

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
JUNE 4, 2002**

A Regular Meeting was held by the Board of Trustees on Tuesday, June 4, 2002 at 8:15 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

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

CITIZENS: Three (3)

40:02 ADOPTION OF LOCAL LAW NO. 3 OF 2002 - TEMPORARY MORATORIUM

Mayor Kinnally: This has been discussed on a number of occasions. It is necessary to extend the moratorium because we are in the final process of drafting the legislation and incorporating the changes suggested following the public hearing and meetings with the community and the committee.

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

RESOLVED: that the Mayor and Board of Trustees adopt Local Law No. 1 of 2002 amending the Zoning Code to impose a temporary moratorium on development in the Village's Central Commercial (CC), Limited Commercial (LC), and Central Office (CO) Districts and on Ridge Street and on Washington Avenue west of Warburton Avenue.

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF HASTINGS-ON-HUDSON as follows:

Section 1: Purpose

A. The Board of Trustees of the Village of Hastings-on-Hudson, having accepted "A Community Vision for Comprehensive Planning and Strategic Action Plan" (hereafter referred to as the "Community Vision Plan"), which included a number of recommendations for amendments to the Zoning Code and the Zoning Map with respect to the Village's downtown business district and Washington Avenue west of Warburton Avenue, and having hired a zoning consultant to draft those amendments to the Zoning Code and the Zoning Map, and the zoning consultant having drafted amendments which are currently being reviewed by the Planning Board and the Board of Trustees, in order to insure that any future

development in the downtown business district and on the designated portion of Washington Avenue is consistent with those zoning changes, the Board of Trustees is enacting a temporary moratorium on development in those areas.

B. In addition, the Board of Trustees, having asked the zoning consultant to implement the recommendations for amendments to the Zoning Code and the Zoning Map proposed by the Ridge Street Subcommittee, a committee appointed by the Board of Trustees to study existing conditions and make recommendations for future development of Ridge Street, and the zoning consultant having drafted amendments which are currently being reviewed by the Planning Board and the Board of Trustees, in order to insure that any future development on Ridge Street is consistent with those zoning changes, the Board of Trustees is enacting a temporary moratorium on development on Ridge Street.

Section 2: Applicability

This Local Law shall apply to the Village's Central Commercial (CC) District, Limited Commercial (LC) District, Central Office (CO) District, and to all of Ridge Street and to Washington Avenue west of Warburton Avenue, as shown on the Zoning Map, Village of Hastings-on-Hudson, dated May 1, 1979.

Section 3: Development Limitations

For a period of ninety days after the date of the filing of this Local Law with the Secretary of State, no application for:

- (1) a building permit, or
- (2) a special use permit, or
- (3) site plan approval, or
- (4) subdivision approval, or
- (5) a variance involving the construction of new or expanded floor space,

for properties within the area designated in section 2 of this Local Law shall be accepted and/or acted upon except as set forth below:

- a. An application for a building permit where final site plan approval has already been granted.
- b. An application for a sign permit pursuant to Chapter 234 of the Code of the Village of Hastings-on-Hudson.
- c. An application involving the interior renovation, rehabilitation, or alteration of an existing building or structure provided: (1) the application does not involve a change in use, and (2) the cost of the renovation, rehabilitation, or alteration does not exceed \$10,000.

Section 4: Waiver

A. The Planning Board shall have the power to waive the application of any provision of this Local Law upon its determination, in its reasoned discretion, that such waiver is required to alleviate undue hardship, is consistent with the Community Vision Plan and the Ridge Street Committee recommendations, is consistent with the proposed amendments to the Zoning Code and the Zoning Map, and is consistent with the health, safety, and general welfare of the Village. The hardship must be the result of unique circumstances, and the waiver must be the minimum necessary to alleviate the hardship.

B. Upon receiving any application for a waiver of this Local Law, the Planning Board shall consider the effect of the proposed waiver upon the Community Vision Plan and the Ridge Street Committee recommendations and the proposed amendments to the Village Code and Zoning Map. The Planning Board shall conduct a public hearing on the application, on at least ten days notice, within sixty days after the application is referred to it. The Planning Board shall render its decision within thirty-five days after the public hearing is closed.

C. If the Planning Board grants a waiver under this section, the application for which the waiver was sought shall be referred back to the office or board responsible for processing such an application, and the application shall be processed according to existing law and procedures.

Section 5: Interim Suspension of Other Laws

All ordinances or local laws or provisions of the Code of the Village of Hastings-on-Hudson in conflict with the provisions of this local law are hereby suspended to the extent necessary to give this Local Law full force and effect during the effective period. This Local Law is intended to invoke the supersession provisions of Section 10(1)(ii)(e)(3) of the Municipal Home Rule Law and to supersede, during the effective period of this Local Law, inconsistent provisions of the Village Law, including Article 7.

Section 6: Validity

Should any word, phrase, clause, sentence, paragraph, part, or provision of this Local Law be found to be invalid, such decision shall not affect the validity of any other part of this Local Law that can be given effect.

Section 7: Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York.

ROLL CALL VOTE

AYE

NAY

| | |
|-----------------------------|---|
| Trustee Marjorie Apel | X |
| Trustee Michael Holdstein | X |
| Trustee David Walrath | X |
| Trustee Bruce Jennings | X |
| Mayor Wm. Lee Kinnally, Jr. | X |

41:02 COMMUNITY DEVELOPMENT PROGRAM AGREEMENT WITH WESTCHESTER COUNTY

Village Manager Hess: This is a three year renewal of our agreement with Westchester County to participate in the community development block grant program. Since 1981 we have been granted approximately \$1.5 million in funding either through direct grants or the program for our affordable housing initiatives. It is recommended that this agreement be approved. There are no changes from previous years except for the date, which are fiscal year 2003 through 2005.

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

WHEREAS, the Secretary of Housing and Urban Development of the United States is authorized, under Title I of the Housing and Community Development Act of 1974 as amended, and Title II of the National Affordable Housing Act of 1990, as amended, to make grants to states and other units of general local government to help finance Community Development Programs; and

WHEREAS, Section 99-h of the General Municipal Law of the State of New York grants to any municipal corporation the power, either individually or jointly with one or more municipal corporations, to apply for, accept and expend funds made available by the Federal government, either directly or through the State, pursuant to the provisions of any Federal law which is not inconsistent with the statutes or constitution of this State, in order to administer, conduct or participate with the Federal government in programs relating to the general welfare of the inhabitants of such municipal corporation; and

WHEREAS, the Community Development Act of 1974 as amended, Title II of the National Affordable Housing Act of 1990, as amended, and any

“Eligible Activities” thereunder are not inconsistent with the statutes or Constitution of the State; and

WHEREAS, a number of municipalities have requested Westchester’s participation, and the County of Westchester has determined that it is desirable and in the public interest that it make application for Community Development Block Grant funds and HOME funds as an Urban County; and

WHEREAS, participation by the County of Westchester as an Urban County in the Community Development Program requires that the Village of Hastings-on-Hudson and the County of Westchester cooperate in undertaking, or assisting in undertaking, essential community development and housing activities, specifically those activities authorized by statutes enacted pursuant to Article 18 of the New York State Constitution; and

WHEREAS, this Board deems it to be in the public interest for the Village of Hastings-on-Hudson to enter into a Cooperation Agreement with the County of Westchester for the aforesaid purposes; now therefore be it

RESOLVED: that Village Manager Neil P. Hess be and hereby is authorized to execute a Cooperation Agreement between the Village of Hastings-on-Hudson and the County of Westchester for the purposes of undertaking a Community Development Program pursuant to the Housing and Community Development Act of 1974 as amended and Title II of the National Affordable Housing Act of 1990, as amended.

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

42:02 INTERMUNICIPAL AGREEMENT YARD WASTE DISPOSAL

Village Manager Hess: We have been working to develop an alternative to disposal of yard waste, brush, and wood at the quarry. We have developed this intermunicipal agreement with the City of Yonkers, which provides a transfer station, and they have their own IMA with Westchester County under the organic yard waste management program. The cost per yard is \$3.50, and it is recommended this agreement be approved.

Trustee Apel: Have you estimated the cost on an annual basis?

Village Manager Hess: Approximately \$12,000.

Trustee Walrath: That includes both our tipping fee and labor and operation of the truck?

Village Manager Hess: The \$12,000, yes. The \$3.50 represents about a third of the total cost. The rest would be labor and equipment.

Trustee Walrath: How do they measure the truckloads?

Village Manager Hess: They either estimate cubic yards or they do it by weight. Our yard waste is picked up in garbage trucks. It is not like an open container truck, so we can pack it pretty well. They will normally do it by weight.

Trustee Walrath: I am not seeing how weight could enter into it. If they charge by the cubic yard or they charge by the ton it would be different.

Village Manager Hess: There is a conversion factor for cubic yards to tons.

Trustee Jennings: Did you investigate any alternative providers of the same service, and what were their rates?

Village Manager Hess: Nobody was within reasonable distance in terms of disposal. The rates were fairly similar, but there was no one as close as this Yonkers facility.

Trustee Holdstein: Are we officially no longer taking anything to the quarry with this move?

Village Manager Hess: We have made provision with a wood recycler to take log stumps and trees, but we stage them at the quarry for now until we get full truckloads to take down.

Trustee Holdstein: Is anything else being dumped with the intent of it remaining in the quarry?

Village Manager Hess: No. The street sweepings are all dumped directly on garbage trucks now, and are not taken to the quarry. It goes directly, because it includes everything: street dirt, sand, paper, cans, whatever the street sweeper picks up.

Trustee Walrath: Are we are handling it similarly when we clean out the street inlets and the storm sewers?

Village Manager Hess: Yes, when the inlets are cleaned out those are taken away by Cook, who we hire. It goes directly on his truck, and he disposes of it.

Trustee Walrath: The remainder is exactly what Yonkers says they will take: yard waste.

Village Manager Hess: Yard waste, brush, leaves.

Trustee Walrath: And chunks of wood no larger than 3 inches in diameter.

Village Manager Hess: The larger stuff is taken to a place called Rogan Brothers, which does wood recycling.

Mavis Cain, Friends of the Old Croton Aqueduct: Provisionally for a year?

Mayor Kinnally: It is a term of one year, an agreement.

Ms. Cain: And when does it start?

Village Manager Hess: As soon as I sign the contract.

Ms. Cain: When are you going to sign the contract?

Mayor Kinnally: First we have to pass the resolution.

Chris Lomolino, 24 Aqueduct Lane: What is the estimated annual tonnage of the yard waste?

Village Manager Hess: I do not know.

Ms. Lomolino: Will the dump be a staging area for park waste?

Village Manager Hess: No, only logs and trees, until we have the full truck load that we can take down to Rogan Brothers because we pay by the truckload.

On MOTION of Trustee Apel, SECONDED by Trustee Jennings 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 City of Yonkers for organic yard waste disposal for a term of one year from date of execution at a cost of \$3.50 per cubic yard.

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

43:02 AUTHORIZATION TO RETAIN SPECIAL COUNSEL

Village Manager Hess: The letter of agreement between Sive, Paget and the Village talks about their billing rates on the quarry matter: a blended rate of \$260 per hour; paralegals billed at \$75 an hour; law students at \$95 an hour; plus out-of-pocket expenses. They added one sentence, a new requirement under the retainer: In the event that a dispute arises between us relating to fees, you may have the right to arbitration of the dispute pursuant to Part 137 of the rules of the chief administrator of the courts, a copy of which will be provided to you upon request. The additional services to be provided by Sive, Paget are a document and file search of Village records relating to the quarry.

Mayor Kinnally: We have already had a meeting with counsel on the procedures to be followed, and he has given us some preliminary guidance in that regard. Any comments by the Board?

Trustee Apel: I am looking forward to moving this, and I am glad that we are working on the quarry. Hopefully, we will come to a resolution sooner than later, and it is great that we are taking this step.

Trustee Walrath: Is Neil the person monitoring what they have accomplished and what they have billed each month?

Village Manager Hess: They give us an itemized billing each month, separate bills for separate projects: exactly what they have billed, who they have talked to, what they have provided to the Village. The special counsel will give the Board normal updates just as he does with the Planning Board.

Trustee Jennings: Am I reading the third paragraph correctly? We expect that the initial work we have asked him to do will cost about \$5,000?

Village Manager Hess: Right. No more than \$5,000.

Trustee Jennings: So without further decision-making and authorization on our part he is not going to go up to the \$20,000 limit.

Village Manager Hess: No. If we went to a second phase where we required additional counsel time, if it is determined that we have to go above and beyond in terms of a closure, then we may have to get into that second part. But that would be authorized by the Board. I will ask him to issue an initial report after he does the original document search, and then we will decide where we go from there.

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

RESOLVED: that the Mayor and Board of Trustees authorize the Village Manager to sign the letter of agreement to retain the law firm of Sive, Paget & Riesel, P.C. to evaluate the legal status and any requirements regarding the Quarry Avenue property for an amount not to exceed \$20,000.

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

VILLAGE MANAGER'S REPORT

Village Manager Hess: Trustee Holdstein asked us to review the quarry as a potential ball field for Little League. The superintendent of recreation is reviewing that; he is going to develop a site plan and see if something like that works. I have been in contact with the DEC relative to the quarry, and we will have further discussions over the next several months.

The New York state budget was adopted and local revenue-sharing as well as the consolidated highway improvement program have remained the same as last year's budget as we budgeted for in our upcoming budget.

The stamped concrete in the Broadway and Main Street area should be replaced the week of June 17. The Bomanite people are going to do some test runs on other areas to see if they can recolor and reseal the rest of the stamped concrete in the downtown to avoid having to replace it. We will take a look at it, and the Board can make a decision.

Mayor Kinnally: Who will be in charge of this job?

Village Manager Hess: Probably Mike, during the construction. But Susan is going to be handling the additional contacts next week and coordinate the project.

In terms of emergency management, we are finalizing our plans for KI distribution or availability. KI is now available at Hastings Drugs at a reasonable price. The emergency response team will have a drill the evening of June 27 at the pool. The scenario is that several chlorine canisters are broken open and we will have response by emergency response people, HazMat, ambulance, and police.

In terms of our internship program, we are glad to announce that Sam Cochran, a Hastings graduate from last year who attends Brown University in urban studies, will be joining us for the summer, assigned to my office.

I am glad Linda is here tonight as Deputy Village Clerk, as she was the moving force behind the Spring Thing and did an outstanding job. The crowd downtown was amazing. It was unbelievable, and she did a wonderful job. Thank you.

Ms. Lomolino: I wanted to commend the Trustees, the Mayor, and the Village Manager for the decisions made here this evening with regard to the old quarry. These are significant and progressive steps, very civic-minded ones. They will mean a great deal to all who use the Aqueduct, all who live near the quarry, and to the Village as a whole. These are important

first steps to reclaiming that wonderful 5-1/2 acre tract for public use. I think you have acted quickly and responsibly. I thank you, and I commend you.

BOARD DISCUSSION AND COMMENTS

1. Update On The Waterfront

Mayor Kinnally: We met last week with environmental counsel Mark Chertok, and he reviewed the status of the negotiations on the potential settlement of the Riverkeeper's suit, the PRAP and feasibility study, and also the possibility of the ROD. The timing of all this is very, very soft, and I would say we are probably looking at some time in the fall. It is extremely frustrating for people not to have something more concrete. I assure you that we share your frustration, but counsel is staying on top of it.

2. Sales Tax Increase

Mayor Kinnally: We are in receipt of a correspondence of May 9, 2002 from the County Executive discussing a \$70 million deficit the county is facing, and looking for solutions. He is recommending an additional 1% increase in sales tax and is soliciting our support for this because he needs to get the approval of the state legislature.

Village Manager Hess: It would bring the county about \$76 million. Hastings would receive \$254,000 more and the school district an additional \$95,000. The county is facing a 20% property tax increase in 2003, and is looking for the ability to raise the sales tax to avoid that increase. They are looking at two other items also. One is a tax on cell phones on the monthly bill, and the other is \$1.50 additional cigarette tax in Westchester County. We can put it on the next meeting, if you would like to consider it.

Trustee Apel: What is the county doing to work on safeguards so that these deficits do not occur again? The community is entitled to know what is going on before we say we are going to bail you out.

Village Manager Hess: We could invite our local legislator to talk to the Board about that.

Mayor Kinnally: If Tom is not in support of it, we are not going to get all the information that we may need. You may want to call the county executive's office and see if they want to send somebody also.

Michael Ambrozek, 16 Sheldon Place: I am concerned about the impact a tax rise has on local merchants, but particularly those in the Village. Most of the purchases made by mail order, or over the Internet, or by phone are sold tax-free. So that could encourage people to do more shopping that way. A lot of everyday things that you do not realize are taxed—buying a car, utility bills—all will have a 1% higher tax. It is a penny on the dollar, but when you look at the thousands of dollars that you spend in those activities, a 1% increase is significant.

Yes, the Village will benefit with that revenue, but I also wonder what steps the county is taking to reduce its costs. Maybe they need to reduce spending. Maybe they should have had some surpluses. These are things I would like you to consider when you are speaking with the people from the county.

3. Leaf Blowers

Mayor Kinnally: I am in receipt of a letter from John Bartholomew Tucker about leaf blowers and the racket they make for a good part of the year, asking whether we would consider something along the lines of what Scarsdale has.

Village Manager Hess: Scarsdale restricts the use of leaf blowers for certain months of the year; I believe it is May through September. People are using them to clean driveways and sidewalks as opposed to a broom or a rake. I received a second letter today from another resident asking the Board to discuss the same thing. If you want us to take a look at legislation we will try to get you something by our July meeting.

Mayor Kinnally: We can take a look at that. We will discuss it at the meeting in July.

4. Other

Trustee Apel: I am in receipt of information that the FEIS for the proposed apartment complex in Yonkers has been accepted but the comment period will be over June 9, so if we are going to make comments, it is going to have to be now. This is a project in Greystone in Yonkers right over the border, with over 500 units and about 10 stories that will be graduated down. I am worried about the traffic. These people are going to shop someplace, and it is going to be on Warburton Avenue. What are the implications for Hastings? If they are going to come and shop, where are they going to park? From reading this, it appears that they could not estimate how many might be coming to Hastings. I certainly would like a little more information. I believe we are entitled to make some sort of comment.

Village Manager Hess: I do not feel I can comment because I have not seen the EIS. All that information has been referred to our planning consultant. Maybe she is developing comments to send down. We will follow up on it, and talk to her tomorrow.

Trustee Apel: I would be interested in any types of development on our periphery. We should keep a running list of them, and we should know when they are coming up. We may not have control over things in other communities, but if we do not know about them and then we are having things in our own community, we are going to be inundated. I would like to see a regular report of these things so we can keep up with them.

Mayor Kinnally: I am sure we will be going back and forth tomorrow on this. We should see whether there has been an extension of the comment period by the City of Yonkers, which would allay some of our fears.

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 at 8 p.m. on Thursday, June 13, 2002 immediately following the Regular Meeting to discuss personnel.

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

ADJOURNMENT

On MOTION of Trustee Holdstein, SECONDED by Trustee Apel with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting.