COMMENTS**

### **1. Saw Mill Lofts – Presentation of Modified Concept Plan**

**Bruce Lozito, Ginsburg Development:** I am here with Michael Zarin from Zarin & Steinmetz, and also in the audience are Rose Noonan from the Housing Action Council and Sue Smith and Jim Keaney from the Affordable Housing Committee, who we have been working with us on this Saw Mill Lofts project.

We were here three weeks ago and did a presentation of our proposed modified concept plan for the Saw Mill Lofts development on the Route 9-A site in the northeastern corner of your village. We have done a lot of work since then, in developing two documents that were submitted to the Village last week. One is a complete application for the MUPDD, the Mixed Use Planned Development District, concept plan approval, which is an approval issued by your board; and also an environmental narrative, which is a description of the characteristics of the property and its environmental effects, that would be used, presumably, by the Planning Board as a continuing lead agency in the SEQRA review of this project to, hopefully, make a finding that the effects of our proposed modification are less than or comparable to whatever impacts may have arisen and been addressed when the full SEQRA review was done in 2005-2006.

You have those documents. There is material addressing issues such as traffic and stormwater management that have all been updated to reflect current conditions and to give, again, the Planning Board as the presumed continued lead agency the tools with which to make what we would hope would be a declaration of no further environmental review, and be able to proceed to an approval with the project.

I would be glad to make a full presentation. We are here tonight for an almost ministerial act, which would be, for your Board having received the application through the Building Inspector as the MUPDD code provides, to now refer it to the Planning Board so they may make a recommendation to you on this concept plan modification and perform the SEQRA review. Your Board would also, according to the code, need to schedule a public hearing on the revised plan for some point in the future that would simply, at that point, be opened and kept open until the Planning Board did its work, got back to you with its recommendation and its environmental findings. Then you would be in a position to continue the hearing,

close it, and take action on the application. If the Board is so inclined, I could ask you to take that action at this point, or I can do a presentation at this point, as well. Which would you prefer?

**Mayor Swiderski:** The pleasure of the Board? Has the Board had a chance to go through the documentation provided in any level of detail?

**Trustee Armacost:** I do not feel like I need another presentation. Marge was not here. Did you miss that?

**Trustee Apel:** Yes, I was not here for that. But I did listen to the Board meeting and I did do all of that, and I looked over the booklets. And I have seen previous presentations.

**Trustee Walker:** I have questions and concerns, but I am not sure that tonight is the night to raise them. I am wondering if many of them are going to be addressed by the Planning Board. I am not sure that we, as the Board of Trustees, need to get into the level of detail that the Planning Board is going to get into.

**Mayor Swiderski:** No, but I would certainly appreciate it if you could forward the concerns and the questions to the Planning Board, on the off chance that they miss it.

**Trustee Apel:** If we have concerns, we could send them over to the Planning Board.

**Trustee Jennings:** I do not feel the need for another full presentation either. But between the last presentation and your preparation of these written materials has anything substantively changed that that is different from what you told us a couple weeks ago?

**Mr. Lozito:** I do not believe so, no.

**Trustee Jennings:** In that case, I do not think we need another oral presentation tonight.

**Mayor Swiderski:** Then are we prepared to remand it to the Planning Board?

**Trustee Armacost:** To me, that seems the sensible step to take at this point.

**Trustee Jennings:** As I understand our role at this stage of the process, I would vote to move it on.

**Trustee Walker:** Yes, I think that is fine, as long as we have the opportunity to present our questions to the Planning Board. We could collect them as a group. Does that make sense?

**Mayor Swiderski:** It makes sense to me. Marge?

**Trustee Apel:** Yes, it sounds like a plan.

**Mayor Swiderski:** We have a draft resolution. Is there any need for a public hearing about passing this resolution, or can it be passed now?

**Village Attorney Stecich:** No, you could pass it now. Part of the resolution, though, is to schedule a date for the public hearing. You can schedule it several months out, and end up adjourning it. But the code says you need to schedule it. So you can schedule it a few months out. Let us say you scheduled it for May, then if you needed to adjourn it at that point.

I assume the Board is disposed to having the Planning Board be lead agency for SEQRA. In the second from the bottom "Resolved," when you say resolved that the Board of Trustees refer the concept plan to the Planning Board for its review and recommendation, add that you ask the Planning Board to retain its lead agency status. Otherwise, they are going to have to send a notice around. I think that clarifies it.

**Mr. Metzger:** At the last meeting, questions were raised about the concept of the affordable housing component being in a separate building. The members of the Affordable Housing Committee, I do not know if they were speaking as the Affordable Housing Committee or as the Hastings Affordable Action Fund which is going to raise my second point. Do you have any say in whether that is a separate building, not a separate building? Or is that something that the Planning Board deals with? I am very concerned that we are creating a situation of separate but equal, which is not what the affordable housing mandate in this village should be about. If you are going to pass it to the Planning Board, are they then not going to know that there was an issue here about that unless I show up at that meeting? I have serious reservations about that.

I also have reservations about using previous SEQRA information from three, four, five years ago and moving forward with that as opposed to looking this project, which is a new project, different buildings, different parking, different situation relative to the Saw Mill River. There was a question about giving us the property adjacent to the Saw Mill River, we raised that issue that that is kind of a swampy area; do we want that liability. So these issues need to be discussed here before it gets put to the Planning Board.

My second concern I had when the affordable housing at 422 Warburton was being discussed. I think there is a conflict of interest in the Affordable Housing Committee and the

Affordable Action Fund. That conflict of interest as it was described to us, this project is going to be rental to start but with the hopes that it goes condominium. A comment was made that if it goes condominium the Affordable Housing Committee stands to make some money on this deal. I want to know how a committee that is advocating for affordable housing can also be possibly benefiting financially from discussing the project with the developer with no oversight from the Village. This is a problem that we had years ago, and it is a problem we continue to have now. There needs to be a separation of these two groups because they cannot be advocating for one and deriving potential financial benefit from the other. It is a real issue and I wish you would discuss that before this project moves any further.

**Village Attorney Stecich:** I cannot address your second question, Jim, but there are people from the Affordable Housing Committee here. But on the first one, yes, the Planning Board is just making a recommendation on this. They are making a recommendation and they are doing the SEQRA review, and it has to come to the Board of Trustees to make the final decision.

So let us say the Planning Board recommended a separate building and they stated their reason, and the Board of Trustees did not buy it. Then they would not approve that. The Board of Trustees has the ultimate say on that. On the SEQRA studies, yes, the Board recognizes that you do not necessarily have to reinvent the wheel on this, but the thinking is that we should retain an environmental engineering firm. We have to figure out what firm to take a look at it to see which issues need to be updated, recognizing that there have been changes, not necessarily in the river, but in thinking about flood plains and stuff. And also traffic has changed a lot since five years ago. But those are all recognized. The Planning Board has identified certain issues that they think need to be looked at. They just looked at this very preliminarily, because it has not been referred to them. But they would also have a separate consulting firm take a look at it, read through the last SEQRA findings which were really extensive, see which issues might have changed.

**Mr. Metzger:** Certainly traffic issues have changed with Rivertowns Square.

**Village Attorney Stecich:** Yes, people recognize that.

**Mr. Metzger:** The other thing that has changed and, again, this was raised at the last meeting with the Comprehensive Plan being adopted, we called for an independent financial assessment of the project to make sure that the Village is not going to be left holding the bag on future costs. That was recommended in the Comp Plan as part of the SEQRA review, that an independent financial study be done to make sure that the Village is protected from future costs.

**Village Attorney Stecich:** All these issues, I am not saying you should not raise them, but just so you recognize the Planning Board is on this and all of the issues that have been raised tonight. But you asked if you have to go to the Planning Board meetings. It is probably a good idea to appear at the Planning Board public hearing because the stuff may as well be dealt with earlier. Then they make recommendations, and then you come back to the Board of Trustees when the issues are raised for the first time.

**Mayor Swiderski:** I would like a response to the issue raised on affordable housing, if possible.

**Jim Keaney, Affordable Housing Committee:** I do not quite know what the issue is that was raised. There was some question about a conflict of interest. I do not know that Mr. Ginsburg is going to give us any kind of money to develop this as condos. I do not know what that question was all about.

**Mayor Swiderski:** I think I do, and I think it is a misreading. You did mention that there may be fees that will flow from helping to manage the property.

**Mr. Keaney:** If the affordable housing unit is separated so that there is a separate subdivision, and if the Affordable Housing Development Fund is part of that ownership, limited partnership or general partnership or however that shakes out, in the usual scheme of things there might be a development fee or a management fee to go through with that. We are not talking selling these as condos. The affordable housing units would be rental units, because under our code that we have been dealing with for many years, we have wanted those units to stay affordable in perpetuity, or 99 years or 100 years, which is far beyond what the county wants. So the county may permit the other units to go condo at some point, but we do not want that. We want our units to stay for a certain number of years. And if that is a conflict of interest, I do not understand that.

**Lorraine Kuhn, 38 Judson Road, Ardsley:** I am speaking as a resident, strictly on my own behalf, in no official capacity whatsoever. I am sorry to be here once again.

This site remains a flood plain. Any alterations are likely to impact the Saw Mill River Parkway, already a severe flood site. Once again, I must criticize the loss of infiltration capacity which will be caused by underground parking. Forcing water to flow around a huge, closed-off underground space exacerbates runoff just like flowing over an impervious surface area. The DEC is even more intent on zero runoff increase than they were five years ago.

Ciba-Geigy left but, happily, Accorda has come in. So a pharmaceutical company has continued to operate uphill. And there has been demolition at that uphill site. Soil and water testing was obfuscated years ago, and it was never clear whether there were underground tanks or buried waste at the proposed housing site. Scrutiny has only increased. Over the counter landscape products stored at the former Frank's Nursery have triggered extensive testing and mandatory cleanup. Hastings, for your own sake, new site testing is certainly warranted, most especially at any site that is being contemplated for any recreational use and playgrounds.

It is clear that Hastings has great zeal for affordable housing. But what about affordable taxes, groceries and transportation to go with it? This site is conveniently located within walking distance to a cemetery and the pharmaceutical plant. Is this an ideal affordable location? Additional bus service will need to be provided, either at your tax expense or at private expense to the residents living there – not an affordable concept. This parcel belongs to Hastings, but it is across a highway and a river from you and really attached to Ardsley. Shoppers will come to us, and your downtown will not benefit. On the other hand, our school district will be burdened to the breaking point with yet another influx.

Has Accorda been consulted at all regarding this property? Perhaps you can come up with a mixed-use as you originally intended, eliminating or at least scaling back housing. We have been so grateful for Hastings' reasoned analysis and neighborly consideration in the past. We would surely appreciate that consideration to continue going forward.

**Mayor Swiderski:** A point of protocol in terms of this process. At what point is the Ardsley school district pulled in so they are aware of this? When are they notified?

**Village Attorney Stecich:** They will get the notice when there is notice of the public hearing.

**Ms. Hendrickx:** Lorraine referred to some of what I was going to say. I am concerned about the flooding component and the new maps. In the previous iteration the property is so close, within a couple of feet, of the flood plain. That is something to be concerned about. But also, there is a lot going on in this same area in terms of timing. I hope that everyone is aware of it in the planning in terms of construction. Rivertowns Square, which is just down the street and across the highway. The replacement of the Ashford Avenue bridge. The straightening out of Jackson Avenue. All those things seem to be looming, and there needs to be coordination with all the agencies involved to make sure that we are not tied up in traffic hell.

**Mayor Swiderski:** Any other public questions or comments? I do not tend to editorialize, but on the affordable housing issue of separate and equal or whatever, I do want to comment that there is a difficult bind here, where much of the financing seems to prefer stand-alone affordable housing rather than integrated into a larger development because of the way the county and state finance projects. Realistically, many of these projects will not happen without that financing. That is at odds with the stated objective in our affordable housing law.

I, as people know, am deeply rooted in the practical, and for me, that is an issue. The issue is not with the sources of financing, because they are who they are, but rather perhaps in our own law, in us needing to examine whether we need to make exceptions. I would rather see more affordable housing than less, and financing is an important component of that happening. I do not know if the Affordable Housing Committee wants to comment on this sentiment. It is strictly my own, and I have not raised it with you. But I have noted that there is this tension. It is not the first time we have encountered it. It leads to tension with the public, this belief that it should be somehow integrated. And yet the fact is that it is hard for it to happen without that public financing. So I am putting that out there, not just here but elsewhere. It is a recurring theme. And I, given a choice between 12 separate versus six integrated, I will go for the 12 separate just because I am a practical guy.

**Trustee Apel:** But who is this power that be that is making this decision? Who are these people that are saying that it has to be in a separate building?

**Mayor Swiderski:** I am not an affordable housing guy. I have gotten this, a number of times, from a friend who is, and I have heard it said here, as well.

**Trustee Apel:** But if that is the case it is incumbent upon us to find out who is doing that, and sit down and talk with them. Because we do have a philosophy here and, I think, a moral obligation to people in our community. I do not like separate but equal. We have done it once before and I do not like it there, and I do not want it to become a precedent and they say you have done it before, you will do it again. I think that it takes some serious looking into. I am tired of hearing about they said, they said. Let us find out specifically who it is.

**Mayor Swiderski:** Fair enough.

**Trustee Apel:** And let us sit down at the table and talk with them about it. We owe it to those that live in this community and others that want to come into the community and not feel that there is separate. I think that is deplorable.

**Sue Smith, Affordable Housing Committee:** It is not the hour to get into a full discussion on this. But we have, in the law as it now stands that you passed that we recommended to you, discretion on this, because every affordable housing project is going to be unique. It is the nature of the beast, there always will have to be some kinds of compromises. In the perfect world, sure, it would be nice to have it all mixed up. In fact, this is one site. It will have to be subdivided because of the finances, but it one site, it is one community. It is going to be shared grounds. If there are school kids, they would be in school together. If they are shopping in Ardsley or in Hastings, they are part of the bigger community.

We do have the option of being on a totally different site because there will be cases where that works also, because of the financing, because of the size of the property. There are a variety of reasons that could come up. We wanted to be prepared for all of them. So from our point of view, although it is not the perfect kind of solution nor the perfect kind of funding, we think it is a good place, that it is great to be able to get that many units. If somebody came to us and was willing to do 12 affordable housing units on a piece of property all by itself, without any market rate, we would love that. So I am not sure that we need to even look at it as a precedent. Each one is going to be unique and it is going to have some kind of quirk about it, just guaranteed, because there is no land left to do it, we are up against a wall in creating it at all.

The discussion about the funding kinds of limitations, I would be happy to sit down and talk to you about that. It is a complicated world out there. There are lots of higher-ups that are making those decisions. We are trying to make use of whatever resources there are for us. I am not sure that is an adequate one, but maybe it is a start of the conversation.

**Trustee Apel:** I think we have to start somewhere. I hear what you are saying, but I am looking to the next step which eventually may be the waterfront. I do not want them to say we are going to have a separate building here, and you can be there and you are going to be over there. I do not want people driving by and saying that is the affordable housing and that is not. I think it says something. That is not us, this is not why we are here. Even though I hear what you are saying about it being just this time, the next time it will be just this time. I think we set a precedent. We already have one building that is affordable housing. We have three?

**Mr. Metzger:** Two private houses and 422 Warburton.

**Trustee Apel:** We want them intermingled. That was the whole concept of it. And once we are starting, we are going down that slope, it is going to continue to happen. We have to stop and look at it. I am sorry to hold things up.



**Ms. Smith:** There is no sign on it that says this affordable. One of the good things about this project is, architecturally, it is very integrated. That is really a strong point for it, that they all look similar and they mix that office-y kind of look rather than a strict residential.

**Trustee Apel:** Right. That will be over on one side, or near the southern part and this will be over there.

**Ms. Smith:** The architecture tries to soften that.

**Trustee Apel:** But it still off to one side and it is not integrated. It is separate buildings. It is not having people live in the same place, and to get to the elevator and to talk to each other and say hi. It is going to be the affordables and the non-affordables. That I take exception to. It just eats at me, that is all.

**Ms. Smith:** The reality of people getting to know people, that disappears pretty quickly. But OK.

**Mayor Swiderski:** I wanted to raise that because it is a recurring theme.

**Mr. Metzger:** If the financing becomes the determining factor, and we all want affordable housing in the community, we should have a new motto in the Village. It should be "Carpe Finkel-Diem", "Seize the Finkel-Day" let us do more for those that have less. If it has to be a separate building, we have explored all the options, we should do what Trustee Apel says. We should take a look at who is making these policies and see if there cannot be some way to change that. But if we cannot, then that building needs to have all the same amenities like underground parking, if that is going to be the case. I take Lorraine's point: underground parking is a bad idea on a site that floods. But if you are going to give those amenities to market rate, you give them to the affordable rate. That is how you make it more equal.

**Mayor Swiderski:** It sounds like we are prepared to pass this on. What will be the date?

**Village Attorney Stecich:** I would make it a date in May. You are certainly not going to get to it before May. That is probably really optimistic. It may as well be May 7 because the Planning Board is meeting after the 21st.

**Mayor Swiderski:** OK, May 7. Then in terms of SEQRA?

**Village Attorney Stecich:** Be aware that you may have to adjourn it. There would have to be some notice on May 7. Well, you will have notice on your calendar. You may end up adjourning it. Let us see when we get there. Let us talk a couple weeks before.

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

**WHEREAS,** Ginsburg Development Companies, LLC has submitted a Concept Plan for Saw Mill Lofts under the Village of Hastings-on-Hudson's Mixed Use Planned Development District (MUPDD), for fifty-four (54) units of market rate residential apartments and twelve (12) affordable residential rental units to be located on a 7.45 acre site on Route 9A immediately north of the County-owned open space; and

**WHEREAS,** the Building Inspector has determined that the Concept Plan submission is substantially complete; and

**WHEREAS,** Ginsburg Development Companies, LLC has made a presentation of its proposed mixed use residential building before the Board of Trustees; and

**WHEREAS,** the Board of Trustees has conducted a preliminary review of the Concept Plan; now therefore be it

**RESOLVED:** that the Board of Trustees schedule a Public Hearing on the Ginsburg Development Companies, LLC Concept Plan for the 7.45 acre site on Route 9A on May 7, 2013 at 7:30 p.m.; and be it further

**RESOLVED:** that the Board of Trustees refer the Concept Plan to the Planning Board for its review and recommendation and allow the Planning Board to retain lead agency status for SEQRA review; and be it further

**RESOLVED:** that the applicant establish an escrow account with the Village in the initial amount of \$10,000.00 to reimburse the Village for the costs of professional review in accordance/with Section 223-2 of the Village

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

**Mr. Lozito:** Thank you very much. And If you have any comments or questions that you need more information from me, please feel free to let me know.

**Mayor Swiderski:** In the interest of moving this along, if we come up with consolidated questions here we provide them to both you and the Planning Board so you can get to work on them in an expeditious way.

## **2. Update on the Downtown**

**Trustee Walker:** There is another meeting with our ad hoc committee that is looking at the downtown on Thursday at 7:30 at Rainwater Grill. This committee would like not to be a Village committee. It is evolving, and I thought you would like to hear that.

The Tourism Board is meeting on Thursday as well to talk about what we can each do to promote our downtowns for our Discover the Rivertowns weekends in June and October. So we are going to be talking about that. It would be good to get some ideas from this Board, but we will not do that now.

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

**Village Manager Frobel:** At the Chevron site, the treatment system is fully operational. They do periodic site visits; on a weekly basis they are on the site. The Exxon Mobil site, no activity, given the winter weather. They will be back in the spring.

**Mayor Swiderski:** We have heard everything we need to do on 52. There is nothing else worth mentioning.

We are working with Yale on a sample survey that will go out to the community to elicit comments for the Infrastructure Committee project. There is a professor and a team that do, as part of their course work, surveys for communities. There is this whole sexy thing in politics now where you do slightly different wording on different essays to test how people react and try to get a better sense of what they really want by testing questions and running

parallel. They are willing to do all of it. So we are queuing up the questions, and they are going to run with it. Meg, myself and the Infrastructure Committee are forwarding possible uses. It is going to get worked into a what would you like to see on the waterfront, what would you be doing on the waterfront, how often would you go?

**Trustee Armacost:** Are we going to check in with younger people on this, too? It would be quite useful to get the ideas of people under 18.

**Mayor Swiderski:** I totally agree, and that is an interesting question. How we would do that through this mechanism? We have got to figure how to get their e-mail addresses.

**Trustee Armacost:** I know of a few who have quite serious views about it. They are the future of our village, and I think that it is really important we hear our views.

**Mayor Swiderski:** Good. We should solicit that. They are the ones likely to still be alive when that thing is done.

**Trustee Jennings:** Do you have them do a random sample?

**Mayor Swiderski:** They do not do a random sample. We will give them the Village mailing list and they will come up with several versions of the survey and push it out to the full mailing list. As it comes back, they will be able to tell us. Because the wording is different, because the questions are slightly different, it supposedly is able to elicit a more full picture of what people want. I am out of my league. I am just telling you what I heard.

**Trustee Walker:** I was going to encourage them to think out of the box, and bring up questions or just propose ideas that have to do with potential commercial uses related to parks, income-producing, revenue-producing uses that are related to parks. Things that are more than what we are used to in our parks.

**Mayor Swiderski:** Well, they are not going to do that. First of all, they are not going to send out any survey without working with us on it. But they are not going to do that unless they hear those ideas. They are not experts.

**Trustee Walker:** And that is why we have to mention those ideas. So we need to kind of expand their thinking.

#### **4. Other**

**Mr. Kaftor:** I understand what you said before about a permit for residential and commercial district. But does that mean that I got approved for a business zoning for my project?

**Mayor Swiderski:** No, it means that the zoning has changed so you can begin your process with the Building Inspector. It is a journey of many steps.

**Mr. Kaftor:** Roger. Thank you.

**Trustee Jennings:** And hopefully the journey will not bring you back here.

#### **ADJOURNMENT**

**Mayor Swiderski:** I would like to adjourn with a moment of silence on behalf of both a very dear friend, but also a resident of the Village, who died yesterday morning. He served on the Planning Board for a number of years, and as a liaison and active participant on the Affordable Housing Committee.

Bruce Dale was a good friend, a very good friend. He was a lion in the industry. He is responsible for almost all the affordable housing work done in Harlem. Thirty thousand units of housing are attributable to Bruce's life work, a man who lived his ideals and gave of that knowledge to Hastings. I am the worse for the wear without him, and the Village is sorry to see him go.

A moment of silence.

Mayor Swiderski adjourned the Regular Meeting in memory of Bruce Dale at 11:40 p.m.