

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**BOARD OF TRUSTEES**  
**REGULAR MEETING**  
**JUNE 8, 2004**

A Regular Meeting was held by the Board of Trustees on Tuesday, June 8, 2004 at 8:50 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, Deputy Village Attorney Marianne Stecich, and Village Clerk Susan Maggiotto.

**CITIZENS:** Thirteen (13).

**PRESENTATION** - Waterfront Cleanup

**Richard Frankoski, BPAmoco, Group Environmental Management:** This is a new phase for the project, so the Mayor asked that we give an update. We have a written statement:

I am Dick Frankoski, Atlantic Richfield manager of the east region. Thanks for giving us this opportunity to provide you with an update on our progress on the remediation and improvement of the Anaconda site on One River Road. As you know, the site contain about 28 acres next to the train station, and today we are pleased to report that the DEC has issued the record of decision, the ROD, for the site. And previously we have agreed to a consent order among the Village, Atlantic Richfield, and Riverkeeper. These are two of the three documents required to clear the way for us to remediate and clean up the site, and prepare it for the future development over the next few years. As a result of the record of decision and our mutual consent decree a single remedy from more than a dozen initially considered has been selected. The remedy has now been approved by the DEC, and I will discuss that in more detail shortly. We also are working actively to reach a similar agreement with the New York DEC, which is the third leg.

Before providing more detail on our path forward, let me acknowledge that we know this has not been easy on the community. What has for many years, many decades, been a thriving community of business, and a source of prosperity for the region and the Village, has now for a generation been a major challenge, much like my home in Cleveland. During much of the 20th Century, from 1917 to 1977 to be more exact, many of the standards of the industrial operations and environmental protection that we now rigorously adhere to did not exist. Business was conducted differently. At this site, Anaconda produced fireproof copper cable to keep our Navy ships safe at sea. This generated PCB contamination that now requires remediation. In addition,

wire and cable manufacturing processes resulted in the presence of elevated levels of metals, such as copper and lead in the soil, at some locations on the site.

Now, however, we look to the future. We have all worked diligently and in good faith to arrive at this point, and I am here today to tell you in the most straightforward manner possible that Atlantic Richfield intends to fulfill its remediation obligations at the site. We accept and support the mutually agreed-upon remedy. We think the remedy selection is a good one, we have allocated the necessary financial reserves, and we are fully committed to moving forward expeditiously. We intend to work with the community as we plan and implement the remedy. We intend to communicate openly and proactively. We will listen to the community and conduct the cleanup in a manner that is sensitive to the concerns about traffic, noise, and air.

Under the consent decree, we have already deposited \$1.5 million into the environmental trust fund, which the Village and Riverkeeper may use for environmental and open space projects. We have also created a \$175,000 fund to pay for the Village to hire independent experts. These experts will conduct periodic inspections of the site and monitor the principal elements of our cleanup as we conduct the work. This is on top of the normal close supervision by the DEC. We anticipate working closely with the community to identify the right options for the future redevelopment of the property.

There is considerable complexity to the remedy and grievance, so what have we agreed to? Atlantic Richfield has agreed to the following elements of cleanup. First, over the vast majority of the site, about 26 acres, we will remove soils containing PCBs greater than 10 ppm, parts per million. We will also remove soils in the areas that have been identified as lead hot spots. Second, in an area of 1.5 acres known as the northwest corner and northern shoreline, we will remove soils containing PCB concentrations greater than 10 parts per million to depths of 9 feet. We will use a slurry wall bulkhead and cap system to contain the remaining PCBs in place. Third, we have installed a new steel bulkhead along part of the waterfront. We will complete the remaining portion of the bulkhead along the riverfront as part of the remedy. Fourth, to facilitate redevelopment we will place a contact barrier and cover over the entire site, with a cap consisting of 6 inches of base layer of low-permeable material, a 4-foot layer of clean fill, and 6 inches of topsoil, which is a total of a 5-foot cap.

Let me talk a little about the timetable. Given the project's complexity and its importance to the community, the engineering plan is critical. First, Atlantic

Richfield has hired Parsons, a well-respected internationally known engineering firm, to direct both the project design and construction. Second, the consent decree between the Village, the Riverkeeper, and Atlantic Richfield requires submitting a remedial design work plan by December 17, 2004. Third, a remedial design firm will be hired by Atlantic Richfield later this year to design the project. The selection process is currently underway, and is expected to be completed by the end of the year. Fourth, the design process is expected to start at the beginning of 2005. This will involve three tiers of design for New York DEC review. As we prepare design documents and submit them to the DEC, we will provide them to the Village for comments. The remediation construction would start after the New York DEC has approved the final design. If everything goes well, we would hope and expect that the project would be finished in five to six years.

In conclusion, we appreciate the opportunity to provide you with a status on the site. We want you to know that we support the remedy. We want you to know that we are going to do it right. We want you to know that we are going to be extremely sensitive to the Village and its concerns on noise, traffic, and dust, and that we are looking forward to working together as partners in the future.

**Mayor Kinnally:** Dick, perhaps you can introduce your support staff.

**Mr. Frankoski:** This is Dave Kalet, who is the construction and project engineer for Atlantic Richfield for this site. This is Ray D'Hollander from Parsons Engineering. Ray will be the main oversight. There are going to be three engineers on-site. Parsons is the main oversight engineer. They will manage the design process and a construction process. You are going to hear two other firms involved. There will be a design firm later, and a construction firm. Bill Minor has worked for us on government affairs and public relations. Howard Miller is the Atlantic Richfield representative for government affairs.

**Mayor Kinnally:** Is there a timetable for demolition of any additional buildings while the design phase is ongoing?

**Mr. Frankoski:** We are taking a look to see if there is an opportunity to do some of the demolition early and clear the site for easier design.

**Mayor Kinnally:** We would encourage that.

**Trustee Holdstein:** Your determining the process of removal, i.e. barge, train, truck, rail: is that part of the design phase? And who has the final say? The state DEC, us?

**Mr. Frankoski:** Transportation of the materials is our most critical factor. The first week on the job I called Dave and said that our biggest concern is how we transport the materials off, and onto, the site. Even the state appreciates how big an issue that is for the site and the impact it has on the community. That is part of the design plan, and we would be glad to come back to the Trustees and explain the options.

Who owns the decision on that? The state approves the plans. I do not want to start talking like a lawyer, but in the end it is our plan. The state will approve it because they have the authority over the engineering and designing. But we do not have too many options on moving materials.

**Trustee Holdstein:** But you will design the plan. It will require the state DEC's approval. Is it just a matter of being a good partner that you will share with us as these plans are being formulated, or will we see just a final plan? What opportunity will the Village have, whether here before the Board or in printed materials? Do we see it only in an end process?

**Mr. Frankoski:** There will be a lot of drafts. But we have committed to you tonight to bring forward the issues and get your input on them, including the transportation.

**Trustee Jennings:** My question has to do with the parallel activity that the Village will engage in with prospective developers, in terms of what is going to go on top when you are finished. At this early point if there is some infrastructure like conduit and sewers that has to go under the cap, we need to think about how to put in place the right kind of infrastructure so that we have the flexibility to put what we want there eventually. We do not want to paint ourselves into a corner by what we do now, limiting future site development.

**Mr. Frankoski:** That is a very good question, and your message has gotten to us and we have had some conversations. You are right: once we bury it, it is difficult to get to. But you can put in large culverts that you can walk through, if you needed to, to carry transmission lines. There are ways to do that, or bury them shallower, or run around the edges.

**Trustee Holdstein:** So keeping everything above the cap?

**Mr. Frankoski:** Or under. Both ways.

**Mayor Kinnally:** That was anticipated and discussed in negotiating the consent decree. We have had a number of discussions about putting in trunk lines. We already have the county sewer trunk line going through that property. You can put in an east-west transmission line, or culverts, conduits, raceways, to put the utilities in.

**Trustee Jennings:** I was trying to get at an assurance that in the design process over the next several years provision will be made for arranging the piping under the cap in such a way that the Village will have a maximally flexible ability to design the development on top of the cap. An important goal from the Village's point of view is to make sure that what is put in place now will be compatible with a range of choices in the development that happens long after your cleanup.

**Mr. Frankoski:** Your point is very well made. We would anticipate bringing back to you the options. There may be good surface options also, which may have more flexibility.

**Trustee Apel:** Right now you have only one access to the waterfront. Is there any anticipation of another access to this property, especially when you are cleaning it up?

**Mr. Frankoski:** No. Our last alternative would be trucking anything off the site through the city. I cannot even picture that. There will be possibly a new rail track going into the site, or an upgrade on the rail track on the site.

**Trustee Apel:** I want to thank you for coming. It is nice to see a face and to actually speak with you instead of reading all those reports that we get.

**Trustee Swiderski:** I would also like to thank you for coming. Parsons is a fine firm. It is a great gesture on your part to come here and kick off the process in this way. Corporate responsibility at its best.

Clearly, you are addressing the cleanup on the land. While nothing has been issued about the standard for the cleanup of OU-2, the offshore component, I imagine it is going to be done at least in part from the land. Have you factored in whether a projected cleanup off shore would affect the timetable and the process by which you would clean up the land site? And how this may be, even now, factoring into your decisions and thoughts?

**Mr. Frankoski:** Yes, that is where we have to tie in the consent order with the New York DEC. I mentioned a third leg, and in that third leg that consent order really starts having the timetable that we have not had before in the other two agreements. We need a lay-down area for any sediments that we extract from OU-2 because we have to process those before they can be taken anywhere, and if there are any spills we need to clean it up. We do not want to clean up something twice. So that is the timing overlap that we need, and it depends on how reasonable a decision we can work out with the New York DEC.

**Trustee Holdstein:** So there will be some of OU-2 coming on site of OU-1.

**Mr. Frankoski:** We need to process those materials, get the water out of them, solidify them, and stabilize them before they are shipped off. We think that is possible. We think we can do the offshore within those same time frames we have for the onshore part.

**Trustee Jennings:** You do not want to clean up the same area twice. But you can be working on cleanup of other land portions even while you are using what you call the lay-down site for the processing of the OU-2 work.

**Mr. Frankoski:** Yes. The cap is very large and you have to do that all at once. We can do the cleanup, the excavation, selectively and manage the utility lines in both the cutoff and new access areas. But once that cap starts...

**Peter Wolf, Chair, Conservation Commission:** Is there a decision made as to what the impermeable barrier will consist of?

**Mr. Frankoski:** No, we do not have a decision on that. It would be a geosynthetic asphalt or cement.

**Mr. Wolf:** Are you going to propose something to the DEC to approve, or is the DEC going to mandate what that is going to be?

**Mr. Frankoski:** The DEC will look at the design plan and say, does it meet  $10^{-7}$  for water permeability or for some other factor. So their review is not so much on materials. It is more on its design criteria.

**Mr. Wolf:** I would be appreciative if you would present your proposal and the reasons for it before going forward with it so that we could have some input.

**Mr. Frankoski:** We will bring it back here for comments.

**Mr. Wolf:** The second question deals with the timetable. Is it based on technical necessity or economics?

**Mr. Frankoski:** It has nothing to do with economics. We have about a nine-step process here. The DEC has to approve a work plan. For the next two years, we do not have much control over the timing. It is difficult because the DEC is overloaded and under-funded.

**Philip Karmel, Hastings:** You mentioned five to six years, which I am not surprised to hear. But could you break that down for us? For example, when do you think the remedial

design might be finished? When would the remedial construction work begin? Is some of the work going to begin before other parts of the work? I am asking to follow up on Bruce Jennings' question about the interface between the design work and the development. Is there a date where you would like to hear back from the Village as to any specific element of the future use of the land?

**Mr. Frankoski:** I can answer to the questions that we control but I cannot tell you the answers for the DEC. We are going to do a work plan. That is usually six months of work but Parsons is going to accelerate it. We are going to turn in a work plan on September 14. We are starting to bid the design firm, but they will not be in place till January or February of next year. They will then take a year, and here is where you get into the state approvals. You submit your 25% concept design to the agency. They approve that. You go to your 50%, then your 80%. When they approve that, you finish it up. It may take two years, but the length of time depends on the engineering side of the DEC. I think they are committed to this project. Then we bid the construction, and that will take six months. Then we have some mobilization. And then good weather, and we can have a two-year construction period.

**Mayor Kinnally:** Regarding the identification of areas for open space, Dave Kalet said it is part of what they are looking at. We are going to be sitting down with Mark Chertok and Mike Gerard and Dave to continue our dialogue that we had started around the time that we were negotiating the consent decree. That will parallel what we are talking about here.

**Mr. Frankoski:** In the first layer of design we turn into the DEC, we have a five foot cap. That gives you the maximum flexibility to do anything you want on the site.

**Trustee Jennings:** There are two possibilities. One is that the remediation design and our real estate design need to proceed together in order to coordinate and mesh. The other possibility is that you could do a remediation design which is compatible with a wide range of plans. I hope it is the second because we are going to be hard-pressed to give you the input about our real estate plans in the time frame of your design development and submission for consideration by the state. It is not going to work for us that quickly. We are going to lag behind you in terms of our discussion and our decision-making in the Village and our working with developers. We cannot rush that because a lot goes into that for us. But I am very reassured to hear that you will plan a remediation that will give us a lot of flexibility down the road.

**Mr. Frankoski:** We are certainly not the experts on redevelopment design, but we will work with you in developing the flexibility into the site.

**Jacques Padawer, 170 Villard:** I would like to thank you people also. The relationship with ARCO has been steadily better over the years, and if we can work together that much the better. Are you considering using bioremediation in terms of bacteria that can be injected into the soil? Or for that matter, in some areas where the lead content may not be high enough to call for complete removal, whether you could mix it with, let us say, apatite, which gives a very good irreversible binding between lead and the apatite.

**Mr. Frankoski:** This is part of the discussion from the OU-2 hearing. To my knowledge, there is no bioremediation for PCBs. All we can do is dig down as deep as we can and make sure that it is deep enough that nobody in the future comes in contact. Most lead, at least in the oil industry, ends up pretty much fixed in the soil. But we are going to get the hot spots.

**Mayor Kinnally:** I thank you and your colleagues for coming. It was very beneficial to get a better insight where you are time-wise. We always figured about five years for the design, and for the remediation phase, and it appears you are pretty much on target there.

#### **APPROVAL OF MINUTES**

On MOTION of Trustee Apel, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Public Hearing of May 4, 2004 were approved as presented.

On MOTION of Trustee Holdstein, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Minutes of the Regular Meeting of May 4, 2004 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 Public Hearing of May 18, 2004 were approved as presented.

**Trustee Apel:** Page 4, at the bottom. Add "that" after encourage.

On MOTION of Trustee Apel, SECONDED by with Trustee Holdstein a voice vote of all in favor, the Minutes of the Regular Meeting of May 18, 2004 were approved as amended.

#### **APPROVAL OF THE WARRANTS**

On MOTION of Trustee Apel, SECONDED by Trustee Jennings, the following warrants were approved:

Multi-Fund No. 69-2003-04	\$ 78,208.63
Multi-Fund No. 70-2003-04	\$357,517.00
Multi-Fund No. 1-2004-05	\$ 8,581.32

Multi-Fund No. 2-2004-05 \$277,160.01

**47:04 LOCAL LAW NO. 4 OF 2004 - TEMPORARY MORATORIUM LI DISTRICT**

**Mayor Kinnally:** This is the local law that we had the public hearing on several weeks ago.

On MOTION of Trustee Apel, SECONDED by Trustee Jennings 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 commenced studies for the preparation of such zoning amendment, but had not completed such studies nor issued any recommendation to the Board of Trustees by the expiration date of Local Law No. 4 of 2003, and

WHEREAS, the Board of Trustees adopted Local Law No. 1 of 2004, which reenacted a temporary moratorium on development in the Village's Limited Industry (LI) Zoning District located on Route 9A in the Village; and

WHEREAS, such Local Law became effective on or about February 23, 2004, and by its terms, expired 90 days later on or about May 23, 2004, and

WHEREAS, the Planning Board has prepared and recommended zoning amendments for the LI District located on Route 9A that will be the subject of a State Environmental Quality Review Act (SEQRA) and zoning amendment process, which is expected to be completed within 60 days, 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 such zoning amendments 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 sixty 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.

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

**48:04 MUNICIPAL BUILDING PLAZA MASONRY WORK**

**Village Manager Hess:** Several years ago we had the front flagstone put in. This past winter we had some cracking and it was necessary to re-grout the area and replace some of the stone. Mr. DiLeo was the person who originally put in the project here and at the library and does outstanding work. He got approval to move forward, and we are confirming that by resolution.

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 approve the proposal of Danny DiLeo Masonry and Carpentry, Eastchester, New York for drainage work and the re-grouting of the stairs and plaza area in front of the Municipal Building in the amount of \$6,000.00 to be provided from bond proceeds.

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

**49:04 SALARIES NON-UNION PERSONNEL**

**Village Manager Hess:** Each year the Board of Trustees reviews evaluations of all non-union personnel and determines salary levels for those positions; these were the final, approved salaries.

I want to announce the creation of one position and the promotion of two people. We have had a technology department for a number of years, but the director position has never been created. It is being created through Westchester County personnel, and I am pleased to announce that Rafael Zaratzian has been promoted to the position of Technology Director and will no longer be Deputy Village Treasurer.

Kendra Garrison is currently senior rec leader, and her promotion to recreation supervisor also is effective immediately; she placed second on the county list for that position.

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 establish the following salaries for non-union personnel effective June 1, 2004:

Police Chief	105,000
Superintendent of Public Works	91,300
Deputy Village Manager/Village Clerk	80,500
Supt. of Parks & Recreation	78,425
Director Youth Services	71,000
Building Inspector	52,000
Technology Director	52,000
Secretary to Village Manager	50,400
Building Department Office Assistant	49,110
Payroll/Personnel Clerk	43,000

Court Clerk	34,785
Assistant Court Clerk	23,625
Recreation Supervisor	47,500
Recreation Assistant	32,615
Recreation Assistant	29,985
Parking Enforcement Officer	25,100

<b>ROLL CALL VOTE</b>	<b>AYE</b>	<b>NAY</b>
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:** With the cancellation of the Spring Thing last Saturday, it will be going on this Saturday in the downtown and it is supposed to be a very nice, sunny day.

The Village received two awards recently from the Public Employers Risk Management Association, one for being a member of the organization for 20 years, and the second for having a perfect safety record in 2003. We received the maximum number of points that any municipality can receive for setting up their safety programs. We recently appointed a management safety committee, headed by Bob Schnibbe, who is also our agent both for workers' comp and for general liability. He has had at least one set of meetings with department heads to make everybody more safety conscious. Several of our staff went to seminars given by St. Paul relative to employee safety and employee liability, so we are moving in the right direction.

I want to point out two things about the Deputy Village Manager. First of all, she is a new grandmother. Secondly, Susan was elected by our peers as secretary treasurer of the New York State Managers' Association in Buffalo at their recent meeting. So congratulations.

Regarding the pool, it appears that June 14 is not a doable date. We will not be able to have a health department inspection until at least June 18, so it looks like the opening date will be June 25. This was reviewed by the Parks & Recreation Commission last evening. We are suggesting for your consideration tonight that anybody that has purchased a pool membership so far be granted a 10% refund, and that we have a 10% reduction in our pool rates for the rest of the season. Our normal pool season is a total of 988 hours. Most of those hours are

during July and August. We have very few hours that were open during the month of June from the Memorial Day weekend. There is going to be a loss in hours of approximately 92 hours out of 988. That equates to about 9.3% of the season. So we are suggesting the 10% refund on current memberships and 10% reduction on future memberships.

We contacted the Town of Greenburgh to see if they would allow daily admissions for Hastings residents at their pool until our opening date. I had not heard back yet. But we have discussed it with their Recreation Department, and it does not appear to be a problem; they could accommodate Hastings residents on a daily admission basis.

I am looking for direction from the Board on the refund and the reduction. It has been recommended by the Parks & Recreation Commission and the superintendent. We are confident with the June 25 opening. You have been getting the daily update reports from the superintendent. There is a drainage situation because of a collapsed pipe that the contractor is going to have to deal with, which will probably take a change order. We are estimating it is going to be in the \$6,000 range because we are going to have to divert the piping from the west side of the pool to the east side to another drainage pipe. It is very minor in terms of the entire project.

**Trustee Holdstein:** What would be your proposal for the 10% giveback? Automatically mail a check to everyone?

**Village Manager Hess:** No, we would contact everyone that has signed up for a membership and indicate to them that they are eligible for a 10% refund.

**Trustee Apel:** How much money are we returning?

**Village Manager Hess:** If it is a maximum it would be \$9,000.

**Trustee Apel:** Over the summer, we do not know what the 10% would be because that is people that would be signing up as they come in?

**Village Manager Hess:** Yes, but we are not going to have certain operational expenses for that time period until we open, so they will balance out.

**Trustee Jennings:** Do you have statistics on our membership sales so far?

**Village Manager Hess:** I think at the end of last week sales were around \$90,000 versus about \$159,000 last year. People are waiting for it to open. We have already announced that the early bird membership sales are going to stay right up until the day we open.

**Trustee Jennings:** Are you making any projection about the end-of-year pool budget?

**Village Manager Hess:** We will make our budget. I will not allow the budget to be overspent. I am planning to make a substantial dent in the deficit; I am not going to allow the deficit to increase. We are not going to have 100 staff up there if we only have 250 memberships. We are going to have certain operational savings by not opening until the 25<sup>th</sup>.

Just let me share my disappointment with everybody else's. I do not know of anybody in this community, including the superintendent of recreation, who is not disappointed that we are not opening until the 25<sup>th</sup>. The year the superintendent started was the last time we did a renovation. He came here about two weeks before the completion. I recall he and I and several other volunteers were up at the pool the night of July 3, working with the floodlights off the building, hand-painting signs for depth markers so we could open on the 4<sup>th</sup> of July. But this will be completed. It is going to be done and completed.

**Trustee Holdstein:** I would vote to move forward with the plans proposed.

**Mayor Kinnally:** I think it is a good idea. It is the only fair thing to do.

**Trustee Apel:** Yes, I agree.

**Mayor Kinnally:** Susan was at the pool last week and observed the lights being on. Maybe she can give a brief report as to the operation and the coverage of the lights.

**Deputy Manager Maggiotto:** The electricians were testing the lights. The lights came up slowly; they have to warm up. But when they were fully lit, the whole deck and the pool were completely un-shadowed, bright as day. When I drove up into the parking lot and turned my car with the back to swimming pool, there was no spillage of light. I was not even aware that these enormously bright lights were behind me. When I drove out, the street lights along the pool road were out so that road was completely dark. When I got about halfway down the road a little past the bathhouse, and I turned my own headlights off, again, it was completely dark around me, in front of me. I drove around the Village trying to see if there was light anywhere, and I did not see it. I think they delivered on what they promised about controlling the spillage.

When I was up there in the daytime the week before, I was so enthusiastic about it. I think we have missed, in this whole thing, that we are going to have a wonderful new pool. The fences have been moved back and there is a lot more greenspace. The children are going to adore the mushroom splash pool. The training pool has a nice depth to it. I wish it were something that we had had when my own kids were small. I have not been a member of the

pool since my children got older, but I was so enthusiastic that I joined the pool. I just want to be there to see people enjoy it, and I think people really will be very pleased with it.

**Trustee Holdstein:** I certainly have voiced my frustration, as we all have, with the progress of the pool. But I have been up there every weekend for the last three weekends, and the section that thrills me the most is behind the new pool and to the right of the kids' area where we have pushed back into the woods. The fence is deeper, it is beautifully sodded, with trees within the area. It takes on a look and an appeal not unlike what I said when we renovated this building and the library: all three of these facilities have now gone from being small-town little buildings to mature, sophisticated facilities. We are trying to figure out a way to do the same thing with the Harmon Community Center, and one day we will have that as well. It is exciting to see that as much as we have all been negative about it, now you realize this is a tremendous facility.

## **BOARD DISCUSSION AND COMMENT**

### **1. Environmental Assessment Form – New Zone/Rezoning**

**Village Manager Hess:** You had in your packet a copy of the EAF that was filed relative to the MUPDD zone.

**Trustee Apel:** On page 11, under the impact on growth and character of the community, the answer is, yes, it will have an impact. It was only checked off in the area of density of land use, so I am looking at the one right above it: Proposed actual will conflict with officially adopted plans or goals, and nothing is checked off.

**Deputy Village Attorney Stecich:** Because we did not identify that as an impact. Angie and I went through it. That is what is before the Board, to say if there are any other impacts that we did not pick up on.

**Trustee Apel:** I think that would be an impact. We have a Vision Plan which discusses that residential should be within the community and not on the outside.

**Village Manager Hess:** Dave Hutson cleared that up at the other meeting; it was never their intention. He was on the Planning Board when that was done, and Rhoda agreed. Enclave never meant...

**Trustee Apel:** I am not mentioning enclave. I am saying that I thought the Vision Plan wanted to have residential living development in the center of the community as opposed to the edge, and that is contrary to what this would do, so that is the conflict that I see.

**Village Manager Hess:** They thought otherwise. At least those who drafted the Vision Plan told us so at the joint session with the Planning Board.

**Deputy Village Attorney Stecich:** The Planning Board members, especially the ones who had worked on the Vision Plan, said that they did not believe it conflicted. There was some detailed discussion, so that is why we did not put it down.

**Village Manager Hess:** I am going to put a question mark after it, and I will get a copy of the Vision Plan versus that comment.

**Trustee Apel:** What is the process after this?

**Deputy Village Attorney Stecich:** This is for the Board to review because this is a Village Board project. After this, based on this you would either do a negative or positive declaration under SEQRA.

**Mayor Kinnally:** What would the timetable of that be?

**Village Manager Hess:** Normally it is within 30 days after they declare themselves lead agency. That was May 18.

**Mayor Kinnally:** I have not looked at it recently, but the Vision Plan encourages growth in the downtown area. I do not think it says exclusively, but we should look at that.

**Trustee Holdstein:** Different people interpret the word enclave differently. The Board adopted a Vision Plan. Three years later to have somebody say, I was on that committee, and that is really not what we intended, in my mind is after the fact. I do not think is relevant.

**Village Manager Hess:** What they were talking about were gated communities which they wanted to avoid. Otherwise, Riverpointe and Hastings Landing would have never been approved. They did not want another Clarewood.

**Trustee Holdstein:** I understand that. But the Vision Plan does not say gated communities. It says enclaves. It is open to interpretation. When we have differences of opinion up here we have to respect the fact that people will interpret the word enclave, which is in the Vision Plan, a little differently. At some point you are not going to have those people here to re-clarify what was discussed five, six, 10, 12 years ago. We have to work with what is written, and frame it and guide us each individually in whatever way we see fit.

**Mayor Kinnally:** The vision statement certainly has enough in there that both sides of an argument can and will use it, but it is not a static document; it is a living document. The downtown was fully built out, but now there is change and we want to consider a different blueprint for the downtown. We are going to take into consideration in planning for the downtown or anywhere else what has been happening on a dynamic basis in the surrounding neighborhoods.

**Trustee Apel:** If the Vision Plan is changing then we should have a discussion on the change of the Vision Plan. If it is five years old and every five years we should readdress it, then it needs to be discussed. If it is a non-stagnant, flexible document, then it needs to be looked at periodically and reinterpreted, and re-discussed.

**Mayor Kinnally:** Why do we not have it on for discussion next time, not for action.

**Trustee Holdstein:** How does the EAF relate to the zoning change for the MUPDD? Do they move in concert? Can we pass one without the other?

**Deputy Village Attorney Stecich:** You would not be able to enact the MUPDD zoning before you make a determination of environmental significance. On the basis of this you will either say that the proposed zoning will not have any serious environmental consequences, or it will.

**Trustee Holdstein:** If there are elements in the MUPDD zoning that this board wants to change, could that materially affect this so before we do this do we need to review that zoning?

**Deputy Village Attorney Stecich:** It could, but probably not. Deleting would make it better. But if you want to add, for example, big-box stores, then that could affect this.

**Mayor Kinnally:** We will put it on for discussion, and if action can be taken on the 22<sup>nd</sup>, fine. But if it cannot, okay.

## **2. Draper Park Dog Run**

**Village Manager Hess:** You have a copy of a petition for a dog run in Draper Park that was received by the Parks & Recreation Department. The Commission reviewed it last night and were not in favor: Draper Park is not a great location for what they are proposing; to have dogs off their leashes would require legislation by the Board; dog runs in parks where children play in the Village is not a good idea. This was reviewed several years ago for Zinsser Park. The court has directed that Draper Park should be kept as a passive park, and

those were the conditions that we took the park under. This type of dog run may be in violation of that. Ray is to review this with the Village Attorney, and have a report back to the Commission.

**Kevin Dawkins, Parks & Recreation Commission:** I was on the Parks Commission when this came up in the past, and it is very difficult to take a piece of public property that has been designated for general use and give it over to a single use. It would be ill-advised to do it here. In the interest of disclosure, I am a resident of Draper Park. I have a dog and I like dogs. But I still think it would be inappropriate.

I have a personal concern, which is the terms of the will by which the Village took over the property and American Scenic Trust transferred the land. My understanding is that you are not allowed to change the use of the park because that would be a violation of the will. The consequence might be that the Village could lose title to the property, which would go to the Draper heirs. We may lose our house, and I would not like to see that. I would like you not to consider converting the park to a dog run.

**James Horelick, 124 Washington:** I also live in Draper Park, and I want to get something clarified. This is a page from the Village newsletter of a couple of years ago about park information and dogs. There are about six or seven parks where no dogs are allowed, and five or six where dogs are allowed. Draper Park is one of the parks that says no dogs. Am I right?

**Mayor Kinnally:** I do not have it in front of me. But let us assume you are right.

**Mr. Horelick:** I have complained about these unleashed dogs for years. The last two years there is a clique of about a dozen people, 15 dogs, who now have sent you this petition, mostly because of my complaints. I never complained about leashed dogs and I go to the park myself with leashed dogs. But people were so nasty about it that I told the police. I showed them this and said, This is a park with no dogs. The police said that when they come the dogs are leashed. The police said they cannot do anything because there is no ordinance, and I would like you to explain that to me. What is this ordinance that they have to have in order to tell the people they do not belong in the park with their dogs?

**Trustee Holdstein:** To my knowledge there are several signs posted saying no dogs. My understanding is that there is an ordinance that says so and there is signage as well.

**Mr. Horelick:** I do not see why I should have to quote the law from a law book to a policeman to make a complaint.

**Mayor Kinnally:** I cannot answer that. I will find out from the police chief what they are doing with this.

**Mr. Horelick:** I would also like to suggest that you build a dog run someplace. The meeting began with people talking about putting up buildings with 75 apartments. Why can they not be required to put in a dog run? Or anybody else who is building a development. Let them do something for the Village.

**Village Manager Hess:** Instead of affordable housing we have dog runs.

**Mr. Horelick:** They can go side-by-side.

**Trustee Holdstein:** I would not be in favor of opening up Draper Park for unleashed dogs to run. But a fenced-in area with obligations on dog owners to clean up and police it: would that also be in violation of the will? It not Draper, is there someplace else to consider a fenced-in dog run area?

**Village Manager Hess:** The other fenced-in area that was looked at was Zinsser Park. It was rejected. My opinion is it would be a violation of the will to do it at Draper. It would be a violation of the will to put in an active playground, basketball courts, or a baseball field. It was designed as a passive park. The Board at some point is going to appoint a committee to look at the quarry area. Possibly a portion of the quarry area could be used for something like that.

**Trustee Holdstein:** Can we ask the Parks & Rec to see if there is anyplace else they could think of?

**Village Manager Hess:** We have a number of wooded, open areas where we do not object to people walking their dogs, letting their dogs run. As Mr. Horelick said, we sent that out in a newsletter several years ago when the issue of the dog run at Zinsser came up. There are a number of areas. There is no need to have that type of facility in a park where kids play or we can have dogs getting mad at each other or a dog is in a bad mood and attacks a child. We do allow a number of areas in the Village where you can walk and run your dogs: Pulvers Woods, Ravensdale Woods, Hillside Woods, the wooded area at Hillside Park. There may be one or two others. But the active parks where there are a lot of people, no.

**Mr. Horelick:** This page says dogs must be leashed, with an exclamation point. This conflicts with what you just said.

**Village Manager Hess:** I have not looked at that document in, how old is that document, '95, '94?

**Mr. Horelick:** No, 2002.

**Village Manager Hess:** You might have gotten a copy of it in 2002, but it was before then.

**Mr. Horelick:** I was not interested in this before 2002 when these people started using the park as a pack. But there are conflicting signs there, that say no dogs.

**Village Manager Hess:** As the Mayor said, we will take a look at it.

**Mr. Horelick:** And there are other signs that say dogs must be leashed. It is a Village ordinance: all dogs must be leashed everywhere. This does not comport with what you just said. People yesterday were saying they are entitled to this park because nobody uses it. And my answer is nobody uses it because of you. Today I counted the people. From 6:00 a.m to 2:00 p.m there were seven people there using the park without dogs. I was away until 8:00 p.m. and then there were three people. So that is 11 the day after they said nobody uses the park but them. When I suggested that the Village build a dog run, your lawyer wrote back to me that it was outrageous of me to request that taxpayer money be spent on a dog run. What is taxpayer money for? If the police gave those people summonses and it was followed up, you would not have to raise Village taxes.

**Village Manager Hess:** In fairness to Mr. Murphy, since he is not here to defend himself, I have never heard him say that in any letter, and he certainly would have copied me on it. I would love to see a copy of that letter that he sent to you.

**Mr. Horelick:** It was not Mr. Murphy. He works for Mr. Murphy.

**Mayor Kinnally:** Ed Lammers.

**Village Manager Hess:** I would still love to see a copy of that letter.

### **3. Downtown Pavers/Tree Pits**

**Mayor Kinnally:** We have a report on the pavers. Does anybody on the Board have any questions about it?

**Trustee Holdstein:** The obligation, if any, of the people who were originally involved in this.

**Village Manager Hess:** They are bankrupt and gone.

**Trustee Holdstein:** In Dobbs Ferry a similar treatment has been done in real brick.

**Mayor Kinnally:** No, that is colored pressed asphalt. Some of the old stuff on Main Street is brick, but the crosswalks and the sidewalks along Broadway are asphalt.

**Trustee Apel:** Are these the same people that did Southside?

**Village Manager Hess:** Yes.

**Trustee Apel:** It has lasted.

**Mayor Kinnally:** Is this all along Warburton and up Main Street?

**Village Manager Hess:** Yes. Spring Street, Warburton, Main Street, and part of Broadway.

**Trustee Apel:** Do we have to get more than one bid on this?

**Village Manager Hess:** This is a bid price from an existing contract. I am going to research with the Village Attorney if we can extend their old contract bid.

**Mayor Kinnally:** How many people are doing Bomanite in the area?

**Village Manager Hess:** I do not know. But these people do quality work, and that is why they usually end up getting hiring as a sub for GCs.

**Trustee Swiderski:** What is the comparison to doing it with real brick, which is probably what I hear most as a preferred replacement?

**Village Manager Hess:** You would have to use a thinner brick because the depth of the concrete is fairly shallow. I would assume you would end up with the heaving and the similar thing that happened with the granite pavers. You would probably have to hack out the concrete. It would be a lot more than \$3.50 a square foot for demolition.

**Trustee Swiderski:** It would not hurt to have a comparison cost because it is the one thing you are going to hear from people: why did you not do it with real brick?

**Village Manager Hess:** This is not a project we can do in the fall. Then you have salt going on the concrete, and you end up with the same type of situation. It is going to take

some time to get this information back. If we are not going to be able to authorize the project till July or August, and we cannot get going till September, we cannot start the project, because it would not cure in time to withstand the salt. I will get as much information as we can for next Tuesday.

**Trustee Swiderski:** I am just saying there are going to be more than a few people saying why do we not do it with real brick. The response to that is a cost comparison: because it is \$11.50 per square foot versus \$28 per square foot and we did not feel it was right to spend \$110,000 more. That is more effective in shutting down opposition than, Well, we just did not get around to checking. People are going to complain. I am on record as saying that.

**Trustee Jennings:** I have no objection to getting comparative figures now, but when this decision was made four or five years ago we had a cost comparison. On the basis of cost, and on the basis of maintenance, we chose the Bomanite route. We did our homework, and we did that with good deliberation. We did not realize there are good contractors and bad contractors and we had a terrible experience in part of the town. So we did a cost comparison recently and I would have no objection to updating it, but I think we will come to the same conclusion. But this time let us not go for a low bid. Let us make sure that we get quality work. We do not have to revisit the decision to go for Bomanite because it is a sound decision. But we have to be very careful that we get quality work this time.

**Mayor Kinnally:** Tree pits?

**Village Manager Hess:** Several years ago we used bark chips around the tree pits. Not very effective. We had the heavy rains, they were washing out, cigarette butts were stuck in the tree pits, and they looked terrible. We can look at two other things, one fairly expensive, the other fairly inexpensive. The fairly expensive are metal grates. Depending on the size of the openings, they may have to be a specialty item. They are similar to what you see around the Galleria in White Plains on Martine Avenue.

The other option is white marble pebbles that several merchants have put around their tree pits, which seemed to hold up pretty well and look fairly nice. It is a fairly inexpensive way to take care of those tree pits and see how it holds up and how it looks. It would probably have to be replaced every year. Take a look at them on Spring Street by the entrance to Steinschneider.

**Trustee Apel:** We would have to look at the costs involved in both options, for replacement of the chips and for cleaning if we had the grates. Who is responsible for making sure that the cigarette butts are cleaned out of those areas?

**Village Manager Hess:** The property owners are supposed to clean up their sidewalks every day. We spend our people out to clean those up a couple of times a year.

**Trustee Apel:** So which is easier to clean up?

**Village Manager Hess:** When you lift those grates you have to have a loader, you have to put a chain around them to open them up and get them cleaned out. Otherwise it is one person picking up butts, versus you need a couple of people and a loader. I have noticed the ones in White Plains are filled with junk: cigarette butts, lifesavers and candy, gum wrappers.

The marble does not seem to get all over the road or on the sidewalk if the pit is deep enough, and it looks a little nicer than what we have right now. So take a look and we will put it on a future agenda to talk about.

#### **4. Other**

**Trustee Apel:** When we come into our gateway off of Saw Mill why are there orange cones along the road?

**Village Manager Hess:** With a large rainstorm about a month ago there was a catch basin collapse; the state was called in to make the repair.

**Trustee Apel:** Who is supposed to mow around the welcome sign?

**Village Manager Hess:** The beautification committee takes care of it, but that is not grass growing in front of it. Those are flowers.

**Trustee Apel:** The signs are beautiful, but you cannot read them anymore.

**Village Manager Hess:** I will talk to them.

**Trustee Holdstein:** I mentioned some time ago that Sgt. White had mentioned about possibly rerouting traffic with some signage for the trucks on Pinecrest. Did those signs ever get put up? He was saying that they keep bottoming out, and he suggested that the trucks not be allowed to turn.

**Village Manager Hess:** Those are local deliveries. They are not using it as a shortcut.

**Trustee Holdstein:** He says he has had so many calls, and it is big trucks, and that he had to get them towed, and that they were shortcutting. It does not hurt to have a sign.

**Village Manager Hess:** It takes legislation: no trucks allowed. That would not preclude a local delivery truck. But they are the ones, a lot of them, who get hung up. I gave it to the Safety Council, and I will find out where that stand

### **PUBLIC COMMENTS**

**Lorraine Kuhn, 38 Judson Avenue, Ardsley:** Is the EAF available for public inspection? And if not now, will it be available in the future?

**Village Manager Hess:** It is a public document. You can pick it up tomorrow, or I can mail it to you if you give me your name and address.

**Mary Jane Shimsky, 35 Ashley Road:** We need to be reminded that the developments which stand to cause the most potential problems for us are the ones right outside our borders. The biggest one in the pipeline is the proposed Ridge Hill development across the Thruway from Stew Leonards in Yonkers. In terms of square footage it is about seven times the size of the combined Costco/Stew Leonards/Home Depot complex. They are talking about 7,000 parking spaces. The Town of Greenburgh's traffic consultant conservatively estimates that the project will send several hundred extra cars every hour toward the intersection of 9-A and Jackson Avenue.

The city of Yonkers is beginning public hearings on the project. The first hearing on the DEIS will take place on June 17 at 7:00 p.m. at the Will Branch of the Yonkers public library. More information is available at the website, [stopridgehill.com](http://stopridgehill.com).

### **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 immediately following the Regular Meeting to discuss personnel and advice of counsel.

**Mayor Kinnally:** We are in receipt of correspondence from Metro North indicating that the lead abatement on the back of the station is concluded, and painting of the building will commence this week. Work will then follow on the front of the building. Forest green will be used on the structural steel and will match the steel color for the new overpass and stairways. It is the standard color for the Hudson Line station rehabilitation process. The building's eaves, soffits, sills, and sashes will be painted in a Sierra Tan color.

### **ADJOURNMENT**

BOARD OF TRUSTEES  
REGULAR MEETING  
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On MOTION of Trustee Holdstein, SECONDED by Trustee Swiderski with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 10:50 p.m.