

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
FEBRUARY 3, 2004**

A Regular Meeting and was held by the Board of Trustees on Tuesday, February 3, 2004 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: None

APPROVAL OF MINUTES

On MOTION of Trustee Apel, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Minutes of the Public Hearing of January 13, 2004 were approved as presented.

On MOTION of Trustee Swiderski, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Regular Meeting of January 13, 2004 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 January 20, 2004 were approved as presented.

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. 46-2003-04 \$ 187,258.40

Multi-Fund No. 47-2003-04 \$ 3,407.20

7:04 ADOPTION OF LOCAL LAW NO. 1 OF 2004 - TEMPORARY MORATORIUM

Village Manager Hess: This is an extension of the moratorium. Both the Planning Board and the Zoning Board of Appeals sent memos recommending the extension. The first presentation was made by Stu Turner & Associates to the Planning Board, and a second draft will be coming shortly based on the input. We recommend approval.

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

WHEREAS, the Board of Trustees of the Village of Hastings-on-Hudson adopted Local Law No. 4 of 2003, which imposed a temporary moratorium on development in the Village's Limited Industry (LI) Zoning District located on Route 9A in the Village; and

WHEREAS, said Local Law became effective on or about September 15, 2003 and, by its terms, expired 90 days later on or about December 15, 2003; and

WHEREAS, said Local law directed the Planning Board of the Village of Hastings-on-Hudson to prepare appropriate zoning amendments for the LI District located on Route 9A or other zoning amendments because of the Village Board of Trustees' concern about significant adverse potential traffic impacts in the Route 9A Corridor that would arise from development of lands within the LI District for uses now permitted as of right or by special permit; and

WHEREAS, the Planning Board has commenced studies for the preparation of such zoning amendment, but has not yet completed such studies nor issued any recommendation to the Board of Trustees; and

WHEREAS, the Board of Trustees desires to preserve the status quo and act to ensure that existing traffic problems in the Route 9A Corridor do not worsen until the Planning Board can prepare the requested zoning amendments and such can be acted upon by the Board of Trustees; and

WHEREAS, the Board of Trustees finds it necessary to reinstate and effectively continue the temporary moratorium set forth in Local Law No. 4 of 2003,

NOW, THEREFORE, BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF HASTINGS-ON-HUDSON as follows:

Section 1: Purpose and Findings

The Board of Trustees of the Village of Hastings-on-Hudson finds that serious traffic impacts in the Route 9A Corridor would occur if undeveloped or underdeveloped lands in the Village's existing Limited Industry (LI) District are developed for uses permitted as of right or by special permit under the Village's LI District regulations. Accordingly, the Board of Trustees hereby directs the Planning Board to prepare appropriate zoning amendments that could include a modification of the list of permitted uses in the Limited Industry (LI)

District, located on Route 9A, or other zoning amendments to reduce such impacts. In order to insure that existing traffic problems do not worsen and to assure that all future development in the Limited Industry (LI) District is consistent with those zoning amendments, the Board of Trustees finds it necessary to enact a temporary moratorium on development in that district.

Section 2: Applicability

This Local Law shall apply to the Village's Limited Industry (LI) District, as shown on the Zoning Map, Village of Hastings-on-Hudson, dated May 1, 1979, and any amendments to that Map.

Section 3: Development Limitations

For a period of ninety days after the date of the filing of this Local Law with the Secretary of State, no application for:

- (1) a building permit, or
- (2) a special use permit, or
- (3) site plan approval, or
- (4) subdivision approval, or
- (5) use variance, or
- (6) a variance involving the construction of new or expanded floor space,

for properties within the area designated in section 2 of this Local Law shall be accepted, and no final decision on any such application shall be made, except as set forth below:

- a. An application for a building permit where final site plan approval has already been granted.
- b. An application for a sign permit pursuant to Chapter 234 of the Code of the Village of Hastings-on-Hudson.
- c. An application involving the interior renovation, rehabilitation, or alteration of an existing building or structure provided: (1) the application does not involve a change in use, and (2) the cost of the renovation, rehabilitation, or alteration does not exceed \$10,000.

Section 4: Waiver

A. The Village Board shall have the power to waive the application of any provision of this Local Law upon its determination, in its reasoned legislative discretion, that such waiver is required to alleviate undue hardship, is consistent with the proposed amendments to the Zoning Code, as such may be known, and is consistent with the health, safety, and general welfare of the Village. The hardship must be the result of unique circumstances, and the waiver must be the minimum necessary to alleviate the hardship.

B. Upon receiving any application for a waiver of this Local Law, the Village Board shall conduct a public hearing on the application, on at least ten days notice, within sixty days after the application is referred to it. The Village Board shall render its decision within thirty-five days after the public hearing is closed.

C. If the Village Board grants a waiver under this section, the application for which the waiver was sought shall be referred back to the office or board responsible for processing such an application, and the application shall be processed according to existing law and procedures.

Section 5: Interim Suspension of Other Laws

All ordinances or local laws or provisions of the Code of the Village of Hastings-on-Hudson in conflict with the provisions of this local law are hereby suspended to the extent necessary to give this Local Law full force and effect during the effective period. This Local Law is intended to invoke the supersession provisions of Section 10(1)(ii)(e)(3) of the Municipal Home Rule Law and to supersede, during the effective period of this Local Law, inconsistent provisions of the Village Law, including Article 7.

Section 6: Validity

Should any word, phrase, clause, sentence, paragraph, part, or provision of this Local Law be found to be invalid, such decision shall not affect the validity of any other part of this Local Law that can be given effect.

Section 7: Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York.

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

8:04 CHANGE ORDER GC-01 - JULIUS M. CHEMKA POOL PROJECT

Village Manager Hess: This is a new copy of the change order that we went through several meetings ago. The net effect is a decrease of \$896.08 in the original contract sum of \$1,385,000.

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 approve the change order GC-01 of Norco, Ltd. for the Julius M. Chemka Pool Project to decrease the general construction contract in the amount of \$896.08.

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	

9:04 CHANGE ORDER GC-02 - JULIUS M. CHEMKA POOL PROJECT

Village Manager Hess: This was also discussed several meetings ago, and a decision made at the last meeting. This is a change order to authorize the gravel bus turnaround, calling it a turnaround as opposed to a bus turnaround, across from the pool to improve traffic circulation, bus circulation, and for the drop-off of children and/or adults. This provides a location without having to go up in the parking lot and turn around.

Trustee Swiderski: There is a yellow house on the inside corner at Valley as you are coming in Valley heading toward the pool, right there in front of you. Has the occupant there been contacted about this, or told that something is going to happen relatively close to his property?

Trustee Holdstein: That is much further up the road.

Village Manager Hess: It is a little ways up the road. This is directly across from the pool house.

Trustee Swiderski: I was not sure where his property line extended to, and I want to make sure that somebody checked that this was far enough from the property line that there is no notification.

Village Manager Hess: It is definitely far from the property line. But I will be glad to talk to them about it. I have talked to them before about other issues. I will give them a call.

Mayor Kinnally: I think the property line there is probably around 15 or 20 feet beyond where their swing set is.

Village Manager Hess: Their side yard is in a Village right-of-way, so I will be glad to talk to them about it.

Trustee Swiderski: The three trees, there is no issue with the tree board?

Village Manager Hess: They preferred that we did not remove any trees.

Trustee Swiderski: Of course. But they were contacted.

Village Manager Hess: Yes, but it is a balancing act. The only way we are going to improve traffic circulation is with some tree removal. There are no specimen trees involved. There are a lot of scrub maples.

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 approve the change order GC-02 of Norco, Ltd. for the Julius M. Chemka Pool Project to increase the general construction contract in the amount of \$28,680.00.

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	

10:04 PUBLIC HEALTH BOARD ADDITIONAL MEMBERS

Trustee Jennings: The initial number of five was not based on any particular rationale. As we talked about it in executive session it seemed that it would help this new commission work more effectively and efficiently if there were a larger number of members. Also, we got such a tremendous response from members of the community who were willing to volunteer their time to be on this board, that we felt it was a good idea to expand the membership. All of that makes perfectly good sense to me. I support this.

Mayor Kinnally: The Village Attorney has suggested additional language. After such terms, insert the words “for the additional two members”.

On MOTION of Trustee Holdstein, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Board approved the amendment to the resolution as presented.

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

RESOLVED: that the Mayor and Board of Trustees increase the membership of the Public Health Board from five (5) to seven (7) members with a term of office of three years, such terms for the additional two members to be staggered initially as one for two years and one for three years.

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	

11:04 RETURN OF ACCOUNT AND AFFIDAVIT

Village Manager Hess: You have a complete list before you of delinquent accounts developed as of December 31, and an updated list as of January 30. The outstanding accounts as of December 31 were \$319,000, or approximately under 5% of the tax roll. As of January 30 that has decreased to \$142,000. About 2% of properties on the tax roll are delinquent and we feel that most of them will be paid by the tax sale date of March 16.

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 certify and approve the attached Return of Account and Affidavit for the 2003-04 Village tax roll.

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	

12:04 VILLAGE ELECTION INSPECTORS - REPUBLICAN

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

RESOLVED: that the Mayor and Board of Trustees appoint the following Village Elections Inspectors for General Village Election Day, Tuesday, March 16, 2004 as Republican Inspectors:

INSPECTORS	DISTRICT
George Gray Evelyn Reid	18 th
Michael Valko Roberta Bennett	19 th
Martha Koblosh Mary Matzura	20 th
John Olyha Walter Honovich	21 st
Eleanor McGinigle Bessie Kochan	22 nd

Mariam Anthony Winnie Hazou	23 rd
Connie Rasulo Jean Hornbostel	52 nd
Meriba Gursky Jan Gustafson	59 th

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	

13:04 VILLAGE ELECTION INSPECTORS - DEMOCRATIC

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 appoint the following Village Elections Inspectors for General Village Election Day, Tuesday, March 16, 2004 as Democratic Inspectors:

INSPECTORS	DISTRICT
Viola Kepcher Elizabeth Waczek	18 th
Yung P. Beece Nicholas Callas	19 th
Gloria Matzura Laura Gardner	20 th
Olga Morabito Nettie A. Funchess	21 st

Anna Zahurak	22 nd
Karen Jacobs	
Gloria Rodriguez	23 rd
Christopher Costello	
Adele Bean	52 nd
Agnes Matzura	
Rose Marie Somosky	59 th
John Russo	

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: We are currently working on the budget for the 2004-2005 fiscal year to be presented at a public meeting on March 2.

I want to announce the appointment of Les Jenkins as a part-time meter repair person for the Village. He will be replacing Timmy Burke. Mr. Jenkins will be starting next Monday, and we welcome him aboard.

We have applied for six grants through Congressman Nita Lowey for the 2005 federal budget year totaling \$230,000; they include Scott air packs and gear for the fire department; haz mat equipment for the fire department; funding for the youth advocate program; and additional training for our first responders. Again, we are applying for the emergency vehicle that we purchased several years ago. The last item is to provide scholarships for seniors and youth for our rec programs, utility bills, and for our cellular 9-1-1 phone program for seniors.

I want to extend get-well wishes to Corky Soderstrom, who underwent bypass surgery several weeks ago and is home recuperating, and to Gail Hoffman, who had surgery this morning and is doing well also. We wish full, speedy recoveries.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: We are in the process of establishing the trust fund under the consent decree and funding it. Mark is working with the Riverkeeper to deal with the attorney's fees and expenses that are part of the amounts payable under the consent decree. We hope to have that all completed within the next couple of weeks. I am going to be reaching out to ARCO to continue our discussions about the amount of open space due us under the consent decree, to see what additional open space we can get under the consent decree, and to move forward with our land use plan and see where we are with the cleanup.

Our comments on OU-2 have been submitted to George Heitzman at the DEC. Louis Berger & Associates were the engineering consultants who assisted us in pulling together the comments. Their expertise was invaluable. They came up with a number of ideas that, when we went back to the DEC and ARCO, they had not thought of. Their reaction was that there is a valid basis for inquiring to see if we could get a better cleanup of the river for the same amount of money and get higher concentrations of cleanups of the PCP's in the higher elevated areas.

Trustee Swiderski: Has a final amount been determined for what the size of the trust fund will be?

Mayor Kinnally: That was added in the settlement agreement and incorporated in the consent decree. It was \$1 million and we got another \$500,000.

2. Professional Fees Law

Village Manager Hess: Under the current code we do not have a legal right to force a potential developer to fund certain studies. There was a provision in our old code, and it got dropped somehow during the reformatting, where the Planning Board had the right to require professional fees. Marianne and I talked about this several months ago, and I asked her to draft up something for us. We have been lucky in the past where developers have willingly paid for our consultants. This would make it law. I recommend it.

Trustee Jennings: Two things pop into my head from a developer's point of view. Is there a procedure for determining what a reasonable study charge should be, and is there an appeals mechanism if the developer feels that his money is not being properly utilized?

Village Manager Hess: What we have done in the past is agree upon someone to do whatever study had to be done, and agreed on a price.

Village Attorney Murphy: The fourth line in paragraph 223-1, reference of application to professional charges: "Charges made by such professional consultants shall be in accord with charges usually made for such services in the metropolitan New York area, or pursuant to an existing contractual agreement between the Village and the consultant."

Trustee Jennings: I did not see that before.

Village Manager Hess: Let me give you an example. For 45 Main Street we had a study by AKRF relative to the traffic situation and the potential for a traffic light. We spoke with A&F, agreed on a scope of work, and agreed to get a proposal from AKRF. A&F agreed with the amount of the proposal, and AKRF did the study. That is the way the procedure works.

I do not want a perception in the future that a developer is buying his approvals. If it is in the law, and he is required to do it, the procedure will work the same way. But I just do not want a perception on this project or any other project that the developer is buying his way into something.

Trustee Jennings: That is a good objective, and I agree. Nor do I disagree with the procedure that you outlined. It is just that when we pass an ordinance it is on the books until somebody takes it off. We will not be here, and the current members of the Planning Board will not be here, and who knows what kind of behavior future people will engage in? We have to make sure that whatever we enact here will be fairly done all the time, not just when we are around to make sure it is fairly done.

Mayor Kinnally: I think it is a good concept. It takes us out of the bargaining realm, which is probably good. There should not be any *quid pro quos*.

On MOTION of Trustee Holdstein, SECONDED Trustee Apel by with a voice vote of all in favor, the Board scheduled a Public Hearing February 17, 2004 to consider Proposed Local Law No. 2 of 2004 enacting a professional fees law.

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

3. Other

Trustee Apel: I want to thank the sanitation workers for the snow removal that they have done. They were up at the crack of dawn this morning trying to get rid of extra snow before the rain, so I have to thank them for doing that. A big job.

EXECUTIVE SESSION

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

ADJOURNMENT

On MOTION of Trustee Jennings, SECONDED by Trustee Holdstein with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 8:45 p.m.