

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
MAY 22, 2001

A Regular Meeting was held by the Board of Trustees on Tuesday, May 22, 2001 at 8:40 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Wm. Lee Kinnally, Jr., Trustee Michael Holdstein (8:43 p.m.), Trustee David Walrath, Trustee Bruce Jennings, Trustee Marjorie Apel, Village Manager Neil P. Hess, Village Attorney Brian Murphy, and Village Clerk Susan Maggiotto.

CITIZENS: Eighteen (18)

DISCUSSION WITH GREENBURGH TOWN BOARD

Mayor Kinnally: We are privileged to have the Greenburgh Town Board with us. Supervisor Paul Feiner is here. Paul, would you introduce the other members of the Board and members of your staff who are here?

Paul Feiner, Town Supervisor - Greenburgh: Thank you for inviting me. With me tonight are Councilwoman Diana Juettner, Councilman Steve Bass, Town Attorney Susan Mancuso, Receiver of Taxes Dave Dwinell, and Town Clerk Alfreda Williams.

The first point is in relation to the Austin Avenue Development. The parties in the Town of Greenburgh are in intense negotiations on following up with the development access road that was promised, so that one day Sprain Road could be closed. A feasibility study is going on, and should be complete probably within the next month or so. That is as a result of efforts that we mutually worked on.

As this process of working toward a new road continues and intensifies in the coming months and years, it is very important to the Town of Greenburgh that we partner with the Village of Hastings. Once we get the feasibility study, and once there are more reports and more information as to potential locations, I would like to sit down with the Village to make sure that our interests are not in conflict with the interests of the people of Hastings.

Mayor Kinnally: I know some of the broad outlines of the settlement. The Board was concerned with where the alternate road would go and how it would tie in with either 9-A or the Saw Mill, and the impact on our village. I sent a letter to the County Attorney about a year and a half ago when this was first raised saying the Village had concerns and would like a seat at the table when these issues are discussed. The remedy of closing Sprain Road, and opening up an extension to Stew Leonard Boulevard, may not solve the problem. It may create more problems for Hastings. We lived through one proposal of creating a cloverleaf in

Hastings that would dump traffic into other roads. We fear the same thing happening here. Any access to and from the Saw Mill is going to require building additional ramps and exits. Similarly, any improvement of a road that would lead to the site from the west is going to adversely affect the neighborhoods in Hastings. While it solves one problem, it may create others. We will work with you. I do not know enough about it right now to say that we are on board 100%, or even 1%. We do not know if it is feasible, if they can acquire the land, or where the road would traverse before coming into either 9-A or the Saw Mill.

Supervisor Feiner: We have not seen the feasibility study, but once we get that information, it is very important that Hastings be included as a full partner in the process. Greenburgh does not want to take an action that might be able to alleviate some of the traffic on Jackson and create additional problems for the Village of Hastings. Hopefully, we can come up with a solution, or some mitigation, that could reduce the problems on Jackson Avenue but at the same time not have a negative impact on Hastings. We are not going to take actions unilaterally on this. I will insist that Hastings be fully included in the process.

Another concern I have had, and you might be able to assist, relates to the Andrus development. I hope the Town will be approached by Andrus in relation to a PILOT agreement because I want to make sure that the Town of Greenburgh the financial help from Andrus as we are entitled to. Perhaps we could set up a meeting with the Village and the Andrus people.

Mayor Kinnally: I have a meeting scheduled with Andrus to discuss a number of things. The PILOT will be one of them. When we met with the Andrus people about the PILOT we told them that they must approach the school, the Town, and the county to deal with the PILOT. It is close to a year later and they have not done it. I will raise that again when I meet with them. Meeting jointly may not be the answer, but they have to take the initiative and reach out to the affected entities.

Supervisor Feiner: Regarding the Warburton Avenue housing, in 1995 the Town took title to property on Warburton Avenue. Mr. Hall offered to purchase the property for \$150,000, and the Town and the Village worked out an arrangement where that property could be turned into affordable housing. The buyer changed his mind and now the Town owns the property and we are owed about \$479,567 in back taxes. We had discussion with members of the Town Board and staff on two approaches. One is we could foreclose on the property, but your Affordable Housing Committee is still interested in pursuing this as affordable housing.

Village Manager Hess: You already foreclosed on the property. You own that.

Supervisor Feiner: We could sell it. That is what I mean.

Village Manager Hess: The \$479,000 that the tax receiver referred to in his letter was if the property had stayed on the tax role. You foreclosed on it when the outstanding taxes were in the neighborhood of \$185,000. I may be wrong, but I am trying to get the record straight.

David Dwinell, Greenburgh Receiver of Taxes: When you foreclose on property the taxes disappear, but the hit that the Town takes does not. The Town had been presuming it would be entitled to a specific amount of money owed to it. When the Town forecloses it normally auctions off property. Some of the properties we take a loss, other properties we take a gain, and you try to recoup your losses. The liens disappear technically, but in another sense they are still there because it is lost revenue that you will not be able to regain.

Village Manager Hess: The cash out of pocket from the Town at the time you foreclosed, considering that you had to pay other entities such as the school, is it \$185,000?

Receiver Dwinell: In 1996, when Mr. Hall came on the scene and we took it off the auction block we were willing to take a hit on some of the interest and penalties. The \$150,000 may have been a figure that was the true taxes minus the interest and penalties which add up because we have still had to, up until a couple of years ago, pay the schools whether we collected the money or not. We had to pay the other entities involved. It is off the tax rolls but if we had sold it four or five years ago it would have been bringing in tax revenue.

Supervise Feiner: We want to get an indication from the Village if the Town should put this on our list of properties to sell, and if the answer is no, would the Village be willing to partner with the Town so the Town does not take the bulk of the financial hit. The \$500,000 could have been used to reduce taxes or for other programs.

Mayor Kinnally: Partnering in what regard?

Supervisor Feiner: Financial.

Mayor Kinnally: To buy the property?

Supervisor Feiner: The Town Board is interested in selling the property. If we sell it for \$150,000 or \$200,000, there is still a \$300,000 shortfall. Should the Town absorb that or

should the Village contribute, say, half of it? Because this way we are getting affordable housing in the Town, working with the Village, and absorbing some of it.

Mayor Kinnally: We have somebody from the Affordable Housing Committee here. Jim, is this a site that the Committee is still considering?

Jim Keaney, Affordable Housing Committee: I want to thank the Supervisor for designating the Affordable Housing Committee as your preferred developer. A few years ago there was a proposal for a high density luxury development that the neighbors and the Village did not want. The Town stepped up and agreed to work with us. We are continuing to look at that site. It is a difficult site with a lot of rock. We are looking at a new feasibility study and we know that the Town will support us. We have been designated as the developer for another year or so. If you give us that time we are going to work hard to come up with something.

Village Manager Hess: I asked the Affordable Housing Committee to keep the Receiver of Taxes in the loop of information as it goes to the Town Supervisor.

Supervisor Feiner: Our foreclosure sale is going to occur in early fall. There are only two properties left from over 300 for this foreclosure. The next one could be in a couple of years.

Mr. Dwinell: We were getting ready to go to the sale with the property last time, and we met with the Hastings people and Mr. Hall. It cost us the opportunity to auction it off, and there is quite a bit of interest in the property from different people. If things cannot be worked out by the September 15 auction date, then we are going to lose that opportunity again. It would be good for the Town if we were able to have an idea before we get to the auction date. We have to advertise it in the paper. We could also hold a special auction at a later point in time. I prefer not to. But we certainly want to work with Hastings.

Mayor Kinnally: What is your cutoff on the public notice?

Mr. Dwinell: We will probably go to public notification in August. We could publish it and then withdraw it. I was under the presumption that we were going to auction it off until Paul told me we are still working with Hastings on this.

Supervisor Feiner: Is there a possibility you could respond by the beginning of August?

Mr. Keaney: I will give you a progress report in June.

Trustee Apel: What will it take to move this forward?

Mayor Kinnally: It is up to the Affordable Housing Committee. The site is burdened with many problems, not only the cleanup but the rock. You need a very creative and knowledgeable developer who can reclaim the property so that something can be built there.

Supervisor Feiner: I would like to see preference given to having the property become affordable housing; when we take property away from somebody because they are unable to pay taxes, using it for affordable housing is appropriate. But at the same time we have an obligation to our taxpayers. I want to make sure that we are fair to everybody.

Trustee Apel: Jim, could you let us know what you would need in order to evaluate this property and what we could do to accelerate the process?

Mr. Keaney: We meet tomorrow night. I will get in contact with the Board later in the week and bring us up to date.

Village Manager Hess: The 16 units in the feasibility study done by Tilly were found not to be feasible because of the rock removal. They are looking at a lesser number of units now.

Trustee Walrath: The \$300,000 shortfall: does that include taxes owed to our school district, or is that only the Town?

Mayor Kinnally: I think it is a combination of imputed taxes and accruing interest.

Receiver Dwinell: I would have to see the last year we paid the school off on those things. It has probably been off the roll since about 1996.

Village Manager Hess: The amounts that were talked about are as if it were taxable. But it is not. I believe at the time of foreclosure it was \$185,000. Once the Town forecloses and the property becomes yours, you no longer accrue interest and penalties.

Trustee Walrath: Could we just get an explanation of the \$300,000 figure?

Receiver Dwinell: I would have to get it.

Mayor Kinnally: What we are talking about is lost opportunity, but we can get that.

Trustee Apel: I want to thank Paul and the Greenburgh Board for coming, and for reaching out to us to work on projects that are of mutual interest. It says a lot of everybody, wanting to work together. I am very pleased that this is happening.

Supervisor Feiner: I also wanted to say that we are going to establish a joint planning advisory board, and on properties on our borders we are going to jointly review proposed developments so we can avoid border wars. The Village may be interested in pursuing this, especially on 9-A. Often one community does something that has land use implications and traffic implications on another community. The Village of Irvington signed on yesterday. Tarrytown is very close to signing on. It could be a great precedent-setter.

Tom Abinanti, County Legislator: I just came by to say hello and to hear the discussion with the Supervisor and the Town Board about a problem we have all been very concerned about, the major development that sprang up in the northern section of Yonkers that has had a major impact on all our communities.

The County has tried, through its County Attorney's office, to be of assistance in settling this. I would like to offer to meet with you, get your views on this, and take those back to the County Attorney as they are working their way through the courts to make sure that your views are represented and see if I could bring you into the discussions as well.

Mayor Kinnally: I have had discussions with the County Attorney about this, especially about the road. But we would be very happy to do that.

Legislator Abinanti: I would like to continue those discussions.

Mayor Kinnally: Tom always comes not only with good wishes for the Village but with a lot of money.

Legislator Abinanti: I did come with a traffic light at one time that the School Board did not want.

Mayor Kinnally: That is right. We still have money in the bank so I am looking to spend some of it. We need to have a substantial stretch of Warburton Avenue in the downtown repaved from the bridge to where Warburton intersects with Broadway. Perhaps you could take a look at it.

Legislator Abinanti: My secretary will talk to yours very quickly, and we will do that, maybe next week.

Following up on the cooperation Paul was talking about, my colleagues and I have come across a way to ease the problems between communities: change the county charter so that it is more similar to state law. Your Planning Board rules on a majority vote in most cases. If the County Planning Board makes a decision on a local matter it is just read and discarded. State law requires that where a county Planning Board makes a decision, for the local Planning Board to go against that decision requires a super-majority. We have been talking about how we could amend the county charter to make state law apply. I have another proposal that we just delete those provisions of the county charter in this area and follow the state law. I would like your thoughts about it and if you think it is a good idea, your support.

Trustee Apel: Are they going to reactivate the task force as it related to the Austin Avenue project? Is there any thought for doing that?

Legislator Abinanti: I am not quite sure.

APPROVAL OF MINUTES

Trustee Walrath: On the 4/24/01 Public Hearing: a misspelling of Rowley's.

On MOTION of Trustee Walrath, SECONDED by Trustee Apel with a voice vote of all in favor, the Minutes of the Public Hearing of April 24, 2001 were approved as corrected.

On MOTION of Trustee Walrath, SECONDED by Trustee Apel with a voice vote of all in favor, the Minutes of the Public Hearing of May 8, 2001 were approved as presented.

On MOTION of Trustee Apel, SECONDED by Trustee Walrath with a voice vote of all in favor, the Minutes of the Regular Meeting of May 8, 2001 were approved as presented.

APPROVAL OF WARRANTS

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

Multi-Fund No. 108-2000-01	\$197,940.50
Multi-Fund No. 110-2000-01	\$137,375.63

41:01 LIBRARY ADDITION AUTHORIZATION

Village Manager Hess: We had a Public Hearing on May 15 pursuant to §295-81 of the Zoning Code, which requires a Public Hearing for construction of any structure within the PR District. This resolution would authorize us to proceed with the plans and specifications on the project. We were hoping to be able to go out to bid by mid-June. It may be closer to the end of June but we are looking to begin construction in the fall.

This authorizes the project. The Board is going to need additional detail on the specific site plan. I spoke to one resident of the area who expressed concerns with the view preservation and told her we would be willing to cooperate to minimize, or even improve, some of the areas of the views from Southside Avenue.

Mayor Kinnally: In response to our request, the area has been staked out. It appears that we are going to lose some other vegetation because of it.

Trustee Walrath: That was our concern. That is why we thought a retaining wall would be the only way to save the beautiful cherry tree southwest of the addition.

Mayor Kinnally: The retaining wall may also affect the ability of the roots to get some moisture.

Trustee Walrath: It needs to be planned out. We have not see a real proposed site plan.

Trustee Holdstein: One of my concerns is that in the presentation last week there was a patio and steps and so forth. How was this cost factored in or not factored in?

Village Manager Hess: We are hoping to do the patio extension much the same as the stone work at the Municipal Building and the library, which was done by a separate contractor. We hope that the Friends of the Library would raise funds and hire the same stone masonry group. The patio will be done as a finish item on the project as if it were part of the project. It is not going to sit as a dirt mud pile for a year after the project is done. The project will proceed in a timely fashion. When the building is done, then the outside work will be completed. The areas of cut are going to have to be done during the construction phase, but how will they stabilize that until the outside work is done will be part of the contract.

Trustee Holdstein: The retaining wall concept was not part of the original. That would have to be done before this outside person would come in and do the patio later.

Village Manager Hess: None of the work in the park was contemplated as part of the original project. Just the addition, but not the lowering of the area to open up views. That was something that came up later. Maybe Tom has a comment on that.

Thom Forbes, 4 Ridgedell Avenue and Library Board: I am representing the Library Board. None of the recommendations on the outside that Jim Lothrop made last week were part of the original plan, nor do they need to be to put on the addition. All we have to do is roll back the ridge a bit to create room for the addition. Those are some enhancements that Mr. Lothrop suggested we might want to consider. The library has a committee to raise money for other enhancements that go beyond the scope of the project.

Trustee Walrath: Enough earth work to build as it was shown is implicit in the project from the beginning. But finishing off the patio and lowering the site were not included in the original estimates. Lowering the site is not nearly as significant as the problems of building where the ground is six or seven feet higher than the floor of the building. That should have been in the original estimate.

Mr. Forbes: I think it is four feet, as he indicated. The retaining wall is something that is being introduced tonight, and it is certainly worthy of investigation.

Trustee Walrath: It is a question of that, or saving a tree.

Mr. Forbes: That is something we will have to discuss.

Trustee Walrath: I hope you will take advantage of our Tree Board, who could give good advice to the landscape architect.

Mr. Forbes: I had a long discussion with Peter Wolf following the meeting last week.

Trustee Holdstein: In the original plans approved to date there is going to be some clearing in the park. If that excavation is done, will it dictate the need for a retaining wall?

Trustee Walrath: The retaining wall is because of concern for a tree.

Village Manager Hess: There is going to have to be an evaluation whether that tree is significant enough to build a retaining wall to keep it. The cost of a retaining wall may be not worth saving the tree. We can mitigate it by other means.

Mr. Forbes: In the original plan the park was no different than what it is now. It was just rolled back slightly. The hill and the slope would remain at about the same level. What he has suggested is more leveling off to improve the views, which is something we may or may not do, but is not necessary for the addition or for the other improvements to the library.

Trustee Jennings: For the purposes of our decision tonight we need to go forward with this resolution. It is not as if we are giving them a blank check. There is going to be plenty of opportunity to discuss, and approve, the specifics. These are not considerations that should postpone our decision, but rather things that we could expect to be handling in the future.

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 approve and authorize the addition to the Hastings-on-Hudson Public Library in Fulton Park pursuant to §295-81 of the Hastings-on-Hudson Zoning Code.

ROLL CALL VOTE	AYE	NAY
Trustee Michael Holdstein	X	
Trustee David Walrath	X	
Trustee Bruce Jennings	X	
Trustee Marjorie Apel	X	
Mayor Wm. Lee Kinnally, Jr.	X	

Mayor Kinnally: Thom, perhaps your board can bring us up to date on timetables to give us an idea of where we are in the project.

Mr. Forbes: We certainly will. I would like to express the Board's appreciation. I do not think the public knows just how proactive the Village Board and the Mayor and the Manager have been in this project from the very beginning in terms of guiding it and helping us enhance a project that I think will be a jewel of a community hub as well as a library resource for many decades.

42:01 GEOGRAPHIC INFORMATION SYSTEM (GIS) CONTRACT

Village Manager Hess: This a contract between the Village and the County Office of Information Technology. They are providing a needs assessment and training to staff in the

GIS System. We received a number of proposals but felt that cooperatively working with the county was to our long term benefit. They were also the lowest price.

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

RESOLVED: that the Mayor and Board of Trustees authorize the Village Manager to sign a contract as attached with Westchester County for a Geographic Information System (GIS) User Needs Assessment and Implementation Strategy beginning 5/01/01 and ending 4/01/02 for \$9,600.00.

ROLL CALL VOTE	AYE	NAY
Trustee Michael Holdstein	X	
Trustee David Walrath	X	
Trustee Bruce Jennings	X	
Trustee Marjorie Apel	X	
Mayor Wm. Lee Kinnally, Jr.	X	

43:01 2001-2002 TAX WARRANT

Village Manager Hess: As a requirement of state law the Board of Trustees, which has set the tax rate for the 2001-2002 budget, must now adopt and direct the Mayor to sign the Warrant so the Village Treasurer may collect the taxes.

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

RESOLVED: that the Mayor and Board of Trustees authorize the Mayor to sign the 2001-2002 Tax Warrant as attached.

ROLL CALL VOTE	AYE	NAY
Trustee Michael Holdstein	X	
Trustee David Walrath	X	
Trustee Bruce Jennings	X	
Trustee Marjorie Apel	X	

Mayor Wm. Lee Kinnally, Jr. X

44:01 SALARIES NON-UNION PERSONNEL

Village Manager Hess: The Board spent several sessions reviewing evaluations, staff, and comparable salaries for like positions in other communities. I commend all the staff that are included here who are not represented by unions, as are two-thirds of our employees, and who do an outstanding job.

Mayor Kinnally: I would second that. They are the face of the Village that everyone sees when they call up or when they come in with questions or problems. They run the Village on a day-to-day basis.

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

RESOLVED: that the Mayor and Board of Trustees establish the following salaries for non-union personnel effective June 1, 2001:

Chief of Police	\$111,300
Police Lieutenant	\$ 90,100
Superintendent of Public Works	\$ 80,000
Building Inspector	\$ 52,000
Deputy Village Manager/Village Clerk	\$ 70,500
Deputy Village Treasurer	\$ 39,000
Supt. of Parks and Recreation	\$ 69,250
Senior Recreation Leader	\$ 37,000
Director Youth Services	\$ 62,500
Building Dept. Office Assistant	\$ 43,900
Secretary to Village Manager	\$ 44,350
Payroll/Personnel Clerk	\$ 37,000
Court Clerk	\$ 30,900
Assistant Court Clerk	\$ 20,750
Recreation Assistant	\$ 27,100
Recreation Secretary	\$ 26,500
Parking Enforcement Officer	\$ 22,500

ROLL CALL VOTE	AYE	NAY
Trustee Michael Holdstein	X	
Trustee David Walrath	X	
Trustee Bruce Jennings	X	
Trustee Marjorie Apel	X	
Mayor Wm. Lee Kinnally, Jr.	X	

45:01 AWARD OF BID - PLAYGROUND EQUIPMENT

Village Manager Hess: In our major bond last year \$150,000 was for upgrade and renovation to certain parks. Two of those parks are Zinsser and MacEachron. We worked extensively with a citizens' committee to develop designs for the parks. Based on those designs and these bids, I recommend approval.

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

RESOLVED: that the Mayor and Board of Trustees award the bid for playground equipment to Pat Corsetti, Inc., Mamaroneck, New York as follows:
MacEachron Park: \$54,800; Zinsser Park: \$40,675

ROLL CALL VOTE	AYE	NAY
Trustee Michael Holdstein	X	
Trustee David Walrath	X	
Trustee Bruce Jennings	X	
Trustee Marjorie Apel	X	
Mayor Wm. Lee Kinnally, Jr.	X	

46:01 ADOPTION OF LOCAL LAW NO. 2 OF 2001-TEMPORARY MORATORIUM

Mayor Kinnally: This is draft No. 2 dated April 19, 2001. We held a Public Hearing on this and referred the matter to the Zoning Board of Appeals for recommendation. The ZBA met once, but they had to re-meet. I have a memo from Marie Oelkers, the Zoning Board of Appeals secretary, stating: "The Zoning Board of Appeals on Monday, May 21, 2001 had a Special Meeting regarding the above-referenced matter. The Board voted 2 to 2."

We are also in receipt of a letter from the Westchester County Planning Board stating that they have "reviewed this matter under the provisions of General Municipal Law and the County Administrative Code, and find that there are no county or intermunicipal issues of concern to the Planning Board. We point out that moratoria should be enacted with specific intent and purpose and should not extend beyond a reasonable time frame. The proposed moratorium appears to be consistent with these criteria. A Local Law refers to the Community Vision for Comprehensive Planning and Strategic Action Plan that was recently accepted by the Village Board of Trustees. We respectfully request a copy of this document for our files," signed Edward Burroughs, Assistant Commissioner.

Mr. Hess, I assume you will send a copy of the Vision Plan to the county. I thought they had already gotten it.

Village Manager Hess: They have gotten several copies.

Mayor Kinnally: We had discussion on this point, as to whether or not we should amend the law dealing with an exception for any application involving the renovation or rehabilitation of an existing building or structure provided that the application does not involve a change in use. The Board asked counsel to draft it. It was the subject of a Public Hearing, although nobody really discussed it. I open it up for discussion.

Trustee Apel: I am concerned about putting that in. It is giving carte blanche at a time when the moratorium is in place to take a look at everything that is going on in the area. They could decide to rehabilitate the outside of the building, and do all sorts of things with it, and at the same time it may not be in line with those that are studying the moratorium and what is going on down there. Since it is covered under a waiver, it would give an opportunity for some guidelines and to see exactly what was planned.

Trustee Jennings: I would like to give more thought to what Trustee Apel just said. I have another point regarding Section 4. We have received some feedback, although not much

content, from the Zoning Board. Have we been in contact with the Planning Board? I assume they are agreeable to undertake the responsibility this law is giving them for handling the appeals for a waiver. That could be a time consuming process, so I want to make sure they were in agreement with it. Trustee Apel's point was that if there was good reason for something like what Section 3-C tries to provide for that it would be possible to handle it under the Planning Board waiver process. That may be true, but we are setting forth no criteria and giving no guidance to the Planning Board in terms of what they can waive and what they can deny.

Mayor Kinnally: It has to be consistent with the Community Vision Plan for the Ridge Street recommendations and with the proposed amendments to the Zoning Code. There is some guidance in Section 4. They are not doing it without reference points.

Trustee Jennings: But there is no guarantee that if someone wanted to do an interior renovation they would be granted a waiver for it. There is quite a bit of difference between putting it in as 3-C, which says that they will be granted it, and letting it be handled under 4, which without any criterion written into the law does not guarantee what the Planning Board would do one way or another.

Village Manager Hess: The difference between 3-C and 4 is the key words "change in use" in 3-C. There may be in the Central Commercial District inappropriate uses determined by the Planning Board through the Vision Plan or the Downtown Study. To renovate as long as there is no change in use, they are contemplating that there are going to be some recommendations for changes in use in certain type of businesses.

Trustee Apel: So, if the object of this moratorium is to discuss changes in use, then they may want to make a change in use.

Village Manager Hess: Exactly. That is why 3-C should not be included, and use 4 as the waiver provision. If someone feels that it is an undue hardship, as long as it is consistent with the recommendations of the Vision Plan they can approve the hardship. There are some uses in the downtown that the Planning Board does not feel are appropriate. Even our Zoning Code recognizes that those uses are now non-conforming. The moratorium is to make recommendations to modify the Zoning Code to reiterate some of the items, such as residential above stores and retail establishments at ground level as opposed to gas stations, garages, etc.

Since there is a waiver provision, no one should be hurt who wishes to propose something in the downtown. If someone acquires a building and wants renovate the apartments, that is perfectly applicable to the waiver. But if there is no residential above a store now, and 3-C was there, that would be changing the use to a residential, and it would not be permitted under the moratorium. This way, without 3-C, they could go directly to the waiver.

One other item you may wish to consider, and you may have to refer back to counsel and not act on this tonight, does the Planning Board have the right to set up an administrative review procedure as opposed to a Planning Board review procedure? The summer months can be difficult for people if they have to wait 30 days to appear before the Planning Board to apply for a waiver. Maybe there is a preliminary administrative review procedure that could be done, and a recommendation made to the Planning Board, so someone who applies for a waiver does not have to wait 60 days or 90 days before they get an answer.

Mayor Kinnally: I wanted C in there, at least as an alternate to be considered, and I am not sure, the way it is drafted now, it addresses what I wanted done. Or maybe it cannot be worded to address what I want done and to avoid some of the pitfalls that an open-ended exception would bring with it. The issue of delegation to an administrative body versus the Planning Board: are you suggesting that it would be done by an administrative agency with a recommendation that would still have to be passed on by the Planning Board?

Village Manager Hess: I would think so. We could do an administrative review first, and set up a specific date for the Planning Board to review it. I am trying to streamline it a bit, so if someone has a legitimate waiver request, they are not held up.

Village Attorney Murphy: The way that the waiver Section 4 is written, you are talking about the Board's exercising its reasoned discretion. There is a general prohibition in law about delegating that to any other body unless it is specifically mentioned. As an initial view, I believe a delegation at this point would be impermissible.

Mayor Kinnally: But it would be a delegation not to make a decision but to make a recommendation to the Planning Board.

Village Attorney Murphy: To the extent that the recommendation may impinge upon the discretion of the Board can be problematical.

Mayor Kinnally: So your suggestion is that we send it back for a little tinkering.

Village Attorney Murphy: That is my suggestion. I believe it would be safer and a more reasonable course.

Village Manager Hess: The date we had the Public Hearing was early May; that is when the 62 day effective moratorium started anyway. If we held it over until June 5, we would still be within the 62 days. The Planning Board, by this legislation, may already have the authority to delegate an administrative procedure. I would like counsel to look at that. If there is a way we can have a review to pass on to the Planning Board for consideration of a waiver, then I think we can avoid some of the cost to the applicant and some of the timing involved in that.

Mayor Kinnally: I am going to ask counsel to readdress 3-C. If she cannot readdress it, I am going to ask her to drop it. But let us see if she can come up with some other language to deal with my concerns. I am trying to avoid not permitting changes that will require a building permit but are minor such as expanding a bathroom or kitchen.

Trustee Holdstein: I understand an apartment reconfiguration, but what if somebody right now is selling shoes and wants to reconfigure it to sell apparel or CD's or books, but requires a major overhaul inside. It is still a retail store selling a commodity. Where does that fit in this plan?

Mayor Kinnally: I do not know. That is not something that I was looking at.

Trustee Apel: The way C is written is just too broad.

Mayor Kinnally: I think we have consensus that they have to re-tinker it.

Village Manager Hess: Maybe you set it at a dollar value.

Trustee Holdstein: We are trying to create a six-month moratorium. We are not talking about two years and three years. Six months will go by quickly.

Trustee Walrath: And there is the waiver route.

Trustee Jennings: The waiver route given the timing of it seems to be likely not a route at all. The six months will go by, and something will not be done. I guess I am just looking at it from the point of view of the situation of a landlord and a tenant, and the landlord wants to make some improvements. Why should we pass a law that makes the tenant wait six months? It is not clear to me that we need to do that in order to accomplish the planning development purposes. There is some logic to putting it as an exception under Section 3, if it can be worded in such a way that it would not open the door to something that would subvert the purpose of the law.

Village Manager Hess: A different example is a nonconforming use. During this moratorium period, under that exception if they wish to renovate and they are not changing the use, although it is nonconforming, they would be allowed to do it. That may be outside the realm of what the Planning Board or the Zoning Code or the Board contemplates.

Mayor Kinnally: Perhaps the suggestion that there be a dollar limit solves some problems because it keeps the scope of whatever change is going to occur, either interior or exterior, within reason.

Trustee Walrath: Do we know whether we have any outstanding building permits and what they consist of on A? And on B, are sign ordinances not likely to get changed in any way by the investigation?

Mayor Kinnally: No. They are looking at certain changes to the sign ordinance. When you say are there any building permits pending, do you mean applications for building permits or building permits that are extant and people are operating?

Trustee Walrath: Where final site plan approval has already been granted. Is there anyone that applies to? If there is nobody, maybe we do not need it.

Village Manager Hess: What it is saying is, for a period of six months no application for building permits, special use permits, site plan approval, subdivision approval, or various others in the properties in the area designated in the Section shall be accepted or acted upon except for an application for a building permit where final site plan approval has already been granted.

Trustee Walrath: If there is nobody in the category why do we need it?

Mayor Kinnally: It may happen between now and then.

Village Manager Hess: If you want to make it more restrictive, you will have to come back and have another Public Hearing.

Mayor Kinnally: Do I have a sense of the Board that we want to table this, and ask Marianne to tighten it up?

Trustee Walrath: The only thing we can drop out, then, is C.

Village Attorney Murphy: You do not have to consider C. You can make it less restrictive. You do not to re-notice and hold Public Hearing. If you make it more restrictive, you must re-notice.

Trustee Walrath: We are as much looking at the sign ordinance as any other part of the Zoning Code. Do we want people to erect signs during this moratorium that will not be consistent with what we are going to come up with in the new zoning?

Village Manager Hess: I do not believe that the consultant services include signage recommendations. The ARB has been looking at it to recommend some changes, but not under this moratorium.

Trustee Apel: Could we find out for sure?

Mayor Kinnally: We can find out for sure.

On MOTION of Trustee Jennings, SECONDED by Trustee Apel Resolution 46:01 Adoption of Local Law No. 2 of 2001 was TABLED.

ROLL CALL VOTE	AYE	NAY
Trustee Michael Holdstein	X	
Trustee David Walrath	X	
Trustee Bruce Jennings	X	
Trustee Marjorie Apel	X	
Mayor Wm. Lee Kinnally, Jr.	X	

VILLAGE MANAGER'S REPORT

Village Manager Hess: The Spring Thing is June 16 from noon to 6 in the downtown. There is going to be live entertainment all day at various locations.. We have a number of new things that will be happening, and it looks very exciting. More merchants than ever before have signed up to participate, which is good news.

The Historical Society's annual meeting June 10 promises to be exciting for those of us who like antiques. They are doing an Appraisal Day prior to the meeting. Members of the Society gets their appraisals for free, and non-members pay \$5 per item. It promises to be a very exciting day at the Conservatory Cottage in Draper Park.

The last item I am going to turn over to Deputy Village Treasurer/Technology Director Raf Zaratzian. He has been exploring a new option for communication within the Village.

Rafael Zaratzian, Dep. Treasurer/Tech. Dir.: What we are looking at here is a moving forward in technology. Those of us who are department heads, and who work in certain aspects of Village government, have been given pagers. We currently pay about \$15 a month per pager. We were able to, under a state contract, get Nextel phones for \$14.18 a month.

Village Manager Hess: The phones are free.

Mr. Zaratzian: We had to do this by the May 18 to take advantage of a two week promotion. We did a pre-order with, hopefully, your approval tonight on this proposal to move ahead and change over from pagers to these wireless devices (they are not exactly cell phones). We will not be using the cell phone part of it. We will be using the walkie-talkie feature. The great thing is that we can get in touch with department heads and staff members if they are in the city, if they are upstate, and if they are in Massachusetts or Connecticut. We would like permission to go ahead with this contract.

Mayor Kinnally: This is an interesting proposal because we are getting more for less. Immediately suspect. There is something wrong here.

Mr. Zaratzian: That is what is great about the state contract.

Village Manager Hess: Nextel is trying to induce us to use the cellular component of it after the fact; it is more convenient to use the Nextel instead of having both that and my AT&T phone. From the standpoint of communication within the departments, we have had power outages because of storms and even our radio system went out because the aerials p at Andrus went out. If we had this system in place we would have instant communication with the police and they would have had communication. Raf recommended, and I agreed with him, to order some additional phones for such emergencies that we could distribute to patrol cars if necessary. We already have some staff members that have Nextel cellular phones. They use their two-way radio frequency, and we can communicate with them with their Nextel phone as long as we have the appropriate codes. They can be added to our network. So there are a number of advantages, Raf has pointed out, with this system. I find the phone a little bulky, but...

Mr. Zaratzian: It is made for heavy-duty use.

Mayor Kinnally: Do you have to have it on all the time, or is there a voice-mail feature?

Mr. Zaratzian: We can add a voice-mail feature for an additional \$3 a month. But if not, there are various ways of calling a number, leaving a page, and when you turn the phone back on it will say you have a message. It gives the numerical phone number to call back.

Trustee Jennings: So the voice-mail is not necessary. You have the same information.

Mr. Zaratzian: In most cases it will not be, but in certain cases we did allow the Recreation Department to use one of their pagers for an announcement of closure and changes in schedules. If the Village Manager thinks it is appropriate, we may consider that same option for that department again.

Mayor Kinnally: What is the battery life on a charge?

Mr. Zaratzian: I think they said it is two-and-a-half days. They threw in a leather case, car chargers, plug-in transformers, and software to program each phone. I was surprised at how good a deal this was because we priced Nextel phones several months ago and the cost of ten phones was \$500 a month. This state contract came through, and they approached us and asked if we were interested. Various other communities in the area have it. We can get their ID numbers and communicate with them.

Trustee Holdstein: We currently have our department heads on a paging system. You can page Mike Gunther at DPW. He gets a page beep. He calls you.

Mr. Zaratzian: He has to find a phone and call me back.

Trustee Holdstein: With this new piece of equipment are you dialing a number as if you are dialing a phone call to page somebody or are you pressing a button and talking?

Mr. Zaratzian: Each account has an individual ID number. You enter it into the phone and you go into a private, two-way communication mode. You press the button on the side of the unit and it calls out to that person. If they are available they will respond. They will get an alert, and contact you back. We will have it pre-programmed so you can scroll through the names until you find the person. I was talking to Mike Gunther this afternoon while he was working on Farragut Avenue, and it was a free call.

Trustee Holdstein: You are looking at 21 units and the total cost is the \$297. Is it unlimited minutes?

Mr. Zaratzian: No, we are not doing unlimited. We currently have 1,050 minutes per month for all phones. But, again, these phones are not going to be used on a daily basis to replace phones. They are to be used in the field out of the office. We are not getting rid of our phone system. We are using these as an added feature.

Trustee Holdstein: But with 21 phones you will not know right away how much usage is going on, and we could get a surprise bill of 2,000 minutes, for example.

Mr. Zaratzian: We are going to start off slowly and see how we go.

Village Manager Hess: Each phone can be monitored as to its usage.

Trustee Holdstein: Are these programmed to block, so that a conventional call cannot be made?

Village Manager Hess: Right. They cannot do it.

Mr. Zaratzian: That is why we need the software, so I can program in only certain keys.

Trustee Jennings: I assume that some Village employees use cell phones but the Village is not supplying them with that now. That is a personal expense. So this is not going to be used as a cell phone. It will be given to the employees as a public tool, at public expense, and if they want to make phone calls out in the field they use their own private cell phone.

Mr. Zaratzian: That is correct.

Mayor Kinnally: The sense of the Board is to ratify it.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: Counsel Mark Chertok, Trustee Walrath and I met with ARCO, ARCO's counsel, and our engineering consultants to discuss some ideas that ARCO had for remediation on the site. It was a prelude to a larger meeting that was held on Friday with staff of the DEC. We listened to some ruminations by ARCO and in turn we listened to stern statements from the DEC about what was needed to get the remediation under consideration. The DEC is about two weeks away from filing comments on the FS. The DEC is unhappy with the alternatives that were submitted and the rationale underlying the non-consideration of some of the alternatives for remediation. They expect ARCO to fully flesh out the reasons why certain areas of remediation, like removal, are not being considered. As they said, simply saying it is too expensive is not good enough. They have to detail the costs, the engineering components, whether or not it is feasible, why the alternatives should not be considered.

ARCO also discussed their plan for bulkheading of the site, which would continue the bulkheading that was started in the southern end of the site. There were discussions on Wednesday about how some of the pressure on site would be relieved through openings and mesh. That turns out not to be the case. They are probably going to design a holding system on site rather than having it move in and out off the site into the river. There will be no ability for water to penetrate, either from the river onto the site or from the site into the river when the bulkhead is in place. They talked about isolating the entire northwest portion of the site without doing any excavation. The DEC was less than receptive to that and told them to go back to the drawing board. I would expect that we are not going to have anything of substance until the fall.

Trustee Walrath: When are we ever going to see anything?

Mayor Kinnally: They expect the data to be completed within the month, I believe.

Village Manager Hess: We were pleased how tough the DEC was at this meeting. I think we can safely say that they are not about to back down.

2. Andrus

Mayor Kinnally: I received a call from Henriette Cole, head of Beth Abraham, asking if I would meet with them and counsel to Andrus to talk about process. I think they want to lobby me to move it along so I said I will listen. I do not want to talk about the PILOT. The discussion will be process, meaning not talking about any of the substance of other elements that are coming before the Board of Trustees. Prior to even discussing the meeting I had told them about timing, and what the Village Board had done, and that the likelihood of this moving forward on their time table was slim and none.

Trustee Apel: I would reemphasize to them if they think they are going to discuss anything else with you at the time that they cannot. They need to come before the Board if they want to discuss anything.

3. Affordable Housing Set-Aside

Trustee Walrath: There was one thing I recall in the work session that was not reflected; I still hope it might be. I did not like that step arrangement, where you jumped. I would like to see it set up so that it slides. We do the 10%, and when we get up to 15 we suddenly round it off to 2. I see problems in that; nobody will ever build 15 units. I would rather them build what would be natural to the site, and we have a sliding scale: for 20, you owe two units; between 20 and 30, you pay in some money that would be proportional. So when you get to 30 units, then you kick in a third unit. This would ensure that they build what makes sense on the property rather than what we force them into doing with the steps that we have.

Village Manager Hess: Maybe David would want to meet with the Affordable Housing Committee tomorrow night to explain that.

Trustee Walrath: I think it is going to lead to bad proposals we would rather not see.

Trustee Holdstein: The issues confronting this village are less about the money and more about the units. I do not want to give up units for cash when we really need the units. Also, I have never known this village to look at a piece of property that could conceivably hold 18 units that is suddenly only going to hold 14, and the Village would say we want more units rather than less. So from the standpoint of shortchanging a particular site with a number of units, there is a trade-off. We would lose somebody bumping up one more affordable unit. But at the same time a little less density in a project is not the worst thing. I do not have a problem with a set figure.

Trustee Walrath: The other side to that is they may be pushing for more, and looking for every way to pack more units in to get up to 14, when maybe it should have only had nine, or something like that. There is a way to accomplish the other. I am trying to use cash to make it a continuous thing instead of the steps because the steps are going to lead to planning that might not always be desirable. Maybe you can convince me that the Planning Board might handle the subdivision in such a way that we always come up with the units that are best for us.

4. Other

Mayor Kinnally: The Firemen's Carnival and the parade were absolutely wonderful. Protection was at the forefront of this and did an incredible amount of work. As usual, the Village Board took responsibility for, and delivered on, the weather. Really, it was a team effort. If you see what goes into these things, you have to marvel how well they come off. Hats off to them and to all the people in the community: to walk up Warburton Avenue and to see the throngs of people was tremendous. I thank everyone for coming out. I thank the Fire Department for doing an incredible service for the community.

EXECUTIVE SESSION

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

ADJOURNMENT

On MOTION of Trustee Holdstein, SECONDED by Trustee Jennings with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 11:40 p.m.