

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**BOARD OF TRUSTEES**  
**REGULAR MEETING**  
**SEPTEMBER 24, 2002**

A Regular Meeting was held by the Board of Trustees on Tuesday, September 24, 2002 at 9:50 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 Attorney Brian Murphy, and Acting Village Manager Susan Maggiotto.

**CITIZENS:** Twenty-eight (28).

**APPOINTMENTS**

**Mayor Kinnally:** We have two appointments: Special Recreation Advisory Committee Representative to the Town of Greenburgh, Lisa Aaron; and Community Development Advisory Group Representative, John Wazeta. Thank you to both Lisa and John for volunteering to serve our village. The backbone of the Village is the number of many volunteers who put in the time and effort to help us, and it really helps us getting from one point to the other.

**APPROVAL OF MINUTES**

On MOTION of Trustee Holdstein, SECONDED by Trustee Walrath with a voice vote of all in favor, the Minutes of the Executive Session of September 17, 2002 were approved as presented.

**Mayor Kinnally:** The subject of that executive session was the appointment of Lisa Aaron.

**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. 30-2002-03 \$ 37,126.71  
Multi-Fund No. 31-2002-03 \$ 97,385.98  
Multi-Fund No. 32-2002-03 \$103,548.64

### **70:02 FENWICK ROAD AREA DRAINAGE IMPROVEMENTS**

**Mayor Kinnally:** I am going to ask that this Resolution be removed from the agenda. The Board needs some additional information, though we can have a discussion on the subject.

On MOTION of Trustee Apel, SECONDED by Trustee Holdstein with a voice vote of all in favor, Resolution 70:02 was removed from the agenda.

**Mayor Kinnally:** An item was brought to our attention during our interviewing the candidates for the position of firms for engineering consulting for this project. It had to do with some action taken against CG Associates, Mr. Gold in New Jersey. I have asked Mr. Gold, if he wished, to come this evening and to address us on that issue.

**Mr. Gold:** The problem you made reference to has to do with the fact that an official reprimand was bestowed upon me by the New Jersey State Board of Professional Engineers about a year ago.

In 1999 I was appointed borough engineer in Closter, New Jersey, in Bergen County, a few miles north of the George Washington Bridge, in a town where I had lived for 40 years. I replaced a man named Boswell. Dr. Boswell had been in the middle of several projects. One of the projects was a road improvement project called Railroad Avenue. He had completed a base map and a design. It was handed over to me to wrap it up: specifications, final design. When I reviewed it, I did not like the engineering work. I therefore reviewed the base map, and said the base map is good. I had it checked in the field. I used the base map which the borough had contracted for, but I changed the engineering. In the course of doing that I removed Mr. Boswell's title block, put my own in place, and put a note on the drawing that the base map was drawn from Dr. Boswell's original material with the date and the reference to where it had come from. My engineering, my design, was under the title block.

In the state of New Jersey, under their statutes, you cannot do that. Even if you give a reference and give a proper note and give proper credit, you cannot remove a title block. In addition, they wanted signatures of the professional engineer who prepared that part of the map. Well, I could not get that signature. In any event, I called that engineer. I said, May I use your base map. He said that as long as he got paid he had no objection. In fact, Closter had a contract with him that said they would own the product of his engineering services. Dr. Boswell gave me an approval on the telephone, and my error was not confirming that immediately. The Borough of Closter decided not to pay him right away. They held back his payment for the engineering, which infuriated him. As a result, when I proceeded into bidding with that document he wrote me a letter and said I could not use it, and then turned

around and posted a complaint with the New Jersey State Board of Professional Engineers that I had done an improper thing and violated the statute in removing his title block and using the map as my own. I did not use the map as my own, I gave proper credit, and I had done what I thought was a reasonable thing.

The State Board of Professional Engineers reviewed it. They have options. They can fine you, they can penalize with up to a jail sentence, they can give you a reprimand or a warning. They chose almost the least thing they could do, which was a reprimand. They did not fine me. They said if I did not accept the reprimand they would go on to the next stages, and the penalty would be a \$10,000 fine or a \$20,000 fine. My attorney and I decided, let it be a reprimand and we will accept that. Had I not done what I chose to do, I would have had to re-survey that area and charge the borough for that work, which would have meant the borough would pay twice because they paid once to Dr. Boswell and they would be paying a second time for the survey. So I felt I had done my client the proper service, done a faithful job as the engineer of the borough. And, in fact, the borough made me feel that I did it properly and has so indicated. I do not know if you had the opportunity, Mayor, to call there.

**Mayor Kinnally:** Yes, I spoke with Mr. Lenander.

**Mr. Gold:** He is the borough administrator.

**Mayor Kinnally:** I did speak with him yesterday about this. We have not discussed this prior to tonight. But his version of the events is consistent with what you have said, and he was not at all pleased with how it worked out. He thought it was an overly technical reading of the requirements, and he felt that there had been agreement between you and Dr. Boswell that you could use his work. He was somewhat chagrined that it went the way it went. But certainly, your version of the events conforms to what he told me.

**Mr. Gold:** He and I remained on courteous terms. I think that he recognized that it was the proper thing for the borough and the proper thing for myself. I will never again talk to somebody on the phone without confirming what I am told. That is the essence of it. You have a letter from my attorney explaining it in his words.

**Trustee Jennings:** I have read the material that you have submitted to us, and I will read the additional material tonight. Having no reason to question your account, I do not believe that this incident will materially affect my decision on the selection of the consultant. So far as I am concerned, it is a non-issue.

**Trustee Holdstein:** You made reference to the Jersey law and said you cannot do what you did, which was to remove the name on the block, but then you said that you spoke with Boswell, and he approved your doing it. If the law in Jersey says you cannot do it, does that mean you cannot do it or it means you are not supposed to do but if the guy who wrote it says it is okay then it is okay with Jersey law?

**Mr. Gold:** I cannot remove the title block. I could have, with his permission, kept that base map, left his title block in the corner, put a big note saying this only refers to the base map, put my title block above it, and said this refers to engineering design. So I would have laddered title blocks.

**Trustee Holdstein:** And is that what you did?

**Mr. Gold:** No. I took out his title block and put a note that said this is from him. I considered that the equivalent of the title block, but the board did not see it that way. The statute says you may not remove a title block. I removed it, I put a note instead. They said you cannot do that.

**Trustee Holdstein:** The material that we had prior to this evening, your explanation, and the Mayor confirming that the Closter account dovetails with yours: I feel that questions have been answered and it is not material to my deliberations.

**Trustee Apel:** Thank you for coming, and I concur with my colleagues. I have read over this information, and it seems to be just a highly technical event that it is unfortunate you had to go through, and it certainly will not affect any decision that I make.

**Trustee Walrath:** If Boswell's title block had remained, did you need his signature?

**Mr. Gold:** Yes. The Board of Professional Engineers says that if there is a sub-function on the drawing, that is, if I were to hire an electrical engineer to do some work, that professional engineer has to also sign the drawings.

**Trustee Walrath:** He made a verbal promise, and then refused to sign it.

**Mr. Gold:** I did not ask him to sign it because I did not see the necessity for it.

**Trustee Walrath:** But he had written you the letter saying that.

**Mr. Gold:** He said he would not accept my use of his drawings.

**Trustee Walrath:** What was the rush in using the drawing?

**Mr. Gold:** The borough was pushing very hard to get that road paved. It was the major industrial road in Closter, and there was a great deal of trouble with trucks and vehicles going by because of the ruts and problems of the road. They wanted it reconstructed and there was state money involved which had a time limit, so it had to be done as soon as it could be done.

The only thing I would like to add has nothing to do with the technical aspects. But Dr. Boswell was replaced by my firm in two different municipalities in 1999. I always felt that had something to do with this matter of complaint.

**Mayor Kinnally:** As is often the case, there are many agendas behind what happens. I had heard of a problem when I did the review on Labor Day. But I could not get the information, and then it came to my attention. My initial reaction was, as it is now, that this was a tempest in a teapot. It was probably a technical violation, as you have said. I do not think it is fatal. I appreciate your candor, coming here tonight. Only you could answer the questions and give any explanation to it and I thank you very much.

**Danielle Goodman, 28 Ashley Road:** I am here to advocate for the character of my neighborhood. I live in the Ravensdale neighborhood. For many years lovely homes, forest swamp, wetlands, and true forest have peacefully coexisted. I am asking the Board to think long and hard about what it is about to do to our neighborhood. When my husband and I bought our home there was a charming brook. Some of us call it a creek. But it is a very charming body of water that deserves as much attention as the waterfront does. We in the neighborhood feel very strongly about this. I would ask all those in Hastings that are watching this to take a walk through Ravensdale. We have a dedicated park there. Mr. Gold has floated a proposal that we make a retaining pond there. I plead with the Village, put the source underground. Do not touch the brook. Do not touch the wetlands.

It has come to my attention, and I had wondered if the Board considered whether or not there are conflicts of interest on the Board with respect to the fact that Trustee Walrath is a 40-year friend of Mr. Gold. The interviews with Cashin and the Pirnie firm were conducted in a fairly adversarial fashion, which I think it should be. The engineer should be questioned strenuously. I do not think Mr. Gold was questioned as strenuously. I think there is a conflict of interest, respectfully, and I would like you to consider that Mr. Walrath be recused from the voting on the choice of engineer. We are told the project is going through, we have no say. I know I have neighbors that are flooding. I am told I have no say, that day is done, you are going to do the project. I concede and I ask you to please pick a firm that has an environmental scientist. I resent spending that amount of money, but I would like the project

done right. I beg of you not to take the bulldozers and come through our neighborhood. There has to be another way of solving the problem.

**Frank Jackson, 2 Ashley Road:** About a year and a half ago we were at the first preliminary meeting and two of the Trustees were present, David and Michael, and the meeting went very well. They said that we could divert some of the water, delay it into a basin or something like that, and that overall no damage would be done to anyone's property. Everyone would be happy with the situation when it was finished.

I have been on Ashley Road for 33 years, and my house is about 10 to 15 feet from the brook. On the left side of the brook is my garden. It is about 30 by 65 feet. The brook is around four feet wide and three feet deep. I have about 14 grandchildren and they fall into it from time to time. They wet their shoes or socks, and it is no big deal. But I am concerned if they widen the brook, we are going to have a safety problem. If they make it any deeper, if a kid falls in, if there is a heavy rainstorm, then I may have a problem. If the brook can be kept the way it is, if they can do something with the water all along the way like they did about three years ago. On Ashley they put in a grating, and the grating works very well because now all the debris coming down is not getting stuck under the culvert. It backed up all the way to Fenwick. The DPW regularly cleans it out, and they are doing a good job. I would like to be sure that nothing drastic comes of all this.

**Tom Kadala, 25 Branford:** In the violations it mentions that there are six infractions. There are six times that Mr. Gold made the same mistake, from what I can tell. In speaking with a Board member that Board member told me that he would consider this serious. He also said that there is a good chance, but could not specify because information had to be sent to me based on the ruling, that this was part of a settlement of a larger violation. It seems to me that further investigations might be merited.

I would like to put a of perspective into what it means to make these violations. It would be similar to hiring a bus driver with six speeding tickets, or a pharmacist with six violations for selling drugs without a prescription. You would never do that, I assume. Hiring an inspector with six violations for signing off projects he has never visited, or hiring an attorney who has six violations for approving contracts he or she never read. How can we as property owners trust Mr. Gold when he gives us advice? Put in that perspective, it might help the Board see our viewpoint as property owners.

In the interviewing process, we narrowed it down to two firms: CG Engineering and Malcolm Pirnie. Malcolm Pirnie came in at \$112,000, and CG came in at \$53,000. Malcolm Pirnie clocked twice as many hours as CG Engineering to do what was on the RFP. I showed

CG's proposal to an engineering colleague, and asked them what they thought. They said the number of hours were not reflective of what was being asked. It seems to me we are being lowballed by CG. They said two things could happen: either we are not going to get the design analysis that we are looking for, or most likely CG would be back for more funds. They said that there would definitely be job overruns. And their estimate would be that it would not be \$53,000 but \$95,000 by the time all was said and done. So I went to Malcolm Pirnie and I called them up. And I said, How can you have...

**Mayor Kinnally:** Who was the gentleman that gave you the first bit of information?

**Mr. Kadala:** A person from Turner Construction, Anthony Blake.

**Mayor Kinnally:** Who did you speak with at Pirnie?

**Mr. Kadala:** . Another Anthony, I cannot recall.

**Mayor Kinnally:** Catalano?

**Mr. Kadala:** Catalano, correct. I asked them why they had twice as many hours CG. They confirmed the same thing that I said to you from my other friend. But they also said that we can also propose a similar price as CG if we are going to do it for those similar number of hours. I believe that they said to me that they would come back to the Mayor and provide the Mayor with a new proposal or a new quote.

**Mayor Kinnally:** That is news to me because I spoke with Mr. Catalano and at no time was it raised by me or by him.

**Mr. Kadala:** I am asking if it makes sense to hire somebody who is out of New Jersey, has six violations, has a conflict of interest with a person on the Board of Trustees, has participated in a process in which he received more information than the other bidders.

**Mayor Kinnally:** You bandy about the term conflict of interest. David's relationship to Cliff Gold has not been a secret to either the Board or to the people in the neighborhood. If it was secret at one point, it certainly is not a secret now. Some of what you are saying may be inappropriate. David has the right to disclose what he has disclosed to the Board. I do not know if there is a conflict of interest, and he is the one who will determine what he is going to do in voting on this. You are free to talk whatever you want to talk, but I would be very careful in saying people have a conflict of interest and they are disqualified.

**Mr. Kadala:** I did not say he was disqualified.

**Mayor Kinnally:** It is not a long leap from what you were talking about to where you are going.

**Mr. Kadala:** I accept. I do not fault David. I think he is a great guy. I am just afraid that when you have a friend of 40 years he gave him more information.

**Mayor Kinnally:** I will not vote until I have a comfort level. Part of the process that the Board went through was so that we and the community would have a comfort level. We hope to make the process as transparent as can be so that everybody would have the satisfaction of knowing there was a level playing field. I think we have accomplished that. But in the process I do not want to see anybody unfairly damaged.

**Mr. Kadala:** That was not the intention.

**Mayor Kinnally:** It may not have been the intention, but I think it is the result.

**Mr. Kadala:** I am speaking in terms of facts of what we have seen. It seems to us that there is a disparity in the pricing. All aside, it is quite clear there is strong favoritism for CG. We like Malcolm Pirnie because we feel they address our needs.

**Mayor Kinnally:** They may address your needs but the overriding concern is the needs of the Village. This is a Village project, and I am looking at it as what is best for the Village. Not to sacrifice anything for the people in the neighborhood, but we have got to look at what is best for the Village. That is one of the reasons why I told Mr. Catalano his number of hours is out of line. He said maybe we can have a further discussion on this. That is one of the reasons why we put it over tonight.

**Mr. Kadala:** What do you consider to be the in the best interests of the Village.?

**Mayor Kinnally:** I am not at that point yet. I do not have all the information. I will take a look at everything: the price, the expertise and availability.

**Mr. Kadala:** I want to thank the Board for your efforts. I understand you worked very hard on this. I apologize if I came across a little strong.

**Tish Romer, Steppingstones:** After the September interview with Mr. Gold, Trustee Holdstein emphasized how impressed he was with Clifford Gold's coming back to the



community for their input, and another Board member emphasized how Mr. Gold would be the kind of guy who would have a cup of coffee with the owners and discuss the issues over the kitchen table. What does any of this matter when Mr. Gold's word cannot be trusted? According to the New Jersey State Board of Engineers, he, and this is a quote from the newsletter, failed to comply with the provisions of any act or regulation administered by the Board. What is to stop Mr. Gold from copying the woefully inadequate 1986 Hazen & Sawyer report on the Fenwick flooding problem and stamping his own name on it?

**Mayor Kinnally:** I think we would pick it up.

**Ms. Romer:** Not only are some streets and storm sewers inaccurately marked on the H&S maps, but H&S included no detailed study of the water flow and return levels along the affected stream. Nevertheless, H&S drew major conclusions and proposed solutions. Is this responsible engineering? Both Mr. Gold and his friend Trustee Walrath refer repeatedly to H&S solutions as a *fait accompli* in this current project, without having done the ground work necessary to draw the conclusions. I refer to the fact that Mr. Gold said in his interview to the Board that he would remove the Steppingstones dam, which is the dam that is on our property. You do not make a statement like that before you have done a study. Malcolm Pirnie, by contrast, refuses to speculate on solutions until they have done a thorough study. We never saw Mr. Gold on Steppingstones property except once, at which time he spoke only to Mr. Walrath. Malcolm Pirnie has walked many of our properties twice since the initial walk-through. Anthony Catalano has elicited our opinions on the flooding. Malcolm Pirnie is a company with integrity, skill, and sincerity; a company that studies before concluding; a company that understands how to build community consensus rather than how to create a facade of community input.

**Mayor Kinnally:** I was on the Board of Trustees when Hazen & Sawyer was retained. The scope of their services was limited. It was not anywhere near what we are talking about in the RFP. It is improper to go back and to start criticizing what Hazen & Sawyer did. It was exactly what we were looking for. It was done appropriately, and we did not have any problems with it at that time. And I do not have any problems with it now. It is his call at this point, but I do not think it is necessary for David, or Hazen & Sawyer, to defend what it did in 1986.

**Trustee Holdstein:** Ms. Romer alluded to the fact that Mr. Gold had advocated the removal of the dam at Steppingstones.

**Mayor Kinnally:** He talked it about as an option in the interview in the same way he talked about rerouting some of the water. I was at the same interview. I understand what

everybody said. I put it all into the mix, and I will make a decision. I did not see that it was a *fait accompli*, but you are entitled to your opinion. You are the property owner, so everybody looks at it through a different prism.

**Ms. Romer:** The reason I refer to the Hazen & Sawyer report is because Mr. Walrath has referred to it over and over and over and over again...

**Mayor Kinnally:** As a starting point, I believe.

**Walter Phillips, 36 Fenwick Road:** I have been a resident of Fenwick Road since 1967. This is 2002. Conditions since 1986 have changed. The Board has not yet selected an engineer. That seems to be the business at hand: to select an engineer; to give us a plan that we can take a look at, study, and then raise our objections. A lot of objections are being raised about issues that may never come to fruition. I would urge the Board to get a firm on board as quickly as possible. We been suffering on Fenwick Road at least as long as I have lived there from flooding conditions that in the early days occurred every few months with a year or so in between, to a point where I believe I have waterfront property every time it rains. I am not unmindful of the concerns of the people who live downstream. But all of us need the expertise of an engineering firm to give us their best judgment about what kind of a solution will bring the relief that is necessary.

**Ellen Brody, 29 Fenwick Road:** I believe I live at the lowest point on the street, so the flooding primarily is right in front of my new house. Clearly, a decision has been made to fix the problem, for which I thank the Board and the community and my neighborhood. The problem is so severe that at times it has been frightening to me as a parent. I have been convinced that if there were an emergency, an ambulance would not be able to come up to my house. I want to impress upon my neighbors as much as the Board that this is a very necessary improvement for the safety. I understand that people's property is at risk in terms of property values. I understand that wetland environmental issues are at risk. But I invite anyone to come to 29 Fenwick Road the next time there is a flash flood and try to walk up to my front door, and tell me if you do not get wet between your knees and your waist.

**Joan Berner, Steppingstones:** I am from Steppingstones, but I am here at the microphone to ask two questions for Jane Gross who could not make it tonight. Will the Fenwick drainage study include consideration of more frequent cleaning of culverts?

**Mayor Kinnally:** It may not even be part of the study. I will pass that along to the DPW.

**Ms. Berner:** Why do we rush to the conclusion that this is a brook issue and not a storm sewer issue? During Hurricane Floyd, when my basement had five feet of water in it, Fire Chief Schnibbe told me the flooding was a direct result of a crossing of sewer lines with storm sewer lines and not at all related to overflow from the brook that runs through my property.

**Jeff Bernstein, 74 Kent:** Is there anything I can read to find out about the issues? I assume you went out to bid. What was the bid for? Was it a proposal?

**Mayor Kinnally:** It was an RFP for the entire area that was generated by the Village. We can give you a copy of it. We are asking an engineering firm to consult with us to come up with a design, if it is necessary; what can be done to alleviate the situation. The next step would be to adopt the proposals, get construction drawings, and go out to bid.

**Trustee Holdstein:** With the three firms that we interviewed, we talked about a potential of multiple proposals which we can then all chew over. I have heard repeatedly this evening the concept of one proposal. None of the firms indicated they were to come back with just one proposal. They all said they would come back with a high level of fluid, multiple proposals that we can all as a community look at.

**Walter Haubold, 31 Fenwick Road:** I do not know where to start at this point. It has gotten to be like a civil war. The Trustees are taking a hit for integrity, for clandestine conversations. We should keep in mind that we have a drainage problem. Probably I take the brunt of it. I have been pumping and buying generators and putting up floodgates for years. You all recognize at this point we need an engineering firm. All of them are capable of doing the job. I am sure the Trustees will choose the right one. I am just sorry it has gotten to the point of all this name-calling and innuendos and all the rest of it.

**Linda Atkinson, 38 Branford Road:** It is important that we recognize that there is a lot of concern in the neighborhood. But when you say we are going to do what is best for the Village, it implies that might not be what is best for this area, which is alarming.

**Mayor Kinnally:** We have to look at it from a Village standpoint. We are solving a Village drainage problem. I am not focusing just on property A or property B. One of the scopes that we are talking about is finding out where this comes from. It may be that something that helps you may affect somebody upstream or downstream. I look at it a little more globally.

**Ms. Atkinson:** We are all looking at the entire system.

**Mayor Kinnally:** A lot of us are looking at our back yards. That is all I am saying. I am not saying it is fair or unfair. But I am looking at solving a Village problem with Village funds.

**Ms. Atkinson:** We want you to handle not individuals, but the neighborhood, with care.

**Barbara Dormont, 21 Branford Road:** When you look at something in terms of price sometimes the least expensive is not always going to be the least expensive. This could end up costing more because of that. I hope that you are going to take into account that we really are concerned about the best total effect for the whole neighborhood, and price is not necessarily the only and primary concern.

**Ali Chettih, 32 Fenwick Road:** I live right where the problem is. When we have the big flooding, the road is completely covered with water. I have seen some cars come down and start to skid. It is going to be a big problem if this is not solved. We are trying to solve it individually. We all have our own schemes to relieve ourselves from this problem. It is time for us to come as a community and try to solve this for the overall good, for all of us. The Trustees have done very good work bringing it up, and we are all asking to have an engineer with an expertise to say these are the alternatives, and then we can discuss it.

**Mr. Kadala:** Speaking on behalf of the property owners, we recognize there is a flooding problem, and we want to solve it. If you select Malcolm Pirnie then you have many of the property owners' blessings, and things should go very well because we will feel confident. That is our choice, and I think I speak for most people. We do not feel comfortable with CG engineers for many reasons. That is the issue at hand right now. We are very interested in moving forward with the project, but if you want full participation from the property owners, a good choice from the Board will move things very smoothly, very quickly, and we will find the right solution.

**Trustee Holdstein:** I want to say a couple of things very clearly, as the co-chair of the meetings that started I do not know how many years ago in this room on Saturday mornings. I heard references to bulldozers, to losing the brook. I heard a letter written from Ms. Gross not to rush into this as a brook issue, but rather a pipe issue. Nobody from this board has indicated that we have any specific ideas as to how to solve the problem. Nobody has advocated losing the brook. Nobody has advocated that we should not be looking at the piping. From the very beginning, we have simply said we want to hire an engineer to review the entire problem. And from the very beginning we have said that we are not looking to solve a problem on one street and put it on another.

We have, as the Mayor has said, a Village problem. After we receive the proposals, if we as a community of people who live there, anybody else who is interested in this village, and this board decide it is not a good plan, we will go back to the drawing board or work to make the adjustments. There has been a great deal of putting the proverbial cart before the horse. All we want is a competent report and analysis of our options, and then we will decide what we want to do.

I said at the very first meeting that this was a Village responsibility to fix and to pay for, and I have maintained that all along. Whatever we have done throughout this village in the eight years I have served on the Board, we have always returned the property to the way it was. That has been this board's *modus operandi* as long as I have been on the Board, and I see no reason that is going to change.

I also said from the very beginning that all three firms that we interviewed could deliver a competent plan. There seems to be a mood in the community, almost a vindictiveness towards Mr. Gold and his firm. I would be comfortable with any one of the three doing the job. I think they could all give us what it is that we are looking for, which is choices, alternatives, and a proper water flow that does not put a problem someplace else but solves the problem. I look forward to finally hiring whoever we are going to hire, and getting them involved in the community, and finding out what our choices and our solutions are. As the Mayor said, it starts at the top of the hill and it goes all the way to the river and everybody is affected and everybody has a fair say. We are looking for a fair solution without moving a problem, or ruining a stream, or ruining somebody's yard with pipes sticking out of what was a nice green yard. We are looking to solve the problem the right way.

**Trustee Jennings:** I stated my preliminary position at the work session, and I am still in the same place I was then. I am interested in the information shared with us concerning the additional engineering opinions about how many hours are required and the possibility that some of the proposals have been underestimated. I take that seriously, and I think we will look carefully at that. I appreciate that, and I also appreciate all the sincere views that you have shared with us tonight.

I cannot let the evening conclude without comment on a couple of things that I heard that I think are wrong. It has been suggested that this board will make a more intelligent decision without the input and deliberation of Trustee Walrath than we would with it. If you think that, I ask you to think again. That is not true. All of us on the Board are going to make this decision on its merits and in the best interests of the Village. The suggestion that other considerations take a role in this, I have seen no evidence of that at all. I would like to reassure those of you who feel some doubt that we are all on the same page in the way we are

going to make this decision and the standards that we are going to use in making our final decision. To me, that is crystal clear.

**Trustee Apel:** It has been quite an interesting evening discussing this process, and I am glad that Mr. Gold came to give us some additional information so that we have more to think about. I am looking forward to the information that we are going to get from Malcolm Pirnie because that is another consideration. I am interested in getting on with it, and hiring somebody so we can get rid of the water. I am looking forward to getting all that information soon so that we can move on with the project so that this problem can finally be solved.

**Mayor Kinnally:** David, anything?

**Trustee Walrath:** No.

**Mayor Kinnally:** When this item is on the agenda again we will let everybody know. I have had the privilege and pleasure of serving on this board for almost 22 years. In that period of time, we worked on letting contracts out and retaining professional people 25, 30, maybe even 40 times. Never have I seen anything like this process, and the vitriol that this has generated. I do not think it is one of our proudest moments, but we will work through it.

**Ms. Berner:** I object to Mike's use of the word vindictive. The folks who have made statements here and in previous meetings have nothing personal, or in any way want to be vindictive, against anyone, including Mr. Gold.

**Mayor Kinnally:** I think he is entitled to his opinion.

**Ms. Berner:** Well, that is true, but I would also like to make the comment.

**Mayor Kinnally:** The comment has been noted.

### **PUBLIC HEARING - MORATORIUM**

**Mayor Kinnally:** I would ask for a resolution for a public hearing on October 15, 2002 to extend the moratorium on building for an additional 90 days.

On MOTION of Trustee Holdstein, SECONDED by Trustee Apel with a voice vote of all in favor, the Board called for a Public Hearing on October 15, 2002 to consider extending the moratorium on building for an additional 90 days.

### **LEAD AGENCY - SEQRA REVIEW PROPOSED ZONING**

**Mayor Kinnally:** I would also ask for a resolution for the Board of Trustees to declare itself lead agency for purposes of SEQRA review on the zoning proposals for the downtown area.

**Deputy Village Manager Maggiotto:** Let the record show that the notice of intent to declare lead agency was distributed August 20 and there were no objections to it.

On MOTION of Trustee Holdstein, SECONDED by Trustee Walrath with a voice vote of all in favor, the Board declared itself lead agency for purposes of SEQRA review on the zoning proposals for the downtown area.

### **71:02 WESTCHESTER URBAN COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM 2003 - 2005 APPLICATION**

**Village Planner Walker:** This proposal was discussed at your last meeting and at a work session. The county and HUD are most concerned about the low and moderate income use of the Community Center. We have to prove that 51% of the users of the Community Center are of low and moderate income. We have done a pretty thorough evaluation of both the seniors and the youth programs that use the Center with the help of the senior coordinator, Jean Schnibbe, and our youth advocates. We are going to be able to demonstrate that, indeed, 51% do meet the low and moderate income criteria. I mention this because it determines how much money we ask for.

We are proposing the renovation and addition project to add an elevator/stair tower which will make the building accessible as well as add a piece that could be used for program space on the front. It will have a new plaza and it will be thorough renovation, replacement of systems, new roof, and so on. I was on the committee in 1997 that started evaluating the Community Center, so we have been talking about this for about five years, with a number of community meetings.

I am proposing, after talking to the people at the county and evaluating the costs, to ask for \$864,000 from the county in CDBG funds. After looking at fixtures, furniture and equipment, design and engineering, design contingency, and escalation of costs to 2004, we are estimating that the total cost will be \$2.4 million. Certain of these costs are not eligible for CDBG funds, so after deducting those costs, the CDBG eligible activities come to around \$1.5 million. We are escalating that to \$1.7 million in 2004, and we are asking for 50% of that. So we are providing a 50% match. This application is due on September 30, and I think we will hear by the end of the year what their decision is.

I would like to introduce John Wazeta, who is our CDAG representative; he is going to be responsible for representing the community and going to the county and saying that this project is something that we need.

**John Wazeta, CDAG Representative:** I am happy to serve in this capacity. I know very little about the issue substantively. I will get a lot of instruction from Meg. Since official approval is necessary, I am happy to, as the representative, give my approval to that and represent the Village at the meetings, which I will be informed about fairly shortly.

**Mayor Kinnally:** You are much too modest, John. You have been involved in this area for a long time. Thank you for serving.

**Mr. Wazeta:** I am looking forward to the opportunity.

**Mayor Kinnally:** Meg, very good presentation. It is something we have been going over for a while. I know you put this together very quickly after our discussion last week, and I thank you for it. It is very comprehensive. I spent some time this evening reviewing it, and I am impressed with it.

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 approve the submission for 2003 - 2005 project grants administered through the Westchester Urban County Community Development Block Grant Program as follows:

<u>Project</u>	<u>CDBG Contribution</u>	<u>Village Contribution</u>	<u>Total Amount</u>
Addition and Renovation to the James Harmon Community Center	\$864,000 (50% of CDBG-eligible costs)	\$1,536,000	\$2,400,000

**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

**72:02 LEASE OF PROPERTY RIDGE STREET**



**Mayor Kinnally:** I would ask that this be tabled since we just got this information.

On MOTION of Trustee Jennings, SECONDED by the Trustee Walrath with a voice vote of all in favor, Resolution 72:02 was tabled.

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

**Mayor Kinnally:** First, a report on the Village Manager. Neil started radiation therapy yesterday. He went into it in great shape. I am sure he will come out of it in great shape. But it is a great unknown and we wish Neil the best. He is going to have five treatments a week for at least seven weeks. He has been coming in on a part-time basis, over my and Irene's objections, but it has been good having him and having his counsel.

**Acting Village Manager Maggiotto:** AT&T has received all approvals necessary to put their installation on the roof of the Municipal Building. We will very shortly have better reception for AT&T cell users, as well as a little more money in Village coffers. The lease provides an annual payment of \$42,000 a year. It is a 10-year lease, and there is a 4% increase each year. It is payable in advance and will be pro-rated from July 5, which is the date the lease is payable. We also will receive a \$7,500 one-time payment to get us rolling with our program to distribute cell phones that have 9-1-1 capabilities to people in the Village. We are actively soliciting used cell phones. You can leave them at Village Hall or the Community Center, if you have old cell phones that you are ready to discard.

The library will inaugurate its Orr Room with an evening program on September 29. A historian, John Wright, will discuss *Cowboys, Skinners, Spies & Rogues: Rivertowns Irregulars In The War Of The Revolution*. Then there will be a one-act play by Regina Kelly commemorating the 224<sup>th</sup> anniversary of the Battle of Edgar's Lane, with local actors in it. The only thing I would look forward to more is a daytime program so we could all see the wonderful view out the windows of the Orr Room. I had a glimpse of the area downstairs tonight, and it is truly beautiful, the Orr Room and the adjacent rooms.

**Mayor Kinnally:** The Library Board has decided on a rededication of the library on October 19. I echo what Susan said of the new space there. You may call it the Orr Room, but it is a much different facility. The plantings are going to be great. I have seen some preliminary schematics for them. The grass is coming in. The patio in the back, overlooking the Hudson, and the pathway are just spectacular. We have ourselves one heck of a new park, a new library, and it is a credit to everybody.

### **BOARD DISCUSSION AND COMMENTS**

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

**Mayor Kinnally:** We allowed the use of part of MacEachron Waterfront Park for a benefit for the Westchester Arts Council last night. We received a \$1,000 donation to the Village Betterment Fund from *Westchester Spotlight* magazine, \$5,000 worth of free advertising, and a story in *Westchester Spotlight* dealing with the gazebo that we are purchasing for the park and our fund-raising efforts. We had the best-of sunsets last night. It was absolutely spectacular. There were broken clouds, and they were all purple. A lot of people who had never come to this part of the county got a good idea of what we are all about here, so I think it was a good evening for all and a great marketing opportunity for Hastings, for Harvest, for Blu, for all of the restaurants that people have to go by and all of the stores.

We had a settlement discussion on Friday with lawyers from ARCO. Representatives of ARCO, Sandy Stash and Mark Brekhus, two attorneys for ARCO, Mark Chertok, and I had some frank discussions. Sandy asked me what the most important thing and I said we cannot lose sight of the ultimate use and ownership of the site. There is a lot more work to be done, but part of it is reaching out to the state, urging the state, and we are doing that.

Our hope is that we will have an FS and a PRAP by the end of the year, and that is one of the things we are pushing the state on. We have said all along that the election is probably holding things up, and certainly it is true to form. One of the things we are trying to find out is the status of the Estuaries Institute.

## 2. Update on the Quarry

**Mayor Kinnally:** Mark Chertok is working on our response to the state. Susan sent us a memo about progress that has been made as far as grading the area and making it more uniform, insuring that the runoff does not run off. It looks completely different from last spring. The odor has subsided.

## 3. Other

**Trustee Apel:** There are some people that would like to have DSL lines in this community, and a part of the community is still not able to be serviced. I am not sure what can be done about this. There are people that work out of their homes and need those types of lines.

**Technology Director Zaratzian:** We are about three to four weeks away from cable modems being available in Hastings. As a resident of Yonkers who has had it for about a year and a half, it is very good and very reliable. The problem with DSL is length from the central office. Our wiring in Hastings is not the newest. They cannot get a good solid

connection past Broadway. In my opinion it will not be anytime soon, not until the technology gets better. But I would really try the cable modems.

**Trustee Apel:** I am not disagreeing that might be better, but is there any way to force the companies that have these lines to put in the appropriate lines, to redo the lines or the wiring?

**Jeff Bogart, 5 Jordan Road:** I have been told that the problem has to do with the lack of copper wires. It has nothing to do with the latest. Copper has been around a long time, and I have been told that there is a junction box somewhere around Ravensdale. This is something that the phone company has known about for a long time. I keep getting advertisements from the phone company telling me about their great DSL, but they cannot provide it to me so that is false advertising. They disconnected my line because they thought they were going to provide me with copper but, in fact, they did not, so my line was out for two days. I have had other problems in dealing with Verizon, and from my standpoint they ought to lose their franchise. We hear a lot about deregulation of the telecommunications industry. In fact, that last mile of line, so to speak, has not been deregulated. It is a monopoly. If you want AT&T, for example, to give you DSL, you would still be dealing with Verizon because they own the line and they have to repair it. And they do not have the right equipment. I would like to urge the Board of Trustees to bring whatever pressure they can to bear on a monopoly.

**Mayor Kinnally:** I am going to ask Marge to reach out to the New York State Public Service Commission because it is under their jurisdiction.

### **ADJOURNMENT**

On MOTION of Trustee Apel, SECONDED by Trustee Walrath with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 11:20 p.m.