

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**BOARD OF TRUSTEES**  
**REGULAR MEETING**  
**MAY 2, 2000**

A Regular Meeting was held by the Board of Trustees on Tuesday, May 2, 2000 at 8:30 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Mayor Wm. Lee Kinnally, Jr., Trustee Elsa C. DeVita, Trustee Michael Holdstein, Trustee David Walrath, Trustee Bruce Jennings, Village Manager Neil P. Hess, Village Attorney Brian Murphy, and Deputy Village Clerk Linda Knies.

**CITIZENS:** Eight (8)

**APPROVAL OF WARRANTS**

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

Multi-Fund No. 122-1999-00	\$181,631.40
Multi-Fund No. 123-1999-00	\$ 22,169.27

**38:00 CHANGE ORDER - JAC DEVELOPMENT**

**Mayor Kinnally:** This involves the sewer project on lower Villard Avenue. There were cost overruns for the time and the rental of heavy equipment to get through the incredible amount of rock encountered.

**Village Manager Hess:** JAC Development submitted a grievance and information totaling cost overruns of \$38,166.93 based on the additional time and rock removal equipment, etc. After several meetings between JAC Development, Mr. Gennarelli and Mr. Nardecchia we have a recommendation from the Superintendent of Public Works and the engineer for a lump sum amount of \$17,500. JAC Development has agreed to accept this amount. I asked that Mr. Gennarelli seek a legal opinion from the Village Attorney. Mr. Murphy has requested a release executed by JAC Development waiving any rights to any future claims regarding this additional cost.

**Mayor Kinnally:** We have received legal counsel on this. The Board has the opinion before them. He thinks that the facts warrant the settlement.

**Village Manager Hess:** You can grant the hardship. It was a very difficult project that was supposed to take eight weeks and took 24, because of the solid granite.

**Trustee Holdstein:** Would not JAC have had the obligation to have done drilling to determine the extent of work to be done?

**Village Manager Hess:** No, because we were replacing existing sewer, which you would tend to believe was already excavated. What we found was gas lines, water lines, and sewer lines intermingled in this small excavation. Additional portions were paid to JAC Development from Con Ed because they also had to have separate excavations. We discovered after the fact that a quarry was in that area in the 1800's.

**Trustee Walrath:** How much different were the ultimate quantities from those that were included in the original bids?

**Village Manager Hess:** Mr. Nardecchia stated: "The contractor submission did not dispute either the quantities or the unit price of the contract, but chose to demonstrate their financial hardship due to the difficult rock removal." It did not have to do with quantities as opposed to the difficulty in removing it. He also pointed out that he "worked on three different approaches in attempting to place an equitable dollar value to the financial hardship experienced by the contractor. However, with lack of clearly defined procedures, it became an art form rather than a science." He had a difficult time trying to place a figure on this.

**Mayor Kinnally:** I went by that site daily, discussed with the contractors and with Larry the problems they were encountering, and saw the equipment that was brought in. Given the numbers submitted and reviewed, and the magnitude of the job, I think the \$17,500 is fair.

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

**RESOLVED:** that the Mayor and Board of Trustees permit the filing and approve the payment of a change order for JAC Development Corp. in the amount of \$17,500.00.

<b>ROLL CALL VOTE:</b>	<b>AYE</b>	<b>NAY</b>
Trustee Elsa C. DeVita	X	
Trustee Michael Holdstein	X	
Trustee David Walrath	X	
Trustee Bruce Jennings	X	
Mayor Wm. Lee Kinnally, Jr.	X	

**39:00 NEW YORK STATE HUDSON RIVER ESTUARY PROGRAM**

**Mayor Kinnally:** I was in Albany when the governor presented his Estuary Management Plan four years ago. The river communities benefit from not only the increased money appropriated for the Hudson River but also the increased awareness heightened by the governor's policies. We have received some state grants recently not tied directly to the Management Plan but to the state's commitment to improving the quality of river life. This is consistent with our initiatives on the waterfront and with what we would like to see accomplished locally and statewide. I am very much in favor of this.

On MOTION of Trustee DeVita, SECONDED by Trustee Walrath, the following resolution was duly adopted upon roll call vote:

**WHEREAS,** the Hudson River Estuary Action Plan was approved and released by Governor Pataki in May, 1996, in furtherance of the requirements of the Hudson River Estuary Management Act adopted by the State Legislature; and

**WHEREAS,** the Hudson River Estuary Action Plan identifies 20 priority actions that the Department of Environmental Conservation has committed to implementing for the purposes of:  
Conserving natural resources,  
Promoting use and enjoyment of the river, and  
Cleaning up pollution; and

**WHEREAS,** in the 2000-01 State Executive Budget, Governor Pataki has proposed making the Estuary Program a permanent category in the Environmental Protection Fund (EPF) budget, eligible for annual funding to support implementation of the Estuary Plan; and

**WHEREAS,** a \$6 million EPF appropriation is now proposed in the 2000-01 Executive Budget for the Estuary management Program; and

**WHEREAS,** these funds will be used to:  
Assure that shad, striped bass, sturgeon and other important species are sustained in the Estuary;  
Provide grants to municipalities and non-profit organizations for river access, interpretive centers, habitat conservation, and other purposes; and

Improve water quality of the Estuary and its tributaries, among other things; now therefore be it

**RESOLVED:** that the Village of Hastings-on-Hudson urges the New York State Legislature to support the Estuary Program as a permanent category line item in the Environmental Protection Fund and that the \$6 million appropriation for 2000-01 be approved in full.

<b>ROLL CALL VOTE:</b>	<b>AYE</b>	<b>NAY</b>
Trustee Elsa C. DeVita	X	
Trustee Michael Holdstein	X	
Trustee David Walrath	X	
Trustee Bruce Jennings	X	
Mayor Wm. Lee Kinnally, Jr.	X	

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

**Village Manager Hess:** We had our Southside project contractors meeting this morning. Washington Avenue should be completed within two weeks. We discussed the area of the Southside Club mentioned in last week's meeting. He has radius curb to finish that portion. We have asked him to have that completed by the end of this week.

Landscaping on the hill and the center island should begin by early next week. We have a revised design in front of the Municipal Building which will allow for a final street light to be put in and the lights turned on. We are looking at additional lighting for the stairway coming up to the Municipal Building.

Six locations with 55-60 people have signed up for Cleanup Day May 6. *The Enterprise* and Scenic Hudson are sponsoring with 25 people a cleanup of Waterfront Park and Marinello Cove. Recreation people are doing the Community Center, the Ambulance Corps in Hook and Ladder areas, Graham School on the Aqueduct from the school to Washington Avenue, and the Cub Scouts on Farragut Parkway from the entrance to High Street. Village staff may be choosing a location. A resident, Linda Atkinson, will work on Farragut Parkway. We have this scheduled for the work session if the Board would like to choose a location.

### **BOARD DISCUSSION AND COMMENTS**

#### **1. Update on the Waterfront**

**Mayor Kinnally:** The steering committee met last week. We will be reviewing draft documents on the agreement with the Department of State on our grant and setting a schedule for the weekend Planning Session this fall.

## **2. License to Vend - "Pink Panther"**

**Mayor Kinnally:** At the last meeting there was good discussion about what could be done to alleviate the concerns expressed. Mr. Fontana has submitted in written form the comments he presented. If anyone has additional comments we will hear them now. We have received some guidance from the Village Attorney; I do not know what the pleasure of the Board is as far as making a decision tonight. We may need a session with the Village Attorney to answer questions about this appeal and the substance of the matter; we have not handled a matter like this before.

**Mr. Fontana:** Since last Tuesday we have had a discussion with Mr. Minozzi. I think the issues he had with the Pink Panther have been resolved. There are certain steps that Magdalena has taken in the last week that are helping Mr. Minozzi, namely what I repeat in the letter. If she sees somebody blocking, or parking, on the properties across the street she will not serve that person and tell him he has to move his truck. She will police the area several times a day. In terms of traffic, her hours of operation are not during rush hours. She is not there between 7:30 and 9:30, and she is not there between 4:30 and 6:00. I would ask you to take that into your consideration.

**Tom Minozzi, 150 Saw Mill River Road:** My major concern was the fact that my driveways were being blocked. As a result of coming forward, Magdalena and I spoke and came to the conclusion that she has put a great effort into not having the driveways blocked. I grew up on 9-A all my life, so I know how 9-A really is. People will get stuck, lost, and block driveways all the time. That is not up to her, but that is part of living on 9-A. I am happy with the results that we have been getting from her. If she can keep it up, we are one big happy family. She has done a wonderful job up to now. As far as I am concerned I do not have a problem anymore.

**Dr. Slate, 150 Saw Mill River Road:** Magdalena was wonderful this past week. How long? We will see what happens. I propose to this Board that whatever decision you make Dr. Slate will back it as best he can, and my other employees.

As a home improvement contractor, Westchester County demands I have a \$1million liability policy. What would happen if a patron of Magdalena's had an accident? Mr. Minozzi might be sued because the vehicle may travel onto his property. I am worried about financial restitution. Who is an accident victim going to turn to if something of dire consequence arises through a patron's actions or inability to act properly behind a motor vehicle? All the business owners that rent from Mr. Minozzi, we are certainly going to be involved; I hope, God forbid, not. But if not, they are going to turn to the Village. You allowed this to happen. If this decision should come to that point I believe the Village may be unlocking a door to some liability.

**Mayor Kinnally:** I would suggest that we continue the permit until May 16 to have an opportunity to consult with counsel.

**Trustee Holdstein:** Were the signs and waste receptacles put there by your client?

**Mr. Fontana:** The signs were put there by her. [Who put the concrete receptacles there? You put those there?] She put those there.

**Trustee Holdstein:** I think those signs and wastebaskets should be temporary fixtures put up when you are transacting business and removed when business is no longer being transacted.

**Mr. Fontana:** The concrete will just substitute for smaller receptacles of some kind. If you make that part of the permit, that is doable.

**Trustee Jennings:** I appreciate the spirit of the parties involved to talk and try to work it out.

**Trustee Walrath:** Looking into the liability aspects is important. As far as the receptacles, they may attract people leaving things. There is a great deal of litter along the road that does not seem to relate to anybody's activity. Anything we can do to discourage people dumping is probably a good idea.

**Trustee Holdstein:** It appears as though Magdalena takes the time at the end of each business day to empty the receptacles. I am concerned that people will start deciding that it is their own private dump because the wastebaskets are there.

**Mayor Kinnally:** Do I have a consensus on extending the permit until the May 16 to give us an opportunity to consult with counsel? Why don't we do that?

### **EXECUTIVE SESSION**

On MOTION of Trustee Jennings, SECONDED by Trustee Walrath with a voice vote of all in favor, the Board scheduled an Executive Session immediately following the Regular Meeting to consider litigation, and personnel, and land acquisition.

### **ADJOURNMENT**

On MOTION of Trustee Walrath, SECONDED by Trustee Holdstein with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 9:10 p.m.