

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
NOVEMBER 4, 2003**

A Regular Meeting was held by the Board of Trustees on Tuesday, November 4, 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, Village Manager Neil P. Hess, Village Attorney Brian Murphy, Special Counsel Mark Chertok, and Village Clerk Susan Maggiotto.

APPROVAL OF MINUTES

On MOTION of Trustee Holdstein, SECONDED by Trustee Apel with a voice vote of all in favor, the Minutes of the Public Hearing of October 21, 2003 were approved as presented.

On MOTION of Trustee Apel, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Regular Meeting of October 21, 2003 were approved as presented.

APPROVAL OF WARRANTS

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

Multi-Fund No. 27-2003-04 \$13,165.91

Multi-Fund No. 30-2003-04 \$52,205.84

Mayor Kinnally: Resolution 86:03 is the authorization to sign the consent decree. We will put that off until the end of the resolutions following a meeting with environmental counsel.

EXECUTIVE SESSION

On MOTION of Trustee Holdstein, SECONDED by Trustee Jennings with a voice vote of all in favor, the Board scheduled an Executive Session to discuss the terms and conditions of the consent decree during this meeting.

87:03 LOCAL LAW NO. 6 OF 2003 - STORMWATER MANAGEMENT

Village Manager Hess: This resolution enacts specific regulations for storm water quality. There are two elements to this local law. First is the New York State Storm Water Management Design Manual, which would cover any properties in excess of one acre or

subdivisions; and the Westchester County Best Management Practices for Erosion and Sediment Control, to which our Planning Board requires that all developments conform.

Mayor Kinnally: We had a public hearing on this and public comment has been received to the extent reflected in the minutes of the public hearing. Any comments by the Board of Trustees? There being no public, there are no public comments.

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

RESOLVED: that the Mayor and Board of Trustees hereby adopt Local Law No. 6 of 2003 amending the Code of the Village of Hastings-on-Hudson, adding Chapter 250 Stormwater Management as follows:

BE IT ENACTED by the Board of Trustees of the Village of Hastings-on-Hudson as follows:

Section 1:

250.1 State and County Standards Adopted

The Board of Trustees finds that to reduce the incidents of water quality impairment, technically effective stormwater management practices are necessary. Therefore, permits or approvals that are issued must conform to the requirements of the New York State Stormwater Management Design Manual and the Westchester County Best Management Practices for Erosion and Sediment Control.

Section 2:

Repeal: All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

Section 3:

Effective Date: This law shall take effect immediately upon filing with the Secretary of State.

ROLL CALL VOTE

AYE

NAY

Trustee Michael Holdstein	X
Trustee Bruce Jennings	X
Trustee Marjorie Apel	X
Trustee Peter Swiderski	X
Mayor Wm. Lee Kinnally, Jr.	X

88:03 BOULANGER PLAZA WALL - AUTHORIZATION TO RECEIVE BIDS

Village Manager Hess: We were authorized to move forward on engineering and design of the north wall, especially the upper wall which is in danger of collapse. We would like to proceed. We have an updated estimate from Donna Gutkin of \$256,000, but I do not think it is going to run quite that much. The original design had a large seating area but we did not feel that would be a great gathering spot, so it has been changed to a planted area at the end where we are replacing the large section of lower wall that is cracked. We will replace the whole upper wall section. We are taking out a large section of that lower wall and replacing it with a newer, lower section of wall. A huge tree was behind the wall at one point, and it has totally destroyed that lower section of wall. From the engineering analysis, the lower wall was in good shape; the upper wall is not in good shape.

Trustee Holdstein: So we will gain a little walking space by the way we are going to bow this back.

Village Manager Hess: We will bow it back and it is a little more walking space. But we are not changing it that much. We are going to make is a planting area.

Trustee Holdstein: Where the car is parked there, it does not look like there is a lot of room on the scheme.

Village Manager Hess: All we are doing at this point is the wall work. We are going to revisit the design of the parking lot itself again. I am sure there will be other questions. We may find out things that might necessitate changes as we get into the wall.

Trustee Jennings: This is going to be low enough for people to just hop up on there and sit, a casual thing. Kids will sit there and so forth. We have abandoned the idea of having direct access from the parking lot to the VFW Park. People will have to walk around to the Warburton Avenue sidewalk in order to get to the park. Or is that still an open question?

Village Manager Hess: Yes and no. Number one, we cannot provide handicapped access up to the park from that location. All we can provide are steps. We cannot provide ramps or

any other means. If we can develop it when we get into the more detailed design of the parking lot, I would rather see whether we could create some sort of steps from Whitman Street over to the parking lot. Now there is some short-term parking along Whitman Street; people could go directly to the parking lot towards the back of the stores.

Trustee Swiderski: I signed a check today for \$1,600 for surveying for this plaza. How is that connected to the project?

Village Manager Hess: As part of this project it will be charged against the total project budget of \$460,000.

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 authorize the Village Manager to receive bids for the reconstruction of the Boulanger Plaza North Wall.

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	

89:03 INTERMUNICIPAL AGREEMENT "SMART" PROGRAM

Village Manager Hess: There was a budget item last year to purchase a speed trailer that monitors your speed; it says the speed limit is 25 miles per hour and you are doing 37. The County of Westchester has purchased at least one of these pieces of equipment, and is providing through an IMA that we could schedule usage of the trailer. Since there are now 20 departments involved in this, that means we only get it two or three weeks a year. I am hoping we will be able to convince people at the county to purchase additional units. In the county budget, a \$17,000 item like this is not significant. For us it is. I think it is a great program, and recommend its approval.

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

RESOLVED: that the Mayor and Board of Trustees authorize the Village Manager to execute the Intermunicipal Agreement with Westchester County for the Speed Monitoring Awareness Trailer (SMART) Program for July 1, 2000 to June 30, 2005.

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	

90:03 SCHEDULE PUBLIC HEARING - SENIOR CITIZEN TAX EXEMPTION INCOME LEVELS

Village Manager Hess: We were notified by our Village Assessor that the state limits have increased; we are asking for a public hearing so the Board can consider amending the law.

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

RESOLVED: that the Mayor and Board of Trustees schedule a Public Hearing for Tuesday, November 18, 2003 to consider the advisability of adopting Proposed Local Law No. 7 of 2003 amending Chapter 260, Taxation, of the Village Code to increase the eligibility income amounts for senior citizen tax exemptions.

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	

91:03 SCHEDULE PUBLIC HEARING - PARKING REGULATIONS ON HILLSIDE AVENUE

Village Manager Hess: After review on Hillside during school hours, my recommendation is to change the no-parking signs into no-parking, -stopping, or -standing. Right now we have cones there. I would like to make that permanent. We received some suggestions for creating a stop mid-block at the crosswalk. I reviewed that with the police and they thought that was a very good idea. There is already regulation in state law relative to how close you can park to intersections, and we are checking on whether there is a restriction for parking close to the crosswalk. If not, we will consider putting that in the local law.

I have received some input from residents and have forwarded it to the Board. Meg is drafting a set of recommendations from the consultant on walkable communities which we will have prior to the hearing.

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

RESOLVED: that the Mayor and Board of Trustees schedule a Public Hearing for Tuesday, November 18, 2003 to consider the advisability of adopting Proposed Local Law No. 8 of 2003 amending Chapter 282, Vehicles and Traffic, of the Village Code to regulate parking on Hillside Avenue.

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

Village Manager Hess: The sales tax receipts for this quarter are up 5% from what they were last year, which is good news: \$192,000.

We have been notified we are going to be losing two employees very shortly. Christine Utchell, who is a librarian, is leaving us to take a position in the Bronxville library. It is a good move for Christine. She has been with us for about five years.

Meg Walker has accepted a job with the Project For Public Spaces. She worked for them for a number of years and then came to work for us five years ago. Meg has been offered a

position as director of design. It is a nice career move for Meg, but we are going to miss her terribly. She has been an outstanding addition to the Village staff. Even though she was a consultant, she was here plenty of times. She could have been a full-time-and-a-half employee. It is a good move for her, but we are going to really miss her. Everybody here certainly agrees with that.

Mayor Kinnally: I spoke with her today and told her nobody worked harder than she did in a part-time position. I am hoping she will be here at our meeting and we can bid her a fond adieu. She has been a great addition to the Village. It is five years, and it is hard to believe she has been here that long. When you take a look at our grant applications and all that we have received from the state—and I have talked about maintaining and increasing a visibility with the state and building on each grant application and we have done that—we have a credibility and a presence with the state. All we have to say is “Meg” and they know exactly who you are talking about. All that we have done with the trailways, the open space, the parkland, the cove, etc. Meg has had a hand in, and she will be missed. Thank you, Meg.

Trustee Holdstein: And a lot of smaller projects, like Ridge Street.

Village Manager Hess: Although her date was December 1, Meg has agreed to phase out over a longer period of time. If we needed her to, she would be willing to do some additional consulting work for us later on.

Trustee Jennings: I would like to add my words of praise. She has done a great job and has been involved in so many important projects in Hastings. She has contributed to the quality of life in this village tremendously. I know we will get another chance to speak with her and about her. But her decision to leave poses us with a challenge, and that is to replace her with a very high quality professional. This is an extremely important slot in the Village staff, particularly at this time. The hearing we had the other night, with the discussion of setting up a development authority to handle the waterfront after the cleanup, underscores the fact that Hastings is entering a period where having the skills of a planner is exactly what we need at this crucial time. We will move expeditiously to find the best replacement we can for Meg.

BOARD DISCUSSION AND COMMENTS

1. Village Commission on Public Health

Trustee Jennings: Our environment, food, air, and water are safer now than in the past, but there is no room for complacency about the public health dangers and challenges we face. These extend right down to the village level. SARS, West Nile, Lyme disease, bioterrorism

threats involving diseases such as anthrax and smallpox remind us that the age of infectious disease is not over. Other important health concerns, from alcohol abuse to obesity, to the needs and problems of an aging society, must be seen not simply as private, individual troubles but as community problems as well. Increasingly, we should all become aware of the public health dimensions of the governmental, land use, recreational, and educational decisions we make and policies we adopt in Hastings.

Accordingly, I propose the creation of a Village commission on public health. Such an entity would complement, but not be redundant with, other existing boards and commissions. It would give the Village a mechanism for drawing upon the expertise of our fellow citizens, particularly physicians, in a new concerted and focused way.

A public health commission would have several functions and advantages. For example, it would advise the Village on health and safety matters, and work closely with police, fire department, Village officials, and school district officials. It would augment the Village's and the school district's emergency preparedness plan. It would enhance our expertise and credibility in dealings with the county board of health and state agencies.

It would be particularly wise and helpful to have such an advisory body as we move into the waterfront cleanup. Certainly, we will have paid consultants, state officials, Atlantic Richfield experts, and a large number of people responsible for the safety of the cleanup. But as was pointed out during public comment on the Riverkeeper suit settlement, Village officials must keep a watchful eye on what all these experts are doing and hold them accountable through periodic reports to the Village. In assessing those reports, and in asking the right questions, members of a public health commission could be a valuable assistance to the Village Board and the Village Manager.

As to appointees, I would envision having two or three physicians, perhaps a nurse, a lay person with interest in public health and environmental issues. In addition to five regular members there could be some logical *ex officio* members, or liaisons. The official Village doctor could serve *ex officio*, and representatives of the police and fire departments. There are several outstanding infectious disease and public health physicians who live in Hastings, so I believe the talent and expertise available to us to assemble a very effective public health commission exists. Staggered terms could be set up, and other details could be worked out.

What would it do? The sort of things that might call this group together could be concerns about straightforward public health issues in the Village, such as the West Nile spraying for mosquitoes, Lyme disease and the deer and tick problems, our emergency planning in case of some sort of toxic spill or bioterrorism threat, and so on. Under the consent decree with AR that we will be talking about later tonight, we will have the responsibility to monitor health

and safety and environmental issues associated with the cleanup, and we can have some experts from the Village to back us up and help us in exercising that responsibility and that accountability.

Mayor Kinnally: Thank you, Bruce, and it certainly is a very positive approach to a concern that we have. You are right to identify the expertise that we have here. It is a substantial pool. And I know you have given a lot of thought to this. People have commented to me, since you first raised it, that it might be a good idea.

Trustee Holdstein: Do you see this as a committee that would meet on a regular basis, or as a committee that is there to call on when needed, like the Ethics Committee, or as something in between?

Trustee Jennings: I envision it more along the end of the spectrum of the Ethics Committee rather than the Planning Board or the Zoning Board or something that meets on a regular basis. However, we need to assemble the group, let them talk about their mission and mandate, see what kind of activities strike them as needed. I think they should spend some time reviewing existing documents and plans. They may have some creative suggestions about how to operate and how to work. They may want to activate themselves to work with other boards at particular times, for example, or in other kinds of activities with the Village Manager or the school district officials in relationship to drills or part of the emergency preparedness function. I think that the activities will be not just sit-down meetings, and certainly not necessarily on a monthly basis, but a few sit-down meetings as needed with other *ad hoc* phone calls or participation or sitting in on another board's meeting if a public health question comes up.

Trustee Holdstein: I have ten names right here that are people who are in medical or medical-related fields, both active participants like doctors as well as administrative people who would have an interesting global look at things. So that is great.

Trustee Apel: I think it is a wonderful idea, and we do have people in the community who have this expertise. Questions have come up, and having professionals address them is certainly advantageous to the community. We seem to be hit with more medical issues as time goes by and people are concerned, so the fact that we can put a board together and have them look at these issues would be wonderful. I applaud Bruce for coming up with the idea.

Trustee Swiderski: Given how many of the issues we face will be connected with the waterfront and environmental issues, someone with a health specialization in environmentally related diseases/symptoms, syndromes would seem especially well-suited for the committee. I think it is a great idea.

Trustee Holdstein: What is the next step?

Mayor Kinnally: The next step will be to put it on for action on November 18.

2. Update on the Waterfront

Mayor Kinnally: The update on the waterfront is tied in to what we are going to do on the consent decree. We are now going to go into executive session to meet with counsel concerning the consent decree, and we will reconvene and act on the consent decree.

EXECUTIVE SESSION

On MOTION of Trustee Swiderski, SECONDED by Trustee Holdstein with a voice vote of all in favor, the Board recessed for Executive Session at 8:45 p.m. to discuss the Riverkeeper/Atlantic Richfield consent decree and personnel items.

MEETING RECONVENED 9:45 P.M.

86:03 AUTHORIZATION TO SIGN CONSENT DECREE

Mayor Kinnally: We have with us environmental counsel, Mark Chertok. His colleague, Kate Sinding, who has helped us throughout the entire process, is here also.

Special Counsel Chertok: Let me describe briefly the changes in the consent decree from the last public meeting. The Village has agreed to amend its complaint to include what are called response costs under CERCLA, or the federal superfund act, as the intent of the agreement was to provide for settlement of all prior costs and the Village had such response costs. The Riverkeeper did not amend its complaint because the Riverkeeper did not have such costs.

Second, the consent decree has been modified to add another alternative called Alternative 3. Now there are five alternatives rather than four, and this alternative is in respect to excavation in the shoreline area over the northwest corner up to and including nine feet. If the DEC record of decision adopts that particular alternative, then the payment to the trust fund is \$1.4 million, yielding a total of \$1.5 million to the trust fund, with the \$100,000 payment that is made in each case.

In addition, the attorney fees and costs have been increased by \$100,000 under that alternative, for a total of \$700,000. The consent decree has been slightly modified to indicate that the Village and ARCO will explore the potential for ARCO to enter the brownfields

cleanup program, which is the new program enacted under the recent legislation by the state, allowing certain benefits for cleanups under that program. That is just a discussion, and there is no commitment on the part of the Village in any way whatsoever.

In addition, the consent decree has been clarified with respect to the designation of open space to indicate, as has always been possible, that ARCO may donate the open space to the Village or to a conservation group.

One other change is to increase the amount of the cost for monitoring. That is, ARCO will reimburse the Village for up to \$175,000 for its monitor of the remediation to be conducted on OU-1 by ARCO.

Trustee Holdstein: And any leftover money there would go into the trust.

Special Counsel Chertok: That is correct. Any money not spent for monitoring will be added to the trust fund.

Mayor Kinnally: The big part of that settlement is that under the old Alternative 3, \$1 million dollars would have gone into the environmental trust fund and under this it is \$1.5 million, and an additional \$100,000 is going into the fund for the attorneys.

Special Counsel Chertok: And the consultants.

Trustee Apel: It certainly has been a long process. I want to thank everybody for their patience and understanding in going through this. In the many hours that we have been doing it, I am very satisfied with the end result, and I am happy and looking forward to the signature by the Mayor on this form, and looking forward to what is going to happen in the future. This is just the beginning, and I think we have made a great start.

Trustee Holdstein: What a long, strange trip it has been. Thank you, Jerry Garcia. I, too, think that we have come to a very exciting place for the Village. This consent decree, along with the PRAP that has now come down, is hopefully a major step in moving forward. So let us get on with it. I am thrilled.

Trustee Jennings: We have examined this along the way so thoroughly, and improved it over time thanks to the public comments and thanks to the work of our counsel. We should acknowledge our thanks to the Riverkeeper and to Atlantic Richfield for their willingness to negotiate in good faith in a reasonable fashion to give us an agreement to settle this lawsuit that is very favorable to all the parties' interests, particularly, I think, very favorable to the Village of Hastings-on-Hudson. It is a job well done. And all the more so now in light of the

state's PRAP; it gives me a good feeling to know that we have a baseline of remediation. Regardless of how the state might amend its recommendations or its requirements in the light of public comment in the next few weeks and months, we are going to have a better cleanup or we are going to have a very good cleanup any way it goes and I am feeling very good about that.

Trustee Swiderski: It has been an honor to work on this agreement. I underscore the value and importance of public feedback, whether it was Hastings Waterfront Watch or any number of people who stood up, took the time, and came to the meetings and offered their suggestions, a number of which were incorporated. We have a settlement that is, in many ways, stronger than the PRAP and that is an accomplishment.

Mayor Kinnally: There is no question but many of the aspects of the settlement strengthen what is in the PRAP. It has been an incredible process. A lengthy one. Some very, very tough negotiations, as I indicated when we started talking about the settlement term sheet and the consent decree, from the time when we agreed in principle on the elements of the settlement term sheet to tonight, where we have had additional changes to it. But none of those changes adversely affect the Village. In fact, they have been very positive for the Village. The expertise brought to bear at the negotiation table was incredible. I want to commend Kate and Mark. They have been very, very helpful to us. Not only from a legal standpoint but also from a practical standpoint, in knowing where to push and how far to push and guiding with the legal and technical and common sense advice that we needed to get us to where we are. We have made the PRAP hearing even easier because a lot of this has been fully vetted up to this point and going into the settlement term sheet.

I want to thank all that were involved, including the Village Manager. Brian Murphy was not directly involved in this, but certainly gave us insight into other areas when we are dealing with the waterfront. So I thank everyone: Susan, Raf, and we mentioned Meg, the Planning Board, the Zoning Board, everybody who was in this.

Village Manager Hess: This document will be on our Website tomorrow and will be sent out on our e-mail list sometime after midnight. It was an extremely long process. The Mayor did an outstanding job in leading the negotiating team. The Board spent many, many hours in review and discussions of this document with counsel. And certainly we want to thank Kate, and her assistant Mark, for the fine work they did.

Mayor Kinnally: Thank you, Neil. I think it is amazing. We are getting \$1.5 million in environmental funds, plus possibly some additional monies depending upon the remediation. That is a lot of money, and it is a good start in getting our waterfront cleaned up and developed.

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 Mayor to sign the Consent Decree as attached in settlement of Hudson Riverkeeper Fund, Inc., and Village of Hastings-on-Hudson vs. Atlantic Richfield Company.

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	

ADJOURNMENT

On MOTION of Trustee Apel, SECONDED by Trustee Holdstein with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 9:55 p.m.