

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
OCTOBER 5, 2004**

A Regular Meeting was held by the Board of Trustees on Tuesday, October 5, 2004 at 8:30 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 Deputy Village Manager/Clerk Susan Maggiotto.

CITIZENS: Seventeen (17).

APPROVAL OF MINUTES

Village Manager Hess: Page one, Eric Anderson: We believe that the proposed *text* change, not *tax* change. Page two, third paragraph down, Mayor Kinnally says, I have a two-page from Jerry and Eileen Quinlan, add *letter*.

On MOTION of Trustee Apel, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Public Hearing of September 14, 2004 were approved as amended.

Trustee Jennings: Page 10 line 12 appropriately, delete *for that basis*.

Trustee Apel: Page 21, third line down, *it* should be *they*.

On MOTION of Trustee Apel, SECONDED by Trustee Holdstein with a voice vote of all in favor, the Minutes of the Regular Meeting of September 14, 2004 were approved as amended.

On MOTION of Trustee Holdstein, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Minutes of the Public Hearing of September 21, 2004 were approved as presented.

On MOTION of Trustee Jennings, SECONDED by Trustee Holdstein with a voice vote of all in favor, the Minutes of the Regular Meeting of September 21, 2004 were approved as presented.

APPROVAL OF WARRANTS

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

Multi-Fund No. 31-2004-05 \$22,670.12

Multi-Fund No. 32-2004-05 \$10,363.91

Multi-Fund No. 33-2004-05 \$26,162.94

Multi-Fund No. 34-2004-05 \$ 7,601.87

76:04 LOCAL LAW NO. 6 OF 2004 - MIXED-USE PLANNED DEVELOPMENT DISTRICT (MUPDD)

Mayor Kinnally: The Village is in receipt of two protest petitions from adjacent property owners, namely Mill Saw Realty, LP and Purdue Pharma, LP, both of which petition the Village Board pursuant to Section 7.708 of New York State Village Law and Section 295-157(G) of the Village of Hastings-on-Hudson Code, requesting that this Board, in passing the legislation, require a three-quarters majority rather than a simple majority of the Board. There is a representative of the petitioners here this evening, attorney Lisa Smith.

Mayor Kinnally: There are statements in the petitions that upon information and belief, Mill Saw, one of the owners, is the owner of the requisite amount of real property directly opposite the subject parcel, and Purdue Pharma makes the same statement in its petition. What information do you have for us to consider in determining whether or not both Mill Saw and Purdue Pharma are the owners of the requisite of real property needed to file the petition?

Lisa Smith, Attorney for the Petitioners: I have here copies of the deeds showing the ownership rights. I also have a copy of the survey here, and I am happy to put it out on the desk and show everybody exactly where the property is that Mill Saw owns and Purdue Pharma owns, and show you that together they own 100% of the property adjacent across the street.

Mayor Kinnally: I will take your representation on that. You can give it to the Village Attorney and we will make it part of the record. We needed to have that type of assurance before we could proceed with this.

Ms. Smith: As an officer of the court, I can represent to you that Purdue and Mill Saw are related entities, that they own 100% of the property directly across the street together. I have copies of the deeds, I have the survey. In addition, I spoke to the Village Attorney on the phone and I can certainly get an engineer's or surveyor's affidavit to the Board tomorrow outlining the exact, correct amount percentage ownerships between the two entities.

Mayor Kinnally: This is the property that was the old Ciba-Geigy site on the eastern side of 9-A. Is that correct?

Ms. Smith: It is directly across the street from the property, that is correct.

Mayor Kinnally: The net effect of the filing of the protest petition is that if and when the Village Board votes to rezone this property it will require four out of five votes to pass. Let me open this up to the Village Board for discussion, and then we will open it up to the community.

Trustee Holdstein: I had one question to direct to Patty relating to the changes we made last week to remove all language having to do with signage. Is the Village code more stringent, less stringent, or the same as what we removed from the MUPDD proposal?

Planning Board Chairperson Speranza: I believe the Village zoning code with respect to signage is what was in there.

Trustee Holdstein: The net effect is the same, but what is the process now?

Planning Board Chairperson Speranza: The signage becomes one of the elements of the concept plan that has to be approved.

Mayor Kinnally: But it is not something the Village Board gets involved in. I cannot imagine the Village Board would.

Planning Board Chairperson Speranza: During site plan review the Planning Board always addresses signage anyway. It is just that there are no standards in here now.

Trustee Holdstein: Does the Planning Board refer back for advice from the ARB? Where do they fit in this process?

Planning Board Chairperson Speranza: We refer things to the ARB as appropriate. But the action that was taken for this particular zone at the last meeting was to take out the regular signage regulations from this zone.

Trustee Holdstein: But the net effect is equal to what we have on the books, had it stayed in.

Trustee Apel: My feelings on the mixed-use planned development district have not changed. I strongly feel that this is an inappropriate place for people to be living, and do not feel that this is an appropriate change in the zone for that piece of property. I commend the Planning Board for their work, and I have appreciated our joint meetings. A lot of discussion has gone into it. But I have strong feelings that this is not what we need over there, having people on the outside of the community instead of inside the community, and that there would be traffic and other problems that would arise out of having residents there. I could address some of the other issues, but that is the overriding one that I feel very strongly about, and therefore I cannot support this.

Trustee Jennings: I appreciate very much the letters and e-mails that we have received expressing concerns about the new zoning proposal. My feeling is that either most of the concerns would be addressed appropriately as a part of the site review process for any proposed development, or would be equally troublesome if not more so for a development that went forward under the present limited industrial/light industrial zoning. So most of the concerns about traffic, flooding, safety, and other matters of that kind do not strike me as necessarily being obstacles to our creating a new type of zone. I do not share the view that some kind of residential use of that property is inappropriate. This new zoning concept gives us a process that is more careful and more accountable, and a better safeguard against development that is inappropriate either for the adjacent neighborhoods or for the Village as a whole than the status quo.

This new zoning concept, if it works as it is intended to work, may give us a basis for a new planning and control approach to the rest of the large property tracts that remain in the Village which, in the next few years, will undoubtedly come on the market. This new zoning concept might be a good tool for us to use in the future.

So while taking very seriously the comments and concerns that people have expressed, for the reasons that I have just given I am still in favor of this mixed-use development zone.

Trustee Swiderski: Mayor, I would like to read a prepared statement summarizing some of my thoughts on this issue which in some ways culminates, after six years, in this proposal.

The 9-A site is currently zoned light industry, which allows a range of uses, including office, warehouse, and retail. The zone is so written that it inherits the allowed uses for our CCD, or central commercial district. When the CCD zone was revised two years ago and permitted mixed-use, which includes housing, the 9-A parcel suddenly became eligible for housing. It was both the realization of this accidental rezone, as well as the desire to provide some direction, that the Board of Trustees requested that the Planning Board analyze likely uses for the site and provide us with a recommendation. This MUPDD is the result of that deliberation.

I followed the deliberations and logic of the Planning Board throughout their long and careful process which yielded this zone. I read the consultant's report, which earned a degree of infamy out of accord with its findings. I found nothing tainted in the process, and condemn any intimation that the process was somehow corrupted by a developer or the existence of a plan before the Planning Board. Including housing as a likely use for the site is a perfectly valid recommendation based on the consultant's reasonable, though flawed, analytical framework. And plenty of people believe it is appropriate, including, for example, my wife and several friends.

I, however, do not. The proposal before us has two noteworthy components. I will dispose of the first component because it is the least controversial, and of merit. The MUPDD is unique among Village zones in requiring that a developer submit a preliminary site proposal for review by the Board of Trustees. I think this is an interesting idea worth trying out because it can provide the chance to signal early on in the process whether a proposal is wildly out of scale or type with the neighborhood, and avoid bogging down the various other boards with a proposal likely to die a lingering death.

The second noteworthy component is the issue of housing as a permitted use for the site. Housing as a permitted use has a number of merits. It does, indeed, produce a decent tax revenue to the Village, roughly in the same category as office space, of at least \$150,000 annually. I agree with the assertion that it is not

likely to place significant burdens on police, fire, or sanitation. Any housing development will incorporate affordable housing, which will increase the Village's affordable housing base. And finally, housing also has a potential for meeting specialized needs not currently met in the Village, such as senior citizen, mid-income, or specialty housing oriented toward artists or those who work at home.

Traffic burdens are harder to gauge, but are in part are a function of the number of school-aged children, commuting, and shopping patterns. Housing is acknowledged to be less burdensome than retail and, in some cases, office space. But in this case, it would likely be greater than office space because the office users would be coming off highways and not touching Hastings or the other Rivertowns. Certainly, housing would place more of a burden on Ardsley's 9-A intersection than any other use, since most residents are likely to go in that direction, which is less than a mile and involves one light rather than to Hastings, which is almost exactly two miles and involves at least two lights and numerous stop signs.

Environmentally, housing is, in truth, a wash since it will provide as much ground cover as an office or warehouse might with no additional burden. I am less sure in how to analyze the claims made forcefully and clearly by one of our Ardsley neighbors about the wisdom of locating housing in the proximity of active labs, and a factory up-wind by 300 yards. My instinct would say that as a home buyer it is something I would certainly factor in and consider unfavorable, but that burden falls on the developer to convince the prospective homeowner. The same applies to the recently introduced idea of the area as a flood plain. I live next to the Saw Mill and have seen it flood over the last six years, most noticeably and severely during the hurricane four years ago. Not once has a 9-A plot flooded in this time period, and I would have to imagine this concern is probably, relatively speaking, irrelevant or at least equally applicable to an office or warehouse use. Regardless, our Village has no more responsibility for keeping this plot of land free of flood waters than it has for any area adjacent to a flood-prone area. However, as a prospective homeowner I would have to think twice.

My concern with housing here instead stems from a concern about placing a large cluster of 40 to 60 homes at the very most distant periphery of the Village, and

how that reflects moving forward on a desire to encourage smart growth for the remaining open plots of land in Hastings. I have no problem with placing housing in the center of town or on the waterfront, where people can walk to the train station or the shops, and where a greater density of people adds life and verve to the downtown. It is all appropriate and in scale with the downtown. However, this location is not as conducive to housing. The 9-A parcel is almost exactly two miles from where we sit now and there is no other more distant point in the Village: not Clarewood, not Holly Place, not Curry Road. Nowhere. It is separated from the Village by a course of road too busy and fast to ever walk or bicycle on a daily basis. And it will never integrate into the Village.

I do not propose that the plot remain green. We need the tax revenues, and it is private property, so I do not propose that it not be developed. But what ideally should go there is office space, car dealership, warehouse, whatever uses that will not touch our downtowns or create isolated pockets of people living at our fringes and sending children elsewhere to school. It is for this reason I am going to vote against the zone. I understand that there may be the votes to carry the zone, and if it passes I will welcome the experiment that the zone offers in Trustee oversight. The Village will survive housing on this zone. It may even benefit in a variety of ways, and productive use of the site would be welcome. The Ginsburg proposal before the Planning Board, in fact, is as attractive and appropriate a housing proposal for this site as we could hope for if we believe that housing belongs here. In fact, it demonstrates a sensitivity and responsiveness for the Village that I appreciate. But we face probable development over the next few years of a number of large tracts in Hastings. We have to draw a clear line on where higher-density housing belongs and where it does not. If we place it here, it belongs everywhere. I do not believe it does, and that is why I will vote no.

I do not share a sense that the parcel must be zoned in a way that is economically beneficial to the owner. It is not as if the developers have tried particularly hard. They have proposed two different uses for the site. The first was the ill-fated ShopRite which, while it complied with acceptable uses, was, from a zoning perspective, too large. This second has been a string of proposals with housing at their core. None of these proposals, save perhaps the last, were submitted while housing was an allowed use for the site. The fact that the developer might

not make a sound return on his investment because the Village does not allow housing or big-box retail is, to put it perhaps too bluntly, not my problem. It is the owner and developer that is bound to come up with a proposal that fits the zoning. If we left LI zoning as it was before its accidental increase in scope, and deleted the potential for big-box retail from it, then developers could continue to work within the confines of what was originally intended for this zone and perhaps show some more creativity. I would be fine with that, and would welcome it as an alternative to the proposed zone.

This point marks the end of my prepared remarks that I had written ahead of my discovery that Purdue Pharma had filed a petition under Section 295-17 of the Village code which leads me to believe that I am casting a vote which decides the super-majority. For the record I do not like that the weight of my decision varies as a result of this petition, or that an entity that rents property in an adjacent locality not even in Hastings has such an effect on our deliberations. However, it does not, nor cannot, affect my vote or decision. If Ginsburg believes that their proposal has merit under the current LI zone they are welcome to file for a variance from the Planning Board to seek the proposal. Their proposal, whose existence simply cannot be ignored, has sufficient merit and deserves careful consideration. I also welcome the inclusion of the Board oversight component of the current MUPDD proposal elsewhere where appropriate. The Planning Board did an excellent job and a fair job arriving at this proposal. For this I applaud them.

Mayor Kinnally: This has been an interesting process that has entailed many meetings of various boards and commissions and other entities and staff, and I thank everyone for their input, including the public. I have been in the middle of this for six years. My views of the use of the site and potential development have evolved over time. There remains concern about the viability and appropriateness of housing on the site. The suggested proposal, mixing residential with other uses, I found to be quite interesting and my thinking has changed over time. While the market will determine whether or not the development of the site along the lines that are proposed is a wise move, I do not think putting housing there, especially in the configuration that has been discussed, is adverse to the Village.

The concept of the MUPDD is a very sound one. This is an experiment. We have never had this before. But it is an experiment only in the procedure of having the Village Board work carefully and closely with the Planning Board. It came out of our experience with other proposals that have come before this Board and the Planning Board; we were hoping to make

it a more efficient and beneficial process for the Village, for the neighbors, and for everyone. I do not want to throw that concept away. It was artfully crafted by the Planning Board. A lot of thought, time, and deliberation went into it, as we heard at the joint meeting of the two Boards. The best thing to come out of it was to show how much thought, concern, and respect everybody had for each other's opinions when this was being knit together.

The proposal before us is a solid start, I would be in favor it, and I intend to vote for it. I am going to open up the floor to comments.

Lorraine Kuhn, 38 Judson Avenue, Ardsley: The Army Corps of Engineers will hold a scoping session to discuss management of the Saw Mill River on October 20. Two projects are planned to alleviate severe flooding of the Elmsford residential district adjacent to the river. Has the Army Corps of Engineers been apprized of the proposed zoning for the Hastings site, which includes residential? Flooding, especially of a site which has undergone absolutely no remediation for hazardous substance contamination and prone to continued contamination, would be the most cruel and disastrous to housing.

Geraldine Ferrara, 68 Ravensdale Road: I am a relatively new resident to Hastings. I am very grateful for this opportunity to speak. One of the reasons I wanted to move to a smaller town was because I wanted the opportunity to voice my opinions about issues affecting my community. I live on Ravensdale Road. My child, 11 years old, is delighted with the freedom that he has to walk to school. I cringe every time he crosses the street. He has to cross Ravensdale to get to Farragut, and it absolutely terrifies me. I have seen people go through stop signs. In spite of the fact that traffic may not be seen as an obstacle, imagine just for a moment your child crossing the street. I understand that traffic has been an issue on Ravensdale for a long time, and people have talked about additional stop signs or what have you. I am sure that the Village fiduciaries have been responsive in their way. As responsive as you have been, it is still a problem. Any further development of residences is going to make it worse. Imagine your children crossing the street, and consider the people who live on Ravensdale and the effect the traffic is going to have on them.

Jean Halpern, 26 Ravensdale Road: Is the Village liable if that area turns out to be contaminated and harm results to the residents therefrom?

Mayor Kinnally: I do not know. We would have to get advice of counsel on that.

Ms. Halpern: If it is liable that would probably increase our taxes considerably. That area was inhabited by Ciba-Geigy, and it has been inhabited by all sorts of chemical-producing industries for some time. We had a nasty little surprise at the waterfront, and it is something you should consider before you permit residential.

Mayor Kinnally: It would be subject to a SEQRA review.

Ms. Halpern: Yes. Also the traffic on Ravensdale is horrible.

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 hereby adopt Local Law No. 6 of 2004 amending the zoning law to create a new zoning district, the Mixed-Use Planned Development District (MUPDD), and to rezone a 7.45 acre property located on Saw Mill River road from Limited Industry (LI) to MUPDD as follows:

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

Section 1. The Local Zoning and Planning Law of the Village of Hastings-on-Hudson, New York is hereby amended by adding a new section, § 295-72.3, which establishes the zoning regulations for the new Mixed-Use Planned Development District (MUPDD), as attached.

Section 2. Section 295-5, Definitions, of the Local Zoning and Planning Law of the Village of Hastings-on-Hudson, New York is hereby amended by adding the definitions of the terms “senior assisted-living housing,” “senior enriched/independent living housing,” “senior housing,” “mixed-use residential buildings,” and “maximum development coverage,” as defined in the attached regulations.

Section 3. Section 295-6, Enumeration of Districts, of the Local Zoning and Planning Law of the Village of Hastings-on-Hudson, New York is hereby amended by adding the following to the enumeration of districts, after Multifamily Residence/Commercial (MR-C):

Mixed-Use Planned Development District MUPDD

Section 4. The Zoning Map of the Village of Hastings-on-Hudson is hereby amended to rezone the 7.45 acre property on the west side of Saw Mill River Road designated on the Tax Map as Section 11, Sheet 22, Parcels P4 and P4A from Limited Industry (LI) to Mixed-Use Planned Development District (MUPDD).

Section 5. This local law shall take effect immediately.

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	

77:04 BOND RESOLUTION - STREET RESURFACING

Village Manager Hess: As part of the budget review process, and in discussions afterwards, the Board approved an aggressive street resurfacing program in the Village. The adoption of a resolution for \$2 million will allow that aggressive program.

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

RESOLVED: that the Mayor and Board of Trustees adopt the resolution as attached to authorize the issuance of \$2,000,000 serial bonds of the Village of Hastings-on-Hudson, Westchester County, New York, to pay the cost of the resurfacing of various streets located throughout and in and for said Village.

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

78:04 BOND RESOLUTION - CURBS AND SIDEWALKS

Village Manager Hess: The sidewalk and curbs project has only recently been approved by the Board, so we cannot start any projects this year but would be in the planning stages to begin these projects in 2005.

Trustee Holdstein: I am going to vote nay not because I am opposed to expenditures of monies to improve curbs and sidewalks, but because I would like to put this off until we have a clearer plan as to what sidewalks, what curbs, what we are going to define as Village responsibility for curbs and sidewalks. This resolution is a little murky for me, but I want to make it clear that I am in no way opposing the future expenditure of bond money for improving our curbs and sidewalks.

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 adopt the resolution as attached to authorize the issuance of \$1,000,000 serial bonds of the Village of Hastings-on-Hudson, Westchester County, New York, to pay the cost of the reconstruction of curbs and sidewalks located throughout and in and for said Village.

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 CERTIORARI SETTLEMENT - HARMIR REALTY, 555-565 BROADWAY

Mayor Kinnally: The Village Attorney's office met with us last week in executive session concerning these reductions. They are the result of a certiorari action pending in Westchester County Supreme Court and are the result of settlements that occurred in prior years with the Village but the assessment role had not been adjusted to reflect the reduction. This is money the Village has had since the years in question, and it will be bonded to refund to the applicant. The resolution is given to us with the recommendation of the Village Attorney.

Village Manager Hess: The refund plan is very advantageous to the Village, not requiring any refund until 2005, and I recommend its approval. The refund is without interest.

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

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

<u>Property Owner</u>	<u>Address Description</u>	<u>Year(s)</u>
HARMIR REALTY	555-565 Broadway Volume HA, Sheet 11 Section 10, Block 0 Lots 100A, 100C	1996- 2004

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

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

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

<u>Reduction</u>	<u>Year</u>	<u>Original AV</u>	<u>Reduced AV</u>	<u>AV</u>
	1996	\$827,050	\$548,338	\$278,712
	1997	\$827,050	\$567,606	\$259,444
	1998	\$827,050	\$525,060	\$301,990
	1999	\$827,050	\$520,131	\$306,919
	2000	\$827,050	\$528,436	\$298,614
	2001	\$827,050	\$521,098	\$305,952
	2002	\$827,050	\$586,859	\$240,191
	2003	\$827,050	\$506,325	\$320,725
	2004	\$827,050	\$506,325	\$320,725

The Village of Hastings-on-Hudson's share of the refund is +\$336,586.54

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

80:04 APPROVAL OF AGREEMENT WITH EXECUTIVE SEARCH FIRM

Mayor Kinnally: The Board of Trustees has met in executive session with a number of candidates for an executive search firm. We have also consulted with Mr. Hess, our current Village Manager. We have decided to retain Bennett Yarger Associates to assist us in our search. The choice came after face-to-face interviews with three entities. We felt that the experience that Bennett Yarger Associates had in this part of the country, and the knowledge of some of the partners and associates of this Village and of Westchester County, will be of great benefit to us in picking our next Village Manager.

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 authorize the Mayor to sign the agreement with Bennett Yarger Associates to assist the Village in recruiting a new Village Manager for a fee of \$15,000 plus expenses not to exceed \$5,000, to be paid from the General Fund.

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	

81:04 CHANGE ORDER EC-03 - JULIUS M. CHEMKA POOL PROJECT

82:04 CHANGE ORDER EC-04 - JULIUS M. CHEMKA POOL PROJECT

Village Manager Hess: We had discussed these previously. These are on the underground line, the transformer, that work that we discussed over the summer, and which got approved. But we just got the paperwork a week ago, and that is why it is submitted now. The work has already been completed.

Trustee Holdstein: One bill has a journeyman rate of \$82 an hour, and the other one has a journeyman rate of \$75 an hour. Both rates are pretty high for what I would qualify as a journeyman. On the second one, it took over three days to do this job. On the first one, the installation of one switch-controlled outlet took all day. I recognize that this is after the fact, that we discussed this, the work has been done. But I would like somebody to challenge RLJ. If one of our in-house people tells me that the project on the second one takes three and a half days to do and the other takes a full day, I will certainly accept it.

Mayor Kinnally: Are you talking about the feeder conduit?

Trustee Holdstein: I do not know anything other than how to turn on a light switch, but it says that we are paying 8.2 hours for the installation of one switch-controlled outlet serving the existing sump pump. The installation of an outlet takes all day?

Mayor Kinnally: Let me read it to you. It says for the reinstallation of all conduit and wiring required for the installation of one switch control outlet serving the existing sump pump. The wiring was removed during demo since the sump was supposed to be removed. It is all conduit and wiring.

Trustee Holdstein: Why would there be two different rates for a journeyman?

Trustee Apel: There might be different levels of journeyman.

Trustee Holdstein: Had these sums been paid to RLJ?

Village Manager Hess: Sure. This is from July.

Trustee Holdstein: So, again, we are voting on something that has already been paid?

Village Manager Hess: No. The Board authorized me in July to approve these so we would not hold up the project. We got the paperwork a week or so ago, and we put it on the agenda for tonight to have a paper trail.

Trustee Holdstein: Is there someone employed by the Village with the expertise to review the documents I am looking at?

Village Manager Hess: Ward approved it. That is who the Board employs to review these.

Trustee Holdstein: I would respectfully ask the Village Manager for clarification to re-contact Ward with these minor issues as to the length of time on this one and why they would be billing two different rates.

Mayor Kinnally: We can table it for the next meeting.

On MOTION of Trustee Holdstein, SECONDED by Trustee Apel with a voice vote of all in favor, Resolutions 81:04 Change Order EC-03 Julius M. Chemka Pool Project and 82:04 Change Order EC-04 Julius M. Chemka Pool Project were TABLED.

83:04 AUTHORIZATION TO PURCHASE PUBLIC WORKS VEHICLES

Village Manager Hess: The superintendent of Public Works was at our last meeting to discuss the necessity of these vehicles. He is proposing a pickup truck as opposed to a 2-yard dump truck, which will save approximately \$17,000. These are all vehicles slated for replacement that are 14 years old, 12 years old, and 10 years old.

Trustee Holdstein: Given that Mike appraised the backhoe as fair and given all the other expenditures, is it the kind of thing we could put off for a year? Put it into future spending, and do the first two which seem to be more pressing than the third.

Village Manager Hess: The backhoe is not a 4-wheel drive so we are not able to use it during the winter which hurts our ability during snowstorms. We have to lease equipment during that time. That costs us up to \$5,000 per year, depending on the severity of the winter. This would give us much more capability during the winter for cleanup, and would save us money.

Trustee Swiderski: A request for the expenditure of \$285,000 in public monies to come in the form of a hand scrawl on an e-mail that is a third of a page as its justification is slim. While I understand the underlying justification, everywhere I have worked it would have resulted in, at best, a chuckle.

Village Manager Hess: The hand scrawl is mine. We discussed this at length last week. You had ample opportunity to ask questions or to seek additional information, if you so desired. If you do not wish to make the purchases, that is entirely up to you.

Trustee Swiderski: I am struck by the appearance of the request. I would assume and hope that there is something more behind it. While I understand we discussed it, I am just surprised that is the extent of it. I think of what went on for the \$400,000 fire engine, where a committee met and thought about it and planned for it for years.

Mayor Kinnally: There is a world of difference between the vehicles. There is no such thing as walking into a dealer and taking a fire truck home. It has to be made to spec. But this particular process we went through with the replacement of vehicles is not different from what we have done in the past. Mike Gunther pled his case and explained to us why he

needed the equipment and why he thought it was appropriate at this time to get it. We can always ask for more backup, but I did not see that this was anything out of the ordinary.

Village Manager Hess: No different than when we request police vehicles or other vehicles you get under state contract.

Trustee Jennings: When the memo here refers to the number of hours, this is the number of hours that the vehicle has been in use?

Village Manager Hess: Engine hours.

Trustee Jennings: I do not know anything about dump trucks, but it only has 15,000 miles on it, yet it is in need of replacement and is not in good condition.

Village Manager Hess: It is in poor condition because it has had salt in it. It eats right through the body.

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

RESOLVED: that the Mayor and Board of Trustees approve the purchase of a 5-yd dump truck at an anticipated cost of \$110,000; a pickup truck at an anticipated cost of \$21,000; and a backhoe at an anticipated cost of \$54,000, to be paid for from bond proceeds.

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: Just as the MUPDD requires a super-majority, so does a bond resolution. Since the Board voted 3-2 on the curbs and sidewalks, that resolution was not approved.

We have completed our street resurfacing program for the year. I have heard very good comments about it. The state started paving Broadway today and, according to them, will be done by Friday.

We got six proposals on the RFP for the Kinnally Cove. A selection committee is meeting Thursday evening to discuss them. We hope to have interviews with the top three, and a recommendation will be coming to the Board of Trustees.

Christina Griffin will be back at our meeting on October 19 with an update for the Board on the Boulanger Plaza wall.

I wanted to thank Andrus for, again, the Halloween decorations out in front of the Municipal Building and the library. They continue each year to provide that for the Village.

I would urge people to take a look at the surveys in the newsletter, both the survey on Village services and the survey on planning issues, and to send them in, and we will start compiling results. We would like to have at least 200 responses to make it a legitimate survey.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: I will continue to work with ARCO and their consultants to monitor what is going to happen with Building 2 and get a better idea of their timetable. I will follow up on their plans concerning Building 15, and coordinate with them and with MetroNorth the MetroNorth staging area on the west side of the tracks in connection with the construction. The funding for the station work starting in Hastings and going north has been approved by MetroNorth.

Trustee Swiderski: Does that mean the overpass and the walkway?

Mayor Kinnally: The overpass was already approved. This is for the platform improvements. They are two different contracts.

Trustee Swiderski: This is a shifting of the other side platform to the south.

Mayor Kinnally: Yes.

2. Renewal of Snow & Ice Agreement County Roads

Mayor Kinnally: Neil has given us correspondence from the Department of Public Works, the commissioner of DPW, and the county offering to extend the terms of the existing contract retaining the annual CPI escalation clause subject to a 2.7% cap, and also having a bonus reimbursement for communities with approved salt jets.

Village Manager Hess: I forwarded this for discussion as opposed to a vote. I am in agreement with an extension of the program, even a five-year extension, but a 2.75% cap is not legitimate. We already have a contract with them which provides for additional reimbursement when we have the salt shed. But the amount of funds we get from both the county and the state are very limited for snow removal. I would like to go back and address them to get that cap increased. It is tied to the CPI, but the CPI right now is 3.8%. I may contact some other communities also, so we can do it together.

3. LI District

Trustee Apel: In light of the vote tonight for the mixed-use planned development district I would like to discuss what the process would be now in terms of the zone. One of the concerns I have had is that it should be separated from the CC district so that we can look at the zone in and of itself, and not have the added things that come from other zones unless we decide that is what we want to put in it. Our biggest concern when we had the ShopRite proposal was that we did not want retail that large, and now we are out there with a retail section in the LI zone. Do we need to address that immediately, to have that removed from the zone, and can we do that? Can we pass a resolution to remove it until we address it?

Mayor Kinnally: We cannot pass a resolution. We need a local law to amend the zoning code. But what would the Board like to see on that site? I renew my request to my colleagues to consider what they want. The circle keeps narrowing of what we do not want.

It is going to come to a point where we are not going to have lot of wiggle room, and the Village is going to leave itself open to challenge as to what can go on that site. It is fine to say no, but we have to come up with what we would like to see on that site. The Planning Board gave quite a bit of consideration to that. We can talk about what we would like to do as far as taking certain things out of the current wording of the text, but we have to think about what we want there.

Trustee Apel: How long would the moratorium extension give us to go over the zone?

Mayor Kinnally: It has to go to the Planning Board. We are starting from scratch again. We will have a 60 day moratorium, but we are extended out. We cannot go much farther.

Village Manager Hess: You are going to be at over a year.

Trustee Apel: That is why I strongly feel that we need to think about those things that were in the zone that we were unhappy with in terms of ShopRite. If we do not remove them from the law, and if we do not separate it from the CC district, that we are now setting ourselves up for some problems sooner than later.

Mayor Kinnally: I agree, but you have to say what you want on that site, not what you do not want. In the decision on ShopRite, the judge was very generous in what he said about how the community approached it. But you are going to wear out your welcome if you keep saying no.

Trustee Apel: I am not disagreeing with you, but I am concerned that in the interim while we are deciding what we want we have some things that are in the law which can catch us off-guard while we are deciding what it is we want. If we enact a 60-day moratorium, when will it expire?

Deputy Village Manager/Village Clerk Maggiotto: It will expire 60 days after it is filed, which can be up to 20 days after it is enacted.

Trustee Apel: What does that mean in terms of our time, what we have to do, and in terms of the Planning Board and the time that they have in order to do this?

Mayor Kinnally: The Planning Board has to put it on its agenda.

Trustee Swiderski: Is a Planning Board review necessary to restrict retail on the site?

Mayor Kinnally: I would hate to have any change of zone considered by the Village Board without consideration by the Planning Board.

Village Manager Hess: The Planning Board gave you their recommendation, the MUPDD. If you want something different, you cannot just give it back to the Planning Board. You ought to draft up what you want, work it out among the Board, then refer that to the Planning Board, as opposed to asking them to come up with a whole new idea.

Mayor Kinnally: If it is 80 days, that brings us to the end of the year.

Trustee Apel: That is why I am asking what the process is, what we have to do to protect ourselves so that we do not face some of the problems we have had.

Mayor Kinnally: You have to change the zoning.

Trustee Apel: I understand that. But while we are changing the zoning, why can we not pass a resolution to remove those parts which got us into trouble?

Mayor Kinnally: Because that is changing the zone. It is not a resolution. You have to change the zoning text, so that is a local law. You have to go through the whole process. The Board has to come to some sort of consensus. We have to have a public hearing. You have to a negative declaration.

Deputy Village Attorney Stecich: Marge, those uses were not just changed when the CC district changed. The LI zone from time immemorial incorporated all the uses from the CC district. The thing that got tricky here was some new uses were added to the CC district that were not contemplated for the LI district, and that was what the problem was. But if you look at the uses before the CC was revised, it is a lot of uses that are heavy traffic generators.

Trustee Apel: I had brought that up when we were passing that zone, and I was told not to worry about it. I am angry that we did not deal with it then, and that I was just put off. Well, I am worried about it. There are things in there that I do not like. There is no excuse for the fact that it was allowed to stay in there. I resent the fact that I was encouraged to just ignore it because there was something on the table and we do not have to have any problems with it.

We are going to have a problem with it. There is a proposal out there, and we have to look at this immediately. I want to know what we can do while we are looking at it so we do not get into any problems. And I want to know from the Deputy Village Attorney what we need to do to protect ourselves.

Mayor Kinnally: Why do we not get advice of counsel, not at a regular Board meeting. We can get that as far as a timetable to do whatever, and she can give us what she sees as a possible scenario. We can find out the Planning Board's agenda also. We cannot tell them to do anything, but we will have to work with them on this.

Trustee Apel: I believe in working with them on it, but if they are caught short and it gets to the end of the year we are going to have to deal with it without the Planning Board. That is our responsibility.

Village Manager Hess: You can refer something to the Planning Board. You have to give them something.

Trustee Apel: I understand. But if we have this legal obligation to get something done by the end of the year, if that is when the moratorium ends, and if they cannot handle it, we are going to have to handle it. That is our responsibility as Trustees. We have to protect the community. We have to protect everybody.

Village Manager Hess: I do not think I am saying not handle it. What I am saying is, you have to develop a proposal of what that zone should be, then refer that to them for a recommendation back to the Board.

Trustee Jennings: We invested a year in coming up with something that was quite creative and quite innovative. For several reasons, including the state law about super-majority, we were not able to adopt that. Maybe we should identify one or two or three things that we absolutely would not want to see on that property and make an amendment in our existing LI zone to preclude that from happening. Then we can take more time to develop a positive vision for what we want for the LI zone or for that property. Because we cannot use the moratorium indefinitely to protect ourselves against what is now legally permitted but undesired, we either have to open the door to the possibility of the market taking over and bringing something forward that we do not want or we have to change the law. We have used up the moratorium option. And it is quicker and easier to change the law in a limited negative way than it is to build a consensus again between us and the Planning Board on

something positive and innovative. That takes a long time and a lot of work. Marianne says there are a number of things that would generate lots of traffic. Maybe we will not be able to identify all of them, but we can certainly identify a few and deal with them now. That will give us some protection, if not be the ideal solution.

Mayor Kinnally: If we are under the gun we will have to do the survey of what we do not want. But that is not enough. I agree with you that we have to look beyond that to come to some understanding of what it is that we want to have in this area of the Village. It is going to be difficult because we have gone the route of community-based workshops and then we have gotten a consultant in, so it is going to be a long-haul process to try to be very creative and try to understand the market, what the Village wants, what our neighbors want. You are right. It is really a two-step process. We have to do something in a fairly short period of time. But that is not the end of the journey.

Trustee Swiderski: If the housing issue, which seems to have been a point of contention, were to be omitted, it would probably result in something that would be passed tomorrow. I am not sure an omission of that use from the law would require a new process, since it is further restricting the uses and would not involve an impact on the environment. That is one possibility we could do tomorrow and vote on that would result in allowable uses for that site which we would all agree on. I am ready to say right now that were housing eliminated from that law I would vote yes tomorrow, we would have our super-majority, and the issue would be closed. Were the LI to be rolled back to what it was prior to the CC rezoning and be retail-restricted, we would be back to some sort of stasis that we acknowledged was reasonable for the site.

I do not think these are huge discussions. They are straightforward votes that do not expand the use of the site. They restrict it. And unless counsel and the zoning code tells me otherwise, I do not understand why it has to go to the Planning Board. If we are restricting use, why must the Planning Board weigh in?

Deputy Village Attorney Stecich: Because it is a zoning amendment, and any zoning amendment has to be referred to both the Planning Board and the Zoning Code for an advisory report.

Trustee Swiderski: Including one that further limits the current proposal?

Deputy Village Attorney Stecich: You are asking two different questions. Any zoning change has to go before the Planning Board for an advisory report. It is sometimes defined if you make it more restrictive then you do not have to have another public hearing. But I do not think that is accurate. The accurate thing is, if there is a substantial change, then you would have re-notice it, it becomes a new local law, and then it has to go to the Planning Board again.

Vanessa Merton, 111 Pinecrest Drive: There is no limit on the number of changes that the Board can make in the zoning code. It is not a substantive change if you take a proposal which has already been approved by the Planning Board and cut it up into three or four pieces. You are perfectly at liberty to do that. Unless you would say that you do want big-box retail on that site, I presume you do not?

Mayor Kinnally: Nobody has ever talked about big-box retail on that site.

Ms. Merton: It is permitted under the current code because of the error of our counsel, who omitted to change the zone as was suggested.

Mayor Kinnally: Why do you not start out right by stating your point but not impugning anybody's integrity?

Ms. Merton: It was an error of counsel. It is not an impugning.

Mayor Kinnally: The reason it is in there is because it is in there.

Ms. Merton: It is in there because that was not fixed. Do you want big-box retail on that spot?

Mayor Kinnally: No.

Ms. Merton: There is nothing that stops this board from referring to the Planning Board a very simple proposal: removing the words from the LI zone that incorporate all the uses from that other zone and making it clear that big-box retail is not permitted. That is a matter of drafting that would take any competent lawyer about 20 minutes. Then your Board can refer it to the Planning Board. It is hard to believe that the Planning Board would find that a very challenging topic to discuss for more than one meeting. Yes, you can have a public hearing on it, and yes, you can vote on it. You would at least have protected us for the time

being. That is one way to proceed. In terms of the positive vision that you were talking about, the Board could decide that the positive vision you want to have for that is open space. There is no requirement for it to be any kind of development at all. And you could change your mind next year. You could change your mind two years from now, five years from now, 10 years from now. You do not have to go through this immense process that you make sound so impossible and daunting at all. It is a fairly simple thing to do if you have the political will to do it.

Mayor Kinnally: We will get advice of counsel on that, and we will see where we go, and we will talk to the Planning Board and the Zoning Board because it has to go before them. There is no proposal now. We will have to start from scratch, and we will have to have a public hearing on it.

Trustee Apel: Could we ask our attorney to look at the proposal that we voted down, and how it would be different if we took out the residential?

Deputy Village Attorney Stecich: Yes, it would be just the same except you do not have the sections allowing residential. That is the only difference. It is not exactly mixed-use anymore. Generally, when you are talking about mixed-use it means a mixed residential/other. You can call it whatever you want. You could make it a mixed commercial use. But the concern I have is not zoning-wise. It would be no big deal. You would just cross out the number. But the issue is, is it still practically a viable proposal? Because remember, we said the whole seven acres have to be developed together. That often works when you have a residential developer. I do not know whether it still would be practical from a use of the property perspective to require that the whole seven acres be developed as part of one plan. When you see these mixed-use districts they do include residential, and they make little villages or whatever. You would need to talk to a planner about whether it would still be practical.

Trustee Apel: We have another parcel which is zoned LI, and that is another concern that I have, that we are not just dealing with this 9-A piece of property. We need to make sure that those things are out of that particular zone also unless we are rezoning pieces or something. That needs to be looked into just as quickly.

Deputy Village Attorney Stecich: Just to clarify something, Marge, you said you could just use the uses there that did not cascade from the CC district.

Trustee Apel: Right.

Deputy Village Attorney Stecich: There never were other uses than the uses cascaded from the CC district. The LI always did. By the way, for the record, I was not counsel involved in the rezoning. As far as I know, there were very few uses added or changed to the CC in that downtown rezoning, except for the mixed residential buildings. All those uses that were in the CC were always allowed in the LI: retail, restaurants. I am not saying that they have to. So maybe the best thing to do is, before the next Board meeting I could give you a list of the uses that are currently permitted in the LI district. You could look at them and cross them out, as a first step, and move from there. I can do that by the end of the week so you would have it in your packet.

Trustee Apel: I think also a reminder where the two LI parcels are would be important, because if we are looking at the LI zone, then we have to know where the other parcel is.

4. Other

Trustee Apel: I was at the Rowley's trail celebration this last weekend. It was wonderful to see all the volunteers there who have made the trail what it is today. Anybody watching, we should remind them to take a walk down there and take a look at what the community has done so that you can see the Hudson River and take a nice walk in the woods. The volunteers have been really wonderful, and I think this is a wonderful addition to our Parks & Recreation and, hopefully, in the future we will see that the trailways are all connected. But this is wonderful, and I think it was wonderful to see everybody there celebrating that this was done.

Trustee Holdstein: I rode home on the train this evening with Paul Hammonds, who wrote a letter to *The Enterprise* about the sentiments of him and his family for our volunteer ambulance corps and fire department. He commented to me what a tremendous job they do at the drop of a hat with the most severe emergencies, as we experienced on the Saw Mill Parkway and even the minor ones of a cat in a tree or a scraped knee. He was so appreciative and so thankful for the spirit of volunteerism and the high level of quality of service that our ambulance corps provides all the citizens. It is always heartwarming to see those letters in *The Enterprise*. We wish we never saw them and that they never had their phone ring. But unfortunately they do, and it is always nice to see when people send in letters acknowledging the great service all of our volunteers do.

Trustee Jennings: As a follow-up to our hearing on the consolidation of the voting places, I would urge the Village administration, just as we are looking into dealing with the parking so as to facilitate that and not have long lines, to look into taking steps at Andrus to either facilitate residents there filling out absentee ballot applications or providing transportation for those who wish to come to the polling place, since they had a polling place in their building before and they will not now. So I would like to try to do whatever we can to mitigate the difficulties and inconvenience. Certainly we would not want to disenfranchise any resident of Andrus.

It has come to my attention that there is available specialized training for police officers who handle domestic violence. We are fortunately blessed with not having a lot of types of crime that are prevalent elsewhere, but instances of domestic violence occur everywhere and they occur in our community, too, unfortunately. It might be a good thing for our police force to invest in specialized training for some of the officers so that they will have a better ability to deal with situation when it arises. I will follow up with the appropriate Village officials.

ADJOURNMENT

On MOTION of Trustee Holdstein, SECONDED by Trustee Apel with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 10:05 p.m.