

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
JULY 17, 2001

A Regular Meeting was held by the Board of Trustees on Tuesday, July 17, 2001 at 8:10 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Wm. Lee Kinnally, Jr., Trustee Michael Holdstein, Trustee David Walrath, Trustee Marjorie Apel, Village Manager Neil P. Hess, Deputy Village Attorney Ed Lammers, and Village Clerk Susan Maggiotto

ABSENT: Trustee Bruce Jennings

CITIZENS: Two (2)

APPOINTMENTS

Mayor Kinnally: The first item is the announcement of the appointment of Maureen Cole to the Ethics Board. Richard Wines has resigned because he has moved from the Village, and I thank Richard for his years of service and welcome Maureen to the service of the residents of the Village on the Ethics Board.

Village Manager Hess: Her term will expire in 2005.

APPROVAL OF MINUTES

On MOTION of Trustee Holdstein, SECONDED by Trustee Walrath with a voice vote of all in favor, the Minutes of the Public Hearing of June 7, 2001 were approved as presented.

On MOTION of Trustee Holdstein, SECONDED by Trustee Apel with a voice vote of all in favor, the Minutes of the Public Hearing of June 14, 2001 were approved as presented.

Trustee Holdstein: Page 19, Trustee Holdstein: "I am pleased that we are at long 'last' moving this process..."

On MOTION of Trustee Holdstein, SECONDED by Trustee Walrath with a voice vote of all in favor, the Minutes of the Regular Meeting of June 19, 2001 were approved as amended.

APPROVAL OF WARRANTS

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

Multi-Fund No. 6-2001-02 \$253,357.88

Multi-Fund No. 7-2001-02 \$216,707.74
Multi-Fund No. 9-2001-02 \$ 3,596.12
Multi-Fund No. 10-2001-02 \$ 82,774.53
Multi-Fund No. 11-2001-02 \$101,410.04
Multi-Fund No. 12-2001-02 \$256,321.59
Multi-Fund No. 13-2001-02 \$ 86,812.17
Multi-Fund No. 14-2001-02 \$ 33,400.00

54:01 - LOCAL LAW NO. 3 OF 2001 - AFFORDABLE SET-ASIDE

Mayor Kinnally: The law is the result of Public Hearings and the incorporation of comments received in those Public Hearings and subsequently from members of the public, other interested parties, boards, commissions, and members of the Village Board.

Village Manager Hess: Based on Public Hearing input, several changes were made. The Hastings-on-Hudson Affordable Housing Fund Co., Inc. will be the organization to require the annual certification of affordability. They have already put into place such a certification on projects of less than 10 units. The Chair of the Affordable Housing Fund agreed that they would be the appropriate body.

Under C, the last sentence says: "The Planning Board 'shall...'" The original wording was "may," so now it is a "shall." They do not have discretion. "Or" was added after Number 1, which gives them the flexibility to require combinations of each of those items.

The Deputy Village Attorney indicated these changes would not require an additional Public Hearing.

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 adopt Local Law No. 3 of 2001 providing for Affordable Housing Set-aside in Residential Developments Containing More than Ten Dwelling Units as follows:

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

The Zoning Code of the Village of Hastings-on-Hudson is hereby amended to add the following new section after § 295-112:¹

§ 295-11__ Affordable Housing Set-aside.

A. Set-aside Requirement. Before the Planning Board may approve a site plan for a residential development containing more than 10 dwelling units, whether in single-family, two-family, or multi-family buildings, such site plan shall show affordable housing units as follows:

1. Ten percent of all units in such development shall meet the definition of an “affordable housing unit” as set forth in the DEFINITION section of the “Affordable Housing Policy for the Village of Hastings-on-Hudson,” adopted June 17, 1997.

The required number of units shall be calculated as follows:

If 10 to 14 units are built, 1 of them must be affordable.

If 15 to 24 units are built, 2 of them must be affordable.

If 25 to 34 units are built, 3 of them must be affordable.

If 35 to 44 units are built, 4 of them must be affordable.

Etc.

2. Affordable housing units shall generally be distributed evenly throughout the development, although the Planning Board may use discretion in reviewing and approving distribution.
3. The exterior appearance of affordable housing units shall not distinguish them as a class from other units.
4. Affordable housing units shall be distributed among one-, two-, three-, or four-bedroom units in the same proportion as all other units in the development, unless a different proportion is approved by the Planning Board as being better suited to the housing needs of the Village.

B. Administration.

¹ This section is included in Article XII, Site Plan Approval.

1. Multi-family rental buildings
 - a. The owner of any multi-family building subject to this section shall annually certify to the satisfaction of the Hastings-on-Hudson Affordable Housing Development Fund Co., Inc. that the requisite number of affordable rental units have been rented to income eligible tenants as determined pursuant to the Affordable Housing Policy for the Village of Hastings-on-Hudson and that any new tenants of the affordable units meet the income guidelines in effect when said new tenants take occupancy. Annual certifications shall include unit designations and occupant names and shall be signed by the owner of the building and a certified public accountant.
 - b. The deed to a multi-family building subject to this section shall include a restriction requiring that any subsequent owner of the building meet all the requirements of this section.
2. Sale of individually owned affordable housing units. The deed to any individually owned affordable housing unit shall include a restriction that the unit must be sold to an income eligible person, as determined pursuant to the Affordable Housing Policy for the Village of Hastings-on-Hudson, and may not be sold for an amount greater than the original purchase price paid by the owner increased by: (a) the Metropolitan consumer price index (CPI) from the date of original purchase to the date of sale, (b) the cost of purchasing and selling the unit, and (c) the value of fixed improvements legally made by the owner.
3. The Village Board shall be responsible for the affordable housing requirements of this section and shall have the authority to promulgate such rules and regulations as may be necessary to implement them.
4. The Village Board may designate such additional person(s), authorities, and procedures as necessary to monitor compliance with the provisions of this section.

- C. Alternatives to set-aside. Where the Planning Board determines that the required number of affordable housing units cannot be located in the site plan applicant's development, the Planning Board shall:
1. Require the applicant to construct the affordable housing units at another location in the Village, or
 2. Require the applicant to pay a fee equal to the cost of developing the required number of affordable housing units into a Special Affordable Housing Fund.
- D. Applicability. This law shall not apply to any residential development that has received site plan approval prior to the effective date of this local law.
- E. Tax assessment. The limited sales value of affordable housing units shall be taken into consideration by the Village Assessor in determining the basis for assessment on such units.
- F. Effective Date. This law shall take effect immediately upon filing with the Secretary of State.

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

55:01 - TREE REMOVAL AND RESTORATION GUIDELINES

Mayor Kinnally: This is the result of input from the Conservation Commission, comments on earlier drafts, and comments at public meetings. I believe it incorporates all the concerns and the comments.

Village Manager Hess: The change from the original regards the proposed penalty of 150%. We were advised by our attorney that we cannot have a penalty provision in a policy; the penalty provision will have to be amended in our law. The Chair of the Conservation Commission has indicated they are looking at other changes to the law that they are going to

recommend to the Board, and they will incorporate everything and will get recommendations back to us.

Trustee Walrath: I do not understand in I - Tree Removal: "Subject to Section 273-4...and except for circumstances set forth in the following paragraph ('Tree removal in case of immediate threat')." Do we have a paragraph that is titled "Tree removal in case of immediate threat?"

Mayor Kinnally: Section 273-10 of the Code.

Trustee Walrath: My question is, what circumstances would we want to *not* remove the trees "in a safe a responsible manner, respecting the rights of immediate neighbors and public..." which is the way I read that.

Village Attorney Lammers: I think you do not have to go through all the steps that you would pursuant to the new Section in case of emergency.

Mayor Kinnally: You do not have to make application in the same fashion that you would, and give the notification.

Trustee Walrath: I do not mean anything about the contents of steps you do not have to go through. But I parse this as being you don't have to (under the circumstances set forth in the paragraph) remove the trees in a "safe and responsible manner, respecting the rights of immediate neighbors and the public at large." I would like that straightened out before we vote on it.

Village Manager Hess: Instead of tabling it, why do you not move to remove it from the agenda and send it back to the Conservation Commission for next time.

On MOTION of Trustee Walrath, SECONDED by Trustee Apel with a voice vote of all in favor, Resolution 55:01 was removed from the agenda.

56:01 - TRAFFIC SAFETY GRANT

Village Manager Hess: This grant is specific in terms of safety equipment for children– safety belts–to pay for overtime for the Selective Enforcement Program. It is a good program and I recommend approval.

On MOTION of Trustee Holdstein, 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 execute an intermunicipal agreement with the County of Westchester for a Selective Enforcement for Traffic Safety Grant in the amount of \$3,000.00.

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

57:01 - POOL RENOVATIONS

Village Manager Hess: This recommendation is the result of many months of work by a citizens' pool committee and members of the Parks and Recreation Commission meeting with a number of consultants and narrowing it down to three finalists. They recommended Ward Associates from Bohemia, New York to the Parks and Recreation Commission, and the Parks and Recreation Commission voted to recommend to the Board that Ward Associates be hired. You received a copy of his entire proposal and the standard AIA contract. It is similar to the agreement with Lothrop Associates on the library. Where we differ in the same position that the Board took with Lothrop, on page 6 of the contract it would be 10% of the cost of construction. I would recommend that be modified to indicate 10% of the cost of construction at a maximum cost of \$181,500, to give us a range, depending on what the bids come in at. We are putting a max on it, as we did with Lothrop Associates.

Mayor Kinnally: This proposal represents an evolution of a number of concepts that were discussed among the pool committee members. There were surveys taken and many discussions ensued as a result. This is one of the more comprehensive proposals that we have received; they identify the alternatives, so we have a good idea of what the possibilities are, and why we are not considering some of the possibilities for the indoor pool, having to do with utilization, feasibility, and, more importantly, cost. I commend the pool committee and Parks and Rec for coming up with this.

Trustee Apel: In the beginning he discusses the lighting; does the estimate given here include or not include the lighting?

Mayor Kinnally: Item T is a \$125,000 to \$150,000 item for that.

Trustee Apel: Can we find out what type of lighting that refers to. If it is in-pool lighting, would that not change the whole budget?

Village Manager Hess: It could change the budget, but it will not change the fee.

Mayor Kinnally: We are not dealing with the budget at this point.

Village Manager Hess: There is not yet a plan for the renovations. There should be a joint meeting between the Trustees and the Parks and Recreation Commission to give much more detail to Ward Associates and try to finalize some things before they go too far in terms of design. These were his overall suggestions, based on his discussions with the pool committee.

Mayor Kinnally: We have a ways to go before we agree on design and cost.

Trustee Walrath: I am looking for Article 12 that is referred to in Article 2.

Mayor Kinnally: Article 12 is page 8: "Other Conditions or Services. Reimbursable expense shall be billed at cost plus 10%."

Trustee Walrath: In the library contract, we had a referenced definition of what the project was. We also had a somewhat higher fee as a percentage. But is there a referenced definition? This was a very good proposal. We are clear what the job is within limits. There are still some open things, such as looking at underwater lighting.

Village Manager Hess: We have to do some soil work, because they talk about expanding the parking lot and relocating the kiddie pool, which would require going into the bank on the north side of the property. We have to get some preliminary soil borings done before we make any final decisions because that can make big differences in cost if we run into serious rock.

Trustee Walrath: You definitely think we have flexibility.

Village Manager Hess: The max I have put on is 9% of the \$2 million, not 10%. And \$181,500 is more than adequate to cover the cost.

Trustee Walrath: The \$2 million had the fee in it.

Village Manager Hess: Yes, of \$181,500. If the cost of construction, after bids, is \$2.2 million, it is still \$181,500. But if it comes in at \$1.7 million, his fee is \$175,000. That is similar to what we did with Mr. Lothrop, put a cap on it.

Trustee Walrath: He has hourly rates in here.

Village Manager Hess: That is for services over and above the design and construction documents phase. If he has to redesign, if for example we later wanted a heated pool, that would be an additional fee. That is fair.

Trustee Holdstein: So the fee we are agreeing to this evening is tied strictly to the construction costs? If it came in at \$1million, he would only get \$100,000.

Village Manager Hess: Right. But if we make changes after the designs are done, then he has a right to an additional fee.

Trustee Apel: So if the construction costs are much lower for whatever reason but he does additional work, he will get hourly rates above it even though that part goes down.

Village Manager Hess: Only if the work is outside the scope of the contract. I think the pool committee did a great job and I think his proposal reflected his meetings with them.

Mayor Kinnally: Neil, are you comfortable with this?

Village Manager Hess: Yes, I am.

Mayor Kinnally: Subject to the cap on Article 11, as Neil mentioned, on page 7.

Village Manager Hess: I will modify the contract, sign it, and mail it back to him.

Mayor Kinnally: Subject to that, do I have a Motion?

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 Ward Associates, P.C. to provide design/engineering services for the renovations to the Julius M. Chemka Pool for a fee not to exceed \$181,500 to be appropriated from the Pool Fund.

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

58:01 - PROPOSAL - SURVEYS

Village Manager Hess: We sent out RFP's to a number of surveyors in the county to receive bids on these three items. We need a topographic survey at Riverview Park for the additional \$25,000 granted from the county for that park. We need a survey for our current project for the renovation of the Community Center and the feasibility study underway now. Graham Windham property: we need a survey for the state and the foreclosing on the property. Graham will be contributing \$6,000 toward the survey.

Trustee Walrath: On Graham, I understand that the county is going to have maps with 5-foot contour intervals available in a digitized form. If this fee is based on doing a contour map, I question whether we need a closer contour.

Village Manager Hess: Two full contours are a county requirement.

Trustee Walrath: Have you discussed with the surveyors whether they are counting on having 5-foot contours available? It might simplify their work.

Village Manager Hess: No, we sent them the county requirements.

Trustee Walrath: Perhaps their work would be made easier if they have the 5-foot contours.

Village Manager Hess: Let me double-check on that. Why don't we authorize this tonight. If it changes to a 5 feet contour, I will ask him to give us a separate proposal.

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

RESOLVED: that the Mayor and Board of Trustees accept the proposal of Roland K. Link, P.L.L.C. for the following surveys: Graham Windham Property, \$12,000.00; Riverview Park, \$2,100.00; and James Harmon Community Center, \$1,800.00, to be appropriated from the General Fund.

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

EXECUTIVE SESSION

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

VILLAGE MANAGER'S REPORT

Village Manager Hess: I want to point out what a great job the Parks and Recreation Commission did over this past weekend with Hastings Weekend. It was very well attended. The arts and crafts fair, the pony rides, the concert on Saturday night, and the senior pool party sponsored by the Board on Sunday were well attended and went very well. Parks and Recreation and the staff should be commended.

I have received a preliminary draft of the survey of stairways and sidewalks through the Village. The Village Attorney's office has undertaken a title search on the Dock Street and Zinsser Bridges. It may be necessary to get title searches on these stairways also. The Board will receive the sidewalk analysis in September.

The county Health Department did inspections of our pool and day camp facilities and we received Grade A scores in both. They received no negative comments in those two programs. We congratulate Tara Conte at the pool and the pool staff, and Karen Gunther at

the camp. I have received copies of many e-mails complimenting the day camp program and staff this year.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: I made inquiry of Sandy Stash at BP/ARCO as to what progress, if any, has been made in moving forward with the demolition of some of the buildings opposite Building 15 this year, and I have not received a response. I will follow through on that, and pass along any information.

2. Marinello Cove

I am in receipt of a letter from two of the owners of the Marinello property, indicating that they would be interested in continuing discussion with the Village. One of them indicated that she was favorably disposed toward conveying the property to the Village without having to go through condemnation. I am hoping to do that in the early part of August.

3. Austin Avenue/Target

Mayor Kinnally: The Board is in receipt of correspondence from the Town Supervisor requesting a joint meeting with the Town Board to receive our comments to a proposed settlement of litigation that the Town of Greenburgh has brought involving the Target complex on Sprain Road.

"Members of the Greenburgh Town Board would like to invite you to a joint Town Meeting on a Tuesday before July 23rd. (This is dated July 9, so it is only tonight.) The purpose of the meeting will be to discuss the proposed settlement with Yonkers, the Austin Avenue Developers, the County of Westchester, and the Village of Ardsley." (As you know, the Town filed a lawsuit to stop the construction of Target, a proposed development that could result in a new road being constructed.) County Legislator Tom Abinanti met with the Town Board, and we all agreed that I should provide you with an opportunity to help us make a decision whether or not the settlement would be appropriate."

We have also received correspondence from the County Attorney's office enclosing a proposal from engineers retained by the county dealing with alternatives for the possible extension of Stew Leonard Drive. The proposal was dated May 29, 2001, and addressed to the Westchester County Department of Pubic Works; however, it was received today by both

the Town and us. It sets out various alternatives but does not give any graphics or maps. I propose speaking with the Town Attorney, the Town Supervisor, and the City of Yonkers, telling them we need additional time.

Trustee Holdstein: Who is putting this forth and who has a right to say yes or no?

Mayor Kinnally: This was an alternative made part of the settlement of the prior litigation having to do with the opening of Sprain Road. One of the elements of the settlement is that the parties were to pursue the possibility of providing an alternate road to Sprain Road to the site, the cost to be borne by the developer. I sent a letter to the County Attorney saying that although we were not a party, I wanted to have a seat at the table. The Town Attorney has been keeping me abreast of the developments.

The alternative 1-A is to extend Stew Leonard to Route 9-A at Holly Place, with the four-way grade intersection at Austin Avenue. Alternative 1-B would extend Stew Leonard Drive to 9-A and Holly Place with an at grade T-intersection with Austin Avenue east of Stew Leonard Drive. Alternative 1-C would extend Stew Leonard Drive to Route 9-A at Holly Place with a bridge carrying proposed Stew Leonard Drive over Austin Avenue. Alternative 2 would extend Stew Leonard Drive to 9-A at Tompkins Avenue in Yonkers. Alternative 3 would improve the existing Austin Avenue.

What is not clear are what the interchanges would look like and what impact this would have on tying in the Saw Mill River Parkway with any of these extensions. This is going to affect our Village, so I am going to advise everyone tomorrow that we will need on site review and have quite a bit of input by the Village to whatever they are going to do.

Trustee Holdstein: What rights do we have in this?

Mayor Kinnally: This is going to have to be a full-blown SEQRA thing, so we are going to have plenty of input. Rights are something that will be determined.

Trustee Holdstein: The information that was provided at this juncture makes me upset that the Town is not properly keeping us in the loop.

Mayor Kinnally: The Town received this information from the county today. I cannot fault the Town for not giving us the information that they did not have.

Trustee Holdstein: This problem started many years ago when some of the parties involved gave away Sprain Road. To me, to this point, they are blundering again. I do not like the

deal they made for the settlement. I do not like the fact that they are looking to divert this traffic into our lap yet again. I am encouraging you that in your communication with the parties, you let them know that this is going to be a big issue for this village.

Trustee Walrath: One alternative I would have looked at would loop to the south, and then cut back toward the Saw Mill, staying completely within Yonkers and going through industrial areas.

Village Manager Hess: That would be an alternative to bring up during the scoping.

Mayor Kinnally: I do not know why it was not looked at but it was discussed early on.

Trustee Apel: At what point are we in this process and what influence can we bring to bear on this proposal?

Mayor Kinnally: It is simply a proposal that has been put together by a consulting engineer.

Trustee Apel: In your speaking with Paul Feiner, would you refresh his memory that a number of years ago, as part of the Greenburgh/Yonkers citizens coalition task force, a consultant was hired, and proposals were put together. There may be additional suggestions other than the ones proposed here.

4. Andrus Retirement Community

Mayor Kinnally: Trustee Apel has raised with me the possibility of extending the comment period on Andrus, and she has brought to my attention a provision of the Zoning Code that says that the Public Hearing should not be closed until recommendations have been received from both the Planning Board and the Zoning Board of Appeals. The ZBA has under consideration the current Zoning Code amendment proposal, and they are expected to report to us following their July meeting. The suggestion is to keep the comment period open. I would go along with closing the comment period once we receive the report from the Zoning Board.

Trustee Walrath: Wouldn't one of the purposes be to provide an opportunity for people to comment on the Zoning Board's comments?

Mayor Kinnally: No. The period would end when the Zoning Board files its recommendation with us. The Zoning Board's recommendation comes to us, and we take it under consideration.

Trustee Walrath: I was not talking about our reaction. I was talking about the public having an opportunity, once the Zoning Board's recommendations are public, to respond to them if they do not agree with them.

Mayor Kinnally: That would be to the Zoning Board. It would not be to the Village Board because we cannot do anything. The recommendation is whatever it is.

Trustee Walrath: If the public wanted to comment to us about the Zoning Board's recommendation, it might make sense to continue somewhat past the time that we receive the recommendation.

Mayor Kinnally: Why don't we leave the public comment period open until the August 14 meeting, and we will revisit it at that date?

On MOTION of Trustee Holdstein, SECONDED by Trustee Walrath with a voice vote of all in favor, the Board extended the public comment period on Andrus to the close of the Village Board meeting on August 14, 2001.

Mayor Kinnally: Individual members of the Village Board, with the exclusion of Trustee Jennings, have submitted written comments to the Village Attorney on proposed findings that the Village Board must generate. We have not shared those comments with our colleagues. The Attorney is coming up with a draft document that will be circulated among the Board. The proposed draft would not be circulated to the community, but the Board will have some discussions about some general concepts.

One of the first things the Village Board should do is to consider whether a CCRC is an appropriate use of the site, regardless of the particular development. That may be one of the things that are discussed at our meeting on August 14.

Trustee Holdstein: I may have to travel for business and not be here on the 14th. You had indicated the possibility of moving forward with discussion with just three members. I do not know how Marge and Dave feel about that: whether we should table it till September or move forward on it.

Mayor Kinnally: That is up to the other members of the Board, but I would hate to lose the opportunity to at least have some public discussion on it. This Board has not had any discussion yet. It may give us an opportunity to do that, or it may be an exercise in futility.

Trustee Walrath: I thought we were going to have a discussion tonight and that the discussion would be a basis for the Village Special Counsel making a first cut at findings. Then I understood that rather than that we were to just give our individual reactions to the Planning Board's findings.

Mayor Kinnally: There was a lot of discussion back and forth. What we do on the 14th will depend in large part in where the attorney is in coming up with a document.

Trustee Apel: I am hoping that Michael will be here. Can we find another date?

Mayor Kinnally: The following week is a possibility on the 21st.

Village Manager Hess: Would you hold a Special Meeting on the 21st just to discuss that and not change the entire Board meeting?

Mayor Kinnally: I do not want to change the meeting on the 14th.

PUBLIC COMMENTS

David Shapiro, 6 Amherst Drive: With respect to Mr. Chertok's request to the Trustees for submission of proposed findings, why would it be necessary to require the Trustees to submit this if they have not received the advisory opinion? What is the value of the report from the Zoning Board if the proposed findings have already been submitted?

Mayor Kinnally: These are not proposed findings but comments that the Village Board has submitted so the attorney can get an overview of how the Trustees feel about different elements that were addressed by the Planning Board. This was not solicited by the Village Attorney. It was just something that came together. It may be that 80-85% of the findings of the Planning Board are adopted by the Village Board. If so, he can start drafting and putting it in a form that will be sufficient for the Village Board to act on.

Mr. Shapiro: Why ask for these comments before the ZBA advisory opinion is in?

Village Manager Hess: The board has 62 days to have it. They are under legal requirements.

Mayor Kinnally: It is a work in process. It is not set in stone. Whatever we get in the way of additional public comments we can incorporate in anything we give to the Village Attorney.

Mr. Shapiro: In light of the resolution that was passed to extend the public comment period, what are we looking at during August?

Mayor Kinnally: We may consider Andrus at our Regular Board Meeting on August 14, depending on whether or not Trustee Holdstein is here. If not, then we would put it over to the 21st. But we would act on that at our Regular Board Meeting.

Julius Chemka, 8 Ridgedell Avenue: I am confused right now, from what I have just heard. It is going back to the Zoning Board. They are having a hearing on it. Is that right?

Mayor Kinnally: We have referred it back to the Zoning Board for their recommendation.

Mr. Chemka: Did they not give you one already?

Mayor Kinnally: They gave us one.

Mr. Chemka: Why are you sending it back?

Mayor Kinnally: Mark Chertok explained last time: because the proposal that was before the Zoning Board last time changed from the floating zone to the current proposal, he felt it had substantively changed and it required the Zoning Board of Appeals to revisit it.

Mr. Chemka: Did that change the original proposal by Andrus?

Mayor Kinnally: Yes.

Mr. Chemka: I thought these Village Board Public Hearings were for the whole Andrus proposal. Not part CCRC, not part zoning, homes, or whatever. That is what the public talked about at those two Public Hearings. One proposal. Now you are going back. The Zoning Board is changing something, or you are changing something. The attorney is going to change something. And the Planning Board is going to come back with a new proposal maybe eliminating this or eliminating that.

Mayor Kinnally: Initially there was great concern and public opposition to the proposal for a floating zone. It has nothing to do with the buildings. It has to do with the zoning. Those comments resulted in the applicant coming up with different language for the amendment to the Zoning Code. It was no longer a floating zone.

Mr. Chemka: And that is what we talked about at the last two Public Hearings?

Mayor Kinnally: Yes.

Village Manager Hess: When the original proposal came up several years ago, it went to the Planning Board. They were the lead agency. The zoning text at that time was referred to the Zoning Board of Appeals. They gave their recommendation directly to the Planning Board on that original text. Since the SEQRA process, the text changed. This was before the Public Hearings. When the Planning Board adopted their findings the text had changed. There was no longer a floating zone, and I think the numbers decreased also. There was no assisted living component. That middle component somehow was taken out from the original. Our environmental counsel recommended to the Board that it should be referred back to the Zoning Board since the text had changed. So the Zoning Board is going to look at the text. It is not a Public Hearing. They are going to give their opinion to the Board of Trustees; it may be the same as their original one, or something different.

Mayor Kinnally: Just on the text, that is all. The text is what we have been working from through those Public Hearings.

Mr. Chemka: But you mentioned a few minutes ago about just taking the CCRC...

Mayor Kinnally: The CCRC is the entire project. It is the umbrella. Underlying all of this is whether or not the CCRC is an appropriate use for the site.

Mr. Chemka: The way it is zoned now?

Mayor Kinnally: No. Not the way it is zoned. If we are to change the zone, the whole proposal that we have in front of us is premised upon the site being used as a CCRC. That is what the application is, stripped down to its essentials. Before you start talking about the buildings, the lot coverage and so forth, do we want them to operate, in whatever form, a CCRC on the site? Before you talk about how tall the buildings are going to be and how big the buildings are going to be, and setbacks and everything, is the use of the site as a Continuing Care Retirement Community an appropriate use of the site? Because if the Board feels that it isn't, then we don't have a proposal to talk about.

Mr. Chemka: Well, why don't you just vote on that?

Mayor Kinnally: That is what I am saying. I am saying that the Board, in its deliberations, ought to start discussing that first.

Mr. Chemka: Why was everything tied in with it?

Mayor Kinnally: Because that is the whole application.

Mr. Chemka: That is what I meant. Now you are splitting up the application.

Mayor Kinnally: If the Board does not feel that a CCRC is appropriate, it does not matter how many units are on the site or what the buildings look like. The proposal goes down. If the Board feels a CCRC is appropriate, then you move on to whether or not you want to have buildings at that height, density, and whatever else. I was trying to make it simple. Apparently, I am not succeeding.

Mr. Chemka: I am sure you are not. You are splitting up exactly what you had on the table, and you've taken a piece for CCRC, the apartments, and whatever else, parking, everything that was with it. That is what we were discussing at the meetings.

Why hasn't the Board made known to people how they feel? They are putting in a report to the attorney. Why is this not told to the public?

Mayor Kinnally: What we have given to the Village Attorney are our individual comments. This is a communication between us and the attorney. It is a privileged communication at this point. The Board will decide what it wants to do at the Village Board Meetings. These are our preliminary thoughts of the application without any discussion among us.

Mr. Chemka: But who is going to put this package together? The Village Attorney?

Mayor Kinnally: The Village Attorney is going to give us a draft, and then we are going to work on the draft.

Mr. Chemka: But you do not know what each other has said. So the Village Attorney could make a draft talking with the other attorney from Andrus.

Mayor Kinnally: No, absolutely not. It is not going to happen.

Mr. Chemka: How would you know that they had not had discussions? I am serious.

Mayor Kinnally: I am serious, too.

Mr. Chemka: I feel that the Trustees should have told the public how they feel already.

Mayor Kinnally: But it is not appropriate. We did not have an opportunity to do it. The purpose of a Public Hearing is for the public to tell us what they think. We heard it. And we are in the process, now, of reacting to that.

Mr. Chemka: You are in the process now, I think, of chopping up what was in that original proposal. I am sorry, but that is how I feel and that is how a lot of people feel.

Mayor Kinnally: We are not chopping up anything at this point.

Barbara Merling, 9 Hudson Street: If Trustee Holdstein is not here on the 14th and if you have some level of discussion among the remaining Trustees, will there be another opportunity for discussion with him included?

Mayor Kinnally: Yes.

Ms. Merling: You said there were no other public comments received. Are letters part of that public comment? I have received a copy of one or two letters that were sent to the Village Trustees after the Public Hearing.

Mayor Kinnally: Anything we get will be part of the record.

Ms. Merling: Regarding Sprain Road, which body of government is going to be the lead agency?

Mayor Kinnally: I have no idea. They have not gotten that far yet.

Mr. Chemka: I would like you to consider putting off this discussion until September, when some of the people are back from vacation. Some people cannot be here, and I do not think it is fair to them. This is such an important thing to the Village. I think everybody should be back in the community, so they are here and they can discuss that with the Board of Trustees.

Trustee Holdstein: I picked up *The Enterprise* last week, and sadly read of the passing of Betty Wagner, who was just a terrific delight to be around. She was a member of our Safety Committee. I spent a lot of time with her in her home talking about issues in the Village. She raised two children here in the Hastings schools and was just a wonderful woman. And I was very saddened to read of her passing last week. I would ask that we stand in adjournment later this evening in her memory.

Trustee Walrath: Regarding Riverpointe and its certificate of occupancy on the common-owned land, before the meeting with Ginsburg representatives we had noted that there was a wall that does not seem to be on the plans. I want to make sure I am understanding where we are going with this. They have not yet given us as-builts. We read in that meeting of as-builts, and the matter really is deferred.

Village Manager Hess: We want complete as-builts on the entire site. We want engineer certifications on any wall in excess of four feet. We need any amendments made to the site plan. We need all that final information before we can make any determination.

Trustee Walrath: Does this go back to the Planning Board?

Village Manager Hess: It depends on the extent of changes, if any.

Trustee Walrath: The way it will get resolved is a Planning Board responsibility if they have failed to comply?

Village Manager Hess: It depends. We are holding a bond on them on the site plan. They would not get issued a C of O until we get all the final information. Once we get all that information we will review it. Then we will make a determination and get back to the Planning Board if there are any additional steps that have to be taken, or whether they need to amend their site plan and file it with the Planning Board.

Trustee Apel: Is there a date at which they said they were going to get all this in?

Village Manager Hess: Yes, the week of the 4th of July.

Trustee Apel: I participated in the fun this last weekend and it was really great, and I think everybody did a wonderful job. For those of you that were not down on the waterfront, you missed something really great, sitting there with beautiful blue skies and puffy clouds and lots of music and people and children. And you got to look over on the Palisades. Finally you are on the Hudson, and you should come on down and take advantage of the park this summer. It is really a great asset, and you will have a lot of fun. Thanks to everybody who worked so hard to make it such a wonderful weekend.

Trustee Holdstein: I was down at the park, too, and I took the liberty on the trail into the park to jump up on the white stones and look south over Marinello Cove. Standing up on the rocks, and looking at all the people in the park and looking south to that site and over to the Tennis Club: as I said before, acquisition of that property is going to be terrific, whether it is

through condemnation or through a final negotiation with the owners. When we obtain that for the Village and for community use, that park is going to be really spectacular.

Mayor Kinnally: If there is no further business coming before the Board, I would move that we stand in adjournment in memory not only of Betty Wagner but also of Jimmy Slavin, who died in the last month. Jimmy was an employee of the Village and an integral part of this village for his entire life. I would ask that we stand for a moment of silence.

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 9:55 p.m.