

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**BOARD OF TRUSTEES**  
**REGULAR MEETING**  
**OCTOBER 1, 2002**

A Regular Meeting was held by the Board of Trustees on Tuesday, October 1, 2002 at 8:10 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Mayor Wm. Lee Kinnally, Jr., Trustee David Walrath, Trustee Marjorie Apel, Acting Village Attorney Marianne Stecich, and Deputy Village Manager Susan Maggiotto.

**ABSENT:** Trustee Michael Holdstein; Trustee Bruce Jennings.

**CITIZENS:** Twenty (20).

**APPROVAL OF MINUTES**

On MOTION of Trustee Apel, SECONDED by Trustee Walrath with a voice vote of all in favor, the Minutes of the Regular Meeting of September 10, 2002 were approved as presented.

**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. 33-2002-03 \$103,548.64  
Multi-Fund No. 35-2002-03 \$ 15,459.51

**BOARD DISCUSSION AND COMMENTS**

**1. Pool Renovation**

**Mayor Kinnally:** We will go out of order and move to the pool renovation report. Mr. Ward, Ray Gomes, Jack Padawer and Ellen Bush are here. Let me begin by saying I had trouble figuring out where things went awry because the breakdown in your latest report did not follow the same format as your February 4 report.

**Mr. Ward:** Contract one, the general site construction which involved the decks, the road work, the excavation on the site, the rock removal, the walls, is the number that is principally out of whack. The other bids on pools, plumbing, and electrical were where we expected them to be. Our suggestion is to re-scope the bids.

In the original scheme we were trying to get these pools tucked into this wood line on the west side. We wanted to leave as much grass space as we could. But there were a lot of impacts on the site, including rock removal, and they were reflected in the cost. In the re-scope we would move the training pool to the north of the main pool, and leave the new wading pool where the existing wading pool was. We would not encroach into the hillside and we would mitigate quite a bit of the rock removal and walls that would have had to be put in.

**Mayor Kinnally:** But you are losing a significant amount of green space.

**Mr. Ward:** Yes, that is the down side of it. There will be some loss of grass, but some of it is made up by relocation of the fence. This pool is about 2 feet higher than the main pool. We would not have any subgrade problems.

**Trustee Walrath:** Subgrade problems: did you mean rock?

**Mr. Ward:** Yes. Where we had located them originally there was rock at the surface. So to get the pools in, we had to excavate through rock.

**Mayor Kinnally:** The original concept had the new pool and the kiddie pool adjacent to one another. There was a reason for an affinity between the two of them. It seems that you almost defeat the purpose of having the small children in one area by splitting the pools. How deep is the pool next to the main pool?

**Mr. Ward:** This will run two to three feet deep. It will be a training pool. That is for children that are 5, 6, 7, 8, in that age group, who are non-swimmers and cannot navigate the main pool. The wading pool, by Health Department requirements, will be fenced in. This pool will not be required to be fenced in.

**Trustee Apel:** Were you planning on the original to have a fence around the two pools?

**Mr. Ward:** That is correct.

**Mayor Kinnally:** How much distance is there between the deckings of the main pool and the wading pool?

**Mr. Ward:** We are showing the new pool to be two feet higher, so there would be a little slope, and planting, between them and about 25 feet. Between decks there is a five foot area: a little slope with plantings.

**Acting Village Manager Maggiotto:** Would your new scheme require work in the parking lot, or could the parking lot remain as it is?

**Mr. Ward:** This scheme shows the full development of the expanded parking, the turnaround and drop-off, but the parking lot could stay as it is.

**Trustee Apel:** If I am a parent and have a kid in the wading pool and a kid up the hill in the other pool, how I am going to keep tabs on two kids at one time, even though there are lifeguards there?

**Mr. Ward:** If you were sitting in here, you could see both areas, even though it is not in as close proximity. Even with the other scheme, there was still a fence between them.

**Trustee Apel:** I think they are a little far away from each other to see each other.

**Mr. Ward:** I do not see a problem with this being moved this way to make it closer to the other pool. But you realize that the wading pool, by code, has to be fenced in.

**Trustee Walrath:** In your original estimate, was the rock bid as a unit price item?

**Mr. Ward:** No, it was not. It was bid as an unclassified excavation.

**Trustee Walrath:** How much information do we provide the bidders?

**Mr. Ward:** We gave them the test borings, so they knew where rock was.

**Trustee Walrath:** Based on those borings, you believe that moving this will eliminate rock and bring the unclassified excavation cost down?

**Mr. Ward:** That is correct. And the walls we were putting into this slope would come out.

**Trustee Walrath:** On your original layout, would it be practical to raise things up more than two feet and have that reduce the rock excavation?

**Mr. Ward:** The two feet still would not get us ahead of the rock here, and we would have to put a wall against this edge, against the pool. In order to get out of rock here totally, we would have to be up five or six feet above this deck.

**Trustee Walrath:** I am sure there are a lot of things to balance. You believe that raising it more than two feet, and keeping it where it was in the design you went to bid with, would not save money.

**Mr. Ward:** No, it would not. If you are going down three feet to main drains, our construction depth is closer to five feet. There are main drain boxes, there is pipe coming out of a bottom. So in order to get out of rock here totally, altogether we would have to be up five or six feet above this deck. It looks like you raise it two feet and are out of the rock. But the construction of the three foot end of this pool is a five foot construction depth.

**Trustee Walrath:** In the new plan, would you keep the existing kiddie pool?

**Mr. Ward:** No, that is a totally new pool, but in the same location.

**Trustee Walrath:** So does that have any cost savings?

**Mr. Ward:** No, none at all. The existing pool would get demolished and a new pool built. This is a 30 by 30 pool. The existing is about 20 by 30. This would also be a zero-depth pool, which has some water features in it, bubblers on the bottom.

**Mayor Kinnally:** Was the cost of a new bathhouse estimated?

**Mr. Ward:** Totally redoing it was \$1million in round numbers: putting a pitched roof on, gutting the inside, and refurbishing it. If we were to take this project as it is shown and were to build it from scratch today, we are talking \$5 or \$6 million. You have a tremendous investment here. It is costing a lot to upgrade, but if you did not have a pool you would be looking at a tremendous cost today to get to the point you are.

**Ellen Bush, Co-chair Parks & Recreation Commission:** What you are seeing is the end of two years of a lot of discussion. This is a compromise plan. The original plan, which was generated after the first year of discussion, was close to \$3 million. When we were told that there was going to be a ceiling on the cost, due to the fact that you can only raise the permit fees a certain amount, it became clear that we were talking about limiting the entire renovation to \$1.5 million. This is the \$1.5 million. The utmost care was taken in getting to this point. Our primary consideration always was the safety of the children. The people who wanted extra lap lanes and the people who wanted swimming all year long are not getting what they want. What we hope will come out of this is a safer environment for the kids, and that is what this third pool does. This training pool is for those children who are

not safe in the big pool. This is giving them a place to be. Not in the baby pool, which they cannot be in after they are five years old, and not in the big pool.

We hope that you will approve this, that the next time around the bids will come back at a more reasonable level, and that we can also do the other improvements which, again, are safety improvements: enlarging the parking lot; making this turnaround for easier drop-off and access for disabled people and elderly people. I think this is one of the best plans that could be drawn up. I think it is going to be a bargain for the money, and it is going to last a good 15 to 20 years.

**Mayor Kinnally:** Is there any way of making the shallow end shallower without putting in an additional pool?

**Ms. Bush:** We talked about that, and you are talking about constructing a whole new pool. There was one plan about joining the existing baby pool and the large pool and making that a graduated depth, which was an exciting idea. But people had the same issues: what do I do with my toddler who is going down this ramp and about to go into the 3-1/2 foot pool?

**Dr. Jacques Padawer, 170 Villard:** I am a member of the Recreation Commission. We have a difficult problem because the fees are perceived by most people to be rather high. The fact that they were just raised, and we can not start building now, is an additional bone in the craw. I have heard from a number of people some argument that I have trouble dealing with. They say we just spent money to redo the Municipal Building, and redid the library at a considerable cost. Why should the pool not be part of the Village expenses? Reduce the fees considerably so that everybody can afford it and you would not have this discrepancy. I realize that this is quite a departure from what we have been thinking about. In the last two years it had not come up with the commission, but I want you to be aware that there is this kind of thinking in the Village.

This new plan here is not feasible if the Village is not going to take the cost of the turnaround, the parking lot, and the road. There is \$400,000 there which is used by many other people: tennis people, people who want to go to the pond, and so forth. So there is a good rationale for saying that the Village should do it. Unless you want to go to this new situation where you own the pool altogether, reduce the fees for everybody, and then it is no longer a separate entity that has to support itself.

**Mayor Kinnally:** There is a lot for us to consider here. That isolated three foot pool takes away a lot of green space. This is not a project that is going to be done this winter.

**Trustee Walrath:** When the library architect was talking about going to bid he said it would be well to bid in September because the school districts have a lot of projects that start in the spring. You have a proposal which would be spring bidding, but a fall start because we want to use the pool for the summer. Will that timing be an advantage as far as the effect on price?

**Mr. Ward:** The ideal is to bid in spring, and have the contractors ready to go right after Labor Day.

**Jeff Bogart, 5 Jordan Road:** What was the price for the original pool and how much was the overage?

**Mr. Ward:** The base bids came in at about \$1.95 million. Our pre-bid estimate, you had authorized us to go with \$1.5 million. When we put the bid package together and did our final estimate pre-bid we were at \$1.7 million and change. We then created some alternates, and tried to keep it within scope. We were hoping it could have been 10% either way. Unfortunately, it went 10% higher than the \$1.7 million.

**Mayor Kinnally:** What would the proposed new scope come in, at 2002 prices, if these bids held?

**Mr. Ward:** We were looking at \$1.6 million and change absent the turnaround and the parking lot.

**Mayor Kinnally:** We will have this on our agenda at a subsequent time when we get all of the Trustees here and we have an opportunity to digest all of this.

## **2. Proposed Zoning Code Amendments**

**Mayor Kinnally:** We have Meg Walker, Bob Lee, Mary Whiting, Arthur Riolo, Jerry Quinlan, and Patty Speranza. I thought the meeting last week was a good meeting. We had a lot of comments, which focused more on the negatives. But Bob's presentation went through the positives, and some of the things should be highlighted. We are talking about residential buildings. There will be self-contained parking in future residential buildings, is that correct, Bob? So let us assume we have a four-story building. That four-story building would have to incorporate the parking. You are not talking about additional parking, additional bulk, or additional FAR.

**Planning Board Member Robert Lee:** As of right, the Zoning Code has a three-story height in the downtown, with the possibility of a fourth story on approval by the Planning Board

and sloping up creating a difficulty; or a four-story below grade on sloping down creating a difficulty. The as of right height is the same under the new code as the existing code. The fourth story is an option available if it is necessary to create a quality product.

**Mayor Kinnally:** Other than the downtown area, we have one area at the bottom of Washington where there are six stories. What is the current zoning in that area?

**Planning Board Member Lee:** Current zoning is light industrial, but there is no light industrial there; it is all residential.

**Mayor Kinnally:** How many stories is that building at the corner of Washington and Southside?

**Village Planner Walker:** It is five stories, and there is another one across the street that is five stories.

Last week the Mayor suggested that we have a community meeting to talk about the zoning. We have organized meeting for October 8; it will be a chance to have a discussion and a question and answer session.

One of the key questions is what is the compelling reason to rezone the downtown? This goes back about five years when the Planning Board was working on the Vision Plan. A committee that Bob chaired made recommendations to the Planning Board regarding the Central Commercial District, which currently extends into a residential neighborhood; it makes a lot of sense to cut free that residential neighborhood and concentrate the Central Commercial District north of the Warburton Bridge. This will make it more compact, more vibrant, more walkable, and more viable. The current zoning is inconsistent with the way things have been built over the last 100 years. The reality does not reflect the zoning, and the zoning does not reflect the reality. This zoning committee is trying to make the zoning reflect the reality of the charming, walkable, small-scale village that everybody loves. One of the primary goals was to maintain that character.

Also, the current zoning would allow strip commercial development all the way down Warburton and Main. Discouraging that kind of strip commercial development was a goal. Because of the parking requirements the zoning discourages smaller retail uses and smaller commercial uses.

**Mayor Kinnally:** And that is defined by 2,500 square feet?

**Village Planner Walker:** We determined that the size of Hastings Prime Meats, about 2,500 square feet, was about the maximum that we would describe as small retail. Anything higher would require its own parking or a closer look to see what kind of impact it is going to have. We did not think smaller retail would have an impact. The other compelling reason was to reflect the residential character of the neighborhood south of Warburton Bridge. It is a mixed-use neighborhood, but it is predominantly residential and it should be allowed to be that.

**Mayor Kinnally:** People from the Warburton area south of Washington commented that there is a severe parking problem there. To introduce more commercial is foolish because you are not adding more parking and you will aggravate an already intolerable situation, and there are too many empty stores down there now, so why encourage more commercial in an area that is not supporting it?

**Village Planner Walker:** It is a good question. We had a number of meetings with the neighbors in that area even before the zoning process started about the future of their neighborhood. They liked the idea of having some very small area where convenience retail would be allowed, just as they had convenience retail there until recently that people could walk to. The neighborhood commercial overlay that the committee recommends is very small. It covers only about four or five properties. It is something that needs to be discussed. If you had a parking requirement, there would be no retail unless it was grandfathered in. Now it is gone, so it is probably not going to be grandfathered in.

**Trustee Apel:** Why did the store close?

**Village Planner Walker:** The fellow died who owned it. His son tried to carry on but I do not know why he could not make it.

**Trustee Apel:** The neighborhood was not supporting it, and then you are going to provide space for that and they are not going to support it. If you were going to drive, where would you park?

**Planning Board Member Lee:** The neighborhood was of two minds. There were people who wanted small stores that they could walk to as offices, for coffee, and so forth. And there are others that felt the parking was so horrendous they could not deal with it. We put it in because that seemed to be the majority situation. The other factor is that it is an impossible site. There have been three proposals to build on that site, none of which are doable. It is a terrible eyesore, and it is part of the Affordable Housing Committee's project.



I never have been sure whether it should be in the zoning, or it should be fought out as a variance for the Affordable Housing Committee. We are not going to fight with them.

**Village Planner Walker:** It is the neighborhood's call if they are uncomfortable about it. It is a question that could certainly deserve further discussion.

Another question that came up is, will this new zoning encourage developers to tear down existing buildings and redevelop the sites? The Zoning Committee never intended to encourage redevelopment with this zoning proposal. We are endeavoring to keep the Village more or less the same. Certainly, there are sites that will be redeveloped because they are empty or because they are viable sites. But most of the lots in the MRC, in the CC District, are very small and the topography is often unwieldy. The main disincentive to tearing down is going to be the parking, because you can get a lot more rentable space out of a building there now that is not providing parking than you could by tearing it down and building another building that has to have numerous parking spaces. We are talking about waiving parking for the retail under 2,500 square feet, but other things have to provide parking: residential, office space, and so on. In addition, in the CC District we have something in the proposed code about not allowing parking in the front of buildings or the side, but requiring that it be in the rear or the interior of the building, so that makes it even more difficult to redevelop. Also, in the MRC and the MRO Districts there are open space requirements. None of the buildings on Washington Avenue now provides much open space for their tenants in the form of a courtyard, or a back yard. That would be another disincentive, because you would have many fewer units.

There was also the question about the parking reduction for multi-family housing. The effort there was to make it more equitable. The single-family house requirement is never more than two spaces. So even if you are building a five or six bedroom house, you still only have to have two spaces off-street. It seemed unfair to make a three bedroom apartment provide 2½ spaces, or more than a single family house. Also, most of the multi-family housing is near the center of town, near the train station. People are more likely to walk from those buildings than they are from the single family houses. So having a more stringent parking requirement for them did not make sense.

**Trustee Apel:** Have we studied how many cars people have in this community per household?

**Village Planner Walker:** It is a good question. We could do a survey.

**Trustee Apel:** This is not scientific, but there seem to be a lot of cars lately. And people are not having their two cars in their houses, they are having three. To say they are going to walk to the train station, I do not know if that is true. People have company, and people are coming and going. I think we need to look at cars and traffic in the whole Village to see what is going on because everything impacts each other.

**Village Planner Walker:** On the other hand, cities around the country are reducing their parking requirements in the downtowns. San Francisco and Los Angeles are waiving their parking requirements altogether for residential use in order to encourage people to walk and take public transportation. Planning has now gone in the other direction. They are trying to avoid so many parking spaces. Right now you have a parking space for all your cars at home, and then you have parking spaces for all your cars in the Village, and then parking spaces for all your cars at your workplace. So your one car has three parking spaces, and that is a lot of asphalt.

**Trustee Apel:** Are they hoping that people would not want to have cars because they cannot have a place to park?

**Village Planner Walker:** Partly. But in the CC and the MRC District particularly, the committee felt that more people would be walking into town because they are close to town, and would be walking to the train station. They would be unlikely to need their car as much to commute.

**Trustee Apel:** But they might use it to go shopping outside the Village.

**Village Planner Walker:** Right. But do they really need more parking spaces than a five bedroom house? The MWB Zone that was approved in 1990 for the waterfront has the same parking requirement that we are suggesting. So 12 years ago it was thought that that would be sufficient.

**Trustee Apel:** We may wish that to be so, but it is not happening and we are getting cramped. We have to look at that carefully.

**Village Planner Walker:** Another question is about the fourth story. Will allowing a fourth story in the downtown block views and increase density? It really is only three stories as of right; the fourth story would have to be carefully scrutinized by the Planning Board. Not every building is going to be appropriate for a fourth story. An additional floor below street level would be allowed so it does not necessarily have to be on top. Many of the lots on Main Street, and some on Warburton, are on steeply sloping sites away from the street, so

that you could get an additional floor below. In fact, many of the buildings on Main Street have two or three additional floors below grade.

**Trustee Apel:** What is the difference between a basement and a cellar?

**Village Planner Walker:** Most zoning codes and building codes distinguish between basements and cellars. Our code did not, and it was our consultant's recommendation that we include that. The basement would be more than 50% above grade, and a cellar would be more than 50% below grade. A basement is counted as a story, but a cellar is not.

**Trustee Apel:** Can you have a cellar on a slope?

**Village Planner Walker:** You could. A cellar cannot be used for living space. If it were counted as a basement, which would be a story, then you could put living spaces in it. That is the major distinction.

Why are we suggesting six stories in the MRC district? The committee and the Planning Board felt that the density in this area could be higher than the current zoning allows, but not higher than the existing condition. The goal was to provide a little more density. It was thought that no views would be obstructed. The existing buildings are five stories and most of them have high floor-to-floor heights, so they are as big as a six-story building and the height would not change that much from what is there now.

**Mayor Kinnally:** But you would have to have parking on-site.

**Village Planner Walker:** You would have to have parking on site, which would reduce the number of units considerably. We would reduce the density and take the parking off the street.

**Planning Boardmember Lee:** In the six-story zoning in the MRC, those buildings would practically all be commercial or office buildings if developed. The requirements for residential are so tight that the space required for open space and parking would almost preclude residential in a six-story building. We may look at loosening things up a little bit.

**Trustee Apel:** I am taking this a step forward in terms of planning and vision. What is proposed for the waterfront opposite Southside and Washington?

**Village Planner Walker:** Residential, two or three stories, garden apartment-type units. The commercial was further to the north.

**Trustee Walrath:** Would there be a point where what you suggested as MRC may not be nearly as much residential?

**Planning Board Member Lee:** Our plan was to have a mixed residential/commercial district.

**Trustee Walrath:** But you would expect it is going to be more commercial than residential.

**Planning Board Member Lee:** I expect that one block. The hill divides itself up into four terraces. One would be roughly a six-story terrace at Southside Avenue. Behind that, a five-story terrace. Then a four-story terrace. And then the existing properties on Washington Avenue that are sloped. The two interior ones would be largely residential. This would not be a major residential area. It would be significant, but nothing major.

**Trustee Walrath:** Would the office space have parking requirements?

**Planning Board Member Lee:** Everything would have parking requirements.

**Village Planner Walker:** I did a small study regarding parking. The Hastings Garage site is about 170 feet across and 160 feet deep. I put two stores here adding up to 2,600 square feet, which would require 200 square feet for parking under current zoning. You would need 26 parking spaces. You would have a large parking lot in front of those stores, and you would not be able to put parking anywhere else on the site to serve the stores. This is a graphic illustration of why we think you cannot have parking in front of the small retail.

**Planning Board Member Lee:** That would be the fifth parking lot on Main Street. There would be 14 curb cuts and five parking lots on Main Street. It would be solid parking from the Food Emporium, to CitiBank, to our own public parking lot.

**Village Planner Walker:** There was a question about the height definition. With our current height definition the Planning Board has faced time and time again the fact that steep slopes are getting ravaged. People are building high platforms with high retaining walls and then they are plunking a 35 foot high house on the platform, which ends up being a lot more than 35 feet above the slope when you include the retaining wall. The point was to bring the buildings down to hug the slope more.

**Mayor Kinnally:** Meg, your memo responds to the comments that were made and clarifies quite a few things. I suggest that you have it available on our web site. Thanks to everyone on the committee. This is an evolving concept. The most important thing is that we are

trying to preserve what we have. Not change the scale, enhance it. Make sure it is there in 20, 30, 40 years. And ensure that our entire downtown remains a Hastings downtown; it does not become an Ardsley downtown or a Central Avenue, which is completely out of character.

### **3. MetroNorth**

**Mayor Kinnally:** We spend lot of time in this village talking about preserving open space. We went through the entire planning process for the waterfront trying to insure that the area across from the parking lot is open, that we have a sense when you come down the hill, it will open up to the Village. Having said that, we had a meeting on Friday morning with Metro North. They are enhancing some of the stations, and they gave us their schematic for what they have in mind for Hastings. They said they would like our approval. It was not given. Our reaction was so negative they took back the handouts.

The station itself would not be changed. They would change signage, and they would upgrade the station. The overpass would be removed. That is the good news. The bad news is that the overpass would be moved 40 feet south of where it is now. The walkway as you come to the top of the stairs would be extended 40 feet south, at which point there would be a new overpass that would be 5-1/2 feet higher than the present one because it has to be 23 feet high. At either end of the overpass would be a tower for an elevator. The stairs would go from this free-standing area toward the train station. So if you want to envision the open space, the view, and the area in front of the northbound platform that we just put a new plaza in, it is gone. In addition to that, there would be three free-standing buildings to accommodate the mechanicals for the elevator, a salt shed, and something else. It was an abomination. I thought back to everything we tried to accomplish with the RPA initiative and all we are trying to do. The selling point with the county when we redid the plaza was that this is a gateway to our village. And it was ghastly. I am not doing it justice. It was terrible.

According to them they do not want to have limitations on the amount of freight traffic that can come through. That is my suspicion. The last time the overpass was raised was to accommodate when they redid Fisher Body and they wanted it doubled to be able to have the trains coming through with the cars on them. That did not last long. But they do not want to come back and revisit all of this, so they have uniform height all the way through. They cannot raise the existing overpass any higher. There is no way of getting from the current grade at our station in the back up those five feet and onto the platform. It is physically impossible to do it because you have to ramp it for ADA. I asked how much flexibility there was, and they said there really isn't any. So they are going to come back to us.

**Speaker:** How much control do we have over the project, if any?

**Mayor Kinnally:** None. They are not subject to the zoning laws. I asked them about a public hearing or making a public presentation and their answer was they do not have to have a public hearing for this. They have no intention of coming to the community. All they have to do is run this by state historical preservation.

**Planning Board Member Speranza:** My understanding is that MetroNorth absolutely wants to improve their relationships with the communities. I know that someone from their capital planning had attended one of the waterfront sessions in the Village. I would hope that with constant pressure, they can come up with a design that will meet our approval. Some of the needs are real to some extent in terms of handicapped accessibility and the need, should additional freight come down the Hudson, which is a whole different issue. But we have to keep pressuring them to work with us.

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

**Acting Village Manager Maggiotto:** The work on they Ridge Street improvements is starting. As part of the improvements we want to put a turnaround at the end of the street, which will help considerably, for people to access the street. There is a garage at the end of the street that is owned by Joseph Capuano, and he has agreed to let us demolish the garage, pave the portion of it where the garage is, and use it for a turnaround. We have reached this agreement with him, and we would like to go forward with this lease agreement. We have the EAF here, so I will let Marianne walk us through it.

**Deputy Village Attorney Stecich:** It is subject to SEQRA, so the Board would have to make a determination whether there are any negative environmental impacts. I reviewed the EAF, and no adverse impacts were identified. I could recommend that the Board find that there would not be any environmental impacts, and issue a negative declaration of environmental significance on the lease of the property at the end of Ridge Street to be used as a turnaround.

**Ms. Merton:** How long is the lease?

**Mayor Kinnally:** Ninety-nine years, with a 60-day termination provision at the option of the Village. The tenant may terminate this lease upon 60 days written notice to the landlord without liability.

**Ms. Merton:** The amount, and is there an escalator clause?

**Mayor Kinnally:** It is \$200 a month for the term of the lease. If we take it over the term of 99 years without there being an escalation it is not going to be very much. There were reasons why we did not do an easement at this point. We would have to tie it in to a particular survey, and there is no survey. So we have the option of terminating the lease and going into an easement, if need be, but we are getting what we want out of this for a term without an escalator. We are going to tear down the structure on the property at our cost.

**Deputy Village Attorney Stecich:** The lease is specific that you do not have to return the property to its original condition if it is terminated.

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

**RESOLVED:** that the Mayor and Board of Trustees authorize the Acting Village Manager to sign an agreement as attached with Joseph Capuano, owner of Ridge Street Apts., Inc., 18 Ridge Street, to lease a portion of that property to demolish the existing garage and pave that portion for a turnaround, for a term of 99 years for a payment of \$200.00 per month to be appropriated from the general fund.

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

**VILLAGE MANAGER'S REPORT**

**Mayor Kinnally:** The report on the Manager is that he has started his radiation treatments. He is coming in every day as the consultant to the Acting Village Manager. He is keeping his hand in things, but he is tired. He is looking at an analysis of revenues and expenditures on the budget and will give us a snapshot of where we are at the current time.

**Acting Village Manager Maggiotto:** Neil spent some time at the tag sale on Sunday which turned out to be another wonderful community event. It took the cooperation of everybody in the Village. Linda Knies organized it very ably. We had plenty of vendors. The Rec Department worked with Linda to scope out the park. The police department kept all the

traffic moving, got the vendors on and off the site. The fire department sold refreshments. There were lots of people and it was a glorious weather day on our beautiful waterfront.

Last June Cablevision was upgrading for their cable modems, and in the area of Hastings west of the Saw Mill River Road the fiber got mixed up, so people in that area were not able to get Channel 73 and we began to hear about it. Raf spent a lot of time talking to Cablevision and explaining that that area was very much a part of the Village and needed to see our cable station. We got a report today that Cablevision did whatever they had to do, and we are up and running again in that part of the Village.

**Mayor Kinnally:** I received a letter today from Cablevision indicating that Cablevision wishes to continue providing service to the Village for an additional renewal term and are, by this letter, "informing you of our intention to seek renewal of the franchise." We are putting together a committee to assist us in this regard. One hopes that Cablevision will upgrade their service.

#### **EXECUTIVE SESSION**

On MOTION of Trustee Apel, SECONDED by Trustee Walrath with a voice vote of all in favor, the Board scheduled an Executive Session for Tuesday, October 8, 2002 to discuss personnel and litigation.

#### **BOARD DISCUSSION AND COMMENTS (cont'd.)**

##### **4. Fenwick Drainage**

**Mayor Kinnally:** We are not having any discussion on the Fenwick drainage this evening because of the absence of Trustees Holdstein and Jennings. I notified the people in the area. We will have this on our agenda on October 15 for discussion and possibly action.

##### **5. Update on the Waterfront**

**Mayor Kinnally:** John Cahill advised me that there would be no decision on a PRAP or on the estuaries institute until the end of the year. We received a letter today from the selection committee on the estuaries institute indicating that we were still in the running and that the state was going to do a socioeconomic and environmental review of the applications. The PRAP will not be until sometime in December.

We are in negotiations with ARCO and ARCO is supposed to make an overture to the DEC to have a joint meeting. I have not been able to contact the attorney from ARCO to see if she



has, in fact, spoken with the DEC and if they are going to give us a meeting. My sense is that we will have the meeting.

## **6. Update on the Quarry**

**Mayor Kinnally:** We have dug four additional test pits at about eight feet deep and they came up with nothing other than organic material that we knew was on the site. The area has been leveled and cleaned up considerably. We are completing the report the state has asked for by October 15. There is nothing that we or the DEC have found on-site that will hinder us in getting a closing and moving on to a future use of the site after hearings in the community. We are delighted that all of the investigation has come up with nothing.

## **PUBLIC COMMENTS**

**Andrew Zimmerman, 7 Ridge Street:** I am concerned at the role that the Village Planner is playing regarding the new zoning as an advocate for one particular position. I understand that the Village Planner is going to have an insert in the next Village newsletter. If it is anything like the answers and the questions that she presented tonight, this raises more questions than it answers. I still fail to understand how raising the limit to six stories is not trying to promote development. I believe that there are some people who want denser development downtown and that these zoning proposals reflect that. If anything is going to be included in the Village newsletters on the zoning that the Mayor and the Trustees have not decided about yet, it would be inappropriate for it to be seen as advancing one position, because there is a lot of disagreement.

**Mayor Kinnally:** That may be the case, but she is the planning consultant to the Village and she is doing exactly what we have asked her to do: give her professional expertise on a topic and provide background information and guidance to the committee.

**Mr. Zimmerman:** I would like to see more even-handed presentation of the information in the future and I would like to see more time allotted to those who may have questions.

**Mayor Kinnally:** Last time nobody was shut off. Everybody had equal time. We went to 25 after 11 as it was that night. That is why we are having a separate meeting.

**Ms. Merton:** If the Village is going to put an insert into the Village newsletter, I would suggest that rather than a narrative account, you analyze the pros and cons of the proposal and make sure that those who see significant cons get equal space. This was done by

Irvington when they were developing their waterfront and it helped people think more analytically. It did not present the appearance that the Village had already reached a conclusion. Meg has strong points of view about this. I have not been able to get a satisfactory answer from her on one simple question: Why six stories? There is no proposal that has no cons or no pros. You pay the cost you want to pay. It is foolish to pretend that any proposal is without cost, or is 100% beneficial.

**Mayor Kinnally:** This is a proposal that came from the Vision Statement, so it evolved from a committee of Village residents and is not a Village proposal. But you raise a good point, and the newsletter is a news letter. It is more educational. I will look into it. The difficulty is who is to say what the cons are?

**Ms. Merton:** The sign of a good analytical approach is that you can articulate the potential advantages and disadvantages. The newsletter could be better at presenting the full range of options. It is oversimplifying to describe it as a product growing out of the Vision Statement.

**Mayor Kinnally:** It is not an oversimplification. It is absolutely the fact. It grew out of the Vision Statement.

**Ms. Merton:** A vision statement is an abstract statement. This is what a group of people perceived to be consistent with it. Other people perceive six stories not consistent with maintaining the scope of the Village.

**Mayor Kinnally:** The process grew out of the Vision Statement. Not the product.

**Ms. Merton:** That is all the more reason that another group of residents who had the same standing as that first group should be permitted to participate in outreach to the whole community, and make sure that all points of view are represented.

I am concerned about the timing of this PRAP, which has been put off so many times. It is not good for us that this PRAP is going past the November election. If the PRAP were going to be wonderful for the Village, I would think the governor would like to have it come out prior to the election.

**Mayor Kinnally:** Do not read anything into it; we were told months ago that all of these things are being held, not just Hastings, until after the election.

**Ms. Merton:** The governor wants it to come out after the election is over, and we should not make it easy for him to follow this strategy. Members of this community should be in a

position to vote in November based on what actually is produced by this governor's agency rather than on the hope that it is going to be better than what we saw the last time. I would like our village to take a clear position that there is no reason why this PRAP has not been produced at this point, and point out that it appears to be a political decision to put it off until after November. I would like you to take it actively with whatever media outlets we have. We do not have a good record in this village of using a strategy of public relations to put political pressure on when we need to. I would ask the Village Board to consider this as part of your responsibility in trying to deliver to us a good outcome on the waterfront, which we have all been struggling for, for so many years.

**Mr. Bogart:** I am unclear as to the role of this group of people who have come forth with the proposal; is this a subcommittee of the Planning Board or a citizens' committee?

**Mayor Kinnally:** Subcommittee of the Planning Board.

**Mr. Bogart:** Will the Planning Board have to make a recommendation to the Village Board before the Village Board goes forth?

**Deputy Village Attorney Stecich:** Once there is a draft law in place, then it will be reviewed both by the Planning Board and the Zoning Board for their own reports.

**Mr. Bogart:** Once it comes back to the Village Board would there be a SEQRA review?

**Deputy Village Attorney Stecich:** There has to be a SEQRA determination. If there is a neg dec, then that is the end of SEQRA. If there is a pos dec, then there would have to be, probably, a generic environmental study.

**Mr. Bogart:** If there were a parking study or a build-out, would that be part of the SEQRA process if an Environmental Impact Statement were done? Or would that be separate?

**Deputy Village Attorney Stecich:** You can do parking studies independent of an EIS. You can do an expanded EAF, and at that time you can include a lot of studies that you actually might include in a GEIS in your EAF, and then make your SEQRA determination.

**Mr. Bogart:** What kind of timetable does this have?

**Mayor Kinnally:** I would be surprised if it was this year. Maybe it would be, but it has to go to the Planning Board and the Zoning Board of Appeals. We did not close the public hearing, so we would have another public hearing on it.

**Mr. Bogart:** What is the status of the Riverkeeper's suit?

**Mayor Kinnally:** The status of the Riverkeeper's suit is that it was noticed for trial, and the trial has been put over until May or June of 2003. The judge knows that there are settlement discussions ongoing. They involve the Riverkeeper, counsel for the Riverkeeper, ARCO, and the Village.

**Michael Ambrozek, 16 Sheldon Place:** Has any progress been made in trying to establish a cleanup for the waterfront property?

**Mayor Kinnally:** That is what we are talking about. That is the PRAP.

**Mr. Ambrozek:** I was under the impression that there was also the state government cleanup fund involved.

**Mayor Kinnally:** We would not come under state funding for this. We are anticipating that ARCO will pay for the cleanup, and there is no money in the budget at the present time for the state to do the cleanup.

**Ms. Merton:** Who is representing the Village in the negotiations? Who is participating from the Village?

**Mayor Kinnally:** Mark Chertok and me.

**Ms. Merton:** None of the other Trustees?

**Mayor Kinnally:** Principals. That is the way we have been doing it.

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**Ms. Merton:** What advantage do you see for the Village in the continuing delay of this litigation?

**Mayor Kinnally:** There is only delay of the trial, not in the litigation. The discovery has continued. The advantage is that we are trying to put the resources into the development of the site, rather than fighting, if the same result can be obtained. The driving force behind this is not just the Village. There are other parties who are also going to the table.

**Ms. Merton:** I am sure if I were ARCO I would be at the table for a very good long time.

**Mayor Kinnally:** I will tell you who has been at the table for a good period of time, and that is the Riverkeeper.

**Ms. Merton:** I am not surprised because the Riverkeeper has already accomplished a good deal of what the Riverkeeper wanted to, with GE and the PCB's up the river.

**Mayor Kinnally:** The settlement discussions have nothing at all to do with PCB's in the river.

**Ms. Merton:** Please do not be naive. Environmentalists up and down this river have been talking for a long time about the impact of a potential settlement that permitted the PCB's here to remain, and how negatively that could impact the GE situation. We cannot afford to not pay attention to the politics of the situation. If the PCB's were allowed to remain here, that could have had an impact on holding the feet of GE to the fire.

I am not surprised the Riverkeeper is not anxious to go to trial in this case. The Riverkeeper's interests and the Village's interests always have been different. That is why we are represented independently. Our interest is getting a cleanup before our village is completely gentrified and most of the people who grew up here who can no longer afford the taxes have been completely driven out, as so many have been. I do not see why we are continuing to go on and on in negotiations that do not seem about to produce anything. A trial would be expensive, but so is the opportunity costs of this site sitting without the kind of tax revenue to the Village that it could provide and that it used to provide. Those are real costs which need to be factored in.

**Mayor Kinnally:** I do not know how you can say they do not seem about to produce anything.

**Ms. Merton:** Because it has been kept completely secret.

**Mayor Kinnally:** Of course it is going to remain secret. We have been around this block before, and please do not waste our time talking about this. You know, as an officer of the court, you may not disclose settlement negotiations to the press. We have opinion of counsel on this.

**Ms. Merton:** Unless you are ordered by the court, there is no barrier to disclosure of any kind of negotiation. It is not admitted in court as evidence, but it is not a confidence.

**Mayor Kinnally:** As long as I am mayor here I am not going to disclose any of the negotiations in public.

**Ms. Merton:** I have heard you say that as well. That does not make it right. It does not make it the best thing for our Village that you want to keep such control you are maintaining. ARCO knows all about what you would disclose, and the Riverkeeper knows all about it. So the only people who do not hear about it are the citizens of Hastings.

**Mayor Kinnally:** I am not going to disclose in public fluid discussions and proposals that are on the table. The judge would have me drawn and quartered if I did. As you very well know, under the federal rules the courts encourage settlement; free and full disclosure of ideas in settlement. If you want to submarine any possibility of settling this lawsuit, then let us tell the public all of the give-and-take and the various proposals.

**Ms. Merton:** We do not have to tell them all. It would be nice if we could hear the proposal that the Village has put on the table. That is not secret from anyone but the people who live here. That would not be a disclosure that would have any impact on either ARCO or the Riverkeeper. You could let the community know what we are trying to get through this process.

**Mayor Kinnally:** The courts do not agree with you.

**Ms. Merton:** The courts have nothing to say about your disclosing to the community you represent the proposal that you are putting on the table. There is nothing secret about that, and you cannot point to a tort decision, a statute, a regulation, anything that suggests otherwise.

**Mayor Kinnally:** I am not going to disclose settlement negotiations.

**Ms. Merton:** I would then like to address a comment to our other two Trustees who are present. I am very disappointed that you are allowing the Mayor to take this position. He has no more authority, nor more power, to take that role, to take that position, than you do. You could tell him that there is no reason which we, as citizens of Hastings, whom you all represent, it should be kept secret from us the proposals that we are putting on the table. This litigation is continuing without any sign of progress; as long as this federal lawsuit keeps getting adjourned, there is absolutely no motivation for the DEC to act more quickly than they have. I would like to hear from the Trustees what your rationale is for allowing the Mayor to continue to do this.

**Trustee Walrath:** Our negotiation position is not unknown to the other members of the Board. You characterize these negotiations as going nowhere; we do not agree. Other than that, I have no answer. I am taking into account your trying to make the case to the Board, and I will think about it. But I am not convinced by anything you have said. I do not accept that we are not doing any good at this point. If I were convinced, it might be otherwise.

**Ms. Merton:** The Mayor says that he does not want to disclose the proposal to the public for a variety of reasons, including he thinks it is illegal. Do you accept that characterization?

**Trustee Walrath:** I am not a lawyer, and it is complicated. Whether it is illegal, I have not done an exhaustive review.

**Mayor Kinnally:** I do not think I used the word illegal. I said I would be drawn and quartered. It does not have to be illegal. I am an officer of the court, also.

**Trustee Walrath:** I do not think it is constructive toward the negotiations. I think that it is going to be destructive of our negotiations, to have them hear all the opinions that may come up. Everybody in the Village is going to have their own idea of what we want to get. I just do not see it as being constructive to have a gigantic debate over it. I know there will be once it is public.

**Ms. Merton:** If you are not going to present us with a *fait accompli*, what difference does it make whether it is today or next week or whenever it is that you finally decide you are done and you put it out on the table for the rest of the community?

**Trustee Walrath:** When the negotiations are done. They are not done now.

**Ms. Merton:** But they are not going to be done if, in fact, there is no agreement. If the proposed agreement is going to be subject to input from the community and may be completely changed and evolve, it is not going to be done.

**Trustee Walrath:** There may be a disagreement in the community, but the community cannot negotiate for this.

**Ms. Merton:** That is why people in the negotiations should have some feedback from the community on what they are negotiating about.

**Mayor Kinnally:** We would be disclosing advice we are getting from counsel, and we are not about to do that.

**Ms. Merton:** Why would you be disclosing advice you get from counsel? If you put out on the table, we want 20 feet off the top, for example, that says nothing one way or the other about advice of counsel.

**Mayor Kinnally:** That is a naive way of looking at it. That may have been a proposal at one time, but these proposals go back and forth, and there is horse trading.

**Ms. Merton:** I would like to know what we have on the table right now.

**Mayor Kinnally:** Everybody here knows you want it, and you may disagree with me, but you are not going to get it. Never. I am not going to reveal the Village's negotiations.

**Ms. Merton:** You are talking about as long as you are mayor. Maybe the people in this community have a right to understand what your position is, and why, and whether there are, perhaps, any fallacies in your position before they decide that you should continue in this one.

**Mayor Kinnally:** If you walked into Judge Conner's courtroom and you said, Judge, here is what I want to put before you: that the Village be able to discuss the settlement negotiations...

**Ms. Merton:** I did not say the settlement negotiations. I said the Village's own proposal. I do not need to ask, nor do you, Judge Conner's permission to disclose to your own community what it is that you are asking for.

**Mayor Kinnally:** It would be an awfully interesting telephone conversation with Judge Conner when he picked up the phone and he says, What are you doing talking in public about settlement negotiations?

**Ms. Merton:** And you would say, I was telling my client, the community, what it is that we are in here for and what we have been talking about for the last year.

**Mayor Kinnally:** I do not have a client here. Mark Chertok has a client here. Mark Chertok's client is the Village Board of Trustees, and he gives us his advice. In the context of that advice, the Board is coming up with a strategy not only of what we do day to day, but long-term what we are looking at in settling the lawsuit, and in getting the property cleaned up, and the ultimate use of the site. It is all under one big umbrella.



**Trustee Apel:** We have discussed this before, and what I see is that when you are trying to negotiate with other people, you cannot have 8,000 people negotiating at one time. I do not see that it would be beneficial to go over the nitty-gritty of what is going on in the negotiations.

**Ms. Merton:** What about our proposal, what the Village is saying it is looking for?

**Trustee Apel:** It is looking for what everybody wants. We want to clean it up.

**Ms. Merton:** That is a meaningless statement. Everybody, including ARCO, says they want to clean it up. The issue is not whether we want to clean it up. The issue is, what does that actually mean in concrete terms. What contaminants, what level, what is going to be left on the site, what kind of metals, what kind of other contaminants are going to be left on the site, what kind of cleanup methods are going to be used. If it were as simple as saying we all want the same thing, to have it cleaned up, then we would not be having this conversation.

**Mr. Zimmerman:** When you are talking about the process for the zoning, it would be a good idea for the Architectural Review Board to look at it, considering their role has changed.

**Mayor Kinnally:** I would like the Board to have a motion to adjourn in memory of former Trustee George Dryfoos, who died two weeks ago, and have a moment of silence in his memory.

### **ADJOURNMENT**

On MOTION of Trustee Apel, SECONDED by Trustee Walrath with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting in memory of George Dryfoos at 10:30 p.m.