

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
JANUARY 7, 2014

A Regular Meeting was held by the Board of Trustees on Tuesday, 2014 at 7:35 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. Frobela, Village Attorney Marianne Stecich, and Village Clerk Susan Maggiotto.

CITIZENS: Eleven (11).

APPOINTMENT

Mayor Swiderski: We have one appointment. A resignation from the Planning Board has prompted an opening, and we are pleased to announce that Richard Bass will be filling the opening. We thank him in advance for his service to the Village.

APPROVAL OF MINUTES

On MOTION of Trustee Armacost, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Regular Meeting of November 19, 2014 were approved as presented.

On MOTION of Trustee Armacost, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Regular Meeting and Public Hearing of December 3, 2013 were approved as presented.

APPROVAL OF WARRANTS

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

Multi-Fund No. 40-2013-14	\$134,135.59
Multi-Fund No. 41-2013-14	\$ 13,647.12
Multi-Fund No. 44-2013-14	\$ 87,335.17

PUBLIC COMMENTS

Mr. Gonder, 153 James Street : Happy New Year. I told you one time recently I had a bucket list. Before I die I hope maybe you will accomplish a few of them.

Elimination of deer in our village. Seven years we have been talking about it. You got a program. I hope it works, but I do not think it will. I just want to know how you decided to pick those three sites, Hillside and two on Andrus property.

The Anaconda/BP/Atlantic Richfield property cleaned up now, not years and years from now. It has been so long we keep on taking our time, DEC. Give Atlantic Richfield notice that they have Village permission to tear down Building 52, and have them take down the water tower, have it sandblasted, epoxied and painted and assembled where the Village Board designates it would want it on the BP property or the parkland.

Rebuild sidewalks, no blacktop, Ravensdale, Broadway south, east side of Farragut and others. I told you several times about Farragut just north of Saunders Street; a little gravel there, a pipe sticking up, over two years nobody does anything about it.

Obtain at least three more police officers. Give the Board two calendars. I love these calendars, but give the Board two, and the Mayor, and start meetings on time. You are pretty good today, only about four minutes late. Have all Trustees and Mayor be in attendance on all 24 meetings unless death or serious illness: 2013, two meetings canceled. That is a shame. You got a lot of things on your agenda. I am sure most people could make 24 meetings, especially if they have a calendar and know. If you cannot do it, do not run for the Board. You do not represent me if you are out on a trip someplace.

Free swimming in the Chemka Pool for all Hastings school students K through 12.

Warburton Avenue Bridge should be completed in six months, not two years. Fight for it. I have seen you fight so hard for the suicide portion, but nobody fought for two years. It should be done in six months, and it could be. Mary Jane gave you some snow job in regard to concrete in the winter.

Eliminate all trucks, buses, campers, trailers, boats parked in residents' driveways or property. Obtain unmarked SUV vehicles for the police such as used by Yonkers detectives. If it is a black SUV with no lights that can be seen, would do a good job and we can get a lot more people that need to be arrested.

April 1, I asked the Board to eliminate plastic bags in the Village. The Board tells me the Conservation Commission is working on it. Why does it take 10 months? The one that I did get, Lipchitz plaque below monument. Done thanks to Susan. Only took about two years. But it was an accomplishment I am glad to see done.

We name parks, pools, buildings for different people who made Hastings a better village, such as MacEachron Park, Chemka Pool, Jim Harmon Community Center, Pulvers Woods, Rile Park. We should name streets or parks on the riverfront or elsewhere, or buildings, for individuals like Admiral Ronald Jesburg. We name parkways and roads for Admiral Farragut. He lived here two years, this other one lived here about 20 years.

John Spiciarich, Hastings House: I want to thank the Board for your service. You folks do a great job. I have some environmental concerns. A few months ago, the *New York Times* reported that the bee population in the New York area is down to 30 percent. That is like a canary in the cage in the miner's tunnel. We have environmental situations in our area, and I think it is all due to overuse of pesticides. I strongly urge the Board to consider banning pesticides, outdoor use. Some folks naturally will have cockroaches, they got to spray indoors. But outdoor use of pesticides should be banned. I also think we should ban plastic bags, or if not ban them, then 10 or 20 cents per bag. But it would be best to ban them.

Tim Downey, 520 Farragut Parkway: I have mentioned the of developing a working group of people to pull together the efforts of groups and committees in the Village: the Conservation Commission, the Tree Committee, the Parks, DPW so they work together in an integrated plan that efficiently utilizes our resources and achieves terrific results in a short period of time. You agreed it sounded like a good idea. I had discussions with members of the Tree Board where we could do more for the dollars we were currently using for our tree work. The following day I see Rosedale out planting along Farragut Avenue and other locations. As a contractor who works in the Village, and as a resident, I was greatly disappointed. I had spoken with the Village a number of years ago, in total four different occasions. The first time I saw some work done on Edgar's Lane, I said how come this does not go out to bid? OK, we can go out to bid. There was subsequent work done, and I brought it up again: how come this does not go out bid, how come it is just a closed thing to Rosedale? You do make a great effort multiple times throughout the year of talking about shopping locally. I do not expect you to be Angie's List, but there should be opened up to other inputs, particularly those people who live in the Village and have skin in the game; have a genuine interest and care in the Village, beyond just a job and earning some money.

The third occurrence happened in the fall of 2012. I was quite angry. In a previous conversation with Village employees they had said you do not know that type of work. I said I buy the trees at the same place that Rosedale does. I know all the stuff. You just do not know enough about me and the access to resources I have. This year, here is Rosedale planting trees. You had all this work by the Tree Board to put together a comprehensive plan. There was a big tree count, we had Sandy knocking over trees, and here we go. We just sweep the money out the door. Their hearts and minds were in the right place. They meant well. But it is not their area of expertise. Maybe their area of expertise is drawing up

grants and other things, but this is not their area of expertise. If I look at the work, looking at the top of Mount Hope, on this island, and I have an orchard there where I could better have taken half as many trees. You have a finite space of land for the soil and water to now have all these trees compete for in the future. The trees that are planted, they do not stand safety view lines. People like myself, who are in the industry, we understand safety view lines,. There was a tree planted in front of the Valero gas station in Hastings in the island, where for years the owner of the gas station had petitioned the Village to remove the bushes there for all the accidents that occurred over the years. They needed better sight lines, and here we put a London plane tree. That is going to be a great big massive tree in this little tiny circle. It is going to obstruct the sight lines. The Kwanzan cherries are going to obstruct sight lines.

It needs better planning. We plant these Kwanzan cherries along Farragut Avenue, and I am saying to myself, well, what was the reason behind putting a monoculture, which is exactly what the Tree Board advised against, despite what Rosedale may say. We plant these Kwanzan cherries that the only thing that prunes them is trucks and buses and cars going by. There is no care-of-trees plan here. Rosedale was happy to sell you some trees. I do not recall them spending the time, like myself as a volunteer in the Village, going about the Village putting chip circles around the trees and trying to protect them. Yet we have the contractor coming and spraying Roundup, doing it that way. I do not recall Rosedale coming in and spending last Martin Luther King's weekend in 20-degree temperatures at the bottom of Villard with all the damage from two years' of storms on the cherry trees, where I spent the day there pruning it for free and taking care of that area.

It is frustrating, both as a contractor who would do more with their heart versus their wallet, and as a taxpayer who sees their money being poorly spent. Last time I said I could put two to three trees in for the cost you are paying Rosedale. Brett did one better. Brett has a plan to put bareroot trees in. We could put 10 to 12 trees in for the cost we are paying for one. We are paying for these nice little wood stakes they put in around the trees, which are not necessary, which get forgotten like in front of the former Buffet De La Garre, which are still sitting there a year later because there is no protocol, no guidelines. We just talked about plastic bags. We have these chips that go in plastic bags, and we spill the chips and we have these plastic bags to go poof. Meanwhile, we have piles of chips sitting up at Zinsser parking lot. We could take our own material, put it around all the trees and be ahead of the game. We have to put the brakes on and begin thinking differently. I look at the bottom of Mount Hope. It is denuded, it was destroyed. Their intentions are in the right place, but there is no follow-up plan. It is called cut and walk away. We have taken half the trees on one side of Mount Hope, maybe put it on the other side and beautify the whole Mount Hope. It is just better thinking to integrate the t committees and put together a better long-term plan versus saying we got 10 thousand bucks, Rosedale, what can you do for us. What is going to be our policy, and how are we going to handle this going forward.

Susan Cooper, 378 Warburton Avenue: I have a bill here from Straub for over \$200 because our car fell into a pothole in Hastings that apparently has some notoriety. We broke our two brake lines. To whom do I submit this bill? My husband and I thought of the probability that this pothole has been in existence due to the fact that services are probably under some pressure to be reduced in order to pay for the rather exorbitant pension and health care costs that will continue to rise. Governor Cuomo today talked about not only the property tax cap, but also in terms of relief for his words that property owners are being crushed by property taxes. I was wondering if there would be any discussion locally about his two proposals. One is that there would be relief provided to property owners if the local municipalities stayed under the two percent tax cap. The following year there would be relief for property owners if the local governments not only stayed under the two percent tax cap but also consolidated services. We are no longer horse and buggy communities. We have all these little villages. He said that New York has 10,500 various government forms. It has become absurd. I was surprised to hear that Mayor Marvin of Bronxville, in a recent column talked about how in the late '90s Governor Pataki conjoined a property tax cap with the STAR rebate, but the legislature uncoupled it at that time. The effect that it has had on property owners is that it was right before our taxes doubled in a decade. So there is some disconnect here in terms of what gets discussed, how this information gets transmitted to the public. In the interest of transparency, all of these things should be put on the table. I am also against pesticides.

BOARD DISCUSSION AND COMMENTS

1. Commercial Composting - Village Retail

I asked a member of the Conservation Commission to discuss an idea that has been raised by the Conservation Commission and I have talked with them about, but do not want to go further without airing it publicly: commercial composting in the downtown retail food service establishments that generate waste. A subcommittee is interested in taking a series of steps, including a more in-depth survey with the establishments to understand the amount of waste produced and some other details of the way they do business. Also, to reach out to potential vendors who would supply the equipment to do industrial-grade composting. If we are going to go to food service establishments it should be as a part of a policy discussed.

Elisa Zazzera, Conservation Commission: The next step we would like to do is get an in-depth survey of all the food service establishments. Last year, with a high school senior, I did a simple questionnaire. This next survey will be where all the food service establishment will measure their organic waste for a couple of weeks so we can get a more accurate idea of how much food waste is in the Village. We would like the letter to come from the Village. Instead of a request for a proposal for the vendors to supply machinery, we are going with a

request for information so we can better understand our needs for their services and/or equipment and come up with a more informed request for the proposal. The next step is just the food service establishment survey.

Trustee Armacost: It seems a sensible idea.

Trustee Walker: What is the equipment that would be required, and is it expensive; what kind of area are we talking about?

Ms. Zazzera: It is a vessel which will compost it. Some vessels have less mechanization, some have more where there is a corkscrew inside which will turn it. It is not just a static pile. It is more turning. There are also forced air static piles. By knowing how much waste we have more clearly and getting information from these vendors, we will better know what kind of equipment. We have looked at a few kinds, one the big drum that sits on a cradle that turns, and one that moves the material through a heated vessel.

Trustee Walker: So it speeds up the whole process?

Ms. Zazzera: Right. The area that we would need for it would depend on how much we are using. But a little less than this room.

Mayor Swiderski: That is a fair amount.

Ms. Zazzera: Yes, based on the material coming out of it, does it need to be cured any further, do we need space for that. Again, these things will come out.

Trustee Armacost: With the idea that it would be constructed near the DPW building.

Ms. Zazzera: Yes, there are a lot of variables there. The idea would be to keep it in the footprint of Hastings, not too far from the food establishments. So that is down the line, given who knows where there is available land to do it.

Trustee Armacost: All of the processes of whether it is collected from them, or whether they have drop it off, are later issues.

Ms. Zazzera: Yes. We are looking at a pickup and drop-off service.

Trustee Armacost: Did you think about rental versus purchasing?

Ms. Zazzera: That is going to be in the mix, as well, yes.

Trustee Walker: There is a lot of food that is thrown out that is edible. There is an organization in New York City, City Harvest, that collects it and takes it to homeless shelters and other places so it is given to people in need. I do not think we have anything in Westchester that provides that kind of service so we end up throwing away a lot more than we need to. How do you measure if there were a way to give some of it away?

Ms. Zazzera: From the survey we did last year there is very little of that in Hastings. In Hastings. Again, the survey was informal.

Trustee Walker: We do not have Whole Foods, for example.

Ms. Zazzera: Right. Many places, before their onion and carrot and vegetable scraps go into the trash they use it for stock. Some vendors let their employees take unused food home. But I will keep that in the mix. If it is edible food, a person should have it.

Trustee Walker: If there is a way to collect it.

Trustee Armacost: Does the survey differentiate between what is scrap that is left that has to be composted versus stuff that is left over that is taken away?

Ms. Zazzera: I will put that question in.

Village Manager Frobel: I expressed to the Mayor this evening our interest in the concept. A lot of questions from an operational point of view. But also Mike Gunther serves as a municipal advisor to the Westchester County Solid Waste Management Committee. Westchester County may be looking for a pilot for this. There is not one, to our knowledge, in Westchester County. That may be an opportunity for Hastings to participate in a more organized fashion if I can get Westchester County Solid Waste involved. I have a call in to my contact there to see if that is an opportunity so we can capitalize on their expertise. A lot of the things we are talking are in place elsewhere in the country.

Trustee Armacost: And that may allow for some grant opportunities. As you cost out the various dimensions, maybe part of it can be covered by grants.

Village Manager Frobel: And we need to be sensitive, as the Mayor mentioned, to location: the uncertainty surrounding our DPW garage, our possible link with Dobbs Ferry. So we have some concerns. But all that can be ironed. I just want to offer the opportunity that there may be a chance to go with a large organization that could perhaps not take the lead, but certainly advise us on the right process.

Trustee Apel: We would need a cost analysis in terms of all the things, but including what it is costing us to get rid of the waste versus what it will be.

Village Manager Frobel: Clearly. There would be a change in operations, I am certain. It could require a separate pickup. We already pick up their trash and recycling.

Trustee Jennings: This might be more cost-effective and affordable because of economics of scale if we could cooperate with someone larger. Artificial municipal boundaries do not make much sense in this case. You get machinery that could be more efficiently used if there was more material coming into it. This cries out for intermunicipal cooperation.

Ms. Zazzera: That has come up our conversations, including Dobbs, at least, or looking at the idea of including Dobbs and other neighborhoods.

Trustee Jennings: And also the disposition of the material. This may be used by the Village and help us defray otherwise commercial products we would have to buy. Or it might be sold to the general public, to homeowners. There is a potential income stream.

Mayor Swiderski: In terms of next steps, we will refine the letter that has already circulated and work on getting that out. Is that agreed? Board support, please?

Trustee Walker: Yes.

Mr. Downey: At a conference today I met a person who has a firm in New York State who does this in New York City. Their closest location is in Rockland County. They do it throughout the country. They can help you with the metrics in terms of cost analysis, permitting through the DEC. They have this blueprint down pat. I will provide information for you, and the Board as well.

**1:14 SCHEDULE PUBLIC HEARING – PROPOSED LOCAL LAW NO. 1 of 2014 –
TO CREATE A LOADING ZONE AND METERED PARKING SPACES ON
SOUTHSIDE AVENUE**

Village Manager Frobel: The Board heard from the Chief of Police on our efforts to find additional parking space for both residents and commuters who are going to be impacted by the Warburton Bridge project. This is the first action item that requires Board action to create these additional on-street metered parking spaces.

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

RESOLVED: that the Mayor and Board of Trustees hereby schedule a Public Hearing for Tuesday, Jan. 21, 2014, to consider the advisability of adopting Proposed Local Law No. 1 of 2014 to create a loading zone on Southside Avenue and to create metered parking spaces on Southside Avenue.

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	

2:14 SCHEDULE PUBLIC HEARING – PROPOSED LOCAL LAW NO. 2 of 2014 – TO PROVIDE FOR A STOP INTERSECTION AT SOUTH DRIVE AND TERRACE DRIVE

Village Manager Frobel: This comes to you as a recommendation from the Safety Council. It originated with the neighbor in that area. There is currently a stop bar at that intersection, but we are looking for authorization to place a stop sign.

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

RESOLVED: that the Mayor and Board of Trustees hereby schedule a Public Hearing for Tuesday, Jan. 21, 2014, to consider the advisability of adopting Proposed Local Law No. 2 of 2014 to provide for a stop intersection at South Drive and Terrace Drive.

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	

3:14 APPROVAL OF TAX CERTIORARI - 384 WARBURTON AVENUE

Village Manager Frobel: This comes to as a recommendation from special legal counsel. It involves property at 384 Warburton Avenue, adjustment on the tax valuation of property from the year 2008 to 2013. It is a three-story, nine-unit apartment building.

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

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

Property Owner	Address Description	Year(s)
DUETTE TOWERS REALTY	384 Warburton Avenue Sheet 5, Section 10, Block 610, Lot 29 4.100-94-12 Page 2 of 4	2008-2013

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

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

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

Years	Current AV	Reduced AV	AV Reduction
2008	45,450	35,000	10,450
2009	45,450	35,000	10,450

2010	37,000	35,000	2,000
2011	37,000	35,000	2,000
2012	37,000	35,000	2,000
2013	37,000	35,000	2,000

The refund of Village taxes amounts to \$6,355.81±.

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	

4:14 APPROVAL OF TAX CERTIORARI - 100 RIVER STREET

Village Manager Frobel: As with the previous resolution, this action comes as a result of the advice of special legal counsel. It involves the property of the Hudson Valley Health & Tennis Club. It is a two-story restaurant/clubhouse building, tennis courts, some outdoor decking. This matter has also been coordinated with the Town and the school district, and the recommendation is for settlement of this tax certiorari.

On MOTION of Trustee Jennings, SECONDED by Trustee Armacost 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:

Property Owner	Address Description	Year(s)
HUDSON VALLEY HEALTH & TENNIS	100 River Street Sheet 13, Section 10	2006-2008

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

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

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

Years	Current AV	Reduced AV	AV Reduction
2006	129,000	99,000	30,000
2007	129,000	90,900	38,100
2008	129,000	90,900	38,100

The refund of Village taxes amounts to \$20,976.48±.

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	

5:14 APPROVAL OF NEW YORK STATE DEPARTMENT OF TRANSPORTATION SNOW AND ICE AGREEMENT EXTENSION

Village Manager Frobel: We do this twice a year: renew our agreement with New York State for snow and ice removal. This is Route 9. Last year, we ended up receiving \$15,814 for our work. It is our responsibility to keep that roadway free during winter storm events.

Mayor Swiderski: How is that calculated?

Village Manager Frobel: On a per-mile, lane mile, and the frequency of storms, the times they have to maintain it. That is why, in the action, there is a minimum amount of \$9,500.

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

RESOLVED: that the Mayor and Board of Trustees authorize the Village Manager to sign the New York State Department of Transportation Snow and Ice Agreement Extension for the 2014 - 2015 Snow Season.

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	

6:14 DESIGNATION OF VILLAGE ELECTION DAY AND ELECTION DISTRICT

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

RESOLVED: that the Mayor and Board of Trustees designate Tuesday, March 18, 2014 as General Village Election Day, for the purpose of electing two (2) Trustees for a term of two (2) official years each, and be it further

RESOLVED: that the polls are to be open between the hours of 7:00 a.m. and 9:00 p.m., and be it further

RESOLVED: that one Election District is designated, located at the James V. Harmon Community Center, 44 Main Street.

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	

Mayor Swiderski: The two Trustees, for anyone who may be interested, up for reelection are Trustee Armacost and Trustee Apel. We do not have a contested election at this time.

7:14 DESIGNATION OF GRIEVANCE DAY

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

RESOLVED: that the Mayor and Board of Trustees designate Tuesday, February 18, 2014 as Grievance Day, from 5:00 p.m. to 9:00 p.m. in the Conference Room, Municipal Building, 7 Maple Avenue, Hastings-on-Hudson, New York, and be it further

RESOLVED: that the Board of Assessment Review will meet at such designated time and place for the purpose of completing the Assessment Roll and of hearing and determining complaints in relation thereto.

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	

Mayor Swiderski: Do we have a fully-staffed Board of Assessment?

Trustee Armacost: No. We need three, we have got two. So we need an additional person. We have some ideas, and we would like to have an *in camera* session. It would be a good idea to have it today.

8:14 DESIGNATION OF TAX LIEN SALE

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

RESOLVED: that the Mayor and Board of Trustees designate Tuesday, March 18, 2014, as the Tax Lien Sale date at 10:00 a.m. in the Village Clerk's Office, Municipal Building, 7 Maple Avenue, Hastings-on-Hudson, New York.

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	

VILLAGE MANAGER'S REPORT

1. Parks Capital Needs

Village Manager Frobel: Last year I presented to the Board a five year capital improvement plan indicating that department heads have spent time trying to anticipate the major investments that will be needed over the next designated period of time. Since that time, we have spent one evening talking about our public safety needs. You heard from the fire chiefs and the Police Chief. We also spent an evening talking about our Department of Public Works. As we began to discuss the Reynolds Field proposed improvements and our participation in that with the playground apparatus, we realized we needed to set some time aside to talk just about parks and recreation needs. Kendra will show you the recreation department's needs over the next several years. We did not want to rely on just the capital improvement plan; we wanted Kendra to meet with the commission, revisit the plan, and see if that was still what our plans are in the near term.

Acting Superintendent of Recreation Garrison: At our November meeting the Recreation Commission came up with the top three items they would like to see done. The first was the Hillside tennis courts, the second was the Uniontown parking lot and playground, and the third was the Chemka Pool bathhouse.

Here is a picture of the tennis courts. Our third court right now is out of use. The purpose of the project would be an entire overall of the existing courts. There have been two ideas floated. One would be to raise the courts, and the other would be to shift it into like a different spot in the parking lot. . The initial estimates were from \$160,000 to \$200,000.

Trustee Walker: The cracking and problems with the surface, is that due to poor drainage? And the only way it could be remedied is to move them or raise them. Could you not put in other types of drainage, for example, or subsurface materials or rain gardens off to the side, or some other way of dealing with it?

Superintendent Garrison: Yes, all that can definitely be explored.

Trustee Walker: So we do not have to necessarily do something major like move them.

Superintendent Garrison: Correct.

Village Manager Frobel: The hope was to capture the water at the back, and that was something we had talked about years ago with Mike Gunther and DPW and Rich from the department. That may be an option, but we just have not been able to get into a situation of designing and committing to it. But there may be less expensive ways to remedy it. What we tried short-term was filling cracks, doing some of that work, cosmetic. But, again, it is a recurring expense. I know you would rather have a more permanent fix. It goes back to Ray Gomes. He had done a lot of exploratory work there, and he believed that was the problem with the water.

Superintendent Garrison: Water that runs underneath it is causing it to push up. They all have problems, but that is the worst. It is unplayable. We do not want anyone to get injured.

Trustee Armacost: Is there something about the way the water is flowing underneath that makes this perhaps not the best place to have tennis courts? Should they be moved to a totally different location?

Superintendent Garrison: There was some discussion about shifting it a little over.

Trustee Armacost: But I mean completely away.

Mayor Swiderski: And where would it be shifted if there was a shift?

Superintendent Garrison: The idea was to turn it a little bit sideways.

Trustee Armacost: Would that involve building up land? And does it fall off?

Superintendent Garrison: You would have to take down that hillside a little bit, yes.

Trustee Walker: Shifting it into the hillside, toward the hillside, building a retaining wall.

Superintendent Garrison: Right.

Trustee Walker: I think there are underground streams or something going on there.

Superintendent Garrison: That is where the idea of raising it also came in

Trustee Armacost: But what about moving it completely away from that place, and making a bigger parking lot near the pool?

Village Manager Frobel: I will field this one because Kendra knows this is a hot topic. That was my suggestion years ago, and I was leaning towards that. But Kendra reminded me that years ago, when it was first discussed, there were a number of objectors. That location is very popular, and there were quite a few users of the court objecting strenuously to relocating it. Not that I have abandoned it because my thought was to move it to the 9-A site; with that project now moving forward locate the tennis courts there. And to address those parking concerns that you have just raised. Still an option, but just be advised that from what I hear, historically there were a number of objectors to the concept of moving it.

Trustee Jennings: I seem to remember a number of people have not been terribly happy about not being able to park up there either.

Trustee Armacost: There is going to be unhappiness on pretty much every score with all of these things. But on the 9-A issue, and maybe this is a question for you, Marianne, if it were built right next to the new site would that fit within the rec requirements? They have an obligation. Would this, then, fit within that requirement? In other words, would the funding be able to come out of that source versus out of taxpayers' money?

Village Attorney Stecich: Yes, but I do not think where it is located is relevant to that because you are not providing it for the residents. I would say that additional residents would generate the need for another tennis court. Right now, maybe you are getting by with three. As you get more residents you cannot get by with three, you need four, that would be a justification for using rec fee funds for the tennis courts. Whether it is here or on 9-A, I do not think that changes the inquiry.

Trustee Armacost: But it does help from a budget perspective. It seems like a fairly solid argument can be made that the monies would be allocated to the refurbishing of tennis courts.

Village Attorney Stecich: All I am saying is that it is for refurbishing of the tennis courts, and it does not matter whether you decide to use that money to refurbish the tennis courts at Hillside or whether you use it to create a tennis court on 9-A.

Trustee Armacost: But, for example, if it did matter that it needed to be closer to 9-A that would be a reason, potentially, to move it from here and have this move toward parking.

But how do we know that in order to meet the requirement that tennis courts do not have to be very close and available to the residents? You are saying we just simply know.

Mayor Swiderski: Just so it is clear what we are talking about, when new housing in the multi-family housing development is approved, such as has occurred at 9-A, the developer is obligated to put a certain amount of money aside per unit into a recreation fund designed to offset the additional costs those residents will place on community resources as a result of the expansion of the number of units of housing. If it were deemed that because there are 66 units times three residents, 200 people, and you might have a need for an extra court, the proportional cost of one of those courts could be covered out of that fund. But I do not think our law stipulates it has to be close. It just says you are helping to offset the cost. So if we determine they are going to be putting more hikers on the paths of the woods, and we want to set aside 10 percent of the next park rehab budget would come out of this.

Village Attorney Stecich: Right. Or if you need more lockers at the pool. It does not matter where the recreational facility is.

Trustee Armacost: So that applies, then, to any rec facility in the Village.

Mayor Swiderski: Right. If there is an expansion of any rec facility it is potentially a way to think about whether those resources are placing that additional demand.

Trustee Jennings: So Is this fee usable only for expansion, or is it also usable for improvement, refurbishing, increasing the quality of the existing recreational facility?

Village Attorney Stecich: It should relate to the addition of new residents. Having more people use facilities means there is more wear on them so there may have to be more repairs. You just have to relate it back to that.

Trustee Jennings: OK. So we would not necessarily have to have a fourth court. We might be able to just fix up three courts and make them more durable for the increased usage they would receive.

Trustee Walker: Has a civil engineer taken a look at this? There might be some simple solution, if the water is coming off the hillside, to deal with it before it gets to the courts. It is that court that is closest to the hill.

Mayor Swiderski: Is it the court that is closest, or the third one in?

Superintendent Garrison: It is the second one in that is not playable right now.

Trustee Armacost: But they are all in really bad shape.

Trustee Walker: Actually is something that is under, not just coming from the hillside. You need an engineer to take a look at it, one way or the other.

Trustee Apel: I have another thought. As long as we are spending money or not spending money, and we are looking for parking, you should find out what the cost would be to have a raised structure with tennis courts above and parking underneath, if you are thinking of elevating the existing courts anyway for drainage. Then everybody is happy. As long as you are spending all this money, let us find out what it would cost.

Trustee Walker: Roughly \$30,000 per parking space.

Trustee Apel: Well, there you go. See, now we have the answer.

Trustee Armacost: If anyone on the committee or on the team has ideas, because it is so complicated in terms of the subterranean situation, on other locations, it would be useful for us to consider those other locations and the pros and cons of each.

Superintendent Garrison: OK, absolutely.

The next one was the Uniontown parking lot and the playground, with replacement and movement of the existing playground and the outfield fence to make the field an official Little League field. The current lot is small, and during the Little League season creates a parking nightmare. The Hastings Little League is unable to host events because the field is not regulation size, and also because of the parking. This came from a grant proposal that was done in 2010. The cost estimate then was \$200,000.

Mayor Swiderski: My concern is that while I do not think there is any sharp reaction to moving a fence to make it a regulate-size field, moving the playground in any substantial way has not been vetted with the community. And there have been, anecdotally, reactions to that in that neighborhood specifically, and among users. Also, a question about whether the addition of the parking spots, whether there could possibly be enough to offset the mess that a decent-size game creates regardless. There is a vetting process on this that is broader than the other two projects you are bringing up in terms of both among the neighbors and among the users of that playground during games.

Trustee Armacost: There was an informal vetting that happened. There was a fair amount of vetting from the presentations that Gene had done early on. And like anything there are people who are very much in favor of the move and people who are against the move. There was no one who was in opposition to having a bigger parking situation, not one single person. And certainly among the people who live there I think the word "nightmare" was exactly the right word to describe it for everyone for many, many years. There is a pressing need there as far as I am aware.

Trustee Walker: So expanding the parking lot would serve on a day-to-day basis. That expansion is needed not just for the big events.

Mayor Swiderski: But it only happens if you move the playground.

Superintendent Garrison: The playground would have to go.

Trustee Walker: I understand all of that. But what you were saying, Peter, about expanding the parking lot, is it worth going to all that trouble if you are still going to create a traffic nightmare? Worth the expense of doing all of that to gain five parking spaces ?

Mayor Swiderski: That is my concern, and that has been expressed. We just need to vet it again. We are not going to approve that here, and I am not against it. I am just saying it is an expensive project and we need to make sure before we substantially shift around the playground.

Trustee Walker: I totally agree.

Trustee Armacost: But I do not think it is just five spaces. I think we should maybe ask Gene.

Mayor Swiderski: No, this is not the time where we go through the vetting process. I simply said we need a vetting process on this particular effort. If it means simply pulling out documents that were already generated previously and doing it one more time, that is fine, but it is a big project.

Trustee Armacost: Well, they are all big projects. None of them are tiny projects.

Mayor Swiderski: But it is a big project that involves a reconfiguration of assets that are in people's faces in a way that the two other projects are not. So I am more sensitive to having that vetting occur before we move forward. That is it.

Trustee Armacost: I mean, if we completely move the tennis courts it is the same thing. So for me, they are equal.

Mayor Swiderski: Especially that it depends on where the tennis courts go. But yes, or even turning it 90 degrees if it involves the felling of a tree.

Trustee Walker: So far we have two complicated projects.

Village Manager Frobel: And that is what a capital budget is all about. This is the very first discussion on some major items that are a long distance from completion.

Superintendent Garrison: The next one is the Chemka Pool bathhouse. It would be demolition and reconstruction of the existing pool house. Possible reconstruction idea, shifting of the building to allow for a playground/ball-playing area, the enclosure of the roof, and the possible addition of a second floor for programs and for future programming, updating of the filter system and possible inclusion of a solar heating system. It would go on the roof to heat the pool water. Although the bathhouse was updated in 2002, no major renovations have been done since the opening. Although this project has not been designed yet, the cost estimate would be close to \$1.5 million. I looked around the county at other projects to get an idea of what it would cost. Again, that is pulling it out of the air.

Mayor Swiderski: Does the income stream out of the pool generate enough money to cover a project like this? Are we running a surplus enough to consider whether that could be self-funded?

Superintendent Garrison: Not at this time, but hopefully.

Village Manager Frobel: We would have to do that analysis. We have turned it around, and it is probably \$75,000 right now in our surplus for that reserve account. But is that enough to support a bond issue? We would have to do that analysis.

Trustee Armacost: The cost seems very high to me. We need better estimates. One-point-five million seems outrageously high.

Village Manager Frobel: It is based on similar projects cost elsewhere. But there is no necessity to get that down to 1.1 or 1.2 because we are so far away from even doing a concept. This is just an indication of what the department and the commission believes needs to be considered in the future. All these projects can be phased in. We have talked about making improvements to the bathhouse alone,. That may be part of the Chemka Pool bathhouse project, just simply renovations to the structure itself separate from other items.

Trustee Armacost: But it does not make sense to do a renovation to the bathhouse if you are going to move the whole thing. Or did I misunderstand? Is the idea to move it?

Superintendent Garrison: The idea would be to move it and change it, and possibly pick up an outside playground area or ball-playing area. That has been an issue for several years, whether the kids should be playing ball on the grass. That would all have to be looked at.

Trustee Armacost: But renovating the building and then moving the building does not make sense. You should choose to move the building and then renovate.

Village Manager Frobel: What I was trying to say was when you get to that point you may decide renovation is the way to go, that it would give you a life expectancy that makes sense to make these other improvements. Understanding you have only renovated the building looking at a 10-year lifespan for it. There would be ways we could look at this very economically; not trying to do the whole thing, but keeping in mind the overall plan and maybe just doing some renovations to get you through for the next 10 years.

Trustee Armacost: So the max is \$1.5 million. What would be the min scenario?

Superintendent Garrison: That I do not know.

Trustee Armacost: Or phasing in different parts.

Trustee Apel: The other thing is having a second story. You do not even know if the building can take a second story.

Superintendent Garrison: Right. The current building definitely could not.

Trustee Apel: Probably ripped out, so it sounds to me like you are talking about an entirely new building, which would be more than \$1.5 million.

Trustee Jennings: I have been in favor for a very long time of heating the pool. The coldness of the water at the beginning of the summer and early in the morning undermines the usage. That said, I am not opposed to this. But I do think it is confusing to the public to call this "the bathhouse project" if you are talking about filtration and solar heating and so forth. This is a pool improvement project, of which the bathhouse is only a part. It is maybe just a quibble about terminology, but I do think the filtration and heating system issues should be on the agenda. I am afraid they would get lost in the shuffle if we continue to think narrowly about this as fixing up that little building only.

Superintendent Garrison: The next three that we discussed were the Reynolds Field playground, Riverview Park, and Kinnally Cove. This project would be in conjunction with the school district, and the estimated cost is \$125,000. You can see the current playground equipment. Did anybody have any questions or comments on that?

Trustee Armacost: I am assuming that is quite on hold, at the moment.

Village Manager Frobel: It is. But we have carried, in the capital budget, an amount for playground equipment improvements. That remains. The fact remains that at Reynolds Field we need to be thinking about replacing some of that apparatus within this five-year capital plan, regardless of whether the school is for a total renovation. We need to look at our responsibility there, and whether you are inclined to support improving some of the plan. That is all. Not to the tune of \$125,000. That was complete replacement, redesign. We are just talking some different pieces of it, perhaps.

Trustee Walker: And that could be phased in, too.

Village Manager Frobel: Clearly. You would pick the worst, and begin to work with the community as to the type of play apparatus they would like and that the commission approves.

Trustee Armacost: Was the idea that if there were to be a renovation to Uniontown, or a shift at Uniontown where the equipment would be moved, that there would be some cost saving in buying the equipment at the same time? Or were you treating them as separate projects?

Village Manager Frobel: That would be the same time. There would be no reason to just make it Uniontown this year and Reynolds Field later. The other thing we need to be sensitive to is that we do not want to make this investment at Reynolds Field if the school board is going to come back with some reconfiguration there. This stuff is not portable so we need to be sensitive to that. There is a hold on this thing until things can shake out.

Superintendent Garrison: The next one we have is Riverview. The preliminary budget was \$96,500. However, the Recreation Department is using \$10,000 from this current fiscal year to start sprucing it up. That work is scheduled to start any day now. It is going toward pruning of the trees and cutting back some of the blacktop and replacing some of the fencing.

Trustee Walker: Were you going to create the dog park in this first phase?

Superintendent Garrison: No.

Trustee Walker: So that has to wait. I would think you could do it simply with a fence, so that they stop using the upper part and they just use the lower part as a dog park.

Superintendent Garrison: There was some talk about that.

Trustee Walker: You could remove the fence up in the upper part, and put in a new fence that splits between the upper part and the lower part, and do that quickly and have a dog park in operation by the spring.

Superintendent Garrison: Right. We did talk about that at our last meeting, and what came up was going to the Board to make it an official dog park.

Trustee Walker: It would be nice to have a people park also.

Superintendent Garrison: The renovations we make very soon are going to make a big difference.

Trustee Walker: We just have to discourage the dog owners from using the upper part.

Superintendent Garrison: The next project was Kinnally Cove, and that was for the addition of a kayak ramp or launch, and also the addition of kayak storage racks. The budget was not available on this one.

Village Manager Frobel: This is a project we could move quickly on. Kendra, why do you not get into some detail as to what it entails? The building of the storage, the renting of space, and how you see this possibly as a revenue generator for the department.

Superintendent Garrison: Irvington has built storage racks for kayaks for the local people, and it has generated a large amount of revenue. The thought was to build similar racks along where the tennis courts are now, and rent them out to Village residents for a yearly permit. It is something that can be done in-house by our own staff at not a very large cost.

Trustee Armacost: Were we able to get money from Sandy due to the damage that happened there?

Village Manager Frobel: Oh, definitely. It paid for all of it. And our people did all that work.

Trustee Armacost: And was there any surplus that can be put towards this?

Village Manager Frobel: No, they reimburse you for the loss.

Mayor Swiderski: But you know, Niki, I know how your mind works by now. You are looking for alternate sources, and there is a million-and-a-half dollars sitting in that fund. Not the kayak storage, but the launch, is a legitimate request because that is a water use. We might find that Riverkeeper would be open to that.

Village Manager Frobel: But getting back to the storage, that would be done by our people, very small money. It is the wood they buy.

Mayor Swiderski: It is self-funding essentially. While the ramp is probably the more pricier element, and it may very well be something for the Riverkeeper. We are not going to have a launch out of the waterfront for eight or nine years. So this gives us something, much sooner than that.

Superintendent Garrison: Right. It would give people greater access. They would not have to lug the boat on top of their car and get it down to the water. They can just drive down to the waterfront, pull out their boat.

Village Manager Frobel: Kendra believes there is a market. I pressed her on this because I do not know there is a market at all.

Trustee Apel: I think there is.

Trustee Armacost: I think there is a market, also.

Superintendent Garrison: I think it would be great revenue for us. We are always seeking ways to increase it.

Village Manager Frobel: The price of \$350 a slot per year is what Irvington is charging?

Superintendent Garrison: I am pretty sure that is what it is.

Village Manager Frobel: And if we were to build upwards to 20, a convenience for the user and revenue for us. I told her I would like to have her move forward on that.

Trustee Walker: I think this is a terrific idea. I know we were looking into this 10 years ago when Kinnally Cove was going to be restored or cleaned up, and for some reason we could not build the floating dock. Was it the DEC that got in the way?

Village Manager Frobel: There was the Army Corps. We had so many different agencies hesitant about the floating dock concept.

Trustee Walker: So why is it not a problem now?

Trustee Armacost: Was it a safety issue?

Village Manager Frobel: No, it was interfering with the tidal flow. It is a complicated river to begin with, but it was complicated to what we have.

Trustee Walker: Everybody else is putting them in, so why can we not put one in? Also, they have come up with a lot of new technology. There are a lot of new types of floating docks that go in easily. They are plastic, light weight, you can pull them in and out easily. I think it is an excellent idea. I just hope we do not have the same problems with the DEC.

Village Manager Frobel: Well, let us explore it.

Trustee Armacost: Would it require having personnel there? Or is it a private storage area where people come and go on their own, and it is their own liability issue?

Superintendent Garrison: It would be their own. We would assign them a slot that they would come and take their boat out.

Mayor Swiderski: But your guess of 20 is woefully short. I put an e-mail out to the Village in a second, a call for interest, and my bet is 20 is low.

Trustee Walker: Maybe we should do another survey around these park issues, similar to the survey we did for the waterfront recreational issues. We would get a huge response, and everything would be prioritized for us. We know how to do these surveys now.

Village Manager Frobel: And the third tier of our recommendations. These are in order for priority, by the way.

Superintendent Garrison: The Sugar Pond Nature Center, the pocket park on Warburton Ave. and Quarry Park. This project would be done in conjunction with the school, and we are currently seeking out grant funding to pay for this project. Here was the preliminary construction budget that was done by Christina Griffin, who drew up the plans for us.

Trustee Armacost: She did gorgeous drawings. They are really beautiful. But I know one grant was not successful; I do not know if there are others out there. It would be useful to know.

Superintendent Garrison: We are seeking out others.

Trustee Walker: I think it is a project that the state would be happy to fund.

Village Manager Frobel: You would think they would embrace it, especially with the educational aspect of it besides skating and recreational use.

Trustee Walker: Oh, absolutely. And environmental aspect. Sometimes you just have to keep going back to the well, as we have learned.

Superintendent Garrison: The next one is Quarry Park. In 2005 a citizens' group prepared a comprehensive plan offering a strategy for the ultimate transformation. The budget for it is \$600,000. The Village is currently seeking out grant funding, and when I met with Fran the other day he let me know that the Office of Parks and Recreation Historic Preservation has awarded the Village a matching grant of \$94,250, and is also recommending another matching grant for \$61,000 for funding.

Mayor Swiderski: The grant we got was for completing the trail, right?

Village Manager Frobel: It is the trail, phase two, and final design for the park. Meg and I are going to meet Thursday morning to make certain we have sorted this all out.

Trustee Walker: Right, that the matches work. We applied for two grants based on the recommendation of the state parks people. We got both of them, and now they are asking us how we are intending to use the two grants.

Trustee Armacost: So that is \$150,000, of which we have to match \$150,000.

Trustee Walker: But we do have other grants. I think it came up, and I do not remember the numbers so that is why we are meeting on Thursday, that the Village was going to have to make a contribution. But it was not going to be a really large contribution because we have other grants that would match the state monies.

Village Manager Frobel: We are going to have to make a contribution, and we were counting on the recreation impact fee from the development on Warburton Avenue, which has now changed for the stair tower. So we have a couple of things to sort out.

Trustee Armacost: It would be good if you could come back with the cash contribution as a result of this that the Village would be responsible for.

Village Manager Frobela: . I think it is around \$32,000.

Trustee Armacost: So \$32,000 out of \$150,000?

Village Manager Frobela: Approximately.

Trustee Armacost: Really. That seems low to me.

Trustee Walker: Because we had other matching funds, including we were going to use the stair down from Warburton.

Trustee Armacost: If that has gone away, then our obligation is not there.

Trustee Walker: No, it has not gone away.

Village Manager Frobela: It has not gone away, it is just the ownership of the project has changed and now we have got to make certain before a building permit is issued. That obligation is still there. It is just we are dealing with a different owner now. And then there was the \$85,000 grant we had gotten a number of years ago for Quarry Park. So we still have a shortfall of about \$32,000.

Trustee Armacost: But that only takes up to \$300,000, which leaves \$300,000 out of the \$600,000

Village Manager Frobela: We are not even talking about that. The \$600,000 represents building a park. We are talking about design, construction documents and Quarry Trail. That number that Kendra has on the screen is separate and distinct from what Meg and I are wrestling with Thursday.

Trustee Armacost: That is in addition, then.

Village Manager Frobela: Yes. That is the construction of the park itself.

Superintendent Garrison: It is a big number.

Trustee Armacost: And a lot of it is just bringing in the fill and re-grading it.

Superintendent Garrison: The last one is the pocket park down on Warburton Ave. It has not been updated in a long time, so it would be updating and sprucing it up. In 2013, the Village received a CDBG grant in the amount of \$12,500. So, at some point, we are hoping to get that work underway.

Mayor Swiderski: Does the grant require a match?

Village Manager Frobels: Yes.

Trustee Walker: And there was a \$5,000 grant, as well.

Village Manager Frobels: We have somebody from the Girl Scouts. And we thought we could do some demolition and cleanup work in-kind with our own people.

Trustee Walker: So you are almost there with the match. And one of the Girl Scout leaders who is a garden designer did a lovely design.

Village Manager Frobels: But the bigger problem is the money has been frozen, anyway. Or it is impounded, for lack of a better word.

Trustee Walker: The CDBG, because of the county affordable housing settlement. You think they would loosen it up for us since we are the model municipality in Westchester.

Trustee Armacost: What would be helpful is to have this in a chart with the projects and the proposed timeline. I know you have this in your chart, Fran, but updating it. And then the extent to which the money is going to be cash, the extent to which it is going to be in a bond issue, the extent to which it is coming in a grant.

Village Manager Frobels: This will be specific to this park project. The ones you heard tonight, we have done a timeline with some estimates as to funding sources.

Trustee Walker: So what is the next step? I guess there are lots of steps.

Village Manager Frobels: There are lots of steps. But we will work on the timeline and the funding sources. The Mayor helped me develop a chart which lists all our capital projects over five years; it is indexed as to the anticipated funding source over that five-year period. That is useful for planning purposes. What we will do for just parks is look at a timeline and do some additional drilling down to where we think funding will come for those projects.

2. Village Tree Management

Mr. Downey has left the room and I did not want to engage in a debate this evening about our tree planting program, but I want to show the Board and the community we do have a plan, we do stick to the plan, we do rely on our Tree Board members, we rely very heavily on Brett and the work he did through Cornell for the planting scheme.

I will ask Susan if she could put together a report for you summarizing what our practice has been and how we have relied on experts to help us. We do not rely on a vendor to tell us what trees should be planted where, and how. We do rely on our community experts to help guide us. Also, I will have Susan indicate in the memo that she has taken on the task of keeping that chart that you saw on the plantings and what to remove up to date. She has already had a brief tutorial by Brett as to how that works. We will be keeping that document current for us and for future people to use as to how Hastings goes about planting trees.

Trustee Walker: In terms of some of Mr. Downey's criticisms, for example the wrong tree in the wrong place, these were trees that the Tree Board determined were appropriate for that particular site?

Village Manager Frobel: Let me let Susan respond. She has spent a lot of time with this, and she has headed this up going back a few years.

Village Clerk Maggiotto: All those trees were reviewed with Brett Schneiderman. We had a lot of discussion about it. We adhered to his recommendations about creating diversity. For example, the trees going up Mt. Hope are different varieties of trees, but something that looks nice.

Village Manager Frobel: We have worried about the tree pit planting, and Trustee Jennings has turned us on to a local landscape architect who is going to help us. Brett has already worked with Susan on the bare root trees that might fit in some of those pits, using engineered or manufactured, soil. Brett has given me a little tutorial on that. But all those opportunities are happening, are being reviewed; certainly not in a vacuum, but rather relying on the expertise of some good people that are helping us.

Trustee Armacost: His comment about the bottom of Mt. Hope, for those of us who live in that area, the trees that were brought down were all dead and covered in vines. While it is not perfect, it is much better than it was before. All of us who are residents of that area are very grateful to the DPW and the crew. Obviously, there is more to be done, but we are all extremely grateful.

BOARD DISCUSSION AND COMMENTS (continued)

2. Notice of Application for Liquor License - 45 Main Street

Mayor Swiderski: Forty-five Main Street is the new condos, now not so new on Main Street, across from the Community Center. There are four commercial spaces in that building. Three have been rented: a bicycle shop, an optician and a yoga studio. There remains one retail spot that now has an applicant. New York State law requires that when there is a new liquor license for a given establishment there be an opportunity for community and Board input. This is the chance for objections to come out. The applicant is here.

Michael Fisher, New York City: The idea is to do a restaurant that will be open from the morning through dinner service: a full restaurant, not a bar or a café. And to do quite a bit of wine service. We imagine we will have a full bar, and beer as well.

Mayor Swiderski: A book component?

Mr. Fisher: There is. A friend of ours is running a business within a business, a small curated selection of books that will be available for purchase.

Trustee Walker: This is great. We are so excited.

Mr. Fisher: I think so, too. It is a fun project, and we are really excited about it.

Trustee Armacost: It is perfect for Hastings.

Mr. Fisher: The idea was to build something that would fit with the feel of the place and not try and drag it elsewhere.

Mayor Swiderski: Is there a sense for the hours?

Mr. Fisher: They are under negotiation, but perhaps as early as 7, maybe as late as 9 or 10, to open in the morning, to close around 10 in the evening.

Mayor Swiderski: And number of seats?

Mr. Fisher: Sixty-five. There is a quite large bar.

Mayor Swiderski: Will there be a bar, or is it just a restaurant?

Mr. Fisher: A lot of the seats are at a bar, but it is not the kind of place where you come and carouse. The man who developed 45 Main has these beautiful raw wood slabs, and we are using that to make a long raw wood bar that will have about 25 seats, if I remember correctly, a large communal table with 20 seats also made from that same raw wood. And eight to ten tables in addition to that. The idea is to create a homey, warm place. Coffee and pastries in the morning, and lunch, and then full dinner and wine.

Mayor Swiderski: Would you describe it as a bar, or more as a restaurant?

Mr. Fisher: I would call it a restaurant with a wine focus.

Mayor Swiderski: Is there anyone from the public here who would like to comment?

Bob McKinnon, 45 Main Street: I would like to thank you for your service. I also wanted to do a shout out to the Parks and Rec group. Living across the street from the Community Center, we as a family, my wife and three children, are incredibly appreciative of how much they do to make this a great place to live.

I come to this with an opinion that is somewhat divided. I have been a member of the Downtown Collaborative since its inception. The purpose of that is to make sure that we have a vibrant downtown, that we do not have empty storefronts, and that those storefronts are filled with things that are consistent with the spirit of the Village. We have done everything from helping to encourage the Flea, to doing things related to making connections with merchants and landlords. We have been meeting almost over a year to do that. In spirit, no pun intended, I am supportive of most businesses that come into town.

As it relates to this business, I drink wine and I love books. Conceptually, it is a business that sounds very appealing, personally. But my concerns range in three areas. One for the Village, two for the building, and three for the residents who are most directly impacted by its presence. From a Village perspective, my understanding, which is admittedly very nascent, of liquor law is that once a liquor establishment is allowed to open then in the way in which it conducts business after that liquor license has been administered there is increased flexibility. So the opportunity these sessions have is to say are there restrictions we should put in place, that it does not turn into something different that is not consistent with the fabric of the town.

When you look at Hastings in general, while we are not in Bourbon Street it is interesting that there are 13 establishments already with a liquor license in just our small village. That does not count the opportunity to bring your own wine in one place, and it does not count the fact that there are two liquor stores, in general. So as a community that tries to establish

something that is very family-friendly, there are some concerns we have. The fact that this establishment is across the street from the Community Center, where high school kids hang out, down a block from two nursery schools, is also added reason for concern.

When this property was originally designated, there was some stipulation in the use of those spaces, which was to suggest that from a Village perspective it had to be consistent with the fabric of the town. My understanding is that you, as a body, have an opportunity to write a letter to the liquor licensing board with a comment. My hope in this session is to make sure we are being diligent and not personally saying I like wine and I like books, and this is great as a place to go, but we are also considering what it says about us as a village and how it impacts those people who are most closely affiliated with that property.

I had the opportunity to meet with Michael and talk about our concerns, with the president of the board of that building, which is a condo. In that session, we began some of the conversations that, as a building, we have concerns over. For example, there is no gas line, there is no opportunity for things that relate to types of ventilation that would need to be done. There are not amenities for the removal of trash. Wet trash becomes an issue that will have to be dealt with. We are, as a building, working with Michael and his partner, who is the original owner and the person who built the building, to work through those issues.

It is our hope that we are able to get to a memorandum of understanding. However, my experience working with the owner of the building is that if you do not get something ironclad it is subject to interpretation if it is not in writing and legally binding, which is what I hope this body can help do. Even though we may say now that the hours of operation are only until 9 at night, and it is serving wine and is this nice place, all of a sudden due to the demands of business and business cycles, we need to generate more revenue, let us bring in live music, let us have later hours.

We are considering these as a building. But we would also like the Village's support, or at least I would, as it relates to what we can do. I am realistic. I do not think you will say we should not have this establishment. As someone who lives in that building and who has three small children who literally live above it, I have personal hesitation. But I do hope that you will take into consideration what can we do to make sure it is as consistent with Hastings, not just for Michael's well-intentioned plans but for anything that goes in there.

There are other considerations. As a property owner, studies that have been done that suggest that having a restaurant and bar beneath your property is detrimental to the value of the home. One study suggests it is as high as a devaluation of 20 percent. When we moved in and spoke to the owner of the building we asked specifically is there an opportunity to have a restaurant underneath. That would have limited our desire for that specific unit. At

that time, both through our realtor, and his realtor and him, he said no, that is not possible because there are restrictions relative to Rainwater Grill at that time. We probably should have done more due diligence, and gone to the Village and checked out liquor licenses, but that is what we did.

I stand before you today hat in hand, with a sense of, again, I am all about downtown, I want it to be vibrant. There are a lot of things that Michael describes about the place that sound great. But by the same token, I also love the fact that this is a place to raise a family. I love that we are able to go outside and feel free and not worry about cigarette butts outside, or open up your window on a beautiful summer day and have people who have had a couple of glasses of wine outside, and swearing. We left New York City to avoid those things. Some of that you can control, some of that you cannot. But I implore you, to the extent to which you have a desire and wherewithal, to make sure that if we grant or support, or abstain from even having an opinion about, a liquor license that we do so deliberately. And we do so with full consideration about not just another place for us all to go and have a drink, but how it impacts, what it says about a village, the kids across the street at the Community Center, and the people who live in that building.

Trustee Armacost: It sounded as if you were open to the space the way it is currently described. What you are concerned about is the use in the future by a less-lovely person with less-lovely ideas. What are you asking for exactly vis-à-vis the future? Are you asking for nothing to be in there that is a liquor license?

Mr. McKinnon: I appreciate the clarity. I would turn the question to you. Who here would want to live above any restaurant or bar? It does not matter the quality of it, it does not matter how well-intentioned the owner could be, it does not matter whether you have children or not, who would want to live above it? I would not want a restaurant or wine bar, no matter how well-intentioned, to be below me at any time.

As a person who lives in the Village, I balance my self-interest with those of the Village. You may say that this is disproportionately impacting a couple of people, but for the better good of the Village this might be worthwhile pursuing. If that is the way you land, then I would say, all right, what can we do to make sure that this is as consistent with the fabric of Hastings as possible: recommendations in terms of the hours of operation, the restriction of the type of food as it relates to internal combustion and fumes into the outdoor use of that space, restricting it. I know it is already subject to certain signage things.

These are amicable conversations that I have had and we may come to an agreement with the building and its owner. But I do not, in my heart of hearts, want to leave it for that. We have been burnt once in that space, and I would prefer not to get burnt again.

Mayor Swiderski: You were burnt once in that space?

Mr. McKinnon: Because we asked if it was possible, and then we were told it was not.

Mayor Swiderski: You personally.

Mr. McKinnon: Me personally. But not just me, it is the other people who are on the second floor. Again, these are issues we are working on as a building; there are fire issues where there has to be an emergency exit to the back. That back puts you into a residential area, into the stairway. So any person who works there would have access. That has to be unlocked, I believe, according to fire code. It could have a latch. There are a lot of considerations for putting this specific thing in that space that are not concerns for a yoga shop or bike shop or an optical store. To the extent that I think you should, and could, weigh in we should think about the idea. Again, there are some short-term concerns that maybe we want to put in place so this is consistent. And there are also things like making sure we are giving ourselves the proper protection moving forward.

Trustee Apel: Why is this coming to us if it was not settled with the landlord first?

Mr. McKinnon: My understanding is there is a deliberately loose stipulation within the building in terms of the use of that space, and there are things that relate to noise and smell. We are working with the owner. You could choose to write a letter, saying that the liquor license is contingent upon a legally-binding agreement with the building and the restaurateur or the new owner. This came to my attention because there is an application that is going forward. We did not get advance notice in terms of the building or the board. We found out about it almost the same time it hit this agenda.

Trustee Apel: If there were safety issues would that not have to go to the landlord first if you are saying there has to be an exit in the back, and there is not.

Mr. McKinnon: There is an exit in the back, but it is an exit into a residential space.

Mayor Swiderski: I am careful about where our power and authority go to and where we are in danger of exceeding it. The application here is to the New York State Liquor Authority, and our role is to weigh in or not on that application. The Building Inspector's role here, none of our business. And what you work out with the applicant and the Building Inspector is not ours to opine on.

Trustee Walker: But can we put certain constraints on the liquor license?

Village Attorney Stecich: No, you cannot put constraints on the liquor license. You could, however, write to the State Liquor Authority. Whether they will pay any attention or not, they make their own decisions. But Peter had asked earlier can we make the request. You can request that, and advise them it is under a residential building and they should bear that in mind for hours of operation or something like that. Whether they will accede to it I do not know, but it certainly does not hurt. This letter is sent to you mainly to advise you. It could come because it might be in a spot where it is not allowed in the Village, which is not a lot. Let's say the zoning does not allow it. That is not the case here. But that is why they do notify you because there may be local laws that forbid, which you do not have.

Trustee Walker: When this received site plan approval, there were no limits on the uses on the ground floor.

Village Attorney Stecich: No, Susan called me about it. She had read it, and I pulled out the approval and it did not say anything. It just said what Mr. McKinnon said: that it had to be uses compatible with the neighborhood, or something like that.

Mr. McKinnon: There are other municipalities which put restrictions in how close one liquor license can be next to the other, or hours of operation and things like that. But my understanding is that there are not those kind of stipulations here.

Village Attorney Stecich: I assume there were no rules for the building that gave the residents of the building any control over what is in the commercial space.

Mr. McKinnon: Again, only the description I had said before, which is that there are certain concerns related to the commercial space related to noise and smell. Because there were not, for example, noise baffling put into the bike shop we can work out with them when they do a spin class. Again, I have had some conversations the Michael where should there be proper things put in for noise, which would avoid me making calls into the Village saying it is loud again with a noise violation. So there are those ongoing conversations, but I and my family wanted to pursue both avenues: to work inside the building, and to petition the Village to see if there is anything you could do on your front.

Trustee Armacost: So there is a very precise question for us, which is relating to the liquor license. Either the liquor license goes ahead and it is totally independent, or we write a letter of some kind. But it seems to me it is not such a nuanced thing. It is either they give a liquor license or they do not give a liquor license. Can they give a liquor license with restrictions? And if they cannot, then I could not see the point of us writing it.

Trustee Walker: And if they did, how could they enforce them?

Mr. Fisher: The SLA does occasionally issue restrictions with liquor licenses. That is something that is at their discretion rather than anyone else's, and I do not even know that I get any formal input into it beyond the application. I have never seen a restriction that had anything to do with the sort of cooking that was happening there or the style of food or what sort of liquor was up for service.

Trustee Armacost: So what kinds of restrictions have you seen?

Mr. Fisher: Hours of operation.

Trustee Armacost: That is the only one.

Mr. Fisher: That is the primary one.

Village Attorney Stecich: I would think that is pretty significant. Something closing at nine o'clock is a lot different than something that closes at two in the morning. While they do do it, they may not do it frequently. But maybe if the Board was disposed, a letter from the Board making a request has no authority, but it might have some persuasiveness.

Mr. Fisher: I am sure it would be taken with a certain amount of weight. And like Bob said, assurances are only so valuable, especially of this kind. But that is far from our intentions of what we mean to do in this space.

Trustee Walker: But I understand Mr. McKinnon's point.

Mr. Fisher: I do, too. We have talked substantially.

Trustee Walker: You could move on to a much different establishment.

Mr. Fisher: I have a home that is over something, too.

Village Attorney Stecich: You limit the hours if they establish it.

Trustee Armacost: If you have an agreement for 9 p.m. or 10, and you are happy with that, I see no problem with us writing a letter to reinforce that. We cannot do anything to ensure that, at the end of the day. But it does create more of a buffer vis-à-vis any kind of establishment that might come later that was more raucous.

Trustee Jennings: Do liquor licenses stay with the property, or are they with a proprietor?

Village Attorney Stecich: No, they go with the establishment.

Trustee Jennings: So the protection is against changing your future behavior. It has nothing to do with the next person who rents that space. They have to apply anew for a liquor license.

Mr. Fisher: On the other hand, in terms of the memorandum of understanding between myself and Eric Anderson, who developed the building, and the condo board, that kind of memo of understanding, insofar as it binds the building in terms of who it later leases to, could govern other people, I suppose.

Trustee Armacost: But that has got nothing to do with us.

Mr. McKinnon: And the fact is, also, that Eric Anderson, the partner in this, is the developer. So he is the consistent force that even if you rent it to someone else you could not be his partner in a year and it would be another liquor thing. He would not necessarily have to reestablish for a liquor license.

Mr. Fisher: But in the interest of full disclosure, Eric is not an operating part of this business.

Village Attorney Stecich: He is not the applicant. The applicant is this guy and his bar.

Mr. Fisher: That is me, that is my with partners, including Eric.

Village Attorney Stecich: And that would be the one who would get the license. Could I ask you one thing that was confusing on this application? It has the building owner's full name as Hastings Garage?

Mr. Fisher: That is an LLC. That is us.

Village Attorney Stecich: That is what Eric Anderson LLC is, Hastings Garage?

Mr. Fisher: No, that is the name of the LLC that will be the business operation for this specific business. I believe that to be true. But that would be a question for Eric, not for me.

Trustee Jennings: That is what used to be there.

Mayor Swiderski: I understand that, I am just a little confused. Is that a nostalgic reference, or what is the story?

Mr. Fisher: It was so named well before I was involved.

Mr. McKinnon: I wanted to clarify. What Michael said was that while he is the applicant as an LLC that Eric Anderson is part of that LLC, correct? So technically that is an ongoing entity. Again, the concern here is that there is no sort of easy transfer of a liquor license that could allow for a different kind of establishment.

Mayor Swiderski: But Eric could buy out Michael, send him packing, still have a liquor license, and bring in CBGB Two.

Mr. McKinnon: Hence one of the primary concerns.

Trustee Walker: And Eric, or the Hastings Garage, actually owns all the retail units on the ground floor.

Mr. Fisher: I believe that to be true, yes. But not all the businesses.

Trustee Walker: And rents them out. So Hastings Garage, for whatever reason they picked that name, owns the condo and it owns the condo units on the ground floor, as I understand it. Right?

Mr. Fisher: Yes.

Village Clerk Maggiotto: I thought you had to reapply every year for a liquor license.

Mr. Fisher: There is a renewal process, yes. I do not know that it is always one year, but there is a renewal process.

Village Clerk Maggiotto: All the entities in town submit copies of their renewal applications to the Village. So it is not a one-time permanent deal and that is the end of it.

Mr. Fisher: I will say that in my experience they are only rarely modified after they are initially granted, but I think they can be.

Trustee Walker: And the state liquor board gives the village board the opportunity to ask them to revoke?

Village Attorney Stecich: To provide input, yes. So let us say there were a lot of violations, you could let them know. It is only up to them. Just like any neighbor could make a complaint to the SLA. I mean, you do not have any special status there, although they might take the complaint more seriously.

Mayor Swiderski: In the interest of moving this along, I have no problem with a time request for consideration to the SLA. I think 9, 9:30 seems reasonable.

Trustee Armacost: What did you agree to?

Mr. Fisher: Our times have not been affirmed. We have set marks at the outer limits at 7 a.m. and 10 p.m. The question is whether we pull it in tighter.

Trustee Armacost: Bob, what was the view of the condo board?

Mr. McKinnon: The board does not have a view. I just want to be clear. The president of the board, is in conversations with Eric Anderson on the agreement. The key considerations are the hours of use, the noise baffling, some considerations around venting, and also security issues that I have mentioned before, as well as the use of outdoor space. All those things, hopefully, are included. To what my personal preference would be about hours, I would be much happier, obviously, the earlier the better. Nine to 9:30 is better than 10. Also, something may close at 10, but activity still goes on well past then. But also, I am completely emphatic. I want businesses to come to this town and succeed. I do not want to hamstring someone coming in. But by the same token, I want to make sure that we are protecting the neighborhood and the spirit of things, at the same time.

Trustee Walker: You are in the difficult position. But I understand your point, and I am glad you came in and brought it up. Seeing it from your perspective is important for us. So thank you.

Trustee Apel: When is the board going to meet to decide these negotiating points?

Mr. McKinnon: There was an initial e-mail exchange on those points. The next board meeting is not for two weeks. The president will have an agreement that he comes up with with Eric, and then takes it to the board for a vote. I will also add that most of the occupants in the building are unaware that this is even happening. That is how quickly this has happened. Even though I think there has been some murmuring about something for some time, it was the application for the liquor license that expedited the timing. That is when we also knew this was something that was not in concept, but was moving forward.

Trustee Apel: Before we put an addendum onto this application we need to know what you guys agree upon. Because if we put down 9, and you say 10, or vice versa then we will be at counter purposes. We want to come out with the same thing. So your board needs to meet first before we can put the addendum on.

Trustee Jennings: I agree. Not sure that our role is to do addendums or write letters. But I do not have any objection to the Board of Trustees communicating with the SLA, particularly about hours. But we should do so on the basis of representations from the condo association, with all due respect, not on the basis of views of one property owner. Much as I appreciate your analysis, which is very cogent and persuasive as a matter of protocol we need to hear from a more official entity before we start writing letters to the state. I do not know what the timing is, I do not know if it is too late or the logistics. But if the condo association cares about this, as apparently they ought to, they need to move.

Mayor Swiderski: December 27 is the application to the liquor authority, and it is a 30-day period.

Trustee Jennings: That sounds like there is enough time for the Board of Trustees to hear, officially, from the condo association as an association.

Trustee Armacost: Normally in bylaws you are allowed to have emergency meetings.

Mayor Swiderski: We would need to hear by the next meeting. We will bring it up at the next meeting, and determine the time-bounding at that point. To be fair, I do not think any of the other liquor licenses are time-bounded. And of those 13, I am going to guess eight or nine of them are in establishments with people living overhead. We are taking a step that has not been requested of us in the past, and that we have not done in the past. Not that we are favoring one entity over another, but it is a break with precedent on this issue. I have no problem, but I do have to state that for the record. Due respect, lots of people live over bars in this town.

Trustee Jennings: My point also was one of procedure. I do not mean to suggest that I think if the condo association does make a representation to us that is a guarantee that we will, in fact, decide to write a letter. One thing at a time.

Mr. McKinnon: I appreciate all your consideration and time on this issue. Regarding other establishments with residences overhead, I want to underscore the point I made earlier. In addition to an inconvenience factor, there is a valuation factor here. There is a direct monetary impact on the property values in this situation because they own, as a condo association. I still feel for anyone who may live over a restaurant and be disposed by it. But

there is an added thing when someone goes to sell and, all of a sudden, they are going to take a significant hit because something has come in that they did not originally see.

Trustee Armacost: If it is, very successful and brings people from all over the world to it, it could increase the value of your property. That could be your pledge, that that is your ultimate goal: to increase the value for everyone.

Trustee Jennings: This very interesting discussion brings us back full circle. When we talked about this building years ago in approving it, we talked about getting away from old-fashioned zoning that put residential over here and commercial over there. We are talking about bringing people together within walkable distances from the train station. We are talking about changing the suburban pattern which is undesirable and not sustainable. When you live this way, you have got activities close together that impinge upon certain quality of life issues, as well as maybe even the market value of things. I hope we can figure out a way to do this very well in Hastings because this is the way people are going to have to live and the way villages are going to have to be built and zoned, in my opinion. So let us see if we can work this one out because we have got to have a win-win here. We cannot separate the things that might cause a little friction when they rub shoulders.

Mayor Swiderski: Thank you. We will hear from you before the next meeting, which is in two weeks' time.

3. Request for Holiday Display in VFW Park

Mayor Swiderski: A couple of days before Christmas a display appeared in the VFW park alongside the holiday tree crèche and menorah that were in place then. It consisted of an aluminum pole and a sign that said "Be good, for goodness' sake." There was at least one complaint, and it was not an authorized display. The police removed the pole and the sign, and stored it. In 24 hours' time we received a request from a resident, who is here with us today, to reinstate the pole and the sign. I will leave it to him to lay out the precise argument, but it represents a display for secular purposes during the holidays. Rather than a religious display, it is a secular display. The holiday tree, which is nondenominational, has been in place for 20 years and was put in place for that purpose, purchased for the Village by a religious leader and not Christian. The menorah and the crèche have been displayed there upon annual requests. For years, the Board would receive the request and approve it. This Board tired of that and, like in many communities, remanded that authority to the Village Manager, who typically gets these requests. Rabbi Benji of the Chabad submits a request, and Father Fernan of St. Matthew Church submits a request. The crèche and the menorah are provided by those institutions. They are not put up by Village labor and not maintained by Village labor. So the request is for this alternate sign to be put in place. I promptly pitched

this into Marianne's lap because I know where I do not want to step. Marianne can lay out some thoughts about the law here and what we can or cannot do.

Village Attorney Stecich: For a long time the Village has used a part of VFW park for the tree. Starting six or seven years ago, the Village has permitted more items to be included in this holiday display at VFW park. The organizations that represent different constituencies or different groups of residents in the Village may request to the Board of Trustees to put up other items. The first one was about seven years ago, when Rabbi Silverman requested to put up a menorah next to the Christmas tree, the holiday tree.

Mayor Swiderski: Benji Silverman, same person. That is what he writes me in his e-mails.

Village Attorney Stecich: At that time the Board considered very carefully whether to permit the menorah. There was a concern about whether that would violate the First Amendment establishment of religion clause. At this time, I did exhaustive research which I shared with the Board, and came to the conclusion that the display, and this is not just my conclusion but the Supreme Court's conclusion, would be permissible if a reasonable observer would not perceive it as the Village's endorsement or sponsorship of any particular religion. The Board was comfortable with that. At the time, there was only one request and that was the request from Benji Silverman. We decided to make it clear that the Village was not endorsing it by asking them to put up a sign that said this was put there by the Chabad. And also recognizing that if other religious groups asked to put a symbol there they would be allowed, as well. The request came to the Board of Trustees, and the Board approved it. Although the Village does not put up the display, the Village has control of the display. It is on Village property. The Village says yes or no, and we have not said no yet, but yes to anybody who wants to put up a religions symbol there. Shortly after the menorah was put up, St. Matt's asked to put a crèche there. Then the Board considered that, and permitted the crèche to be there. I believe there was also supposed to be a sign that said it was put there by St. Matts.

Mayor Swiderski: There is. And there is a sign for the menorah that it is put there by Chabad.

Village Attorney Stecich: To the best of my knowledge, there have not been any other requests since then, although when the Board decided to permit the crèche and the menorah, it recognized that other groups may come forward. So it seems to me that now we have got a new applicant, but that is not the right word, a new group, asking to put something in the holiday display. It is up to the Board of Trustees to decide whether it wants to allow the Festivus pole and the sign to be part of its holiday display.

Mayor Swiderski: So we have the right to accept or reject this particular applicant's holiday display.

Village Attorney Stecich: Yes, there would have to be some fair basis for it. For example, if somebody came in and wanted to put in a Ramadan display, and you said no you cannot have a Ramadan display, that would be wrong because you have allowed other religions and you would be discriminating against religions. But you might have other grounds. I sent around a decision, to the Board, by the 6th Circuit Court of Appeals, which is a good decision on this issue. It said let us say somebody wanted to put up a sign that said there is no Santa Claus. You may not want to permit that. That is why it comes to you to review. There are constitutional restraints, but you do not have to allow anything there. Just because you allow two things does not mean you have to allow everything. That is very clear. There is not much clear precedent from the federal decisions on this. I have read most of the decisions from the last 25 years, and I do not think on any one of those decisions, and I am talking about the Supreme Court decisions, there are more than five judges on one side. They go back and forth, back and forth. So there is no bright line, there is no clear law.

I feel comfortable saying what I said six years ago, that it would not violate the establishment clause by putting up religious displays if they are properly identified. I feel comfortable saying, and I think the law supports saying, that the Board should review requests to use the Village park to put up a holiday display.

Mayor Swiderski: the 6th Circuit Court's decision, which I read and thought was interesting, said explicitly that holiday displays are controlled environments that the Village has full control over. Effectively, the Village can choose what is displayed there because it determining what a holiday display is: does it support the holiday theme, or not? Or is it denigrating the holiday theme. That does not quite apply here because in that case the signage was perceived as hostile and they did not think it contributed to a holiday display. But does this contribute to a holiday display, or not?

Village Attorney Stecich: But what you have got there is a holiday display. So if a group of people from Missouri want to put up their flag, what does that contribute to the holiday display? You look at would this be a contribution to the holiday display. I would say you would want to look at it just as you did. It was not every year you had to look at the crèche because you knew it was the crèche, and you knew it was the menorah. It is the same every year. But let us say the sign changes from year to year. With the one group that has been litigating a lot of these cases, Freedom from Religion, the signs are varied. I could see some of the signs you would be less comfortable with than others.

Mayor Swiderski: Right. And the person who complained in this particular case indicated he thought the sign was, though maybe not so clear to others, a challenge to the holiday.

Village Attorney Stecich: That is what you have to decide. Another important thing is that just because some people do not like it does not mean you would have to say no. If you wanted to put a Ramadan sign up there, there might be people who do not like it, do not want you doing that. But is that a basis for not doing it? You have to make your own best judgment.

Trustee Armacost: One of the things I am hearing you say is that somehow it has to do with the holiday display. So if it was Ramadan, Ramadan would have to match that time. There are some holiday seasons which match the nature of the calendars.

Village Attorney Stecich: Ramadan is not a good example because that is September.

Trustee Armacost: Or it can be in the summer, it shifts all the time. But the other issue is the issue of what it means to be part of the holiday season and the freedom of religion versus freedom of speech issue. Two different kinds of rights that you are protecting. The group that you had in the case you gave to us by definition did not want to be a religion. It was secular. It becomes complicated when you are talking about being part of a holiday display.

Village Attorney Stecich: Holiday display does not necessarily mean it has to be religion. Elves and Santa Claus are not religious. A holiday display does not have to be religious. It could be holiday without being religious.

Trustee Jennings: The most important thing for clarifying for me the 6th Circuit opinion was the distinction they made between a government speech and a civic forum. The argument was that this kind of holiday display is a statement by the government and the government, therefore, has a right to determine the content. This is not a freedom of speech issue in the way that it would be in a public forum. That is pretty fundamental in getting rid of the First Amendment problems.

Village Attorney Stecich: The free speech problem, yes.

Trustee Jennings: Given that, my question is this. The holiday messaging is a government speech issue. Does the law make any distinction about symbols and icons of various kinds versus signs?

Village Attorney Stecich: I would not think so.

Trustee Jennings: There is no legal basis for saying we do not want to have a bunch of placards in the park?

Village Attorney Stecich: You can come up with your own reasonable restrictions for it. That, I would say, is not a holiday symbol. Putting up a placard is not part of a holiday display. It is part of just trying to say something. Bruce made a good point, which I was going to make in response to what Niki says. You do not have to worry. You would be right. If VFW park were a public forum, then you would pretty much have to let people speak. But it is not. I do not think our parks have ever been a public forum. So that analysis is not relevant to this question.

Trustee Apel: Does it make a difference when we put signs up that it has been provided by?

Village Attorney Stecich: You mean in terms of does that make it then a Village function?

Trustee Apel: Right.

Village Attorney Stecich: No. There is another Supreme Court case on that. It was not a holiday display, but it was a display of 15 monuments. They ranged from a monument depicting the front of the first post office to Ten Commandments tablets. It was the Ten Commandments tablet that provoked the lawsuit. Of those, 11 of the 15 monuments had been paid for by private people. That did not change the analysis. Under New York State law which is totally different from this law, you could not use Village funds to put up the menorah or the crèche. But what makes it a Village display is that it is on Village property and you approve what goes into it.

Trustee Walker: In the 6th Circuit opinion they made a distinction. They were talking about the establishment of religion in the Bill of Rights. They said when accompanied by a collection of secular and seasonal symbols the nativity scene does not amount to an establishment of religion. It was almost like putting the secular together with the religious relieved the municipality of the responsibility for putting up a religious icon or religious display, because they had to put Santa Claus there, too.

Village Attorney Stecich: I know these are mostly religious, but that was dealing with a very different set of stuff. It had an elf and a Santa Claus and a package of gifts.

Trustee Walker: But we have a Christmas tree.

Village Attorney Stecich: I know. But the case we were mainly relying on six years back was the Allegany County courthouse case and those cases which said there are other ways to look at the establishment of religion. What you look at is whether a reasonable observer would look at that and think the Village is proposing or espousing that religion.

Trustee Walker: So it is different, yes.

Village Attorney Stecich: Different, and you could look at a display that has a menorah and a crèche and say, no, they are not. That is why, to make that perfectly clear, we said let us put up signs that indicate this was donated by St. Matthews. Because the Village has been very conscious of this and very careful.

Trustee Apel: There is no sign on the pole and the sign here that I can see.

Mayor Swiderski: No, we could require it.

Trustee Apel: Personally, if I walked by and saw this pole I would think they had forgotten to do the rest of the sleigh. But I like the message on the sign.

Trustee Armacost: Maybe we can ask Patrick to explain the history of it, the history of pole and what its relevance is.

Patrick Randolph Bell, 69 Prince Street: Here are the pictures. Here was the sign for the pole. At the bottom, it is hard to read but it does say, "This message brought to you by the Free Thinkers of HoH, Hastings-on-Hudson." Here it is in context. You can see how it goes as opposed to the rest. You had a bunch of question. One of them was does it need to be accompanied by a message of who this sign or message or object was brought to you by. What is a sign? I do not see a difference in an object between a sign and a menorah or a crèche. It is an object, a physical object. So the message, be good for goodness' sake, on the bottom it says this message brought to you by the Free Thinkers of HoH, standing for Hastings-on-Hudson, in the shape of a water symbol, all-inclusive, humans are all made out of, a lot of us, water, the H₂O sign. There is a message saying who this is brought to you by, and the message itself. The Festivus pole, a Festivus for the rest of us, is a holiday, which I thought was the best part of that, one of my favorite things about the display this year. I had put up a display two years ago. It was a smaller sign, it said the exact same thing. It was on cardboard, though, so that thing eventually met its day. But I did have it up for a couple of days this year before the Chief took down the second one for a lack of permit. Which as I found out, does not exist.

So the Festivus pole is the symbol for that. I love to hear that this town also has a day for airing your grievances. One of the main parts of Festivus is an airing of grievances. I am glad our town already supports a grievance day. It is a little funny, but at the same time I found it interesting that the sign was taken down, and in a way that did in my mind almost established that the government itself established our town through one of its officers. That this town supports the secular holiday or Christmas tree. It is in the title. And the Christian symbol, the Christian crèche, and the Hebrew Jewish menorah. By taking down the one atheist, agnostic, secular Festivus pole they therefore wipe that off: we do not express this, we express this. And this is not allowed. Those were some of the concerns I have.

Village Attorney Stecich: While there is not a permit, I am not sure if I made clear you have to get permission from the Board of Trustees. You have to come to the Board of Trustees. When they came about the menorah it was months before Hanukkah started.

Mr. Bell: I understand. That is what I learned. First, to get a permit after a phone call from the Chief to my house I learned that his brother was a tenant in my grandmother's house, and that his mother went to high school with my grandmother.

Mayor Swiderski: On point, please.

Mr. Bell: So that is why he called my house in the morning rather than the number I placed in the police report before I learned that the Chief had taken it down. I was told it was a lack of permits rather than this permission from the Board of Trustees and the Mayor. Which, by the way, it is an honor to appear before you guys for the first time. So I got kicked around the office. I got sent from Susan, back over to the police department, up to Village Manager Frobel.

Village Manager Frobel: That was all in a matter of minutes.

Mr. Bell: But it was still jumping through hoops that continually changed. It took me a few hours to get through with it. It was Christmas Eve, I had nothing else to do, I am sure. I got kicked around, and it turns out I did not need a permit which was, I was told by the police, the reason they took it down, not that I did not get permission. So once I figured that out, I then came to the town and I asked for permission from the Board and the Mayor.

Mayor Swiderski: Right. It is semantics, it is a question of permission. I do not think it was a grievous wrong done.

Mr. Bell: No, Susan explained it to me a little. She was like, back in the day there were letters sent. .

Trustee Armacost: But can you explain the origin? Give us a little bit of history.

Mr. Bell: The sign is an atheist/agnostic/humanist sign. I guess the be good for goodness' sake is something the American Humanist Foundation had put up a few years ago throughout the country to express what their religion was. I thought I like that. I like that symbol, that sign, that message to also share with this town alongside the crèche and the menorah.

The Festivus pole in the last couple of years has become something more and more that you see throughout society. It appears now in the Florida courthouse, or the Florida county seat, Their municipal building. They have one in Wisconsin, they have them in California. The one in Florida they had to put up because the town recognized that if you're letting everything else in here you are going to have to let this Festivus pole in. It came from Seinfeld, the Festivus episode is what they might call it. It involves a bare aluminum pole which represents the anti-commercialization aspect of what Christmas and the holiday season has become. So I put that in there. I love, like I said, the "Festivus for the rest of us." That was another reason I put it in there. To be all-inclusive. To cover a lot of the bases that were not being covered in this town by simply the crèche and the menorah and the holiday, the Christmas tree.

Trustee Armacost: Are you representing a group of people, or is it you?

Mr. Bell: No, I put this sign with somebody else. The original sign came up a few years ago with a couple of other people who help me put it together. There is a group of people, but it is not really a group. It is an unofficial group called the Free Thinkers of Hastings-on-Hudson. It is unofficial members of an unofficial group. If you want to call it a group, it is a group. Not that we all want to put ourselves in there. It is like a lot of religion and people, do not want to mix themselves in with other people of their same group and all share the same beliefs. That is why it was called the Free Thinkers of Hastings-on-Hudson.

Trustee Apel: I am looking at this Web site, and I will read you what it says. "It is the fake holiday from the 1997 episode of Seinfeld. Has become a day of celebration for Seinfeld fans and people who are generally sick of commercialization of the holiday season." Would you say that is saying what you are feeling?

Mr. Bell: That is all of it except for maybe the fake holiday part. This is the origin of it. Actually, origins of Festivus came from one of the writers of Seinfeld, from what I understood. His father created it back in the '60s. So it has been around now for almost, what, 50 years? And now you see how a lot of holidays take place like the original Christian holidays, the original Jewish holidays. They change through time as it becomes more a

custom depending on what community may be celebrating them. So if some people want to say that this is how Festivus should be, in Florida for instance they put up a six foot Festivus pole of Pabst Blue Ribbon cans, which I was not a fan of, because I love this town. That was not my choice to put up that. I put up the original, unadorned pole. It expresses this holiday has been changed slowly through the last few years, and longer, to be different. The original one was done with a clock in a bag that the father nailed to the wall. He would ask his son what does this clock mean, what is this clock in the bag? Someone asked the father. He goes that is not for you to know. Again, it was later changed during the Seinfeld episodes by another writer who said maybe it is better to do it this way. So that is what became the more popular way of celebrating this holiday.

You brought up a good question about Ramadan and other holidays and other religions that are out there. Let us say some celebrate the spring equinox, some celebrate May Day. I think by allowing it, if the Village decides we have a holiday season for displays in VFW park, that itself may show this establishment of Judeo Christian-centric religious basis for Hastings-on-Hudson, which may get you in trouble. If somebody would like to put up something for Ramadan you might have to let them. If somebody puts something up for May, because this is how they express their religious holidays. And to say these are the only times you are allowed to do your religions holidays, I do not know. I am just putting it out there that it was a good point that was brought up about the other holidays for the other religions, the other 50,000 to 100,000 this world has.

Mayor Swiderski: We do not have requests from the other 50,000. We have them from two established and one something.

Mr. Bell: Atheist, agnosticism are both recognized by the court as a real religion. Even though it is really a lack of religion.

Trustee Armacost: A belief system, yes.

Mr. Bell: It was a prison case, where the guy was a prisoner and he wanted to celebrate. And the courts are like, you have to.

Mayor Swiderski: In the interest of starting to bring this to a close, I want to give my thoughts. It is the tradition that the Mayor go last but this could go on all night.

Mr. Bell: Could I have one more thing that might help to point in the right direction. Perhaps a form that Susan could hand out, and I could fill out a form or any other person who would like to put up a display could fill out the form, which could then be passed on through the Board and through the Mayor and through the Village Manager that might make it easier.

Mayor Swiderski: This event is not a frequent enough event that religions come before us with their holiday displays to require a custom form. Just working up the 6th Court decision, it is a holiday display.

Mr. Bell: Right. But by the way, we are not a 6th Circuit jurisdiction.

Mayor Swiderski: I am asking not to be interrupted. Let me just finish. And I am not asking for a reaction from you. I am going to say what I think, and then I am going to ask the rest of the Board. At this point in time you can step away. Again, it is 10:05 and as interesting as this topic is this is not the Supreme Court and I want to move it along.

It is a holiday display, and it consists of representations of the holiday both on a secular basis and specific to religions that celebrate an honest-to-God, no pun intended, real holiday during that time period. Despite three or four communities around the country deciding to put up a pole, I do not think Festivus is an established policy for the atheist faith, per se. It may be for a few dozen followers, but it does not rise, at least for me, to the level that it feels like it compels inclusion because it is an actual holiday for anything other than two or three or four people might believe is real.

So it is not adding to a holiday display. It is social commentary on holiday displays. The "do good for goodness' sake" is not the official slogan for the humanist organizations out there. It is a slogan they pull out to make a social commentary during Christmas, which is entirely valid here. And I am entirely sympathetic. That is how I live my life. But it neither represents a holiday nor adds to the holiday display other than making a social commentary on it. While that is intellectually interesting, I am not sure it adds to the holiday culture of the Village. So while I understand the point, it is mostly a point. It is not something I would say rises to inclusion in what is quite deliberately a holiday-spirited display. Nobody rational would come to the display at VFW and say a particular religion is being pushed or that any one of those things is particularly offensive, because they are in the context of an overall holiday display.

This introduces a commentary which, again, is interesting and may provoke discussion. But I do not know if it is not also going to provoke something negative, where a symbol from a comedy show that was a hysterical episode, by the way, is used to make a social comment on the rest of the holiday display there. It just does not seem very holiday-ish. So I am starting this particular discussion off with a very strong opinion on it. I do not think it belongs. When I call for a vote, unless one of my colleagues here says something convincing otherwise, I do not think it contributes to the intent of the holiday display. I think it is interesting and I have enjoyed telling people about it, but I do not know if that is the intent of

the holiday display, to provoke cocktail conversation about interesting constitutional issues. It is mostly to be a holiday display. Who wants to go next?

Trustee Walker: I agree with you, Peter. I am reacting aesthetically to the pole. I had not seen it, and I did not even know what it looked like until Marge showed me a picture. I did not realize it was a bare aluminum pole. When I heard "Festivus" I thought it meant festival, festive, something festive. And I thought it could be something beautiful. It could be something about the solstice. We have a lot of secular symbols to celebrate the holiday, whether it is the tree or a sun rising because of the solstice. I appreciate those symbols. They, to me, are just as meaningful as a crèche. I love going to the winter solstice celebration at St. John the Divine where the sun rises. So I appreciate those secular symbols. But this does not rise to that level in my mind, or something beautiful and meaningful to me. Then I would say, yes, it would fit in. But I do not think this fits in so I agree.

Trustee Jennings: I am glad this was raised because I learned something from reading the opinion and thinking about the issue. I do think that we should, as a village and as a board of trustees, in the future think about the range of what we mean by a holiday message. So what the Mayor has said I think is very pertinent. What kinds of displays that may come before us and be proposed, what fits into the message and what does not, that is a very important question for us to ask. I would welcome other groups that have a symbol or something that they think would contribute to that holiday message and make it as pluralistic and diverse as possible. One of the things I learned from the court opinion is that we are not supposed to be sending a message, certainly not about a particular religion and not about religious religion, per se, either, that this is a holiday so it should be diverse and it cuts across the religious-secular dividing lines.

I did not realize until tonight the symbolism of the pole. I did know something about its origin on Seinfeld; I like Seinfeld as much as the next person but that does not impress me. What does impress me is the notion that part of a holiday message might be a comment about the commercialization. I go to the Grace Episcopal Church, and we have an alternative gift market every year. We are making a statement as a religion that this commercialization is a mistake. I do not begrudge others making a similar statement as part of an overall message. In the future you might be able to do that messaging better than the Seinfeld-suggested pole. But I do not think that is a bad message. We could then have an argument about what is part of the holiday message and what is not. That would be a good part of a holiday message.

Finally, maybe I am misremembering, but I think be good for goodness' sake comes out of the Frosty the Snowman song. If you get Frosty the Snowman and put a sign saying be good for goodness' sake, I am not sure I would object to that, because Frosty the Snowman is certainly an image. It was in the court case.

Village Attorney Stecich: Santa Claus Is Coming To Town. That is the song.

Trustee Jennings: Get a Santa, then, and have Santa say be good for goodness' sake, and what is to argue. Final point, I do not like a bunch of signs stuck in the grass. That is not my idea of how this place should be decorated and how we ought to create the totality of the imaginary and the symbolism and the meaning of this important time in our annual cycle. Let us be more creative aesthetically. That would be a criterion I would use in future conversations of what is and what is not an appropriate part of our holiday message.

Trustee Armacost: Peter's point about this is social commentary is a valid point. The way that you moved that, Bruce, I think is important for us to think about. There is a message of non-commercialization, which is very important and is embedded in a number of the religions, although they seem to lose it sometimes at this time of year. It is important to validate the fact that there are people in our village who feel that way, if that is part of what is going on. I also have an aesthetic reaction to the pole. It is just ugly. If you want to make that kind of a point, as Bruce says, if you want the sign and you have a Santa Claus or whatever, it does fit into the notion of holiday spirit. I would like to suggest that no vote be taken tonight, but that we spend some time thinking about the fact that this is a holiday message and that it is Village property on which this holiday message is happening.

Mayor Swiderski: But the request is to have this put up again immediately.

Trustee Armacost: But then it is not in the holiday season.

Village Attorney Stecich: It is over.

Mayor Swiderski: The crèche is still up and the tree is still up, and the request is to add it.

Trustee Armacost: Well, the crèche should come down today.

Mr. Bell: Two weeks.

Village Attorney Stecich: It is the Epiphany.

Trustee Apel: It should be related to that.

Village Attorney Stecich: It is when the holiday ends.

Mayor Swiderski: The tree is still up. Whatever, there is a specific request to put this up again immediately, and that is what we are reacting to.

Trustee Armacost: But then we need some time to define what the holiday season is. The holiday season arguably ended when the children went back to school. IF the point is about including this in a holiday season message we should spend time thinking about that in this upcoming period. And Festivus is December 23.

Mr. Bell: The day it was taken down. It was taken down when I came down to celebrate with my friends, do an airing of grievances. I could not even celebrate the actual holiday because it was removed. It is like taking the manger down on the 25th.

Mayor Swiderski: It is not quite equivalent to that.

Trustee Armacost: But the point being, that holiday season has passed.

Mayor Swiderski: This is not a back and forth.

Mr. Bell: One thing for Ms. Armacost, who I think is a wonderful Trustee. According to the Festivus Wikipedia, Festivus is a holiday that can be celebrated somewhere between December and May at any given time. Being that the official holiday celebration day being the 23rd, that is just the rest. You guys are really focusing on this Festivus pole, where sometimes you might want to focus on the atheist/agnostic religious non-belief in God of the sign that might also be the other religion. The rest of the town, not everybody is a Christian or a Jewish person in our town. There are a lot of people in our town who do not believe. Even though I was raised Catholic and was an altar boy. Cardinal Eagan gave me confirmation, and I met Cardinal Dolan. I went through all my sacraments up to this point.

Mayor Swiderski: I do not think there is a harm in saying no it does not go back up again. That is not a particular vote. We are expressing our opinion upon this particular request to put this back up.

Village Attorney Stecich: He can apply next year.

Mayor Swiderski: And he can apply with something else next year. We are not here to give aesthetic advice on what he should be doing. We are here to render judgment on one particular application before us of holiday signage.

Trustee Armacost: So what is the reason to put it up again?

Mayor Swiderski: He feels it fits in to the existing holiday display.

Trustee Armacost: So the holiday has ended, so it is becoming unclear what the request is about.

Trustee Walker: If the group wanted to have their Festivus celebration they could bring the pole, set it up, have their celebration, then remove the pole. I would not mind that.

Mayor Swiderski: But that is not the request.

Trustee Walker: I know. The request is to leave it up.

Mr. Bell: I just want to mitigate some of this two weeks with not having the pole. That is all it is. Throw it back up for a little bit, I will take it right back down. And the sign, I will get rid of it. My school, for me, starts on Monday. I have got four more days of school break, which could be your holiday season, I guess is what you are trying to say. Either that, or the day the crèche and the menorah come down.

Mayor Swiderski: It is this holiday season. The reaction is to whether this is permitted to be put back up again now. There are three reactions so far. You can choose to say just put it up, or not.

Trustee Armacost: I think we should spend more time on this before we put up again in the holiday season.

Mayor Swiderski: We need to have an informal agreement on a date by which applications should be submitted so we are not arguing a week after Christmas about a particular application. I am not interested in spending a minute more on this discussion than we have to for this application tonight. If you do not want to render a vote that is fine, but I do want to move this along.

Trustee Armacost: No, I am just recommending that we do not vote on it. It does not seem like a thing that requires a vote. But, Marge, what is your view?

Trustee Apel: I have lots of feelings about separation of church and state which is a very heavy discussion which I do not want to get into. To me, the holiday season is over. I think future discussions would have to be whether we have a deadline for all of the display to come down, period, that is it. Putting it up is pointless at this time. I do not think it is in anybody's good interest to put it back up. I believe that we should go over our discussion in the future, what we want to do for next year, and come up with some decisions on that.

But to me, it is over, it is done. You have gotten what you wanted. You have had a public discussion. It is going to be seen by everybody. If you want to have more discussions about what religion is all about and whether holidays are doing what they are supposed to do, or having your message, then you should have them as a group at any time during the year and have public forums on that. As far as I am concerned, this discussion is over and that is how I feel. We are done.

Mayor Swiderski: We are declining on putting the display up.

Mr. Bell: When does the Christmas tree come down, the lights? They are still on right now.

Mayor Swiderski: They are up well through January.

Mr. Bell: So we still have a holiday part, in fact, as long as those lights are on that tree.

Mayor Swiderski: We have lights up in the Village and on the tree well into the end of January, mid-February.

Trustee Apel: Those are just holiday colored lights.

Mayor Swiderski: In terms of providing some guidance in the future so the Board has some time to react to applications, a couple of months? So we have at least one meeting to review, and another to respond?

Trustee Armacost: Yes, I think a request should come in early November, at least, if the expectation is for it to come in December. Two months prior to the festival.

Mayor Swiderski: Two full calendar months prior to the request to erect the display.

Trustee Jennings: For everybody. I too would vote that we not put it up now for this year. It is too late to be very meaningful. If the pole had been placed according to the proper procedure, and then mistakenly or erroneously taken down, it would be reasonable to restore it for a day or two as a symbolic gesture. But it was put up without the proper permissions and procedures. I may certainly look favorably upon a proposal for next year from you and your group. But the one thing that I would not ever favor would be simply a free-for-all of people sticking stuff in the grass at their own say so. That would be a chaotic situation reminiscent of a political comparison, which we do not want. For that reason, not necessarily prejudicing for next year but for that reason alone, you have made a procedural mistake and I do not see why we should put it up, because it was not our mistake in the first place.

Village Attorney Stecich: I think the Board all understood this, but Patrick alluded to it and I want to clarify it. The decision that I suggested you read, the 6th Circuit Court of Appeals, is not binding on this board. But it was a well thought out opinion, and it helped frame the discussion.

Mayor Swiderski: I think we stayed in the spirit of it.

Trustee Jennings: It has not been wiped out by our jurisdiction.

Village Attorney Stecich: No, and it is not inconsistent with anything in any other jurisdiction.

Mayor Swiderski: And I do not think anything we said here was inconsistent with that particular case.

4. Update on Deer

Mayor Swiderski: We have a session next Wednesday at the Community Center where Dr. Rutberg will be addressing any questions or concerns, and describing the project which we intend to carry out in February. We do not have set dates for that, but we will be laying out those dates before the Wednesday meeting in e-mails out to the community. It will be televised. The meeting will be composed of a community session, followed by a session for those volunteers who will be participating in this effort. This effort is somewhat constrained in scope this year because we got permission at the end of December, so we are scrambling to do what we can do, and anything more ambitious would just be probably beyond the pale, given the time frame we have here.

We have to locate sites in Hillside Woods. The police have weighed in on where they think it is appropriate. It will also be at the Andrus Nursing Home, and we will be looking for permission at one other site. We are going for the sites with the greatest number of deer and with the least number of issues in terms of restricting public access to it and complications from asking for permission from too many authorities. So it is the simplest possible implementation.

We are going to be looking for a few more volunteers to help out in securing access to those parts of the woods where this will be happening. It will involve restricting access to those parts of the woods for a two- to three-hour window over a two- to three-week period. During that period, the darting will be happening in that part of the woods. We are going to be talking with the police and with the firehouses about safety issues. That has already started.

While it is a new program for a dense suburb, the mechanics of doing this these guys have done many times. They come with a laundry list of the issues that have to be addressed. If a deer needs to be put down because it was injured, are you prepared to deal with that? Are you going to properly notify the community about which parts of the woods are shut off? They have got a list of issues. We are not recreating the wheel. It is simply making sure that all the points are covered on something that has been done before, elsewhere. We are starting with the darting, and then moving into the metrics in the spring and summer. Those will be separate efforts, also run by volunteers. We have got a dedicated grad student, and I hope to engage the high school on that, as well as over 50 volunteers. The wheels are catching, it is moving forward, and a lot more will be coming out in the next month.

Mr. Gonder: The police made the decision? I thought the Board would make the decision which places you try to do it.

Mayor Swiderski: It is driven by the practicality of trying to plan something with a couple of months' notice, where we have limited resources and we do not want to become bogged down in issues of notification and engaging neighbors right up against it if we can avoid that. There simply is not the time nor manpower to do that.

Mr. Gonder: You had seven years.

Mayor Swiderski: No, we got the permit the 22nd and we were not going to engage in a full-scale implementation effort until we had that permit. It was not clear until the very last month that we were going to get that permit. There have been a number of false starts on this project. I was not going to engage a bunch of volunteers in an effort I do not know was going to be permitted. When we finally had the permit in hand was that moment where I was secure in moving forward. And that permit could have easily slipped another six months. The unit that issues the permit has had personnel problems in staffing, and there was every reason to believe that it could have slipped another six months. So I was not going to get people energized and engaged on something that could fall through. Once we had the permit I reached out and engaged both the professor and the police. We have to worry about access control, and we do not have much time to do it. We got the feedback needed.

Trustee Jennings: Professor Rutberg has already made an assessment that these areas in question have sufficient deer population to make this intervention meaningful.

Mayor Swiderski: Not in full. And he is not here just for the evening. He is going to be here for a day and a half with the guy who does the darting. We are going to be doing site visits to all the locations, looking for the deer, making sure. At this time of year deer tend to retreat into their ancestral stomping ground that they consider their safest area, which tends

to be in the woods in certain areas. We are going to be looking in these areas to see if we see deer at various times during the day. Once that has been confirmed, at that point the specific sites will be located. And then five days before the darting is to occur we are going to put corn, or grain, down every day, habituating the deer to come to the particular location where the darting will be happening. Then on D-day, which is probably a wrong term but whatever, I-day, Immuno-day, we will start the darting. That will proceed not necessarily be at that one location, but among three locations on a rotating basis over the three-week period.

These details are going to be hammered out over the next two weeks and broadcast out. It is not nearly the warning nor the prep time I had hoped for with the public, but I do not think anyone on the Board wants to delay this by another year to go for a full-out effort. We should start it. We are going to get some sense for how this works this year. Next year we can do something more comprehensive. This year we are likely to do only darting. We are not likely to do drop nets. Drop nets allow for deployment of this in much smaller locations like Pulvers Woods, because we have no restriction, then, for fear of darting somebody's dog or somebody's child. Drop nets are the mechanism by which you immobilize the deer. That, however, takes more planning than we have time for, and that is just going to have to wait to next year. This year we start off with the basic protocol, and evolve into something more sophisticated in subsequent years. This is year one of four to five years.

5. Update on the Downtown

Mayor Swiderski: Is there anything to say?

Trustee Walker: I do not really have anything.

6. Update on the Waterfront

Mayor Swiderski: On the waterfront, we do not have anything right now. There was an Infrastructure Committee presentation planned for tomorrow but we canceled it because the school is running their workshop tomorrow. There is a possibility that there is an overlapping interest between parties who may want to understand what is being done on one or the other. Another date is not set yet. Doug Alligood, who is the master of the presentation, is in Kazakhstan the following week so we cannot run it from there. Getting their feedback and input into the design is critical, and we want the public to feed the process.

Trustee Walker: I do not want to talk about it now, but I did want to bring up the fact that there are students from the Pratt Institute who would like to present to us. We talked about maybe meeting an hour before one of the upcoming meetings in January or February.

Mayor Swiderski: I would be happy to schedule that. Try for the next three Board meeting dates.

Mr. Bell: A quick question for clarification. What was the Board's ruling on my agenda item?

Mayor Swiderski: That that particular display is not suitable for the holiday display the Village has grown over the years, and that moving forward any proposal for display should come two months before the date of the setup of that display.

Mr. Bell: And you are going to come up with some proposal way?

Mayor Swiderski: No.

Mr. Bell: Just send a letter in to you guys, and that is it?

Mayor Swiderski: Yes, a letter to the Board saying this is what I would like to propose.

Mr. Bell: Did we have an official vote on not being able to put it back up? Do we have a roll call for that?

Mayor Swiderski: I do not think it is required.

Village Attorney Stecich: There does not need to be a vote.

Mr. Bell: So the answer is no.

Mayor Swiderski: There were a lot of opinions here. None of them seemed to provoke a vote in favor of it. So you can take that as five noes. Nobody is on record on saying no, but there was no vote.

Mr. Bell: I t wanted to make sure that is the overall decision. So cannot put it back up, and next year for any other holiday two months in advance to put up a holiday display for whatever that may be.

Mayor Swiderski: Right. The request has to be put in to be considered by the Board. Once it has been accepted, in subsequent years we can talk about that being something far more pro forma.

Village Attorney Stecich: As long as it is the exact same thing.

Mayor Swiderski: Assuming it is the exact same thing.

Trustee Armacost: Peter, what you may have heard from Bruce and myself is that there are parts of what were described here that are very appealing and attractive. However, the way it was done and the process in which it happened no longer are appropriate for the festival that it was addressed at. So if you want to reconsider applying for this next year, in a different form with the different description.

Mr. Bell: You had an aesthetic problem with it all, so you want something prettier than the artist signs? Just so we can move on.

Mayor Swiderski: It is a subject.

Mr. Bell: And then you will let me know.

Mayor Swiderski: It is submission to a holiday display.

Trustee Armacost: You want to be part of the holiday display, and this is your description of what it is.

Mr. Bell: I appreciate so much of your time tonight. Thank you very much.

EXECUTIVE SESSION

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

ADJOURNMENT

On MOTION of Trustee Walker, SECONDED by Trustee Armacost with a voice vote of all in favor, Mayor Swiderski adjourned the Regular Meeting at 10:40 p.m.