

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
MARCH 3, 2015**

A Regular Meeting was held by the Board of Trustees on Tuesday, March 3, 2015 at 7:30 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Peter Swiderski, Trustee Marjorie Apel, Trustee Meg Walker, Trustee Nicola Armacost (7:40 p.m.), Village Manager Francis A. Frobel, Village Attorney Linda Whitehead (8:00 p.m.), and Village Clerk Susan Maggiotto.

ABSENT: Trustee Bruce Jennings

CITIZENS: Five (5).

APPROVAL OF MINUTES

On MOTION of Trustee Apel, SECONDED by Trustee Walker with a voice vote of all in favor, the Minutes of the Regular Meeting of February 17, 2015 were approved as presented.

APPROVAL OF WARRANTS

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

Multi-Fund No. 60-2014-15	\$124,676.48
Multi-Fund No. 62-2014-15	\$133,022.15

PUBLIC COMMENTS

John Gonder, 153 James Street: Board discussions and comments, since September 2, 2014, which is 182 days, 6 months, you did not have a report on BP Atlantic Richfield. Six months. But every one of these 13 will have a report on downtown. Maybe BP has left the area, maybe they got laid off. There is a \$350 million cleanup yet, and BP may get a \$13 billion fine out in the Gulf, and they are selling properties all around the world and we are not getting a report. One of the most important pieces of property in this village, but yet we'll get downtown every meeting. Thirteen meetings in a row, downtown. Tonight, we are going to hear downtown. Nothing about BP. Why we do not hear about the residents uptown and all around the town, and why we do not hear about the young, the kids. What are you doing for the youth? And how about senior programs? What are you doing for them? And maybe the fire department programs for old people like me, I know they have some. And police department programs. You will probably say it is on a computer. Why do you not put downtown talks on the computer and do some other. What are you doing for the veterans?

What are you doing for the seniors? But yet we will hear about the commercial district. And I think it is only fair that you do other parts of the town, too.

Patrick Randolph Bell: The stairs getting up here, a public meeting, they are not even shoveled, there is no salt. The handicap ramp is not shoveled, not salted. I brought this up before. I do not know why somebody did not just show up early and shovel it themselves.

Ms. Walker, I was hoping you would get that thing on the male or female impersonator clause through here before this. I am going to send you a video. A comedian from New York puts on a dress, he goes around a town in New Jersey where it is illegal to wear a dress, to impersonate a male or female. He goes to their board of trustee meeting and tells the board about it. The board looks at each other and says we got that law still? Why don't we just remove it from the books right now? They have a motion, second that motion, and the law is struck within 30 seconds. And you have been spending two months on four words? You all are proud of being bleeding heart liberals. I cannot think of anything more liberal than the First Amendment and LGBTQ rights. You are Democrats, you should be proud of that, you should do the things that Democrats do. This is one of those things.

I wish you the best of luck on the election. and I am excited for the debate which is coming up Thursday.

14:15 AWARD OF BID – LAWN MAINTENANCE CONTRACT

Village Manager Frobel: We prepared the specifications and went out to bid for the renewal of a three-year contract for lawn maintenance. We were able to attract three quality firms. This evening, we are recommending that it be awarded to the low bid, Ryan & Ryan. The firm has done the work for the Village in the past and we have been very satisfied with their work, and we look forward to renewing this business relationship this year.

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 award the bid for Lawn Maintenance and Watering to Ryan & Ryan Landscaping Inc., 500 Saw Mill River Road, Ardsley New York, for a three (3) year period, Mar. 1, 2015 to Dec. 31, 2017, in the amount of \$65,500.00 per year, to be paid from the General Fund.

ROLL CALL VOTE

AYE

NAY

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

15:15 AUTHORIZATION TO RECEIVE BIDS – VEHICLES

Village Manager Frobel: As we have discussed a number of times during our work sessions on our capital improvement program, we need to replace the garbage truck and a medium-sized dump truck. The staff has been working on developing those specifications. We would like to get your authority to go out and get some prices. We would be able to capitalize on state and county bids that to expedite this process and be assured of some quality products at a very good price. Tonight, with me is Jerry Daley, our lead mechanic, and Mike Gunther. They wanted an opportunity to discuss further with you the need.

Superintendent Gunther: We know the conditions of the sanitation truck and the medium-sized dump. One of the medium-sized dumper we are replacing is out of service. The mechanic did everything he did a few storms ago. It is a 1998, it is at its life expectancy. It is sitting in the back of our yard waiting for scrap. Sanitation, the same thing. It is currently being used as a spare only for our Saturday dump. The mechanic does not prefer to use it for household trash because of several holes on the body, so we use it to where it can spill out in the garage so we can easily clean it up instead of chasing all around town to clean up all the trash that comes out. This year the mechanic did send out two of our sanitation trucks and did extensive body work on them at the cost of probably about 25-, 30-thousand dollars on the body work just to keep the garbage and the recycling in there. When we pick up the garbage it is liquid in form and we are under strict Westchester County laws for spilling. The mechanic has done his due diligence and more. Jerry does an outstanding job in taking care of every piece of Village equipment. But we need to give him the equipment he needs.

Village Manager Frobel: We did look at different configurations. I indicated in the report the difference in price, which is substantial. But also, in talking to our employees and better understanding our operation, our recommendation is to stay with the trucks that we have. They have proven to be successful. In the report, Mike talks about how they are used in a multitude of ways, not only picking up trash and recyclables but, when needed, we have used it to plow snow. We did talk about the report of the Greenburgh experiment. We do not believe that is feasible in Hastings. Our recommendation is to keep with this lower-priced truck which will meet our needs.

Trustee Walker: The alternative was a single-arm truck that can be operated by one driver so it is efficient because you save two men. Typically we have three men per truck.

Superintendent Gunther: We did check into that. Jerry knows the mechanic from the Town of Greenburgh very well, been on the phone with him several times and did a little study on their operation. They only use that one-arm truck for garbage. They do not use it for recycling. They send a separate rear yard packer out for their bulk waste.

Trustee Walker: Why can you not use it?

Village Manager Frobel: Because of the barrels you have got to use, right, Mike? You cannot put bulky waste in those barrels and pick them up.

Superintendent Gunther: Yes.

Trustee Walker: You cannot use it as a typical dump truck if you were picking up recycling or something like that. It always has to be used with the arm?

Village Mechanic Jerry Daley: It loads it on top.

Trustee Walker: So no way of getting into it. And the other reason you mentioned is because of the narrowness of many of our roads.

Superintendent Gunther: You suspend parking on every residential street, I would love it. I do not know exactly what areas they do, but I am sure it is straight-line streets and parking on one side. The truck has got to make two passes on that street. Maybe some residents have to wait a little bit. We run into that all the time. But again, we have one that does several things. We all remember Sandy. We used the sanitation trucks and the crews to pick up a lot of brush by hand. It was not the proper way of doing it. They want us to chip everything. But we got the streets open, we got them cleaned up. I speak with other superintendents and foremen, they are all sticking with rear yard packers. You get the most out of those trucks.

Mayor Swiderski: What percentage of the homes have rear yard pickup?

Superintendent Gunther: Off the top of my head, maybe 30 percent. Some routes, we are still going behind the houses. But the majority is out front more. I could find out exactly. I would have to talk to them.

Trustee Armacost: It would be useful to know that, and those people were grandfathered in. Is that right?

Superintendent Gunther: It started years ago when we started curbside recycling. We asked the residents. We required them to put it curbside, and that brought the garbage out on Mondays and Tuesdays also. A lot of residents have always done it. There are a lot of residents that like it at the door in the back or wherever we pick them up.

Trustee Armacost: How much does that decrease your efficiency?

Superintendent Gunther: It has to be so many feet off the curb line, a guy has to climb over. This time of year, it could be time-consuming to a point. They are out there longer and more in hours. But I do not think it really hampers us.

Trustee Armacost: So the one you looked into is the one that Tim Downey had been recommending.

Village Manager Frobel: He has spoken about the two types: the cab-over and the hydraulic lift.

Superintendent Gunther: We discussed the cab-over with Jerry. It is not suitable, you have three men on the truck. We require the guys to ride inside the cab. Only on the route do they ride on the outside. To and from, they are inside the cab.

Village Manager Frobel: And that is the more expensive vehicle.

Superintendent Gunther: The cab-over came in more. It came in about 20- to 30-thousand dollars more.

Trustee Walker: What does it mean, "cab-over"?

Superintendent Gunther: It does not have an extended nose on it. There is not a hood on the front. It is a windshield.

Trustee Walker: And what is the advantage of that?

Superintendent Gunther: Tight streets, turning. That is why the cities use them. You all know New York City.

Trustee Armacost: So you do not want it, even though it is better for tight streets?

Superintendent Gunther: It is only a driver and one passenger. We have three men on the truck.

Village Manager Frobel: They ride together. They cannot hang on the back for an extended period of time.

Trustee Armacost: So the issue is the number of men.

Superintendent Gunther: It is one of the issues.

Village Manager Frobel: And it is a more expensive vehicle.

Superintendent Gunther: Thirty-thousand dollars, at least.

Trustee Armacost: Depending on how you compute in the salaries of people.

Village Manager Frobel: We would still require three men, and you cannot accommodate them with a truck like that.

The second part of this tonight is that medium-sized dump truck. You heard from the Parks and Rec superintendent about the needs. The gentlemen have spent time, and we have got specifications and are looking for permission to bid that. However, I would like to mention that a second truck failed within two weeks, on older truck, one that we were looking to replace next year. Ideally, we would like to have permission to bid for two trucks. We came here tonight with just the one in mind, but this occurred over the last 10 days. I do not know if Jerry wants to talk about the condition of number 17, the 1998.

Mr. Daley: It is a '98 Chevrolet 3500 series, small dump. It is smaller than the vehicle that we are spec'ing out now to replace 17, the Parks and Rec truck. The frame is bent, and that frame movement caused it to rip a mount from the front axle. The front axle is split, and even if you purchased a new front axle the frame will not line up with it any longer so it is done. The frame has been reinforced twice already in its life, and it is 17, 18 years old.

Trustee Armacost: Do you think by bidding on both of them right now that you will be able to get a better price for either one of them?

Mr. Daley: It does not make any difference. It is a county bid for the cab and chassis, which is a Ford. Then there is another company that is bidding out for the body and all the hydraulics. It is a set bid. It is a county bid so that is the price, unless your options change.

Superintendent Gunther: Jerry and I did some early research. All the equipment we are looking at is state-county contract.

Mayor Swiderski: And that means that it is not a competitive bid. It is just a negotiated cheap price.

Village Manager Frobela: It has already been competitively bid.

Trustee Walker: So this second truck you would share with the Parks Department, and that is what you have been doing until this truck went out of service.

Mr. Daley: Right.

Village Manager Frobela: So what we are looking for tonight is to go ahead and get the prices, and come back to you. Probably in early April we will be ready.

Trustee Apfel: So we are talking about three trucks now?

Village Manager Frobela: We would like to at least get a price on that third truck so we can come back to you in April and tell you what it would cost.

Trustee Armacost: What have you included in the bond issue?

Village Manager Frobela: One truck.

Trustee Armacost: So where is the money going to come from for the other two trucks?

Village Manager Frobela: When we come back to you, when we have got all our items bundled, we will be looking for authorization to borrow for the fire truck, the medium-sized dump truck, the garbage truck and, ideally, a second truck if that is what we can get permission for. We also have outstanding our discussion on the payload. There was some talk about whether you would consider replacing the payload, as well. So in answer to your question, there are probably four items of heavy equipment we would be looking to fold into one bond issue that will come to you probably in June.

Trustee Walker: Just to be clear, the truck that is going to be shared with the Parks Department, that is the same truck we talked about at the last meeting, or an additional truck?

Village Manager Frobela: This is additional.

Trustee Walker: So the Parks Department needs a truck that would be their truck. This other truck would be shared with the DPW.

Village Manager Frobels: The other truck would be assigned to the DPW.

Trustee Walker: But they said could be used.

Village Manager Frobels: They really have one driver.

Superintendent Gunther: It depends on how it is configured. Parks needs an open dump truck year-round. That is the use. We would not equip it as much. It would have a plow, but not the salter or all the equipment that we would spec a truck out for our needs.

Trustee Walker: But this is a versatile truck that can be used for a lot of different things.

Superintendent Gunther: Yes, absolutely.

Mayor Swiderski: You are looking for permission to price them.

Trustee Walker: Right, that is all.

Trustee Apel: Price away.

Trustee Armacost: And when are we making the decision whether we are accepting the bids? At what point are we making that decision?

Village Manager Frobels: I would think maybe your first meeting in April. We could be ready that quickly.

Trustee Armacost: So before the budget is passed?

Village Manager Frobels: It would be before the budget is passed, in all likelihood, yes.

Trustee Armacost: So will you be bringing a new capital plan to us? At what point are you bringing that to us? I am just trying to work out what is in this year and how the years are kind of merging with one another.

Village Manager Frobels: Usually, I will give you the update to the capital improvement plan in the summer. So probably July or August. In April I will be able to tell you what will

be in this borrowing issue when we are looking to go out to bond. I would know better then because we would have all our prices. The only other issue is the Reynolds Field playground, and I think we have agreed on the price for that. So that would be also a part of this borrowing issue. This borrowing issue interest would not be paid until fiscal year '16-'17. We would go one year without having to pay for it.

Trustee Armacost: We need, at the meeting where we are making this decision, to understand the way in which it relates to the prior capital plan and the future capital plan, and where the money is going to come from, and how it affects the budget on a yearly basis so that we are not making a decision post the budget.

Village Manager Frobel: I will give you back the five-year plan, that document I put together, and I will show you all the financing schemes. I had a series of scenarios where we have shown you what the interest rate is projected to be and when it would be due and payable, and what the items are that we are looking to include into that issue. I will give you all that on Friday. But we can have a refresher at the April meeting.

Trustee Armacost: If you know already, more or less, what is going to be in the capital plan in the summer you might want to give us a first taste of it at that same meeting so we are making decisions in context.

Village Manager Frobel: Again, we do our level best. We had hoped that the 1998 truck was going to last longer than it has because that was going to be in your plan for next year. But we had failure already, so that is why we are asking to accelerate that.

Mayor Swiderski: And that is the additional piece. The dump truck and the garbage truck are in the current plan.

Village Manager Frobel: Yes.

Trustee Armacost: But also, if that is happening then what we are taking away in the future? If we are prepaying for it, how does that reduce it? Not that it all gets stacked up and there is a whole set of other things from the future that moves their way back.

Village Manager Frobel: Yes, let me regenerate that and give you some ideas of what we are looking at for next fiscal year in the five-year plan.

Trustee Armacost: One of the things we talked about which is important relates to ambulance services. What I do not want to have happen is that we make a decision on this

that puts us in a situation where we cannot make another fiscal choice that we would make on something we consider to be equally important.

Village Manager Frobel: The ambulance is in the next year's capital improvement plan.

Trustee Apel: I want to know a little more about the trucks, and the longevity of these trucks. In five years, is it going to come up that all five trucks have to be bought all over again? What is the lifespan of these?

Superintendent Gunther: The last two big dump trucks we replaced in 2012 were 18 and 19 years old. Those were steel-bodied trucks. We are ordering stainless steel now. I would say no problem, 20 years. Do not hold me to that. Well, you can hold it to me because I am not going to be here. Give me eight years and I will come back and give you a report.

Trustee Apel: Just is this going to be staggered? These are four trucks all at once.

Village Manager Frobel: It would have been one and one, Marge, but that is the idea of the capital plan, to plan for and stagger them.

Trustee Armacost: But they are not really staggered. They are all happening between 2012 and now when we purchased everything. I do not know whether we made no purchases in the period before, but it is feeling quite stacked up.

Superintendent Gunther: We had a long stretch from 2006, and I forget what it was, when we did not purchase anything.

Village Manager Frobel: We did back off in mid-2005, '06 and '07 because we had some fiscal restraints. But now it has caught up with us and we need to replace this equipment.

Superintendent Gunther: So we are not asking for equipment that we do not need.

Trustee Apel: No, we are not saying that.

Superintendent Gunther: As you see a winter we had, again, two years in a row

Village Clerk Maggiotto: Are you adding something to this motion, another vehicle?

Village Manager Frobel: Cannot we describe them as two medium-sized dump trucks?

Mayor Swiderski: Change it to "and two medium-sized dump trucks."

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 authorize the Village Manager to receive bids for one garbage truck and two medium-sized dump trucks.

ROLL CALL VOTE	AYE	NAY
Trustee Bruce Jennings		Absent
Trustee Marjorie Apel	X	
Trustee Meg Walker	X	
Trustee Nicola Armacost	X	
Mayor Peter Swiderski	X	

16:15 AWARD OF BID – FIRE PUMPER TRUCK

Village Manager Frobel: We are ready to make a recommendation for purchase of the truck. The men did a wonderful job developing the specifications. They were able to attract a very favorable price. I also asked the Chief to provide you with a list of the equipment necessary to equip the truck. That will be folded into the price.

Assistant Chief Bannon: I provided the Village Manager with a list of most of the equipment that we would like to outfit this apparatus with. It is pretty standard. Some of the big-ticket items we have to wait and see exactly what the price will be, such as the hose. We are going on our annual hose test in April. We do not know if any lengths are going to fail; when they fail, we have to take them out of service. That might be the only number that changes. The two ice commando suits, we just sent a few of our guys to an ice rescue class in New Hampshire. They learned how to do ice rescue for the second time, and we have to outfit them being that we are so close to the river and we would be the first ones to respond with these suits that allow them to go into the water. They are approximately \$2,000 for two of them, or three of them or whatever it was. That is really the only change.

Trustee Armacost: Congratulations on getting the bid down. It was something like \$660,000. Was this additional equipment going to be on top of the \$664,000? Has the whole price come down \$64,000 or \$60,000, or has it just come down the difference?

Assistant Chief Bannon: It just came down the difference. If we ordered this equipment through Hendrickson, this bottom line would probably be six to eight percent higher because they have to tack it on.

Trustee Armacost: No, my question was when you originally thought it was going to be \$664,000, whatever the exact number was, were you looking to add on this kind of additional equipment? Would that have been an additional request?

Assistant Chief Bannon: Yes.

Trustee Armacost: So even more congratulations because you brought it down \$60,000 rather than just \$30,000.

Assistant Chief Bannon: Thank you. We worked hard with this sales rep. A couple of the guys went down to a sales show last weekend on Long Island to meet with him and again see the latest equipment that is coming out. It gets bigger and bigger, and that does not work for us. Some of the apparatus you see on Long Island could never make it around streets here. We had to get it customized. They are ready to work with us and we are looking forward to working with them. They have a great reputation. They are all in the trade magazines lately because they have just gotten an award for helping out the City of Detroit because they are in dire fiscal straits. Spartan agreed to manufacture apparatus at a certain price and help the city get back on its feet. They are doing good things, this corporation, so we are looking forward to working with them.

Trustee Apel: If we are going to have the Ice Commander Pro rescue suits, how do the men get out there?

Assistant Chief Bannon: We tether them to a line and they have picks in their hands and crawl out on the ice, rescue whoever is out there, and then we pull them back. On Channel 7 recently there was that kid was in the Bronx River. New York City Fire Department practices that. That is the type of rescues that we can do.

Trustee Apel: Was there not some sort of apparatus that was not quite a ladder? I have seen something where it is not just the men crawling out there.

Assistant Chief Bannon: Right. It is a skid, like a big stretcher, that you could slide out, put the victim on that, and pull everybody back. The big thing is hypothermia. We have to protect the men from hypothermia.

Trustee Apel: Do we have these sleds?

Assistant Chief Bannon: We have one of them on order coming in this year. We have an old one that we use. We are going to get a newer one because it has a little crack in it and that does not work too well with water.

Trustee Apel: I want to make sure we have all the equipment to back up these guys.

Trustee Armacost: Have you ever had to do an ice rescue?

Assistant Chief Bannon: Yes. It was not an ice rescue, it was what they call swift water rescue. At St. Andrew's they had all that water flowing during one of those storms. We had to rescue three or four residents. We had to put the rescue suits on, bring them out in the payloader. DPW used their payloader to get the residents out of their house. We evacuated that whole area because that whole lake overflowed. We had just done that rescue for the first time, and the guys could not wait to get this stuff on and get going and doing it. They were all excited. So it worked out for us.

Village Manager Frobels: Delivery, how long?

Assistant Chief Bannon: It is about 10 months. We figure if we sign it in the spring it will be here maybe by Christmas.

Village Manager Frobels: And what about trade-in or residual value?

Assistant Chief Bannon: The guys who went out to Long Island met with a couple of gentlemen who look at trade-ins. We are going to look for the best price for it. We could sell it to someone who sends it to Central America or whatever and uses it, or we could sell it to a collector. We could sell it to a department upstate that could use it.

Village Manager Frobels: Any sense for the value?

Assistant Chief Bannon: I say, off the top of my head, somewhere around \$10,000, maybe a little bit more. I would love to get more for it, but we will see what we can get.

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

WHEREAS, the Mayor and Board of Trustees authorized the Village Manager on Dec. 16, 2014 to request bids for a fire pumper truck, and

WHEREAS, the request for bids was duly advertised and one bid was received on Feb. 19, 2015, now therefore be it

RESOLVED: that the Mayor and Board of Trustees award the bid for a fire pumper truck to Hendrickson Fire Rescue Equipment, Huntington Station, New York, in the amount of \$604,885.00 and authorize the purchase of up to \$28,000.00 in additional equipment, to be paid from bond proceeds.

ROLL CALL VOTE	AYE	NAY
Trustee Bruce Jennings		Absent
Trustee Marjorie Apel	X	
Trustee Meg Walker	X	
Trustee Nicola Armacost	X	
Mayor Peter Swiderski	X	

Mayor Swiderski: Congratulations to the end of a long process. Lot of work.

Trustee Apel: Good job.

**17:15 EASEMENT AGREEMENT AND RECREATION FEE PAYMENT – 400
WARBURTON AVENUE**

Village Attorney Whitehead: Susan, was there not another "Resolved"? There was also the Village is also granting a temporary construction easement to the owner of 400 Warburton for constructing the portion that is between their property and the Quarry Trail in a form to be approved by the village attorney.

Mayor Swiderski: Was that the language? Can we simply say as modified?

Village Attorney Whitehead: Yes.

Mayor Swiderski: OK, then as amended with the statement by the Village Attorney. I think we understand what this is about.

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 approve the granting of an easement in a form to be approved by the Village Attorney to the owner of 400 Warburton to construct a stair between 400 Warburton Avenue and the Quarry Trail, and be it further

RESOLVED: that the Mayor and Board of Trustees approve the acceptance of an easement over the property at 400 Warburton Avenue for the stairs connecting from Warburton Avenue to the Quarry Trail, in a form to be approved by the Village Attorney, with the provision that the property owner shall be responsible for the maintenance of the stairs but shall have the right to close off the stairs and not allow access when snow and/or ice conditions exist, and be it further

RESOLVED: that pursuant to Section 295-112.C(1) of the Village Code, a payment of \$37,500 shall be made to the Village in lieu of reservation of parkland, and that upon construction of the stair the cost of the construction, up to a maximum of \$28,500, shall be refunded to the owner with the balance retained by the Village as the payment in lieu of parkland in connection with the project at 400 Warburton Avenue. The initial payment shall be made prior to the issuance of any Certificate of Occupancy.

ROLL CALL VOTE	AYE	NAY
Trustee Bruce Jennings		Absent
Trustee Marjorie Apel	X	
Trustee Meg Walker	X	
Trustee Nicola Armacost	X	
Mayor Peter Swiderski	X	

18:15 AUTHORIZATION TO SIGN DONALD PARK FIRE PROTECTION DISTRICT AGREEMENT WITH TOWN OF GREENBURGH

Village Manager Frobel: It is time to consider our annual renewal of the contract with the Town of Greenburgh to provide the fire protection services to the residents in Donald Park. The contract remains largely unchanged. I think after so many years of administering this contract we have got the language pretty much the way it should be; one that is fair to both parties. The Town did agree, as we had asked them, to insert the language that would give us the authority to enforce the repeat false alarm local law within the boundaries of the Donald

Park fire district. We have also been able to secure a very fair price to provide that service, \$321,600. We are looking to recommend approval. It has taken some time. It is a complicated instrument because we need to justify all our expenses. But in cooperation with the fire department, and Raf who helped me pull these numbers together, Greenburgh agrees that this is a fair price and we can expect payment.

Trustee Armacost: How much did this change from last year?

Village Manager Frobel: It definitely went up, I do not know by how much, though . It is a complicated process that we go through. We list all the expenses related to providing the service and we provide them with our audit. I will have that number for you before we leave this evening..

Trustee Armacost: In the event of false alarms, the language that is put in is such that the individual homeowner or alarm perpetrator person is the one who pays the fine.

Village Manager Frobel: Yes.

Trustee Armacost: And if that person does not, is there any recourse to Greenburgh if the person continues not to participate appropriately?

Village Manager Frobel: I am not sure.

Village Attorney Whitehead: I have a call in to the Greenburgh town attorney to ask about a couple of things, the enforcement of that being one of them. Greenburgh does have a similar law, but the fines were much lower. They have not updated theirs. So it is a matter of we cannot put a lien on those properties, they are not within the Village, but whether we could get the Town to do in on our behalf.

Trustee Armacost: Were there any other things that it is worth us knowing that you were asking?

Village Attorney Whitehead: I wanted to talk to them about the way the term of the agreement is set up.. I understand that previously it had been done for three-year terms and all of a sudden they switched to one.

Village Manager Frobel: Yes, it was always three years up until probably three years ago. Now we go on an annual basis.

Trustee Armacost: In some ways it has been an advantage to us because, as I recall, the amount has gone up. So in the past, unless it was staggered such that it would increase each year, we have actually benefited.

Village Attorney Whitehead: The amount was determined annually even though it was a three-year agreement, was it not?

Trustee Armacost: I think it was set. I think we actually were losing out. Our team was doing a lot more work than we were being compensated for was my understanding.

Village Manager Frobel: Yes, we have to make projections even now for what next year's expenses should be.

Trustee Armacost: So when will we have a resolution to your question?

Village Attorney Whitehead: About enforcement? When I can get him on the phone. It is a challenge.

Trustee Armacost: But we will not sign this agreement until we have a resolution to that.

Village Attorney Whitehead: The agreement sets forth that we can enforce it there. The only open issue is whether someone does not pay. That means we can find someone. The issue becomes what if they do not pay the fine. Here we could try to lien them. I forget what we came up with as the different options. We do not have that authority in the Town of Greenburgh so the Town would have to do it for us. It is more mechanism because they agree, in the agreement, that it can be enforced.

Trustee Armacost: But if it can be enforced and it is not enforced because people can slither out of it, it is not that effective. Do we not need that other language in the agreement? To me, it would be better for us. Otherwise, we are going to have a similar situation where people get fined and it is like all those people who were not paying their parking tickets until we got a clamp. We need a clamp equivalent here. Otherwise, they can squirm out of it.

Village Manager Frobel: Yes, and the first hurdle was just to get that language inserted in the contract and get their permission. Now it becomes a question of enforcement.

Trustee Armacost: But that is the whole point. If we are unable to enforce it, it is not that valuable to us. And it is not very valuable to our fire department.

Mayor Swiderski: Well, they have agreed to enforce. But what is the question?

Village Attorney Whitehead: The mechanism for enforcement if someone does not pay.

Mayor Swiderski: They have agreed to enforce, so the outstanding question is how do they enforce, not will they enforce.

Village Attorney Whitehead: Right. Initially, we would enforce it by issuing the notices and doing the fines. They have said we can do that, which we normally would not have the authority to do outside of the Village boundaries. So they have authorized us to do that. I need to look back at what we put into our code and see if it is something we can enforce with Greenburgh or if we will need their cooperation to enforce it. But I think this indicates that they are going to work with us to enforce it. It may not have exact language about the mechanism, but they have agreed to the concept and have authorized the enforcement of it within the fire district. And they say to the same extent enforced in the Village so they are trying to give the same enforcement powers.

Mayor Swiderski: Could we approve this and wait? I will not sign it until you clarify that.

Village Attorney Whitehead: Sure.

Mayor Swiderski: All right. Any other questions?

Trustee Walker: Is this supposed to be January 1, 2015?

Village Attorney Whitehead: This was the other thing I wanted to speak to the Town attorney about. My understanding is, the payment is for last year. But I believe the term should be going forward. My concern is, you are providing services under an agreement that was for last year.

Trustee Apel: Once we know the answer to this I would be willing to vote on this, but I think we should wait.

Mayor Swiderski: All right.

Village Attorney Whitehead: You are not going to get your payment until it is signed.

Trustee Apel: Well, he is not going to sign it anyway.

Mayor Swiderski: It could happen within two weeks if we have the answer to the question.

Trustee Apel: But the answer to the question here, is it 2014 or 2015, is it retroactive, is it going forward, and what are the specifics? We are asking a whole bunch of questions.

Mayor Swiderski: I am comfortable holding off. Wait for a couple of answers.

Village Manager Frobel: Sure. And in answer to the first question, we received about \$311,000 under the last year's contract. So it has increased.

Assistant Chief Bannon: Once again, thank you for putting that clause in. That makes it a lot easier for us to go up there. And sometimes even the threat of, did you guys realize now we can fine you? And all it takes is moving a smoke detector, learning how to cook, learning how to open the flue of your fireplace when you start a fire, things like that. But thank you very much. That helps us a lot.

VILLAGE MANAGER'S REPORT

Village Manager Frobel: Hastings was the first of the seven villages involved in the pothole patch management program, last Tuesday, before the bad weather came. They worked at a number of intersections in the Village. They were in Hastings for about six hours, so we have another five hours or so that we are entitled to. With what I saw that day and what I have seen since, I am pleased. I do believe this methodology will hold up better than cold patch. It has to. Almost anything would hold up better than cold patch. It did seem to hold, it bonds very nicely. I took the Mayor out and he also saw some of the locations. We did it at some high-visibility, high-traffic intersections so we will be able to monitor it. He would have done more in our village that day, but they ran out of product. They got a late start. It was a very cold day, and it took awhile for the machine to thaw out. We lost a little bit of time there, which is not charged to us but was a factor.

Trustee Apel: I noticed what appears to be a hole, but it is not, on Mt. Hope and Rosedale,. You look down there, there is something like a cap. It looks like something sunk. Is that a different project, where people are going to go around and lift those things up?

Village Manager Frobel: That sounds like a shutoff valve of some sort has sunk, or the asphalt around it has.

Trustee Apel: Is there a way to put cones in some of those? There is another right by the high school where the crosswalk is.

Village Manager Frobel: I will mention that to Mike tomorrow. There has been a lot of utility work in that area, as you know.

I would like to arrange some of the budget work session dates.

[Discussion of dates]

Mayor Swiderski: All right, we will have budget work sessions on Mar. 24 and Mar. 25, and the public hearing on the budget on Apr. 7 with adoption of the budget prior to May 1, possibly at the regular meeting on Apr. 21.

On MOTION of Trustee Armacost, SECONDED by Trustee Apel with a voice vote of all in favor, the Board of Trustees rescheduled the Public Hearing on the budget from Apr. 14, 2015 to Apr. 7, 2015, on or about 7:30 PM following the Organizational Meeting.

BOARD DISCUSSION AND COMMENTS

1. Social Media Policy

Mayor Swiderski: This was triggered off by postings on the Village website.

Mr. Bell: Village Facebook.

Mayor Swiderski: You are absolutely right. The Village Attorney raised that villages have social media policies that govern whether this is something that is allowed or not allowed. I asked to have it on the agenda so we can begin the process of understanding our options, and what is appropriate and not appropriate.

Village Manager Frobel: Raf did some research and pulled together some articles..

Village Attorney Whitehead: One of these I have also, and I might have a couple of others. The Village of Mamaroneck just adopted a social media policy. We do not have the final version because it got changed at the meeting and it has not been finalized yet. But we have the draft and some changes.

There are a lot of issues to a municipal government entity having a Facebook page. It is public, it is subject to all the same rules as every other public forum that the Village has. It is our recommendation that it be used, as it generally is now, for posting of information. It should be used to direct people to the Village's website for additional detail on certain things. It should be used as a way to disseminate information. It is our recommendation, and some of the articles that I have read also, that you not allow comment and discourse on it because you cannot control the content, and you cannot remove something if you do not like it. It is a

First Amendment issue. If you just do not allow comment at all, you do not have to worry about who is monitoring the comment, who is determining what is appropriate, who is responding. It is a tricky area for a government to have that type of forum as an official government site.

Trustee Apel: It does not permit somebody, though, from, on their own Facebook page, making a comment and saying go to this Facebook page or like this or not. They can direct people to it, but we do not have to be worried about that because it is on their page.

Village Attorney Whitehead: Right. You have to think of this as a Village page like the Village website. It is an official document. I know you are just getting this all tonight. We can get you a couple more articles, we can get you the final version from Mamaroneck.

Mayor Swiderski: What does Mamaroneck do?

Village Attorney Whitehead: There seems to have been a mixup in what the policy says and what has actually been done, but their policy says that they are not permitting comment. It is only for official information, many of the same kind of things that you put on it now. You post about meetings, you post the weather alerts, which seemed to be the primary thing lately, going up there. That is what it really should be for. A lot of the same kind of things that you put on your Web page. It is just another way to disseminate that information. Ideally what you want to do is refer people, or put the links right on it, to the web page for more information. You run into a records retention issue. These are public records, they have to be retained. Facebook does not retain things certain ways. So there are a lot of these issues that you have to remember that you are governmental entity. It is not like a private company that can have a Facebook page and it does not have to follow these kinds of rules.

Trustee Apel: Would that mean that somebody has to physically take a photograph of the page every time it is changed, and archive that?

Village Attorney Whitehead: Some of the things that we have looked at have said if everything you are putting on there is basically duplicative of something you have somewhere else like on your web page, then you are OK. There are ways to download it and save it. We can look into it. I just read some stuff about the records retention issue today. So we can look at that. But it is important to understand the role of the government and all of the regulations that, as a government, you are subject to in terms of First Amendment.

Mayor Swiderski: The First Amendment I understand, but I did not realize that we incur, for comment, a record retention requirement. It is not a comment we have solicited.

Village Attorney Whitehead: It does not matter. Once it is on your page it is part of the public record. Just like public comment that is made here is part of your minutes that you have to retain, it becomes the same kind of comment.

Trustee Walker: What is the advantage of having this Facebook page? Is it because we can disseminate information in a more timely manner?

Village Attorney Whitehead: Some people might be more likely to find you on Facebook than to find your website.

Trustee Walker: It is going to be a lot of extra work?

Mayor Swiderski: No, it is the opposite.

Village Technology Director Zaratzian: If you do not mind, could I just say a couple things? First of all, I have not found a government that has stopped comments. The White House has it with comments. I am not saying that somebody can post on it. I am saying that when we post, when they post, the entity posts, there is a spot for a like or a comment. I have not seen a government that does not allow that. I went to the governor's Facebook. I went to the county's Facebook. There does not seem to be one that does not. As far as retention, so far Facebook seems to be retaining everything, so much so that people are trying to get it off.

Village Attorney Whitehead: You have no control of that.

Mayor Swiderski: Yes, we do not control that.

Village Technology Director Zaratzian: No. But my point is that if you go to Facebook, and you have been on there for a couple of years, you can see, go to every year and go back and search and so forth.

Mayor Swiderski: Clearly. But tomorrow they could say we are only going to keep two years' worth of records.

Village Technology Director Zaratzian: They could, but if they gave us that information then you could tailor it at that point. At this point, in my belief, their search capabilities are better than some government websites.

Mayor Swiderski: That is not the issue. The issue is control over retention.

Village Technology Director Zaratzian: Yes. And the other thing, like if you take a look at New York City's policy on this, it is a statement. It is a policy that states that we are going to post this information. If somebody posts something that we feel is derogatory, racist, the list goes on, and you list it all on your policy, we have the right to take it down.

Village Attorney Whitehead: If you are going to allow comment you have to set a policy for comments, and make it clear that you have the right to take a comment down if it is not appropriate. Then you get into what is appropriate.

Trustee Apel: But that means work.

Village Technology Director Zaratzian: But we are doing that work now. It is up to you. But we are doing that work now; we have been doing for two years.

Trustee Apel: You are reading comments now?

Village Technology Director Zaratzian: Yes, we read comments. If there is misinformation we take it down. The Chief Information Officer is doing it, and that is me. The Recreation Department has one, the library has one. It is monitored. I have seen a couple of instances where somebody tried to post something negative and within two hours it was taken down. Now, you can take away the idea of posting comments, but you are also taking away, especially right now in the way people communicate with their phones and so forth, during emergencies and during questions on why a road is closed you are taking away a very quick way of stopping misinformation from getting spread very quickly.

Trustee Apel: I am not concerned with the comments, per se. My concern is the time it is taking somebody to screen all these and see what is on there. How much time is that taking away from whatever else you are doing, and are you reading lots of them.

Village Technology Director Zaratzian: We are not getting that many comments that it is taking that much time.

Village Attorney Whitehead: But not Patrick's commenting.

Village Technology Director Zaratzian: Except for Patrick. I take that back. Except for Patrick.

Trustee Apel: People may take advantage of it.

Village Attorney Whitehead: I am checking on him. He is commenting right now.

Trustee Apel: Is there a length for the amount of comment you can put on there? Like you have 500 words and that is it, or something?

Village Technology Director Zaratzian: No, it is not by words.

Trustee Apel: Is he taking pictures?

Village Attorney Whitehead: Yes, what are you doing?

Mr. Bell: Yes, because I am going to post the pictures on the social media page.

Village Attorney Whitehead: The Board is not ready to proceed with anything yet. It is just an initial discussion. But one concern I have, like you talk about in an emergency if someone posts a comment questioning something, what if someone is not monitoring it at that moment?

Mayor Swiderski: It is expectation that this is a monitored mechanism, that this is where you can reliably put something that may have safety and health implications, and it is not being monitored at that moment and they are expecting it to be. You could have an issue.

Village Technology Director Zaratzian: But it would not come from us. There are two different things here. If we post there is a problem on Main Street, and then there are questions after it and we answer, it is coming from us. If somebody else says the problem is on Warburton ...

Village Attorney Whitehead: But what if we do not answer it right away? What if we are not monitoring it right away?

Mayor Swiderski: A person makes a claim that there is an injured individual on the street, or a water main break or whatever, and they think by having posted a comment there that this is a monitored source. Are we opening ourselves up to liability if that is your day off and it is not being monitored?

Village Technology Director Zaratzian: First of all, I am not the only one who is monitoring it. There is also the person I work with, Jen Corso. And there is also the Recreation Department that is monitoring theirs as ours, and we monitor each other. But that said, if that is your concern you can say that the expectation is that answers will only be during business hours. That is what some of the policies say, that it is only between 8:30 and 5:00, and after that do not expect an answer.

Trustee Apel: Does it pop up, though? And do you get a notification that a comment has come?

Village Technology Director Zaratzian: Yes, you get an e-mail.

Trustee Apel: You get an e-mail. So they do know that it is coming. That is what I wanted to know.

Village Attorney Whitehead: It is set up so the administrator of the site gets notified, can get notified, when the comment is made.

Village Technology Director Zaratzian: On the Facebook account, yes.

Trustee Walker: There are other programs and apps by which citizens can alert government agencies as to problems or potholes or concerns.

Village Technology Director Zaratzian: Yes, we have one.

Trustee Walker: There are some that are more organized that complaints go to different department.

Village Technology Director Zaratzian: We have that. It's called the Village app. You can use that app and click on where is a pothole and it will go right to Mike.

Trustee Walker: . I knew you have a Village app, I did not realize it was sending it then to the various departments.

Village Technology Director Zaratzian: It sends an e-mail to Mike, with a picture. It is set up that way, exactly.

Trustee Walker: So would we encourage people to use that instead of Facebook?

Village Technology Director Zaratzian: We do.

Trustee Walker: Because it goes to the department head that needs to know right away.

Village Technology Director Zaratzian: We encourage them to use everything we have got: Twitter, apps.

Village Attorney Whitehead: But you get into prior written notice concerns. You do not want to have all these different ways.

Mayor Swiderski: Susan, you have a point?

Village Clerk Maggiotto: Yes, exactly what Linda said. It exposes the Village in ways that we have to be aware of and protect ourselves. Prior written notice protects us, right, Linda?

Village Attorney Whitehead: Yes. Or a lack of prior written notice.

Mayor Swiderski: Could you define the term for since I am not 100 percent sure what you are referring to?

Village Attorney Whitehead: If someone is going to make a claim of damage because of a pothole or something, or even a tree or anything like that, if the Village did not have prior written notice that there was an issue or a concern, a condition to be corrected, you are protected from liability in certain instances. But, for example, if they treated the app as prior written notice, then we would have been notified even though Mike Gunther might not be treating that as prior written notice. So there is a definitional issue over what counts as prior written notice. And the fewer means to constitute that, the better it is for the Village at the end of the day.

Village Clerk Maggiotto: As the Clerk I am required to do a search for prior written notice.

Village Attorney Whitehead: Right. It is supposed to go to the Clerk.

Village Clerk Maggiotto: Yes. There are a lot of legal issues here. It seems like all of a sudden we have all these different ways to notify the Village that the Clerk is not even apprised of.

Trustee Armacost: Yes, you are not privy to any of those things. It is happening independently.

Mayor Swiderski: So in the current state, if somebody mentioned the proverbial pothole on the Village Facebook page in a comment, would that be considered prior written notice?

Village Attorney Whitehead: I am going to take the position that it would not be, but that does not mean that someone would not try to take a position that it was.

Trustee Armacost: Your position protects us, but we will not know until there is a lawsuit.

Village Attorney Whitehead: It is not noticed to the Clerk.

Mayor Swiderski: And if we decided to keep the comments, could we disclaim somewhere on the Facebook page that this is not?

Village Attorney Whitehead: We would have to put a bunch of disclaimers about what type of commenting is permitted, how it will be responded to, if it is going to be responded to; that comments may be taken down if deemed inappropriate, things like that. We would have to come up with a policy for that.

Mayor Swiderski: When you talk about inappropriate, who is determining that, and how well can we define that?

Village Attorney Whitehead: You have got to define it, yes.

Mayor Swiderski: And there are definitions out there?

Village Attorney Whitehead: There are policies that have defined it, yes. And New York City's defines it, just looking at that.

Mayor Swiderski: What prompted Mamaroneck to take the position that they did not want to have postings? Were they copying somebody else's policy?

Village Attorney Whitehead: A former trustee had originally drafted the policy and then it sat for awhile, and then it came up again because of some things that were going on, things that were being posted. We advised them they needed to have a policy in place. We told them you want to use it to disseminate information, and they agreed that is what they wanted their Facebook page to be for.

Trustee Apel: I think we should read this and then have some more discussion on this.

Village Attorney Whitehead: I will get you some more information also, and we will get you Mamaroneck's. Then we can come back.

Trustee Armacost: And when you give us Mamaroneck's, it would be helpful if you can tell us what you think are the strengths and weaknesses that came about, as a result of compromises or whatever, where it would be better not to have those things there.

Village Attorney Whitehead: Larchmont is in the process of discussing adopting a policy. I will look and see if any other municipalities in Westchester have adopted policies.

Mayor Swiderski: And if we do not, is there case law out there? What do we open ourselves up to? What are the risks if we do not?

Village Attorney Whitehead: If you do not restrict comment, there are inappropriate comments you cannot take down. You take something down without saying you might take things down, someone could challenge that. And they may just be discussions that you do not want on a public forum. There are certainly other Facebook pages where people can and do have these discussions, and is the Village's official Facebook page the place for these discussions? People sometimes attack each other, attack village government. Do you want those kind of things? Do you want them on your Facebook page, on the official page? It becomes a public forum of the Village.

Mr. Bell: It is like the new public square. Rather than kill the public square before it comes out, maybe you should think more about that. The other two are private: 10706 and Hastings News are private. They have nothing to do with the Village.

Mayor Swiderski: We have to look at it, understand it. What we were given here is a number of different examples, many of them for communities that allow it, but with policies in place.

Village Attorney Whitehead: It is interesting. New York State has not tackled this, NYCOM has not tackled it, the Department of State Division of Local Government has not tackled it.

Mayor Swiderski: NYCOM does not have a social media policy?

Village Attorney Whitehead: For them they might. NYCOM is not a government entity. I have looked. They do not have a model. I can call Wade Beltramo, who is the counsel there, and I can ask if they are working on anything or have looked at this issue.

Trustee Armacost: Policies are helpful because they help people act thoughtfully and responsibly and in an appropriate way for citizens in a community. That is why policies are useful in that kind of context.

Village Attorney Whitehead: But I think the biggest thing is, Facebook was not designed for government with the restrictions and regulations that a governmental entity is subject to. And that is what you need to keep in mind. Do you have a Twitter account, too?

Village Technology Director Zaratzian: Yes. Everything that goes on the Facebook automatically goes out to Twitter. But everything you said about Facebook you can also say about e-mail. It is not designed for government use, it does not have the regulations.

Mayor Swiderski: That is not true.

Village Attorney Whitehead: Not true because the Village has a way to monitor e-mail, at least from Village officials. The Trustees all have official Village e-mail addresses.

Mayor Swiderski: Right. And we have contracted with a company that has retention policies that we agree with. Yes, they could change it. But that is not the way it stands now. Raf, Facebook is not designed to handle it. It is not an argument.

Trustee Armacost: We should stop this discussion now and get more information.

Mayor Swiderski: It is clear a policy makes sense, simply to regularize behavior so there is never an accusation that if we ever delete posts it is being done without a thoughtful policy.

2. Update on Deer

Mayor Swiderski: I have not had a chance to follow up with the team here, so nothing since the last one.

3. Update on the Downtown

Trustee Walker: We are planning a literary Friday Night Live for April 10. Barb is going to be meeting this week with merchants, and wants to go over her work plan for the year with them. We are having a Friday Night Live planning meeting on Thursday to look at the year's calendar. That is all I have.

4. Other

Trustee Walker: I wanted to ask Fran and Susan, what is the policy in terms of closing streets for these film crews. How much notice do you give residents for closing a street? I have heard some complaints.

Village Manager Frobel: Some concerns, yes. There have been a few, especially this last go-round. Susan, do you want to go through the scenario when you first meet with the contact from the company and the Chief of Police, and the amount of lead time we have?

Village Clerk Maggiotto: Yes, we have extensive meetings with the film crews. In this particular case, they did contact every resident on the street and had signed agreements. Also they paid them money.

Trustee Walker: How much notice did they give them?

Village Clerk Maggiotto: They were out a few weeks ago. And then Lieutenant Dosing sends things out.

Trustee Walker: They had about two weeks' notice, or so?

Village Clerk Maggiotto: Yes. The actual restrictions came out last week.

Village Manager Frobel: Three days in advance for the residents that live on the street. that is going to be closed. And a signed agreement and a cash payment.

Trustee Armacost: So the complaints are coming from people who do not live on the street.

Trustee Walker: No, the complaints are coming from people who live on the street.

Trustee Armacost: But who accepted the money. They accepted the money, but still have a complaint.

Village Clerk Maggiotto: We try as much as we can. It is a balancing act managing these things.

Andre Clegg, 422 Warburton: I live in the building over on Warburton Avenue. I am sure you what we have been through in the last couple of weeks and in the previous years leading up to this catastrophe that has happened the last three weeks. I am trying to figure out what is going to be done going forward. You get information from the manager or the super or whatever the situation may be and nobody is following up on that information. My house was not 55 degrees, my house was not 61 degrees, my house was none of those degrees. In the middle of the night, my house dropped down, I am sure, into the thirties. Our windows were freezing. I just got a puppy who had just had surgery. My kids, we are all crammed in one room. As a dad trying to take care of his family, I know something can be done about this situation. I am just trying to figure out, are we lower than the regular citizens that are here? I know residential rental people are getting services from other entities, but we had no recourse, no avenue to go down in this situation. We had nowhere to go. We came to you, we went to the county, we went to the news, we went to everybody. And nobody had

anything to give us. You all took the word of the man who is telling you that he is staying in the building with us, and he is not. I live under him. I know when someone is up there. I hear the noises and I hear the things when he is home. It took almost three weeks. We are on our 17th day, and I do have heat now, praise the Lord. But a young lady that I work with, she does not have heat right now.

If you talk to the police department, if you talk to the fire department, they picked up my son twice, two years in a row, in the middle of the summer when the system broke down and the heat is way too high. My son had two major seizures due to the heat. And this winter, I am not making any threats, I do not know what recourse I have. But there is no possible way, after a certain point, that I can stay in that house anymore if the system breaks down. I cannot take another chance on my son's life. We have pregnant mothers in the building, we have children in the building, we have babies in the building, we have animals in the building. One of the lady's children lost their fish because their fish froze. And it is just a shame that nobody did anything. Nobody even checked, nobody even came into the building and said let us see what is going on. Everybody kept saying this person is coming and that person was coming. Nobody ever came to check on us. I am trying to understand why. Are they allowed to just stop giving us the services that we are supposed to have with no consequence and no repercussions? What if something serious would have happened to one of my kids?

My life is in a shambles right now because I could only use one room in my home for a whole week. Then we had to start boiling water. And then we all know the building that cried wolf, the alarm goes off constantly. A couple of months ago the alarm went off and nobody ever came. My wife had to call the police department to say the alarm has been going off for 20 minutes and nobody is here. Finally, they sent somebody out. Saturday, everybody in the building was scared to death when the alarm went off because they thought the building was on fire because we were all using "the auxiliary plan." We went back to the space heaters and the stove and whatever the case may be.

The building is supposed to have a system of two wells. One well was supposed to maintain the building when it was not in extreme conditions. When extreme conditions hit, the second well is supposed to come in and take up for that situation. I wrote the building super that e-mail. And he wrote back to me, that depends on if the landlord wants to spend any money. . . What is going to be done going forward, if anything is going to be done? We crying The house is on fire and we want to just know what is going to be done.

I called the Building Department and I spoke to one of the sweetest ladies I have ever spoken to. I think her name was Mary Ellen, in the Building Department. She gave us all this information. She told us that we should go seek a hotel. Then I come to find out, when I talk

to Stan, that no, that is not the information, I was misquoted. But then I called back Monday and this sweet lady is not in. I speak to another lady who had no compassion whatsoever. I think her name was Ann. This is what I got from her: do what he says to do and that is it. Is this something that is allowed to happen in this village? Are we allowed to be treated like this and there is no recourse or anything for us to do when something like this takes place?

Village Manager Frobel: You have a recollection that I spoke with you on several occasions. You are aware of that.

Mr. Clegg: Well, I spoke to you on the phone once.

Village Manager Frobel: Several occasions. I was keeping you informed. I told you that from the moment I found out about it, which was last Monday, we had had the Fire Marshall out there on several occasions. He and I were out there, in fact, on Saturday. He had checked several of the units in the building. Any building that was open he got access to. He was always comfortable in the temperature range that it was. At one time, one apartment was at 62, the other one was at the low fifties.

Mr. Clegg: On Saturday it was a nice day, beautiful outside. I was outside with my T-shirt on. In the middle of the week, when it was the worst temperature that it has been in the last 100 years nobody wanted to come by with a thermometer that week. The heat went off on Valentine's Day. I called Sunday afternoon and I spoke to the police officer because that is what Westchester County told me to do. I called the police officer on Sunday. He told me that he was going to get in touch with the Building Department and that he should be in tomorrow, even though I knew, because I work for the Town of Greenburgh, that Monday was a holiday and nobody is coming to work.

So I called back Monday. Sergeant Major was a really nice guy. He tried to help me out. The lady the next day was just like in the Building Department, she was not as nice. She said he is not here, and that is it. So they were then supposed to tell, I think his name is Buddy at the Building Department, that we had a problem. I went through every channel I could. Finally, I spoke to somebody who knew Buddy. And they called Buddy and said what is going on, and Buddy said why did he wait so long to get in touch with me. I did not wait so long to get in touch with him. I called him on Sunday and he never got the information. Meanwhile, we are still stuck in the cold.

They knew, ever since week one, but we still suffered for another two weeks after they found out. What will be our recourse in the future if this situation happens. That they can just play with us any way they want to? Heat can go off, and we just stay in the cold again? Or the air conditioning can go off and we just stay in the heat again. Our electric bills are sky-high

right now. One family cannot afford the electric bill so they did not even run their heaters because they were scared. It is affordable housing. We cannot take it.

Village Manager Frobel: We have been in close contact with the owner and the superintendent. The heat plant has been intermittent. It was working for awhile. It worked Saturday, we thought we had it fixed Saturday. They thought they had it running up until Sunday evening. Chief Drumm has reported that with the space heaters provided by the owner the ambient temperature in the apartments was kept at a comfortable level. There was never any danger. We were concerned about the sprinkler system freezing. It never went below a temperature that could jeopardize that. In talking with the technicians on Saturday, I was told that they would be back on Tuesday to adjust it. They have to balance the system, which they did today. They are coming back towards the end of the week to work on that second well. I do not know if that second well works independently, whether it is a backup, or whether it needs to work in tandem to get the full 100 percent flow. But that is being worked on this week, as well. There will be an adjustment to your rent. There is also a credit that our Youth Advocate has provided to every family. You are aware of that.

Mr. Clegg: What credit are we speaking of?

Village Manager Frobel: There is supposedly going to be a credit on the rent for this inconvenience during that time. And there has been a \$100 donation that we provided to each of the families of all 14 units to place towards their electric cost.

Trustee Armacost: I think what is being asked here is, is there a procedure if something like this happens in the future to avoid the lack of communication or inability to communicate. And, Fran, whether you have a recommendation to them, as a group, so that they can be more effective in the way that they communicate. It seems as if they have gone to a bunch of different people and they have had conflicting information perhaps.

Village Manager Frobel: Our communication with the owner convinced us that there was a genuine effort to get the system operational. We were convinced that he was having difficulty getting the parts, but he had taken steps in the interim to ensure everyone's comfort and safety.

Trustee Walker: How long did it take before the owner started to take these steps? It sounds like there quite a delay.

Village Manager Frobel: It was immediately. What happened was, there was an air exchange failure. When he went to replace that it caused a failure in an expansion tank. As luck would have it, when a pinhole developed in the expansion tank a stream of water shot

about 40 feet across the room and hit a computerized control panel. Even though this is new green technology, it is old green technology. It is about eight years old. He had trouble getting new parts for an old system. He then had trouble finding technicians that had the skills to work on an old system. The plan, as we understand it, is to revamp the entire system. Right now, the goal is just to get it operational.

Village Attorney Whitehead: My understanding was, today it was operational.

Trustee Walker: But they have no backup.

Village Attorney Whitehead: In his case, they were provided space heaters.

Trustee Walker: But they do not have any other kind of backup.

Trustee Armacost: During Sandy I also had space heaters. We were out electricity for two weeks.

Trustee Walker: But, Mr. Clegg, I thought you said there was supposed to be a backup when the temperature drops too low. But there really is not a backup to the heat.

Mr. Clegg: No. What happens is, they wait it out. Like if there is a short little heat wave for three or four days, and this is what has happened in the past, they wait that out. They will send somebody over to get the air blowing, but the air will never blow. And then we are just sitting in this hot house. One time they paid for us to go to a hotel because it was unbearable. We went to a hotel and we waited it out, and they paid for it. They took that out of our rent. But now we have a new system and a new manager. Eric Anderson is supposed to be the manager of the building. Stan is supposed to be the superintendent.

Anybody who is living in what you call, Mr. Frobel, a comfortable situation, I do not know what is comfortable for you. But 40 degrees is not comfortable for me. It was freezing in my house, literally. , I am fully dressed every day for the last three weeks, day in and day out. When I get up in the morning, I have to take a hot shower, get out of the shower, and jump into cold clothes and walk out into the cold to go to work in the morning. That is what I have been dealing with for the last three weeks.

Village Manager Frobel: If I can answer your question, that is the system.

Trustee Walker: The geothermal system is it.

Village Manager Frobel: It is the system.

Trustee Walker: There is no backup electrical heaters or anything like that.

Village Manager Frobel: And there are some inherent problems in terms of balancing the system, there are problems with individual units adjusting the blower, which throws the system out of whack. It requires a lot of care and maintenance. It has been quite an education for me on this. They need to make some major investments to change that process, and they were prepared to do it.

Mayor Swiderski: What leverage do we have if they fail to provide heat?

Village Manager Frobel: I will ask Ms. Whitehead to explain that because that has been the discussion the last 48 hours.

Village Attorney Whitehead: I have been working with Fran and with the Building Inspector. A violation notice was ready to go out today and the heat came on. We could not issue it because the heat was on and there was no violation condition which existed as of that point in time. It is ready to go should it go off again. But the Building Inspector, as Fran has indicated, they have all been in constant contact with the building owner about the repairs. Unfortunately, one piece went down, it took them a long time to get that part in. And then another blew, and then the computer blew. So it was a bad confluence. They got the new computer panel in Saturday. Then they had to have someone come and do some reprogramming today. We are hopeful that it is all operational as of today. If they need to do some additional work, I guess you have been talking to them about that and making sure that gets done so the system is operating the way it was designed to operate.

Trustee Armacost: In a scenario like this do they have insurance coverage which they can tap into to take care of the people who are living in the units? I think that is what they need. What I am hearing is, we have a bunch of people who are not feeling taken care of in a scenario where extreme weather conditions that we have all experienced are what they are experiencing. And there needs to be some kind of a mechanism where someone has an obligation to take care of these people, one way or another.

Village Attorney Whitehead: There may be private recourse between the tenants and landlord. We do not know what insurance the landlord has. Buddy told me had not been able to get into the apartments but it sounds like you and Jim Drumm did, and checked the temperature.

Village Manager Frobel: Chief Drumm has. He has access. I do not know if he was there today, but he has been there almost every day since we became aware of it.

Village Attorney Whitehead: I just want to clarify that. It is not like the Village has ignored this.

Trustee Armacost: No, I am trying to work out whether the Village can be helpful in some way, or whether the Village can use its leverage to shift a situation where a group of people are not being treated in the way we would want our citizens to be treated in a situation involving extreme weather. Is there something the Village can do?

Village Attorney Whitehead: We can put pressure on. If they are not providing heat it is a violation of the uniform property maintenance code. It is also a violation of the county sanitary code. The county could have enforced it. The county throws it onto to the locality but the provisions are in the country sanitary code. And the Department of Health has the authority to enforce, as well.

Mayor Swiderski: What is the temperature threshold?

Village Attorney Whitehead: In one code it is 65 or 68, during the day. It varies between the two codes. And it is much lower at night. And there are dates, and when the outside temperature is below, I think, 55.

Trustee Armacost: So Linda, how can we have this kick in quicker? It seems that they were in this situation for quite a long time without it kicking in, at least listening to your story. So what is the way, and how long does it take?

Village Attorney Whitehead: The Village has to have been able to be in an apartment where the temperature is lower, had to have had access, and have actual knowledge to issue a violation. You cannot issue violations just on somebody telling you something. My understanding, and I did not get involved in this until, I think, on Friday, Fran? We knew they were trying to fix it, and it was only in the last couple of days when it just was not getting done that the violation was ready to be issued.

Mayor Swiderski: And what is the violation? What does that do?

Village Attorney Whitehead: That is the other problem. Under the uniform building code, you have to give them 30 days. We were framing it to try to get them started to require them to commence repair immediately. They had already commenced it. But the Department of State just came out with a new ruling that you have to give, on an order to remedy, 30 days.

Trustee Armacost: Even if that had gone out, it would not have any solved their problem.

Village Attorney Whitehead: It would have required them to immediately commence the repair. But they had already done that.

Trustee Walker: But would it compel a landlord to provide an alternative source of heat more quickly than he did?

Village Manager Frobel: I think he provided it almost immediately. We have no indication there was any drag between when it went down the first time and today.

Village Attorney Whitehead: Space heater.

Mayor Swiderski: But that is not keeping temperatures at the temperature required.

Village Manager Frobel: Well, I am sure it did not reach that temperature.

Mayor Swiderski: Then the violation is in effect.

Mr. Clegg: We have 9- to 10-foot ceilings in our building. I got a space heater this big the first day provided to me. I have two floors, three bedrooms and one and one half bathrooms. Everyone in my household was in my room. And that is all that that heater did for us. We had to start boiling water and leaving the oven open, which is a danger because I have a four year old. But I had to keep the downstairs warm. I had no choice, it was literally freezing in there. My dog, my puppy, is shaking through the house when we wake up in the morning. We have to all then go get her, bring her in the room, and everyone is petting her trying to get her all riled. The difference between the one-bedroom and a two-bedroom is a massive amount of space, and the one-bedrooms are upstairs closer to sun so they may have a better heating situation. But down on the ground, where I am at, once the ground is frozen, which we all know it has been, my house is absolutely freezing.

Mayor Swiderski: You indicated that there was another apartment still that is not heated?

Mr. Clegg: That is still not heated. I got a phone call this evening when I got home, and she called me crying, because she had no heat.

Village Attorney Whitehead: We were not aware of that. Either Jim Drumm or Buddy, someone has to go out there, and we can see if they can go out tomorrow morning, Fran?

Village Manager Frobel: Do we know the apartment number?

Mr. Clegg: I believe it is 12.

Village Attorney Whitehead: If it is not up to the required temperatures we can issue the violation.

Mayor Swiderski: At that point the clock starts running for the whole building. So if the issue overall is not addressed, again, what I do not understand is since it is episodic, it goes on and off, does that mean that if it goes on on day 30 the clock is reset and we would have to issue another violation?

Village Attorney Whitehead: In my mind, remedying means remedying, meaning it stays on. Not comes on for a day and then goes off.

Mayor Swiderski: Right. And that can compel a fix that addresses the second well and adds some redundancy into a system that does not sound like it has any redundancy.

Village Attorney Whitehead: If that was the original design, and it is not working as per originally designed.

Village Manager Frobel: But that, I did not get into. I did not ask the technicians, but I know they are having the well guy there I believe the end of this week to look at that.

Village Attorney Whitehead: The best thing that can be done at this point is, Fran and Buddy can continue to be in touch with the owner and follow up and make sure they are continuing to do these things. If someone could go out tomorrow and check the unit that you are saying still does not have heat ...

Mr. Clegg: I was called this evening before I came to this meeting. She was crying because her daughter has had to stay with her mother in Yonkers all week. She had to get up early in the morning, go all the way into Yonkers, pick up her kids from her mother's house, bring them all the way to Hastings so they can catch their bus to school, and go on home. I did not have that. There were some people who did have the ability to leave, but we did not. We were too big of a family and we had a puppy.

Trustee Armacost: It sounds as if the group needs an advocate to help them work through the system effectively. It sounds like they have been trying quite hard, but navigating the system and who to speak to first to make it quick, irrespective whether the person is nice on the phone or not. If the person is ineffective it does not help. They need an advocate to be able to help them work through the system. I am wondering if there is a role for the Affordable Housing Committee here.

Mayor Swiderski: I do not think so.

Village Manager Frobel: No, they are out of this stuff.

Mr. Clegg: When I moved into the building I had to go through a major process to get into this building to qualify for this situation. I am just trying to understand. This summer, like I said, that is when my son is most affected by the situation. I cannot let my son die because this man does not want to fix the heating system. So is there any other recourse for me, or I have to just suffer through this?

Village Attorney Whitehead: The air conditioning is a little different than the heating because there is no law we can use to enforce that. But look at your lease, and if your lease says that they are required to provide you air conditioning ...

Mr. Clegg: Well, that is the geothermal system. It is all central heating and cooling. That is what they said.

Village Attorney Whitehead: I understand that. But like the provisions I just cited about where the law specifically says certain temperatures that have to be maintained during the heating season, there is no similar law for air conditioning. Air conditioning is an amenity. There are plenty of old houses that do not have air conditioning, or old buildings. Therefore, while we can try to make sure that the system works as it was designed and as the Village approved it to be built, legally what you need to look to is your lease. Were you promised by the owner of the building that you would have air conditioning?

Mr. Clegg: When we moved in we had to throw everything away. We were not allowed to bring air conditioning into the building. They told us that we would have heat and we would have air.

Village Attorney Whitehead: Right. So the Village will try to make sure that the system is functioning properly as it was supposed to. But we do not have the same ability to issue a violation notice or an order to remedy for air conditioning that we do for a lack of heat. But you may have private recourse.

Mr. Clegg: I understand. I need to know these things. I am praying that it does not happen again. I really want it to work.

Mayor Swiderski: But you have no reason to believe it will not just because it has failed over and over.

Mr. Clegg: I literally was the first person to move into the building. Every single year we have had this problem. It is on record, I have called and I have talked to different people about the situation. The last Building Inspector told me to move, literally. He says maybe you should move. And I am like really, do you know what I have been through to get here? I like my apartment and I like it here, but I cannot die here or my kids cannot die here. I have three kids, all elementary. I have a 4 year old, a 10 year old and a 12 year old. My daughter loves going to school. My 4 year-old is special needs, and my other son is doing something different. But we like it here, we like the community and everything. And we are not trying to cause a ruckus, but these are just things that are necessities. These are needs.

Village Attorney Whitehead: Understood. Hopefully, if this second well gets properly functioning and everything else that will help with the air conditioning problem also. Fran will stay on top of them to make sure.

Mayor Swiderski: Niki raised a point about advocate. While we cannot create a position, we can designate a point of contact. When there are failures in the heating system, what is the protocol that should be followed so we know the word is getting to the people?

Village Manager Frobel: They would contact the Building Inspector. The Building Office should be the first contact.

Mayor Swiderski: So that number should be posted, and anyone answering the phone should be sensitized to that.

Trustee Armacost: Hearing what was said, it seems like that is maybe not working so smoothly. We need to make sure there is an understanding on the side of the Building Department of what needs to happen at that moment.

Mayor Swiderski: I think there is now. But we need it systemized moving forward that a call to a particular number triggers a process that we verify the temperature.

Village Attorney Whitehead: Fran and I will talk to Buddy and make sure. But people have to allow the Building Inspector or the Fire Inspector into their apartments.

Mr. Clegg: I have always let them into our apartment. I have no problem with that.

Mayor Swiderski: A posting in the building that this is the process, something clear on the proverbial bulletin board or in a couple of locations, so it is clear what people need to do, and you should get a response right away.

Mr. Clegg: I understand.

Trustee Walker: Thank you for coming.

Village Attorney Whitehead: I am glad your heat is back on.

Mr. Clegg: Thank you. I hope when I get home there is somebody to check on her.

Village Attorney Whitehead: If you find out anybody else is without heat, or if she in fact is, call the Building Department in the morning because Fran is going to try to get someone out there in the morning.

Mayor Swiderski: I am sorry that you went through this.

The Board requested a session for advice of counsel immediately following the Regular Meeting

EXECUTIVE SESSION

On MOTION of Trustee Armacost, SECONDED by Trustee Walker with a voice vote of all in favor, the Board scheduled an Executive Session to discuss personnel issues on boards and commissions.

ADJOURNMENT

On MOTION of Trustee Armacost, SECONDED by Trustee Walker with a voice vote of all in favor, Mayor Swiderski adjourned the Regular Meeting at 9:40 p.m.