

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
DECEMBER 16, 2003**

A Regular Meeting was held by the Board of Trustees on Tuesday, December 16, 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, and Village Clerk Susan Maggiotto.

CITIZENS: One (1).

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 November 18, 2003 (Senior Tax Exemptions) were approved as presented.

On MOTION of Trustee Jennings, SECONDED by Trustee Holdstein with a voice vote of all in favor, the Minutes of the Public Hearing of November 18, 2003 (Vehicles and Traffic) were approved as presented.

On MOTION of Trustee Apel, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Minutes of the Regular Meeting of November 18, 2003 were approved as presented.

Mayor Kinnally: Any comments or changes on the minutes of December 2?

Trustee Holdstein: Page 26, first paragraph. The last sentence should be two sentences. "It is in every issue we deal with. It is a problem everywhere in the community."

On MOTION of Trustee Holdstein, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Regular Meeting of December 2, 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. 37-2003-04 \$ 30,953.58

Multi-Fund No. 38-2003-04 \$183,741.00
Multi-Fund No. 39-2003-04 \$124,293.23

APPOINTMENT

Mayor Kinnally: We have an announcement this evening, the appointment of Fred Wertz to the Planning Board. Fred had been serving on the Safety Council, and I thank him for agreeing to serve on the Planning Board, as I thank all of the volunteers in our community who give their time and energy.

99:03 INTERMUNICIPAL AGREEMENT FOR ENHANCED 911 SERVICE

Village Manager Hess: This IMA with the County of Westchester continues the cooperative efforts between the county and the public safety answering points, the PSAPs, throughout the county under the enhanced 911 system. They are also looking to develop a non-emergency communication system, 311. That would be effective in the future as part of this agreement.

On MOTION of Trustee Jennings, **SECONDED** by Trustee Holdstein 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 Intermunicipal Agreement with Westchester County for the operation of the Enhanced 911 system for a five-year term commencing July 11, 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	

100:03 CERTIORARI SETTLEMENT WITH THE BANK OF NEW YORK

Village Manager Hess: The Village Attorney, the attorney assigned to our negotiations for *certiorari*, and the Village Assessor recommend this settlement as in the best interests of the Village, as explained in the memorandum.

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

WHEREAS, petitions having been filed by the property owner below challenging real property tax assessments on the Village's assessment roll with respect to the following parcels:

Property Owner	Address Description	Year(s)
Bank of New York, Inc.	565 Warburton Avenue Volume HA, Sheet 10 Section 10, Block 630, Lots 24 & 26	2002, 2003

WHEREAS, petitioner's court challenge is now pending in Supreme Court Westchester County; and

WHEREAS, the Village and the property owner have reached a mutually agreeable resolution with regard to the assessments at issue in the Court challenges; now therefore be it

RESOLVED, the Office of the Village Attorney is authorized to execute a settlement on behalf of the Village for assessments for no less than the following:

Tax Year	Assessment	Proposed Original AV	Settlement Reduction
2002	50,000	40,000	10,000
2003	50,0009	40,0009	10,000

The Village of Hastings-on-Hudson's share of the refund is ± \$2,848.60.

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	

RESCHEDULE BOARD MEETINGS

Mayor Kinnally: Traditionally, we move the first meeting of January from the first Tuesday to the second Tuesday to give staff an opportunity to get everything ready after the down time during the Christmas holidays, and I would suggest that we do the same thing this year.

On MOTION of Trustee Holdstein, SECONDED by Trustee Apel with a voice vote of all in favor, the Board of Trustees voted to move first meeting of January from January 6 to January 13.

101:03 SCHEDULE PUBLIC HEARING MORATORIUM EXTENSION

Village Manager Hess: The Planning Board has recommended extending the moratorium on the Limited Industry (LI) Zoning District for an additional 90 days.

Mayor Kinnally: Is there good cause for that extension because they are in the midst of the review and preparation of the report?

Village Manager Hess: Yes.

Trustee Swiderski: Is that the last extension they expect?

Village Manager Hess: I do not want to answer for the Planning Board. If, after they receive the report, they wish to make adjustments or wish further public comment and it goes beyond the 90 days, that is possible. We have every hope and intention that it will not be extended again and that there will be a recommendation.

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

RESOLVED: that the Mayor and Board of Trustees schedule a Public Hearing for Tuesday, January 13, 2004 at 8:00 p.m. to consider the advisability of extending for 90 days the temporary moratorium on development in the Village's Limited Industry (LI) Zoning District.

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: I would like to compliment the Department of Public Works on the outstanding job they did over the last two weekends in very sloppy circumstances during two storms. The one last weekend started at the start of the commuter rush hour, which made it difficult during the first several hours of the operations. They did a very good job plowing in tandem to widen all the streets.

The Safety Council will meet this Thursday in the Orr Room at the library to discuss the walkable communities recommendations. It has also been referred to the school district and we are hopeful that after Safety Council review, school board review, and Village Board review that we will be able to have our joint meeting sometime after the first of the year with that as the major topic of discussion.

I want to remind people to shop in Hastings for the holidays. Sales tax outside the cities comes back to our local communities. I urge everybody to shop in Hastings. Free parking, free babysitting, and a lot of friendly merchants.

The downtown partnership advisory board met a week ago and they want to thank the Board for the free parking in the downtown during the holiday season. They voted to re-institute the Citizen of the Year award, something that has not been done in quite a few years. So we are urging people in the community who would like to nominate someone for Citizen of the Year to send me a note. We hope in the late winter/early spring to announce one or more recipients.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: We are still discussing with counsel our comments to the PRAP, and to that end I would like a motion for an executive session to have a telephone conference with environmental counsel following this meeting.

EXECUTIVE SESSION

On MOTION of Trustee Holdstein, SECONDED Trustee Swiderski by with a voice vote of all in favor, the Board scheduled an Executive Session immediately following the Regular Meeting for a telephone conference with environmental counsel.

Mayor Kinnally: The consent decree has arrived from Great Britain. It was signed by ARCO, it has been signed by the Riverkeeper, and it has been submitted to Judge Conner for his signature. I urge members of the community who have comments to the DEC on the proposed PRAP for either OU-1 or OU-2 to submit them by December 29.

2. Contribution

Mayor Kinnally: Joel Dean, who lives on Hopke and also has a residence in Paris, has contributed \$1,500 for new tree and shrub plantings in the Village. The check has been deposited in the betterment fund. I thank Mr. Dean and the foundation. He has been interested from afar as to what is happening in the Village. When he first contacted me I told him of the project at Boulanger Plaza and he was quite interested and excited about it. I discussed with him the possibility of contributing for trees and plantings, so we will keep that on the front burner.

3. Pedestrian Plan Scope of Work

Village Manager Hess: Meg has given you a draft scope of work which would be included in our contract with the New York State Department of State. We received a grant of \$40,000 to be matched with a \$10,000 contribution from the Village. This scope of work will need to be finalized with the DOT, but would become a part of the final contract.

Mayor Kinnally: I was quite interested in this document in connection with the walkability draft that we had received. Very interesting suggestions have been made, and much food for thought as far as what can be done. Our topography here militates against a lot of what would normally be done, unlike places like Galveston, Texas and other flat communities. It was not until the last page that one of the most important things was addressed: cost estimates for each project. People come up with a lot of good ideas, but the tough part is working within our budget restrictions. The adjacent property owners are a big component, and some are institutional property owners. But that is not to throw any cold water on the whole thing. The walkability project is bringing to the fore the problems that we wrestle with: traffic, parking, walkability, pedestrians, students. It is a good beginning. I do not have anything to add to the scope.

Trustee Apel: Originally this was just a transportation plan, and Meg was encouraged by the State Department of Transportation to put pedestrian safety into it. I think when the state starts to encourage you they have some ideas and, hopefully, some funding. Meg's idea is that this is going to be the basis for a lot of future grants. Since this is important to the state, we might be able to get more money for all those things that we were talking about. This is another one of those community things that we are going to be working on; there will be a lot of consensus discussions after this, and working with this consultant. This is a great idea that this is going to happen. Meg wanted our opinion on this so that she could move forward. She wanted to finish this up before she left, although she said that she would continue assisting us with it. But I do not know what we are supposed to be doing.

Village Manager Hess: If you have anything you would like to add to this or change. Otherwise, we are going to tell her to move forward with it.

Trustee Swiderski: This is an extension of the ideas put forward in the walkability community, and the logical next step if we are serious about this. I think it is great.

Trustee Jennings: I looking forward to hearing more about it.

Mayor Kinnally: Green light? Thank you.

4. Proposed Sales Tax Increase

Village Manager Hess: This year the proposal that has been put forward jointly between a majority of the county board and the executive committee of the Westchester County Municipal Officials Association calls for a 1% sales tax increase. It is based on an 80/20 split: 80% to the county, 20% to the localities in 2004, and a 75/25 split in 2005 and into the future. School districts are excluded from the increased sales tax. It would bring the local sales tax in Westchester to 8%. Last year when the sales tax was at 6.75%, the state rebuffed the county's request for the 1% increase, and then turned around during their budget and increased the state sales tax by a quarter of a percent. And we had no part of it.

So it is open for discussion from two standpoints. Some people are proposing a county-wide income tax as opposed to a sales tax because the sales tax does not affect people within the cities in Westchester: White Plains, Yonkers. It would only affect those outside the cities or somebody from the city purchasing in other localities. A county-wide income tax would affect everybody. The Municipal Officials Association has endorsed this proposal. I put it on the agenda in case the Board wanted to have some discussion and take a position to forward on to our state legislators and the county.

Mayor Kinnally: I would like to talk to the state legislators before we take a position, because if they will not sign on to it, it will not get to the floor of the assembly or the senate. I am going to reach out to both Richard and Nicky and see where they are on this. The state has already taken the lion's share, so I do not know. I am not saying that a position should not be taken, but I do not want to keep beating our heads against the wall.

Village Manager Hess: I would like to see the school districts share in the sales tax also. The school districts need a growth revenue. Our school district has to rely very heavily on the property tax.

Trustee Holdstein: When they tried it last year they tried to put forth 1%. It got shot down by the state, then the state tacked on and we got nothing out of it. It seems to me it is in our best interest to want to support this in lieu of the state pulling another end run around. Given the choice of one or the other, better this than the state adding on later and we get less revenue out of that money on the sales tax.

Mayor Kinnally: It is not a choice at this point. I do not see that the state is proposing that they are going to assess any more sales tax.

Trustee Holdstein: Yes, but we did not know that a year ago, did we?

Mayor Kinnally: The issue now is what position our legislators are going to take on this. If the legislators are not in favor of any change it is not even going to be introduced in Albany. The home legislators must carry the bill through.

Trustee Holdstein: But from the standpoint of a small municipality like ours, there are several alternatives: whether we want to come out in favor of an income tax increase that would affect more residents of Westchester County, or support this, or nothing.

Mayor Kinnally: An income tax is not an alternative that is being suggested by the legislators.

Village Manager Hess: By the state it is. The Westchester delegation, or at least one member of that delegation, mentioned the possibility of a Westchester income tax to make up that difference for the county.

Mayor Kinnally: Let me make those calls and we can revisit this on January 13.

Trustee Apel: I agree. Talking to Richard and Nicky is a good idea. Let us get their perspective.

5. Town of Greenburgh Settlement

Mayor Kinnally: The Town of Greenburgh is a defendant and a judgment debtor on a wrongful death with an accident where a tree came down and crushed a car, and the town is looking to lay off some of the liability to the villages. There is a meeting scheduled for Monday night at the new town hall. The Manager and I are going, as well as the mayors and the managers or administrators of Dobbs Ferry, Irvington, Ardsley, Elmsford, and Tarrytown to see what Paul has in mind, understand his rationale and justification for it, and lobby against it. The judgment against the town is above and beyond insurance coverage and Paul wants us to pay part of it based on our being a part of the Town of Greenburgh.

Village Manager Hess: A \$9 million settlement: \$5million in insurance, \$4 million from the taxpayers.

Trustee Holdstein: Are they appealing the judgment?

Mayor Kinnally: It is a settlement. I misspoke.

Trustee Apel: Is there precedent for this?

Village Manager Hess: This will be researched prior to Monday night's meeting .

Trustee Jennings: Was this based on the notion that the Town was negligent because they had not done something to the tree that fell onto the car?

Mayor Kinnally: It was a tree that was not a healthy tree. Apparently, they claimed that the Town was on notice, or should have been on notice, about it. It was a tree within the care, custody, and control of the Town of Greenburgh.

Trustee Jennings: If a similar incident happened in the Village of Hastings would the Town of Greenburgh chip in to help us pay the settlement?

Village Manager Hess: No.

Trustee Swiderski: What is our insurance level here? Is it \$5 million or some more, or less, for this sort of incident?

Village Manager Hess: One, with a \$5million umbrella. So we may have \$6 million.

Trustee Swiderski: Does this leave you wondering whether it is enough if something like this were to happen here?

Village Manager Hess: It is a very unusual settlement. I have to read the details. The money was borrowed in July of this past year and has been budgeted in their 2004 budget as a town-wide charge. The meeting was requested to find out why he made it a town-wide charge. In the meantime we are going to do some legal research and research of the exact circumstances of what happened.

Trustee Swiderski: Has he prorated it? Do we have a sense of what he wants out of us?

Village Manager Hess: Of the \$4 million borrowed, I think the payment calls for \$385,000 in the coming year. So whatever the town-wide assessment is, I do not think it would amount to very much. The question is, should it be a town-wide charge for those outside the villages. It depends on the circumstances of where it was. If it fell from a town park, and parks are a town-outside charge, then it should be a town-outside charge.

Mayor Kinnally: But there is a lot of uncertainty here. I do not want to take a position yet.

6. Other

Trustee Jennings: What is the time frame on installing the stop signs that we authorized?

Village Manager Hess: Once we get notification back from the state that the law is approved the stop signs will be installed.

One more item. There is a memorandum from the Conservation Commission to the Board of Trustees about Lyme disease and deer ticks. They are offering to play a lead role in moving that forward. The Town of Greenburgh has now gotten interested in the situation. The Conservation Commission has offered to work with our new Public Health Board on this issue. I would be glad to acknowledge their memo and refer it on to the Town of Greenburgh, and put them in contact with each other since there are going to be some meetings in January on this very issue.

Mayor Kinnally: We are going to be discussing the Public Health Commission at an executive session. I would like to have a motion for an executive session for personnel and for discussion with Village counsel on personnel and liability issues, immediately following this meeting.

EXECUTIVE SESSION

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

ADJOURNMENT

On MOTION of Trustee Apel, SECONDED by Trustee Swiderski with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 8:55 p.m.