

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
SEPTEMBER 23, 2003**

A Regular Meeting was held by the Board of Trustees on Tuesday, September 23, 2003 at 8:10 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Wm. Lee Kinnally, Jr., Trustee Michael Holdstein, Trustee Bruce Jennings, Trustee Marjorie Apel, Trustee Peter Swiderski, and Deputy Village Manager Susan Maggiotto.

CITIZENS: Three (3).

Mayor Kinnally: Mr. Hess is not here this evening. He is ill, he has been home for a couple of days, and we wish him a speedy recovery.

APPROVAL OF MINUTES

Trustee Holdstein: Page 3, near the end, should read "Louise."

On MOTION of Trustee Holdstein, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Regular Meeting of September 9, 2003 were approved as amended.

APPROVAL OF WARRANTS

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

Multi-Fund No. 20-2003-04 \$ 81,178.95

Multi-Fund No. 21-2003-04 \$108,580.74

77:03 SNOW AND ICE NYSDOT AGREEMENT EXTENSION

Mayor Kinnally: The first resolution is a carry-over from our last meeting because of questions as to whether or not a better deal could be struck with the state and whether or not any other municipalities had approached the state.

Deputy Village Manager Maggiotto: There does not seem to be any movement afoot at this point to try to strike a better deal with the state. Other municipalities have signed it. We could look at it again in another year, but for now we do not have any choice but to go ahead and sign it.

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

RESOLVED: that the Mayor and Board of Trustees authorize the Village Manager to sign the agreement to extend the municipal Snow and Ice Agreement for the 2004/2005 snow season with the New York State Department of Transportation.

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

79:03 PUBLIC HEARING MORATORIUM EXTENSION

Deputy Village Manager Maggiotto: The local law was filed on March 24, 2003, and six months from the date of the filing is the expiration, September 24. If we wish it to continue, then we have to move forward with another public hearing and another local law. Passing this resolution in effect continues to extend the moratorium.

Mayor Kinnally: And the work that is being done during the course of the moratorium continues apace?

Deputy Village Manager Maggiotto: It does. I do not have an updated report from the Planning Board on their large tracts, but they are moving forward with it.

Trustee Holdstein: Is there a legal limit to how many times we can go to the well on this?

Mayor Kinnally: I do not know, and we can refer this to counsel.

Trustee Jennings: I would like to have a report from the Planning Board not only about what they have done so far, but giving us a timetable for completion. We ought to work within a framework so we are both on the same timetable.

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

RESOLVED: that the Mayor and Board of Trustees schedule a Public Hearing for Tuesday, October 7, 2003 to consider the advisability of extending the six-month temporary moratorium on development on properties in the Village's R-20 District, such moratorium to expire on September 24, 2003.

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

VILLAGE MANAGER'S REPORT

Deputy Village Manager Maggiotto: I wanted to give a brief report on the Village's response to the non-event of Hurricane Isabel. Our emergency response team was called together on the Thursday prior to the expected hurricane. That was followed by a conference call with the county's emergency preparedness office and other municipalities. We did as much preparation as we could and, thankfully, most of it was not needed.

Our newly-constituted newsletter and recreation brochure will be arriving in people's homes this week. It is a very handsome-looking brochure. The cover design was a collaboration of our editor, Ray Gomes, and our production manager, Raf Zaratian. Not only does it combine information you get in the newsletter with what the recreation brochure would have about the fall and winter activities, but there are also a number of other things in it to read and to keep, like the staff directory of phone numbers and e-mail addresses.

This could be the template for the resident handbook that we have talked about. We are going to see how we might expand it to cover the things that we need. We could add four or eight sides of pages to it, and it would be easily absorbed into the cost. It gives people one significant thing that has everything they need for the next six months, and then they get an updated one and recycle the old.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: We are still awaiting word from the state DEC as to when, if ever, we are going to get a PRAP. A staff member said it was now scheduled for the middle of October. She told me that it would cover OU-1 and OU-2, the land and the river portion of it, and the Tappan Terminal site would not be part of it.

Trustee Swiderski: What is the standing on the consent decree?

Mayor Kinnally: The consent decree has been sent out to the other parties for their final comments.

Trustee Swiderski: Who was the author of that version?

Mayor Kinnally: Joint collaboration. What you have seen went through a number of internal changes among and between the various counsel of the parties.

Trustee Swiderski: Is there a timetable on that?

Mayor Kinnally: I do not know of one, but I will talk to Mark about it.

Trustee Swiderski: Does the middle of October pose a deadline as far as the consent decree?

Mayor Kinnally: No. One has nothing to do with the other at this point.

Trustee Swiderski: So there is no legal advantage to having that consent decree signed on the off chance that the PRAP is significantly less restrictive than our consent decree.

Mayor Kinnally: It is not going to change anything because we have all accepted the settlement terms. The consent decree is tying loose ends up and putting it into language that the court will sign off on. But I do not see any gamesmanship in accelerating the PRAP or delaying the PRAP. There is some overlap, but not having one does not affect the validity of the other.

Trustee Swiderski: So ARCO would not step away from the consent decree if the PRAP turned out to be significantly less restrictive.

Mayor Kinnally: ARCO would have a terrible time stepping away from the consent decree because they have signed on the dotted line to the settlement term sheet.

Trustee Jennings: How long would you guess it might take before the other property owners have their PRAP's? Have they done basic testing? Do we know what is there? Where do we stand?

Mayor Kinnally: Test wells were sunk for quite a while on those properties. The properties adjoin and there is a question of who is responsible for the chlorobenzene on-site. Uhlich is saying it came from Chevron. The technical data is already in place. I do not think as far as staff review recommendations they are as far along as ARCO. I cannot give you a timetable. I do not know if it is months or a year. But they know our interest, and the pressure to get all of this moving. When we start development of one, the others will follow closely behind. If there is contamination on an adjacent site it does not do us any good to try to develop that property if there are still some problems. But I also do not think that the engineering and the cleanup for those other sites will be as extensive. So even if there is a delay in the PRAP with the other sites, it may be that there is catch-up because the scope of what they have to do may not be as extensive. We are not talking about PCB's. We are talking about petrochemicals, things of that nature.

2. Food Emporium

Mayor Kinnally: Something has roiled the community recently: the transfer of Wally Urtz from the Food Emporium to one in Harrison. It is amazing how Wally has touched so many people and so many aspects of this community. If you say to anybody in town, just Wally, you do not have to add the Urtz. Wally has been an integral part of this community for years and years before Food Emporium, during the time that A&P was in town. As much as people know about what Wally has done, there is so much more that people do not know, and he wants it that way. But his interaction with this community, with the Village, with the police, with other segments of this community, and how he has helped not only programs we have in the Village but also individuals, families in need, and his generosity both of time and other resources, is just incredible.

A lot of people in town have written and called the Food Emporium and voiced their displeasure. I spoke with a number of people at the Food Emporium and, ultimately, to a gentleman who is a vice-president of store operations and I voiced my displeasure and dismay that this could be done, and done in such a precipitous and shabby fashion. The explanation was that this was part of a general reorganization of personnel in the area, and that Wally was not singled out. Be that as it may, it was not a very proud moment for Food

Emporium. I told Food Emporium that I was saddened by it, it was terrible from a community standpoint, certainly from a goodwill standpoint on Food Emporium's part, and I was hoping that they would reconsider. Wally was very touched by the outpouring of support in this community. I told him you reap what you sow, and so many people in this community think the world of you. He was deeply touched by it.

My sense is that it is a done deal. The transfers have been made. There is a new manager on the job. It would behoove all of us to go in and introduce ourselves. I want to be able to reconnect those bridges that we had with Wally and with the Food Emporium and, at the very least, give this guy as much support as we can. And let us hope he returns the favor. Wally was going to meet with Food Emporium after I spoke with him. I also hope he would be meeting with the new manager and identify the people in the community that Wally had worked with so that those programs and that assistance, just that goodwill, can be regenerated. On behalf of the Village I wish Wally all the best. He is a great guy, and he is going to be sorely missed.

Deputy Village Manager Maggiotto: I introduced myself to the new manager. He is also a long-time employee of the Food Emporium and had been in his own store for many years. So this has affected a number of lives significantly.

3. Lighting for Chemka Pool Renovations

Deputy Village Manager Maggiotto: The lighting design that was approved at the cost of \$44,000 was for two 80-foot poles, which gave the amount of light that the Health Department said was necessary. Although we might have disagreed with that, we had no choice in the matter. Following that, Bill Logan and Andrew Gross pointed out a number of problems with having two 80-foot standards. So we had Dick Ward look at it again and cost out a different arrangement of lights that would not necessitate having such high poles in the area. The cost is approximately \$100,000 more to do five 50-foot poles. The proposal that Andrew Gross brought in was a sketch and he had not costed it out, but the major cost is in the hardware and the underground wiring, so I would expect his suggestion of eighteen 20-foot poles would be even more money.

Neil met with Ray Gomes and Bill Finkeldey, reviewed the proposals, and talked about how it would affect the program. In the several years since we stopped having nighttime programs the Rec Department has come up with alternates that seem to be quite successful. The Community Center is now open six nights a week till 11 o'clock in the summertime. There is a skate park barbecue. The skate park is open every day till 8 o'clock. Given the numbers that we are talking about and given the fact of the intensity of the lighting at 80 feet,

and also given that if we did do more poles it would cause more obstructions around the pool which may be hazardous to the children, it is now the recommendation of Neil and Ray and Bill that we exclude the night lighting from the contract. We can modify program hours so we can restore, to some degree, the evening youth programs. One suggestion would be on Wednesday nights the YAP program could start at 7 o'clock and go until dusk. We would not close the pool to the regular membership, but we could conduct this YAP activity, and we could do the same thing with the volunteer nights. So we could have targeted youth activities at the pool in the evening without having the night lights.

If we exclude the lighting from the contract we would save \$44,000 from the original bid, or \$148,000 from the modified proposal. We need to have a decision tonight on how to proceed. The demolition work has started already; the electrical contractor made it clear that he needed to know which way he was going to go as soon as possible.

Mayor Kinnally: This lighting thing was star-crossed from the beginning because the Health Department threw us a curve on what we need. Mr. Gross had said that the engineering provided for foot candle power much greater than was required but apparently that is not the case, and I think everybody is in agreement that 80-foot towers are inappropriate. But as you lower them down, the cost goes up and they proliferate. Anything on the order of 10-plus creates a picket line that causes a nuisance, and it is supposed to be an open area that is inviting. When you look at a cost benefit I do not see that we need it, especially since other communities do not have it. Does it cut down on what we would like to do? Yes. We do not have the flexibility that we like to have, but I can think of spending \$150 to \$250 thousand in other fashions instead of for a program that is only going to go a few months a year. I think in the end I cannot justify the aesthetic clutter or the cost on the project.

Trustee Holdstein: I have no problem with the new proposal and the recommendation to eliminate the lighting for almost all the same reasons. But the two 80-foot poles were in Ward's original presentation, that was reviewed by all those that worked on this pool design.

Mayor Kinnally: I do not believe they had the two 80-foot towers in there originally. The scope and extent of what was needed from a lighting standpoint came about after the plans were submitted to the Health Department.

Trustee Holdstein: But there was some lighting on the original proposal.

Mayor Kinnally: We went through this last time. It seemed to me that Ward spent a lot of time talking about this. I remember having a discussion about having lights inside the pool

providing the type of lighting necessary, and Ward saying to us that it did not get the penetration that was needed.

Trustee Jennings: My recollection is that there was a change in what we found out from the county in terms of lighting at the water surface and lighting the entire deck. The last time we talked to Mr. Ward and the Recreation Commission about this they had discovered that the deck surface required the 50 candle power, and they proposed new lighting that was going to cost an additional \$44,000. We talked about the effect on the neighborhood of the glare caused by the required lighting. I do not remember a discussion of the height of the poles. At that time, the answer was that the proposed lighting would be contained within the pool area and would not light up the surrounding neighborhood to any great extent. Now Mr. Logan and others have come forward, asserting that this would be a significant disruption.

We have three issues before us: the height of the poles, the nature of light in the neighborhood, and the cost. I am concerned about the light bothering the neighborhood, and I would like more clarification on what seems to be a very important point that is still under dispute by the experts. I did not find anything in Mr. Hess' report addressing that. As far as the 80 foot poles are concerned, I wish they could be shorter. But if we are only talking about two of them, I am not sure that the aesthetics would be that terrible, given what we want to accomplish in programming. But tall poles plus a very disruptive light for the neighbors would be significant. The question about the light pollution has not been resolved.

Trustee Holdstein: I agree.

Trustee Apel: I agree. I was very disappointed by this report because it was my hope that we would be able to have lights at night. I do not care that other communities do not have night lighting. It is what we want to do for our community. So before we throw in the towel I would like more information on how the lighting would affect the community around it. And if we do not do it now, and we decide to do it later, the cost would be even more. We need more information on the lights, and I am still pushing for night lights. Anything to help make it work is what I would like.

Trustee Jennings: In Mr. Hess' report, I grant the points that other programming for youth has been successfully adopted since we have not had the lighting and could be continued. But what is left out of that analysis are the programs that would be possible at the pool with lighting that will be impossible without it. Family activities, things that we have done in the past, such as showing films after dark on the wall of the pool. I remember that very well when my son was young. We were either in violation of the county regs at that time and did not realize it, or the county regs were different. So this is an incomplete discussion of the

implications of accepting or rejecting the lighting because it does not take into account the innovative programming that we could come up with if we did have the lights. I think the stakes are not quite accurately described here.

Mayor Kinnally: Is it the sense that we want Dick Ward here?

Trustee Holdstein: We would like an analysis before he comes here. The critical issue is to get Ward to tell us how two 80-foot poles will affect the neighborhood.

Deputy Village Manager Maggiotto: This building is about 35 to 40 feet tall, so an 80-foot standard would be twice as tall as this building, and twice as tall as any tree in that area. I do not know if Ward is going to be able to tell you how far that light will disperse, but the fact is that you will have two 80-foot pole of light visible. Whether it is lighting up your porch so that you can read a magazine, as Bill Logan said, or not, on Circle Drive, I do not know if that is the issue. The issue is more that these will be visible lights in the sky from a wide perspective and will be here year round. I mention that because I do not know what more you are going to hear from Dick Ward about who is going to be affected and how much.

Trustee Holdstein: I am assuming a lighting expert can do the simple math and tell you, by laying out a grid.

Mayor Kinnally: Let us assume it is pinpoint lighting. Anybody outside the pool is not going to see it. But regardless of how widely dispersed and broadcast the light is, do you want two 80-foot poles sitting there at a fairly high point in the Village?

Trustee Apel: You do not see telephone poles. They are there, but you do not see them anymore.

Mayor Kinnally: They are not 80 feet.

Trustee Swiderski: I share Susan's concern. I do not think it is appropriate for a park setting, especially one that is fairly elevated. I do not believe any light fixture can be pinpointed to the extent that light will be occluded from around the park. Height is an issue.

Trustee Jennings: Does anyone know of any pools in the county that have night swimming and lights? We ought to find them and talk to the manager. This is the basic kind of information that we should have had months ago, years ago. We have been talking about this

for two years. It has been known that, for programming reasons, some people in the community desired lighting. We have been given very few options and very little research, and we have been given *fait accomplis* which are getting increasingly unpalatable. We are headed down the road to having no lighting, but it has not been a very good process. It may be the right decision, but I do not think we have been led to it in a very good way.

Andrew Gross, ½ Crossbar Road: I have another piece of information that I can give to the Board, the Westchester County sanitary code, which covers the lighting requirements for pools. You can put lights in the pool and reduce the lighting on the deck to 30 foot candles. My last time here I gave you a preliminary plan but I never heard from your engineer. Fifty feet is still very tall, and we are not just talking about poles; we are talking about the arrays of fixtures on top. We are also not talking just about the light coming out of those fixtures. We are talking about the reflected light off the pool deck, which will become a glow in the sky from the Palisades.

Trustee Holdstein: You are telling us that the reflection off the pool is going to be seen on the Palisades. How do you make that assumption?

Mr. Gross: Because the angle of light from 50 feet versus my original plan of 25 feet, the angle of light is reflected back relative to angle.

Trustee Holdstein: Is that a simple math formula?

Mr. Gross: It is an assumption based on studies.

Trustee Apel: You keep talking about putting lighting in the pool in other areas, and they keep telling us it is not going to work.

Mr. Gross: I have already supplied a plan that shows it does with 18 poles at 25 feet. There are a lot of options and I do not understand why you are not being given them. I think there are ways to light areas of the deck that would be mounted on the building.

Mayor Kinnally: Even putting an array of lights on that building, which is going to be replaced eventually, there would be a number of poles on the perimeter of the main pool.

Mr. Gross: But we are talking about poles that are more commercially acceptable. They are painted a dark bronze. They become more a part of the atmosphere.

Trustee Holdstein: Your proposals of shorter poles and more of them, and lights off the bathhouse: that does not create the same reflection into the dark sky? Are we not required by the Health Department to provide the same amount of light, so would that not create the same amount of reflected light?

Mr. Gross: The angle of reflected light from 25 feet versus 50 feet creates reflection in a lower plane. I am not going to say there would not be a glow. Because there are areas of the pool deck, and the pool, that have closer to 100 foot candles on them, and you will see that in anybody's lighting plan.

Trustee Apel: If you put lights in the pool, then you would be able to lower the candle power externally?

Mr. Gross: Correct.

Trustee Apel: What about the fact that you still have to light the deck?

Mr. Gross: That is all you would have to light. There is a wattage per square foot requirement in the pool lights. Given the size of our pool, you would probably have to put a lot of lights in there.

Trustee Swiderski: My own gut sense is that the train has left the station as far as significant reconfiguration of the lighting inside the pool. We would have to go through a new bidding process from scratch, so that is not an option.

Given that we do not want to hold up construction, since 80 feet is unacceptable and \$200,000 for a couple of evenings a week for an hour or two, is, from a cost benefit to me, steep and unacceptable, I am left with the snap judgment that I have to back the memo and agree that the expense involved, just on the information we have here, is exorbitant for what we are looking to benefit from. If 80 feet is not acceptable, and 50 feet is too high, whatever is lower than that is going to be even more expensive. Are we willing to spend \$200,000 plus? I am afraid that that seems dear.

Trustee Holdstein: While I share Bruce's frustration in terms of getting the information we need, we can make an educated guess and some pretty good decisions. I have to agree with Peter that for a few hours it is tough to justify the kind of cost that we are talking about.

Trustee Apel: I understand the logic here, but I do not know. We been going back and forth over this, and I always think there is always another way.

Mayor Kinnally: When you say another way, let us assume he can deliver the product that we want and it is a balance between height and number of units. We are not going to come in any less than five, and we are probably somewhere in the double digits, 12 and up. So let us say he says we are going to have 12 around the pool and it is going to cost us \$200,000.

Trustee Apel: It is easy now to say that \$200,000 is a lot of money. I think it is more than I would like to spend. But I am always looking to the future. We have talked about the kids; I do not know about the adults that would like to come in at night. But I do not want to be in the position five years from now, saying the ground was dug up and we should have done it.

Trustee Holdstein: The other factor is extended costs of the operation of the pool for electricity charges as well as staffing of the pool the additional time. There are larger communities in Westchester County that, based on this memo, do not have lighting. I am prepared to go with the recommendation of this memo and exclude the night lighting.

Trustee Jennings: Before I am willing to jettison it, I would like to have one more discussion with the architect and hear whether there is a way that we can achieve the county's requirements on lighting, while preserving our sense of aesthetics and protecting the community from disruption by ambient light. I would like to ask the question one more time, if only to have the opportunity to tell him that I asked him this question two years ago and he should have given us an answer then. Then we could have had a discussion about the trade-offs within the project as a whole, whether we wanted to spend the extra money on heating the pool or on the lighting. Now all of that is impossible. This process should not have gone forward with lighting in the package decided upon and bid upon, and then at the last minute we are discovering that the lighting is both unaffordable and unacceptable. That is not the way the process of planning in our community should work. I am more unhappy about that than I am about giving up on the lighting.

Trustee Holdstein: I could not agree with you more. But having said that, I also do not know that getting him back here and delaying telling the contractor to move forward that we are going to learn anything more that can make it work.

Mayor Kinnally: I agree with Mike's position. I could not agree with Bruce more. However, we are where we are, and if it is \$200,000 plus and you do the math, you are talking, over a 20-year lifespan of these lights, a thousand dollars a week during the summer for however many nights a week this may be, plus the electricity, plus lifeguards. You are talking \$500, \$600 extra for a couple of hours a night. It just does not add up in the end. We may drag Mr. Ward in here and properly lambaste him, but the result will be we will have to vote this down either way.

Trustee Jennings: Has Mr. Ward ever suggested putting some light fixtures on the roof of the clubhouse? It is an obvious thing to think about, but I just had not thought about it myself. This is the kind of creative thinking that we have not been given, and it is probably too late. Why did Mr. Ward not call Mr. Gross between the last meeting and now?

Mayor Kinnally: I do not think we retain people necessarily to respond to criticism that comes from whatever quarter. He is there to give us his best advice. It may be that he does not share with us his entire thinking process. All of us are somewhat frustrated with how this process has worked out. I want to get Dick Ward down here to get the information. I do not necessarily want to have him come down and be told off. That is not the way we do things. He has had many bosses here. This is not a Board of Trustees project. A committee was put together, and the choice of Ward was done by the pool committee.

Deputy Village Manager Maggiotto: We have to remember that is the second go-round on this process. The bids came in too high. We had to redesign it. After the meeting when Mr. Gross and Bill Logan came, I asked Mr. Ward why he had specified two 80-foot poles. He said he was trying to get this project in again at a number that we could do it, and that was his cheapest alternative.

Trustee Jennings: I have been vocal in my criticism and I agree with you. I have no interest in criticizing Mr. Ward or using that as a session to point fingers at him. If I have a concern it was with our process of having too many bosses, of not having clear goals that we told our professional consultant we wanted to meet. The reason for taking a look at that later on is so we do not make the same mistake again for future projects, such as the Community Center. I did not intend to suggest that I wanted to give Mr. Ward any kind of public criticism. If there is any last-minute plan that he can come up with, that we can afford and that is not incredibly ugly and humongous, I would like to hear about it before we give up.

Mayor Kinnally: I would like to get the information, disseminate the information to everyone, and then call a special abbreviated meeting for next Tuesday before we have our interviews with the sergeant candidates.

On MOTION of Trustee Holdstein, SECONDED by Trustee Jennings with a voice vote of all in favor, the Board of Trustees scheduled a special meeting for Tuesday, September 30, 2003 at 8:00 p.m. to discuss lighting for the Chemka Pool renovations and any contract additions.

78:03 PILOT PAYMENT 422 WARBURTON

Mayor Kinnally: Peter, thank you for undertaking this and giving us some information so we can move forward on this.

Trustee Swiderski: At our last meeting we discussed whether it made sense to think about negotiating the PILOT with Eric Anderson, who is the developer for the affordable housing planned for Warburton. The specialized knowledge required to review Mr. Anderson's *pro forma* financials was not something I had, and not many people in the Village had. I thought we could reach out to somebody outside the Board and ask for some advice on reviewing the *pro forma* and try to decide if there was negotiating room there. I asked a resident of Hastings, Bruce Dale, who works in the industry, if he would, on a volunteer basis, look at Eric Anderson's numbers and give us some sense of whether what he was proposing was reasonable and hewing to industry standards. He did so, and generated a short memo for the Board with a recommendation on the proposed PILOT. I would suggest that Bruce summarize his document.

Mayor Kinnally: Mr. Dale, thank you for undertaking this for us. Welcome, and we are sorry you had to sit through all of this.

Bruce Dale, Community Preservation Corporation: I found it interesting. I am interested in swimming at night. I used to go for exercise.

The Community Preservation Corporation is a not-for-profit consortium of all the major banks in the city of New York who finance affordable housing. We are active throughout New York City, New York State and, more recently, New Jersey. I am the director of the Bronx/Manhattan office and a senior vice-president of Community Preservation. I have been involved in affordable housing for about 25 years, initially for the city of New York and more recently, 17 years, with CPC, the Community Preservation Corporation.

We have financed a number of projects that Eric Anderson has worked on in the Bronx and in Manhattan. I am familiar with his work and his process. When Peter gave me the numbers I was initially struck by two things in his proposed cost: both his construction price and the construct interest price were very, very high. I felt it necessary to talk to Eric to get clarification. He used a price of \$185 a square foot. Typically, on affordable housing, new construction would run, in New York City, about \$130 a square foot. When you build smaller buildings outside of New York City you do not have the economy of scale. The prices can go up, so I felt perhaps \$150 a square foot would be more reasonable than the \$185 a square foot that Eric used. He explained in response to that question that there were some things about the project that were more expensive having to do with the heating system that he has provided. That would be an additional cost of about a half-million dollars.

Although the grant that he is receiving is only about \$350,000, I felt that his construction price could come down, and perhaps a significant amount. In my memo I estimated anywhere from \$340,000 to \$600,000. He has a price of over \$2 million for his overall construction price. If he had to borrow \$600,000 less, that would interpret into a savings in debt service. And debt service is what really impacts on the maintenance and operating expenses of the building that generate his return as well as with funds necessary to pay for the PILOT that he is proposing. So if his construction price came down, the amount of money that he could pay for a PILOT would go up in pretty much the same ratio.

The same thing with his construction interest. He used 8%. Currently, the interest rates are running about 5% for construction. But the interest rates have begun to climb very significantly over the last six months. That is a little more of an unknown, but I doubt very much they are going to get anywhere near 8%. So I estimated that there could be a savings anywhere in the neighborhood of \$60 to \$70 thousand of construction interest. He argued that he used a high number simply as a contingency. He chose to explain his high interest costs as that is where his contingency was. There was, however, what is called the soft-cost contingency in his proposal as well. I estimated that he easily saved somewhere between \$400,000 and maybe \$650,000 to \$660,000 in debt that he would not have to borrow and still have the project built successfully.

On the other side is maintenance and operating expenses, and projected expenses for the project seemed to be perfectly within industry standards. So assuming he is going to have the debt that he has proposed, which is the use of a 2% floater which requires the letter of credit and annual cost of the letter of credit as well as an insurance program that rates will not go up, his numbers on that side of the equation made perfect sense.

So the real question was, if he saved \$600,000, would that be passed on to the Village by getting a higher PILOT out of the project. When I spoke to Eric, he pointed out a couple of things which make a fair amount of sense. One is that two of the grants that he is depending on, which is the amount of money he needs to borrow if his bottom line was fixed at his proposed construction price, were overestimated. He has now learned that they are going to be less than he had projected. There is going to be approximately another \$300,000 lost to him in the form of free money, the grants. With the loss of those funds, Eric originally said that he was thinking of asking to pay even less taxes and have a lower PILOT, only \$20,000 a year. After our discussions, I asked him for his most recent *pro forma*. He said in his memo to me that he would take that loss on the construction side. In other words, he volunteered to lower his construction price and not change his PILOT request to the Village. He was prepared to absorb that loss by lowering his construction price. When I asked him about his return, it appeared to be very low at that point, 4%. His response was that his

return really is in two other projects that he would like to build for the Village, and that he is prepared to give the Village even more than is required in terms of affordable housing as long as that project does not lose money for him. So that the project can basically carry itself and have a 4% return, he was comfortable living with that.

If you take all the calculations that I did, and you took the maximum savings and you converted that into how much more would go into his pocket that would be available to the Village, it really boils down to \$600,000 a year. If you gave Eric the benefit of that \$600,000 a year, his return would go from 4% to 6%. In an environment where interest rates could rise fairly sharply, it seems to me that that is the kind of contingency the project will need to remain affordable going forward. It would probably be an error at this point to try and barter Eric down because I think what he is giving us is a legitimate proposal which makes sense and gives the Village more than is required in affordable housing.

You mentioned goals in the prior discussion about the pool. That clarity needs to be made here. If providing 18 units of affordable housing, is, in fact, the Village goal, then I think what we have from Eric is a viable proposal, all within industry standards.

Mayor Kinnally: Tonight we want to have a consensus that we are willing to go with a PILOT, and then we can have some additional discussions with you, if you are amenable to it, so we can get an idea if the number is viable. I do not want to negotiate or strategize in public. But we want a comfort level, and you have given me a comfort level that you know what these numbers mean and you can say nobody is pulling a fast one on us.

Mr. Dale: I think that is correct.

Trustee Holdstein: One of the things we have heard about this site over and over is the amount of rock. When you looked at the construction numbers and thought they were on the high side at \$185, was that part of the discussion and did that temper your thought process on his costing?

Mr. Dale: That was his first reaction, the rock and the slope, the things he has to do to accommodate both of those. If this application was in my office, I would have him send me a cost breakdown on his projected construction costs and have an engineer review that to pin him down to a more precise estimate. I did not do this in this circumstance, but given the yardsticks that we use in the profession I think I accounted for both the difficulty of the site, the rock and the slope, and the extra cost of the heating system, which is significant.

Trustee Holdstein: But your reaction to him being high, was that before or after the discussion of the rock and the slope?

Mr. Dale: I initially said \$185 is off the charts. After speaking to him, I am comfortable using the figure of \$150 a square foot, which is higher than I would expect in New York City, but I think acceptable in this proposal.

Trustee Swiderski: I want to commend Marge for setting us down this path as it never occurred to me to negotiate the PILOT. I found your memo and the logic behind it very useful as a yardstick for what is reasonable or not. I would appreciate it if you could share with the Board what your perception was of Eric, because ultimately that character assessment reflects on what we are likely to see out of all three projects.

Mr. Dale: If Eric applied to my office to do an additional loan, I would do it without any hesitancy. Eric is a very sincere human being. Development is his field. I met Eric when he was working for his first employer as a developer. He was an assistant developer to a woman named Charlotte Ballard, who is from South Africa, building affordable housing in Harlem. Eric learned his trade, and has gone on to develop his own construction company and developing company. I think he is very sincere, hard-working, and quite smart. He is not the type of man to make rash decisions. I do think you have to be careful. You have to survey every contractor that is going to try and cut corners at some point. I think his construction should be adequately supervised by an engineer as construction unfolds. But I think you will get an honest product.

Trustee Apel: I want to thank Bruce for doing this. Before I give money away or absorb some of the costs I want to feel comfortable that we are not being taken. And I want to understand the necessity for a PILOT at all, understanding this is a common practice and that it is needed in order to make something become successful, especially with affordable housing. The information that you have given us as been invaluable. I cannot thank you enough for doing this and thank you, Peter, for finding Bruce.

Trustee Jennings: I would like to add my thanks to others for your willingness to take the time to do this for us. I appreciate, above all, your clarity and your candor. It has been extremely helpful. Your recommendation about being clear about our goals is very important. Affordable housing is a very important goal of the Village, and we have all felt that all the participants in this undertaking should be willing to make some sacrifices for that goal, including the Village foregoing what otherwise might be recoverable in property taxes. I feel very comfortable with what we have to decide tonight as we go into the negotiation

process. I think we will negotiate reasonably and come out with a result that is beneficial to the Village, and to those who will benefit from the affordable housing.

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

RESOLVED: that the Mayor and Board of Trustees approve the concept of a PILOT payment for the 422 Warburton Affordable Housing project.

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

PUBLIC COMMENTS

James Condon, Heath Place: I do commercial tree care. I work in Hastings a lot. I was before this board many years ago when Mayor MacEachron was the mayor. There was a hearing for a tree preservation law and I spoke against it. But it was passed and I reminded people that I have worked for that there is a law to abide by, and it was a very rigorous notification process to the neighbors within a certain distance from their tree. I do not know if there has been any time the law has been enforced. I know of an instance last month where a complaint was made and nothing was done. But I think that is good, and that a degree of leniency will be extended to anyone else who wants to cut a tree without going through paying for the permit and writing certified letters to all their adjoining property owners. It is an unenforced law. I am hoping you can make a decree right now and say that the sun has set on it. There is a problem with a law where there is supposed to be a tree preservation board made up of the Conservation Commission that is supposed to turn over every year.

Mayor Kinnally: There was a change in that. We set up at a tree board and it is not now part of the Conservation Commission. As far as the leniency is concerned, I do not know the incident you are referring to. But the Board is committed to making sure that the tree preservation law and the notification provisions are enforced and that it was not an exercise in futility in our passing it.

Trustee Holdstein: When you say there was a complaint lodged?

Mr. Condon: My brother lives in Hastings in a co-op, and you can find out where he lives because it was where the complaint was made. He was very concerned about it. They took his tree. He liked that tree, a great big linden tree, 100 years old. He had a very hard time, he told me, even getting through to the Village. But he did get through, and they tried to appease him by sending the person who took down the tree with the person who manages the co-op or that was on the board in the co-op. But no fine was levied, nothing was done about it. And who is to say that they are not going to take more trees?

Mayor Kinnally: We will look into that.

EXECUTIVE SESSION

On MOTION of Trustee Holdstein, SECONDED by Trustee Apel with a voice vote of all in favor, the Board scheduled an Executive Session for Tuesday, September 30, 2003, to interview candidates for a sergeant position on the police department immediately following the Special Meeting to consider pool lighting.

ADJOURNMENT

On MOTION of Trustee Holdstein, SECONDED by Trustee Jennings with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 10:00 p.m.