

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
BOARD OF TRUSTEES  
REGULAR MEETING  
SEPTEMBER 21, 2004**

A Regular Meeting was held by the Board of Trustees on Tuesday, September 21, 2004 at 8:07 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Mayor Wm. Lee Kinnally, Jr., Trustee Michael Holdstein, Trustee Bruce Jennings, Trustee Peter Swiderski, Village Manager Neil P. Hess, and Deputy Village Manager/Clerk Susan Maggiotto.

**ABSENT:** Trustee Marjorie Apel

**CITIZENS:** Seven (7).

**APPOINTMENTS**

**Mayor Kinnally:** We have a number of appointments to boards and commissions. Conservation Commission: Peter Wolf and Jacques Padawer through March 2005, Sandeep Mehrotra and Ron Cascone through March, 2006; Parks and Recreation Commission: Joseph Capuano and Samantha Merton through March, 2007; Safety Council: Robert Cadoux and Robert Schnibbe through March, 2007; Youth Council: Donna Hart and Jeff Edelman through March, 2007.

**APPROVAL OF WARRANTS**

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

Multi-Fund No. 29-2004-05 \$505,747.52

**74:04 DEMOLITION PERMIT ATLANTIC RICHFIELD COMPANY**

**Mayor Kinnally:** This is the item that we just had the public hearing on.

**Village Manager Hess:** I would like to amend the resolution to include that the conditions of the demolition permit are the same as on previous permits as stated in the minutes.

**Trustee Holdstein:** I understand that this site has some asbestos. What methodology are you going to use to remove the asbestos? Will it be a glove bag method or total containment?

**David Kalet, ARCO Remediation Manager:** We will remove all the material as if it were asbestos-containing material because of safety concerns. Shaw Environmental will supervise the demolition, the same firm that supervised the other demolition.

**Trustee Holdstein:** Are you going to remove the asbestos before the building is crumbled?

**Mr. Kalet:** It is pretty well crumbled now and the demolition process will treat it as if it is all asbestos. The concern was the fiber in the roof.

**Trustee Holdstein:** The fibers in the roof are not being removed before the building is collapsed. Is that correct?

**Mr. Kalet:** That is right.

**Geoff Goolden, Shaw Environmental:** Because the building is condemned, it will be demolished using the approved variance 100 with the state, which is the same variance we used for previous demolitions at the site. It allows you to take the building down, but you have to treat all the debris as asbestos-containing and have it disposed of.

**Trustee Holdstein:** When the building collapses, how do you prevent asbestos dust from spreading?

**Mr. Goolden:** The building is misted using a water mist, to keep any dust and fibers knocked down. Perimeter air monitoring is conducted to make sure nothing has migrated from the site. It is an approved method with the state because it is physically impossible to remove any asbestos because of the integrity of the building. It will all be done by a New York-licensed asbestos abatement contractor. The stuff leaving the Village will be in a double lined roll-off completely encapsulated with polyethylene sheeting.

**Trustee Holdstein:** This is only about a three-week project, but will there be weekly reporting to the Village?

**Village Manager Hess:** We will do inspections on the site. Right now we get a monthly report from ARCO on everything that goes on there, which I forward to the Board. I am sure that will be included in the report.

**Trustee Holdstein:** I am suggesting a report at the end of each week.

**Mr. Goolden:** In the previous two times I worked here, we had weekly progress meetings to which the Village was invited. The fire inspector Mr. Drumm and the superintendent of public works participated. We can keep that format going, or if you would like a summary.

**Trustee Holdstein:** It is a small project but we want to make sure that we know that everything is going as planned or if there are any hitches. How soon can you do it?

**Mr. Goolden:** As soon as we can get proper approvals, probably start in the next two weeks. We would like to get this done before the end of October.

**Mr. Kalet:** There is a mandatory 10-day notification to the state prior to commencing any asbestos abatement activities. We can schedule a mobilization for ten working days following notification.

**Mr. Goolden:** We have been in contact with the DEC. I have worked with George Heitzman, who has been actively involved in this project. He is well aware of the urgency. They have been very cooperative.

**Trustee Jennings:** What condition is the foundation in and are you going to leave it?

**Mr. Goolden:** Typically when we have done these we have left the slab, and that is our expectation at this point. There is no need to do any subsurface work at this point.

**Trustee Swiderski:** Standard prevailing winds are west to east. Between 7 and 9 in the morning and 5 and 7 in the afternoon you have commuters all downwind from the site. I would request that where there is the biggest risk of unexpected venting you do that either on a weekend or in the heart of the day, when you put commuters least at risk, including me.

**Mr. Kalet:** Point well-taken. That is one of the considerations on any of these jobs. A lot of professional judgment goes into play. Prevailing winds if it is unusually windy is a

judgment call. Is it wetted down enough? I tell all my contractors that if it does not appear to be safe, do not do it. We authorize them all to shut a job down if, in their professional opinion, it does not seem safe. We are using people that live in communities and are very aware of people's concerns. The only urgency here is to get it done very safely.

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 grant a permit to Atlantic Richfield Company for demolition in the central portion of the former Anaconda Wire & Cable Co., specifically Building 2, as identified on the Waterfront Application for Hearing dated Sept. 9, 2004 and attached map, with conditions the same as previous permits.

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

**75:04 SUPPORT OF 422 WARBURTON PROJECT AND WAIVER OF RIGHT OF FIRST REFUSAL**

**James Keaney, Affordable Housing Development Fund:** Some of the county funding programs that Mr. Anderson is going to be accessing require that title pass through the county. Title is going from the Town to the Fund. The Fund is going to sell it to the county. The county is going to sell it to A&F development under a different corporate title. It is not going to be a direct transfer, which was our original intent, from the Town of Greenburgh to A&F. The county is requiring this chain of title, which involves two things. One will involve an environmental indemnity from Mr. Anderson back to the Fund, which he is willing to give. The second thing is the resolution you have before you. Because the land will be going through the county, my understanding is that the county has a policy, or it may be a law, that they offer property back to the Village as sort of an opportunity.

I was involved with a modification to the original resolution in your packet. The county is requiring affordability only for forty years. The Hastings Affordable Housing Fund has always insisted with the developer, and he has acceded to this, that it will be affordable on a rental basis for 99 years: no co-op, no condo, but affordable rental for 99 years. To make that happen we are going to put deed restrictions on it when the land comes to us from the Town and before it goes out of the Fund. The propose is to avoid any confusion down the line whereby somebody could say, we did not know that it was going to be affordable rental for 99 years. There are instances of this in the newspaper this past week, where there was an unfortunate situation in another town. We want to avoid that.

So that is the propose of the amendment that we made to your resolution. The county says that we can be more stringent than they are, and that is what we have done.

**Trustee Holdstein:** In general, on this site and all other sites, the Affordable Housing Corporation at the end of the day never holds the title of the property?

**Mr. Keaney:** This site is different from all other sites. The site we had on Warburton was a donation from the Village to the Corporation. Those are ownership units. So at the end of the day, we were out of those because we sold them. In this project, the intent was never that the Fund would own it. We were here to facilitate the movement of the land from the Town for 100% affordable housing to the developer. We were there to access funding and to ensure that the deed restrictions were going to be there so that it would affordable forever.

**Trustee Jennings:** I understand that you have worked out the agreement to go from 40 to 99 years with the county, and that is acceptable to them. Would that be a problem for the town?

**Mr. Keaney:** No, that has always been part of our deal with the town.

**Trustee Swiderski:** What does environmental indemnity involve?

**Mr. Keaney:** The current plan is that there will be testing, and then possibly remediation if needed, using county funds while title is still in the hands of the Town. If that happens, I am less worried about taking the land into the Fund because the remediation, if any, would already have been done. Even so, we have still insisted, and Mr. Anderson is willing to give

the Fund an environmental indemnity to cover us for any preexisting conditions that we might be responsible for by virtue of being a landowner.

**Trustee Swiderski:** Does the Village have any environmental liability or issues here?

**Mr. Keaney:** I would not see it, because the Village is not taking title. The Fund may take title for a short period of time, but this Fund is a separate non-profit corporation that was created by the Village. But we have no officers in common; we have no directors in common; we are completely separate.

**Trustee Swiderski:** What about issues of indemnification between Mr. Anderson and either the town or the county?

**Mr. Keaney:** I am not sure what the county or the town would insist on. The town would be more concerned, I think, with being sure that when any remediation is being done, since they still own the land they would want an indemnity for that period of time. They want to be sure they are not put in any worse position by allowing someone to come in and remediate, which is really their problem.

**Trustee Swiderski:** Our main concern is what that could mean if this falls apart if a problem is identified, whether locking this property up for five years puts us at a disadvantage, if I read this correctly.

**Mayor Kinnally:** But we are passing on the right to acquire the property. That five-year period talks about conveying the property to the Village for either purpose if it is not utilized within five years. But we are saying we do not want it, so I do not see how it affects us. This is just a formality; the county is requiring us to have the option for the right of first refusal, and we are passing on it.

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

**WHEREAS,** the County of Westchester desires to purchase and then convey approximately 27,116 square feet of real property located at 422 Warburton Avenue in the Village of Hastings-on-Hudson to A&F

Equities, LLC for the purpose of providing affordable housing for a minimum period of forty (40) years;

**WHEREAS,** a deed restriction will be prepared and recorded specifying that the property will be operated as an affordable rental development for ninety-nine (99) years in accordance with the Village of Hastings-on-Hudson Affordable Housing Policy; and

**WHEREAS,** the County of Westchester has offered the Village of Hastings-on-Hudson the opportunity to purchase said property subject to any applicable subdivision requirements and under the following terms and conditions:

1. For use in perpetuity for park and municipal recreation purposes for the sum of one dollar (\$1.00);
2. For other municipal purposes at the current appraised value as determined by the Board of Legislators, or for no more than the same consideration for which it is proposed to be sold to A&F Equities, LLC, whichever is less;
3. Deed conveying said property to the Village for either purpose shall include clauses specifying said purpose and that the property shall revert to the County if it is not utilized for that purpose within five (5) years or at any time that such specifically enumerated use ceases;
4. The Village of Hastings-on-Hudson shall elect to make such purpose within ninety (90) days of its receipt of the aforesaid offer from the County or within any greater length of time that may be provided for in a written agreement of the County with the Village;
5. This opportunity to purchase this property shall not constitute a right to purchase and may be withdrawn by the County at any time; now therefore be it

**RESOLVED:** that the Village of Hastings-on-Hudson hereby declares its support for the aforesaid project; and be it further

**RESOLVED:** that the Village of Hastings-on-Hudson waives and relinquishes any rights that it may have under the aforesaid opportunity to purchase said property.

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

### **VILLAGE MANAGER'S REPORT**

**Village Manager Hess:** As is typical, tomorrow is the first day of fall and we are in the midst of a number of construction projects. We have been milling around the Village on the street resurfacing program, and at least two streets are going to be paved tomorrow: Rosedale and Jefferson. We should be completed with the program by next Wednesday. I do not know where the state stands in their work on Broadway.

The work on the downtown pavers began on Monday. They have done their demolition down to approximately the old bank building.

The work on the Municipal Building steps started yesterday. Danny feels that will be done in approximately two weeks.

We are going to have estimates from two contractors this week for the exterior work on this building and get these three areas that are leaking. We will work on plans and specs that we can bid out over the winter to do the entire building next spring. The entire building is going to run about \$40,000.



Next Tuesday we have a work session with Lothrop coming to present the update on the Community Center plans. We will also discuss the MUPDD zone, the public works equipment, and the first of our series of department head meetings.

Registration for the after-school programs is this Thursday. We also have two other programs: senior line dancing and senior yoga; for all of us that are 55 and older, it is free.

We have 22 cell phones available for our senior 911 program. We are sending out an e-mail and putting it on TV, that if you are either a senior and want to participate in the program, or know of a senior who may be interested in the program, to contact my office and we will figure out a distribution. We have distributed about 35 cell phones so far.

## **BOARD DISCUSSION AND COMMENTS**

### **1. Update on the Waterfront**

**Mayor Kinnally:** As we indicated earlier, the demolition will be ongoing with Building 2. A work plan for the cleanup was filed by ARCO with the DEC in conformance with the settlement agreement. The state is reviewing that right now. A copy is available for public review in the library. We have asked ARCO to put it into .pdf format. It is an extremely large undertaking. They will have it within a month so that will be available for everybody to review on our website.. It is highly technical and will take some time to go through, but it is available for those who wish to spend their time accordingly.

### **2. Uniontown Fire Pumper**

Our newest piece of fire apparatus, a pumper, was delivered to Uniontown last night. It is being outfitted by the men of Uniontown with various equipment, new hose, etc., and it should be on-line within six to eight weeks. It is a beautiful truck. I signed the check for it on Sunday night. It is amazing how much these cost: over \$419,000 for this pumper. The men are going to have some training on it to get familiar with not only how to drive the truck but also how to operate the various pumps and everything else. But it is great and I congratulate them. . They started working on it almost to the day six years ago, and Chris DiBenedetto spearheaded it with Ronnie Gagliardi. I am sure Chief Jenkins was involved.

## **EXECUTIVE SESSION**

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

**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.