

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
NOVEMBER 16, 2004**

A Regular Meeting was held by the Board of Trustees on Tuesday, November 16, 2004 at 8:10 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Wm. Lee Kinnally, Jr., Trustee Michael Holdstein, Trustee Bruce Jennings, Trustee Marjorie Apel, Trustee Peter Swiderski, Village Manager Neil P. Hess, Deputy Village Attorney Marianne Stecich, and Village Clerk Susan Maggiotto.

CITIZENS: Eight (8).

APPROVAL OF MINUTES

Trustee Apel: Page 13, where I am talking, into should be onto. Page 35, where I second the motion: Trustee Apel XXX?

On MOTION of Trustee Holdstein, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Regular Meeting of October 19, 2004 were approved as amended.

APPROVAL OF WARRANTS

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

Multi-Fund No. 38-2004-05 \$49,928.70
Multi-Fund No. 40-2004-05 \$85,639.67
Multi-Fund No. 41-2004-05 \$ 6,257.44
Multi-Fund No. 43-2004-05 \$88,857.49

EXECUTIVE SESSION

Mayor Kinnally: The Board needs to confer with Counsel. I am going to ask for a motion for a session for advice of counsel.

On MOTION of Trustee Jennings, SECONDED by Trustee Holdstein with a voice vote of all in favor, the Board called for a session to discuss advice of counsel.

[Meeting resumes 9:15 p.m.]

Mayor Kinnally: I thank everyone for your indulgence. We have been receiving advice of counsel in connection with the protest petitions that were filed on behalf of Mill Saw Realty, LP and Purdue Pharma, LP. The protest petition filed by Mill Saw Realty has been rejected by the Board of Trustees, and a written decision will be forthcoming from counsel.

On the question of the protest petition from Purdue Pharma, we continue to have questions as to the validity of that petition and have decided to seek guidance from the New York State Department of State on the validity of the protest petition. We will be writing a letter to the Secretary of State seeking guidance. There is precedent for this because in November, 2003, when Purdue Pharma filed a protest petition, questions were raised and we submitted an inquiry to the Secretary of State and fairly quickly thereafter received a written opinion. We have decided, with the advice of counsel, to do similarly in this case.

88:04 ESTABLISHMENT OF QUARRY STUDY COMMITTEE

Village Manager Hess: After discussion the Board has decided to develop a special committee to study future uses of the quarry, and it is recommended this resolution be approved.

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

RESOLVED, that the Mayor and Board of Trustees create the Quarry Study Committee, comprised of nine voting members and six ex-officio members appointed by and representing the Planning Board, Parks and Recreation Commission, Conservation Commission, Draper Review Board, Historical Society, and Friends of the Old Croton Aqueduct, and be it further

RESOLVED. that the Quarry Study Committee will develop and provide the Board of Trustees a report by May 15, 2005 detailing various alternatives for the future use of the Quarry property.

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	

APPOINTMENTS

Mayor Kinnally: I would like to announce the appointment of the Quarry Study Committee: Robert Cadoux, Tim Hays, Steve Horelick, Christine Lehner, Chris Lomolino, Susan Maggiotto, Steven Odesser, Betty Ryberg, and Jonathan Zipp.

Ex Officio: from Parks & Recreation, John Dailey; Conservation Commission, Ron Cascone; Friends of the Old Croton Aqueduct, John Flack; Historical Society and Draper Park Review Board, David McCullough; and the ex-officio member from the Planning Board will be appointed at the next meeting of the Planning Board. The organizational meeting will be on November 29. I thank everyone for agreeing to serve on the committee.

89:04 APPROVAL OF FINAL COST STREET RESURFACING

Village Manager Hess: After the street resurfacing bids were awarded the Board decided to add Ravensdale Road to the streets to be resurfaced this year. The cost of Ravensdale was \$117,805.70, which included \$33,000 and change for milling and almost \$85,000 for paving. That brought our total cost up to \$561,487, which was about \$90,000 more than we originally estimated. We are recommending approval of this amount.

Mayor Kinnally: The decision to do Ravensdale turned out to be the right one, including the bridge, which is not our responsibility, but the state has not agreed to do it.

Trustee Holdstein: A request that we get the problem at High Street and Prince fixed quickly because there is a major hole there, courtesy of either United Water or Con Ed.

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

WHEREAS, the Mayor and Board of Trustees awarded the bid for street resurfacing to Columbus Construction Corp. on August 17, 2004 as follows:

Top:	\$70 / Ton
Milling:	\$3.38 / sy
Manholes:	\$420 each
Binder:	\$70 / ton, and

WHEREAS, the Mayor and Board of Trustees added Ravensdale Road to the list of streets to be completed, now therefore be it

RESOLVED: that the Mayor and Board of Trustees approve the final cost of street resurfacing for a total cost of \$561,487.82 to be paid from general fund (\$75,000), Consolidated Highway Improvement Fund (\$243,174.23), and bond proceeds (\$243,323.59).

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	

90:04 APPROVAL OF AGREEMENT KINNALLY COVE ENGINEERING AND DESIGN

Village Manager Hess: McLaren Engineering made a presentation at the last work session and the Board authorized them to move forward. This is a formal letter of agreement.

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 authorize the Village Manager to sign the letter of agreement with McLaren Engineering Group, West Nyack, New York, for Kinnally Cove engineering and design services for a fee not to exceed \$70,000 to be paid from grant 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	

91:04 CHANGE OF MEETING DATE

Mayor Kinnally: This is to accommodate the holiday season.

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

RESOLVED: that the Mayor and Board of Trustees change the date of the Regular Meeting from Dec. 21, 2004 to Dec. 14, 2004.

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	

APPOINTMENT

Mayor Kinnally: We have the appointment of a member of the Affordable Housing Committee, Brian Higbie. I thank him for agreeing to serve us on that committee.

VILLAGE MANAGER'S REPORT

Village Manager Hess: We have received the bathymetric survey from PCI on Sugar Pond. We will have their report probably within the next two weeks.

Trustee Swiderski: Will that include recommendations, or is it just a description of the current state?

Village Manager Hess: There will probably be a description of the current state. It will have recommendations also, I am sure.

In the next two weeks we will be doing some tree planting around the Village, especially in some areas where we have lost a substantial number of trees on Euclid and Edgar's Lane.

Mayor Kinnally: I would like put something in the budget for next year for tree pruning and general arbor services. In the downtown area those trees are getting overgrown and they are starting to snap because they are getting big and the trucks are hitting them.

Village Manager Hess: I am going to ask Susan to give us an update on Bomanite.

Village Clerk Maggiotto: I spoke to Nicole Casale from the Bomanite Company this evening. Tomorrow the crews and the dumpster will be back. They have one more day to demolish what needs to be taken out. They will pour on Thursday and finish on Friday. The company was quite far behind on a lot of their contracts, including ours. We came to an agreement that mainly due to weather considerations we would have them finish as much as they had started up to this point, and then the balance of Warburton Avenue would be done as their first project in the spring. They are going to remove the pour they had problems with. They admitted their error in pouring on a day that it rained quite heavily. The rain came much sooner than they expected and it spoiled some of the concrete.

Village Manager Hess: Some newer merchants in the downtown have approached me about re-instituting the Chamber. That is a very good idea if they can get the merchants together. I am going to meet with some of them this week. I believe they still have their articles of incorporation in place, so it would be a matter of electing new officers and board members. It is very positive that new merchants want to get involved.

Trustee Jennings: Would that put an end to the Downtown Partnership?

Village Manager Hess: Yes. But we would still work with the Chamber as we have in the past. In that regard, I would like to request free two-hour holiday parking for this year from Monday, December 6 through Friday, December 24. We usually give a 20 minute break, and we give a parking angel ticket. But it is not free all-day parking.

On MOTION of Trustee Apel, SECONDED Trustee Jennings with a voice vote of all in favor, the Board resolved to allow free two-hour holiday parking from December 6 to December 24.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: Building 2 is down. They are still separating the components. Standing on the east side platform, you can see all the way down to Manhattan. It was a small building, but the demolition opened up the view completely. When we meet again with ARCO we will get a better idea of what they have in store for next spring and summer. They were talking about Building 15 and an adjacent building coming down. We are making some progress, which is good.

2. Zoning Amendment Protest Petitions (tentative)

Mayor Kinnally: What is the sense of the Board on that? Do you want to hold that off?

3. Limited Industry (LI) Zoning

Mayor Kinnally: Marge, you had something on the LI zoning?

Trustee Apel: Eventually we need to discuss this and it should be put on at a later date.

4. Ridge Hill

Trustee Apel: People have been asking what is going on with Ridge Hill. Have we heard anything?

Mayor Kinnally: The City of Yonkers has closed the comment period. The Rivertown mayors have requested a meeting with Mayor Amicone; we are hoping it will be within the next two weeks. The mayor does not preside at the city council meetings, so the legislative part of it will be done by the city council. If need be, we will meet with one or more of the members of the city council.

5. Greenburgh Judgment

Mayor Kinnally: On the issue of the judgment that the Town of Greenburgh had to pay, there was a settlement for a tree coming down on a car in the incorporated part of the Town of Greenburgh. Last year, the town assessed the villages for part of that judgment. The mayors protested. We sought guidance from the state comptroller as to whether or not it was a proper charge to the villages. The comptroller came down with a decision that it was not a proper charge and should not have been assessed to the villages. The budget that has been submitted to the town council by the supervisor includes, yet again, an assessment to the villages for that judgment. The mayors are meeting with Paul Feiner and the new town attorney on Thursday night to plead our case, find out what the town board is going to do and, if necessary, appear before the town board and see what their position is. I do not know what the supervisor's position is, but I cannot be very reassured given the fact that his budget includes the assessment to the villages.

Trustee Holdstein: The decision is not binding?

Mayor Kinnally: It is not binding. It is guidance.

Village Manager Hess: He indicated to us that if the decision came down not in the town's favor, he was not going to charge it to the villages anymore. But he has gone back on that decision.

PUBLIC COMMENTS

Mayor Kinnally: We have a representative of A&F here this evening, Jim Surdoval. After we had a discussion on whether or not to change the mixed-use definition in the zoning code the Board decided not to take any action to consider the proposal that had been submitted by Eric. Eric wrote to me and asked for an opportunity to give his side of it.

Jim Surdoval, A&F Community Builders Consultant: It is unfortunate that we were not here two meetings ago when that issue was discussed. It is particularly unfortunate because the issue seems to have been cast as a scenario in which the community came together, came up with a new downtown zoning, and then a developer wanted to change it. That is really not what this is about. A&F was very much a part of the community planning process that developed that new zoning. A&F acquired property near the beginning of that process and either Eric or I participated in virtually every meeting that the committee had, and it was fantastic.

But like with a lot of these processes, as hard as you work, sometimes it needs some tweaking. We discovered, with our project being a reality test, that the definition of mixed-use building is creating a problem in our project, not only for us but, we believe, from a public policy standpoint for the Village, as well. It requires that the entire ground floor on our West Main Street site be commercial. We do not believe that it is in the interest of a developer to have to put an 8 to 10 thousand square feet commercial space on essentially a service road to a parking lot that is not even on a main thoroughfare. From an economic standpoint, one would question it as an appropriate place for that size retail. From the Village's standpoint, do they want a significant potential retail generator fronting the Steinschneider lot that would have significantly more traffic and parking implications than residential units.

We proposed to have active retail fronting the street to comply with the spirit and the intent of the zoning change. There would be a café, a small crafts shop, and a coffee shop that would service commuters. Behind that retail we would have some residential units. We would put the parking within the building, alleviating the parking pressures generated by the retail. We felt this was win-win for everybody; you got active retail without significant traffic and parking impacts. We would like to develop the space in a manner where we did not have to put more retail at that location than the market would bear.

We discovered going through the process that the zoning does not allow this solution. The Planning Board's and Architectural Review Board's hands are tied. We have been working with the Architectural Review Board on this project for many months. The key issue there is how the building looks from the Warburton Avenue bridge, the train station, and the commuter parking lot. We tried to avoid a large retaining wall and an exposed garage, with the building sitting on top of it. We all felt that would be the least attractive solution. We dropped the residential down in front of the garage, reducing the retaining wall and hiding the garage. When you look up you do not see an open-air garage which would have been cheaper for the developer than all the venting that is required with an enclosed garage. But we felt it was the thing to do with the community. Given the way the zoning is worded, we cannot drop the residential units down and cover and conceal the garage, because the zoning says that the residential must be above the first floor. We were looking to duplex units going down the hill in the back to enable the garage to be covered, having the bedroom levels one level below. It would be an upside-down type of duplex. The Planning Board, and particularly the Architectural Review Board, felt we have finally found a solution that they are very happy with. Their concern was that the design that we worked so hard on would be lost if we were forced to make the entire first floor commercial space.

We know that reservations were voiced that with this text change the retail along Warburton Avenue could divide their spaces up and apartments could be put in the back. Nobody wants that to happen. The zoning has a provision that if you create a new residential unit you must provide parking for that residential unit. The highest and best use of the buildings along Main Street and Warburton Avenue under the current zoning are pretty much their existing state because the parking requirement for the residential is grandfathered. If you want to add one more residential unit you would have to provide parking. If you think of the retail stores along Warburton and Main, that just simply cannot be done.

Our request only impacts large sites within the downtown; 10 West Main is one, the Peugeot dealer is potentially another, and the gas station next to the Peugeot dealer is another. If these sites get developed in the future do you want to have a large retail impact on such large sites, or do you want to have viable retail facing the street, activating the street, but not such extensive new retail in the downtown? It is a policy call; the Trustees, the Planning Board, the Architectural Review Board should weigh the pros and cons and decide. Our concern is that the zoning language now ties all of our hands. We may be, unfortunately, on the verge of being a demonstration project showing how it might not be the best solution. So we proposed the legislation. If some concerns exist regarding this issue of the smaller stores creating residential in the rear, which we think is not likely given the parking requirement, you could amend the proposal for large sites where you may not want large traffic-generating, parking-generated retail. A solution like we proposed that does effectively and

efficiently activate the street, but that has minimal-impact residential behind, might be the better solution. Our concern as currently worded, is an option that the Planning Board feels is better, the Architectural Review Board feels is better, and we feel is better. We think it is an issue that should be opened up and looked at again.

Mayor Kinnally: Is it commercial space or retail?

Mr. Surdoval: It is non-residential.

Mayor Kinnally: So it could be offices.

Mr. Surdoval: Offices have an even higher parking requirement than retail. It is a physical impossibility to put office space onto the first floor because you would not have the area in these compact, infill, downtown sites to provide parking to support offices. The zoning is a major discouragement to provide offices. A developer would be forced to provide as much retail as possible and divide it in a way that did not trigger the parking requirements as a practical matter. There is no way we can park office space within the building.

Trustee Holdstein: The minutes we approved this evening were the minutes of that discussion. While you said it would be difficult for other retail sites along Warburton and Spring to divide, we discussed a retail business, Hastings Prime Meat, if they wanted to put apartments in the back, and the parking issues. I cannot tonight think about every property that could potentially by this change be allowed to do this. But I bet I could come up with some places that would open the door for other buildings to do so, which is why I was opposed to the change. I do not like the idea. You alluded to the space as retail, then you used the word commercial, and I wrote down office. So we are all saying the same thing: that there are other uses for that first floor, office or retail. I would rather look at the parking requirements for office or work space, which is something that the Village could benefit from.

Could you not just apply for a variance and go before the Zoning Board of Appeals?

Mr. Surdoval: During the downtown zoning committee process, we did raise this issue at one of the workshop meetings. At the time we were told, yes, we realize West Main Street is not like Warburton Avenue and Main Street, but can just go for a variance. Unfortunately, the Village counsel was not present at those meetings, and it now appears as if it would require a use variance, which has a much higher standard than an area variance, and we probably could not meet it.

Deputy Village Attorney Stecich: There are two kinds of variances: area variances and use variances. Area variances are variances from physical requirements; generally setbacks, height. Use variances are for uses not permitted in a district. If somebody wants to put a store in a non-residential district, it would be a use variance because that use is not permitted in the district. The difficulty is the difference in the standards. To get an area variance there are five standards that the Zoning Board has to take into account. They have to weigh the benefit to the applicant if the variances are granted, as opposed to the detriment to the community if it is. There are five factors they weigh, and they have some flexibility in deciding whether to grant the variance or not. For a use variance, there are four things you have to prove: that you cannot get a reasonable return on the property without the variance; that you cannot do it in a way that would not require a variance; that it is not a self-created hardship; and that there is no alternative. There is no flexibility. Usually, the hardest standard to meet is that you cannot use it for a permitted use. You have to prove it by not just your arguments, but by dollars and cents. So it is a very difficult standard to meet.

Trustee Holdstein: If A&F was the applicant and they could show that there are three open storefronts presently in the downtown, would that satisfy point number four?

Deputy Village Attorney Stecich: Probably not. You have to go through all the uses permitted downtown and show that they would not work. If they could show that there is no way we could use it for office and there is no way we could use it for retail and there is no way we could use it for any of the other uses permitted in the CC district, and they are able to prove that by dollars and cents proof or by testimony by a real estate agent: if they can prove that, then they might have a shot at getting the variance.

Trustee Holdstein: But it seems like my example of open retail spaces would prove that point. If the parking becomes such a difficult thing would that not show that the office/commercial does not work? It sounds like the ducks are in line for you to be able to prove the need for a use variance.

Deputy Village Attorney Stecich: I have not heard their argument. But I do not think it is enough to say that because there are some empty stores it means that we cannot get something reasonable.

Mr. Surdoval: I am not sure there are empty stores.

Deputy Village Attorney Stecich: They have obviously made a determination that they would have a hard time.

Mr. Surdoval: With regard to Prime Meats, that is a rather large store on Warburton Avenue of about 5,000 square feet. If they wanted to divide that store and put two one-bedrooms or a two-bedroom apartment behind, they would have to put three cars in the building or they cannot do it. So as a practical matter, they are better off with what they have now under the grandfather condition. It is not like this could set up a pattern.

Trustee Holdstein: I am not disagreeing about Hastings Prime Meats. What I was saying, though, is that if we started thinking about sites like the former LaVera, the little building on the far end of town that was a pizza parlor that has got a parking lot next door, there might be other sites that could apply that would not be, necessarily, in the best interests of the Village. I am not prepared tonight to identify what those sites were, but we talked about it in a general sense when we discussed this a few weeks ago.

Mr. Surdoval: Maybe it is, maybe it is not. But the way the zoning code is written now you do not have that discretion. Your hands are tied as well as the Planning Board's the way that the zoning is worded now. So it does not get to be a policy call.

Trustee Holdstein: I am saying it is fine. I think it is a good thing to not allow first-floor residential in the CC district. I understand you feel it is for your project on Main Street. I do not necessarily agree with you that our hands are tied because I think the zoning code and the changes we have made are the right ones. Yes, your project, we have got some issues here. But in general, no, I do not feel that our hands are tied. I agree that we should not be dividing first-floor retail in the downtown and converting them into residential.

Mr. Surdoval: Even on large, deep sites that would require large amounts of retail space, and all of the associated traffic and parking issues that generates, you do not feel there should be some discretion, as long as it is a true, viable storefront?

Trustee Holdstein: Tell me about where these large retail spaces are.

Mr. Surdoval: The Peugeot dealer could be one. The gas station next to the Peugeot dealer could be one. Our 10 West Main Street site is one. Our 45 Main Street is one, but that project is approved. In our initial analysis we sent to you there are perhaps a half-dozen sites where it could apply. You could address that issue by simply putting a lot size minimum in the ordinance, saying that in lots of a size greater than X uses other than retail could be behind the retail. That would solve all the problems with regard to the typical retail tax-payer storefronts in the downtown, but would allow some discretion on the six or so larger sites where you do not want to have a lot of retail coming in, but you just want good, viable retail consistent with the other retail on the street, and then use something else in the depth of that

site behind there that might work. That is what we originally proposed and the Planning Board wanted something a little more broad.

Trustee Apel: Did we get a report from the Planning Board or the Zoning Board?

Planning Board Chairperson Speranza: The reason I am here tonight is because after I saw the tape of the discussion of the proposed change to the mixed-use definition I wanted to clarify some things because there was nobody from the Planning Board here, either. When we did the downtown rezoning and we also created the MR-O district and the MR-C district further down on Warburton Avenue, the intent at the time was also to make sure that mixed-use buildings with retail/residential anywhere would be permitted in those zones. There was an oversight where the definition of mixed-use building did not match that intent. So this definition is not just for the CC. It also applies to those other zones and any other zone in the Village where mixed-use is permitted.

With respect to the 10 West Main property, there has been no Planning Board approval of anything at this point, and there are still some issues to be worked out. The Peugeot dealership that has been mentioned, where you are backing onto a residential neighborhood: maybe you would want the back rear floor of that to be residential should there ever be a development there.

Under this proposed definition, in the MR-O and the MR-C districts, which is what we were also concerned about, residences would be permitted anywhere on the ground floor. In the CC district, residences would be permitted on the ground floor, but only in areas that do not front on the street. We had thought that maybe there should be a size limit and decided against that. We had also thought that maybe it could be at the discretion of the Planning Board upon site plan approval that we could make that change. So there several different ways.

Arthur Riolo, 2 Fairmont: Meg Walker, Bob Lee, and I were on that zoning committee. I spoke to Meg. Unfortunately, she cannot make it this evening. Bob Lee has broken his arm, so he could not make it. So I am kind of speaking on their behalf.

The consensus between the three of us is that the intent of what we were trying to do was to create, in fact, a commercial use for the fronts of the buildings, so that you had a storefront that would be facing, that would be vibrant, that would create flow of people and activity. With a site like West Main Street, and I guess there are a few other sites, Meg Walker felt that whatever use was appropriate should be behind that commercial on the first floor. Bob Lee was also in favor of other uses behind it; he was not interested in having very large

commercial spaces that we did not think were in keeping with what was going on in the community. The second aspect of it was that we all agreed that maybe an amendment should be made to adjust for that.

Trustee Swiderski: I am very glad this came up again. In reading the minutes from that meeting I sounded relatively incoherent about the topic. But it actually came out of a discussion with Meg about what the intention was. She had brought up the fact that there were only a half-dozen plots that this was likely to apply to. What I had forgotten, and what made what made me sound completely incoherent, was the parking issue: dropping an apartment behind Hastings Prime Meats was not a likely prospect because you have to supply the parking.

Danielle Goodman, 38 Ashley Road: Before I came, I pulled the zoning regs, and I know that the 9-A parcel is zoned as LI and the statute reference is the mixed-use definition. When the zoning changes went through in 2003 the 9-A parcel got unanticipatedly swept into this mixed-use definition. I was wondering if the language change in the zone that you are proposing impacts on 9-A.

Mayor Kinnally: We are not proposing anything at this point.

Ms. Goodman: Or the change of language that you are considering, the mixed use.

Trustee Swiderski: It absolutely would.

Ms. Goodman: If that is the case, then I make an application that the 9-A zone be excepted from the language. We have enough controversy with that zone, and I do not think it would be wise to add to the record that has already been established at this point.

Deputy Village Attorney Stecich: The proposed amendment was not for any particular zoning district, but was to the definition of mixed-use building in the definition section. So any time throughout the zoning code that the term mixed-use building comes up, that is how it would be defined.

Tim Vincent, 1 Southgate: The last time I had the opportunity to address you was in July, which was great about the 9-A development and concerns the community had about residential usage on that piece of land. My recollection was that the discussion seemed to indicate that there were a lot of concerns about residential usage there which was good to hear. I have heard since that development has continued to move ahead and has actually gained some momentum. As a resident in the area, I was concerned. My primary point was

that traffic was a big issue on Ravensdale and in the area. But I did not give you any concrete evidence. I know that some folks have asked for a traffic study which is a good idea. I came up with a zero-cost option for you. I put together a DVD. I think it has been distributed to everybody. Has everyone watched it?

Trustee Swiderski: I did take a look at it.

Mr. Vincent: Only one of you? It is only 20 minutes. Given the fact that everybody is talking about traffic as a primary issue here, it is worth your 20 minutes to watch. I took my video camera, put it on the corner of my property on the corner of Ravensdale and Southgate, and turned the camera on for 20 minutes on a Sunday afternoon. How many cars do you think you will see on my camera in 20 minutes on a Sunday afternoon at 2 o'clock?

Trustee Apel: I do not know, 150?

Mr. Vincent: One-hundred-fifty is exactly right. I spent my time and money putting it together. I think you owe at least 20 minutes to review it before making any grandiose decisions about what to do with that piece of property, or whether or not a traffic study is warranted. I think once you see it you will agree with us and the neighborhood community that you need to do a traffic study before proceeding.

Mayor Kinnally: The traffic study would be part of the SEQRA process in any development on that site.

Mr. Vincent: But before any decisions are made that allow development to proceed, I think it is an important issue that you need to examine.

Mayor Kinnally: But what I am telling you is that before any decisions are made about development proceeding there would be a SEQRA review. It would not necessarily be done by the Board of Trustees. It would be done by the Planning Board, as the lead agency. Rest assured that traffic is high on the list of everybody's concerns and it would be done. But I welcome what you can give us.

Mr. Vincent: Maybe next time I come I can get some feedback on what you think of the 20 minutes, whether or not you share my concern, or if you think it is something that does not warrant concern.

Ms. Goodman: You need a traffic study even if there is no development. On the videotape there was a broken telephone pole. There used to be a warning sign before the stop sign at

the intersection of Kent and Ravensdale Road to warn people that a stop was coming up. The pole got busted, the pole got replaced, the sign was laying on the ground, and now it is missing.

Mayor Kinnally: But we will look into replacing that sign.

Ms. Goodman: There are conditions there now that require study irrespective of development. That is the point. Ravensdale Road is an artery. Until you have this data in different reports about four car-trips per building that you are adding you have to know what the baseline statistics are. The point is you do not know that.

Mayor Kinnally: It is part of the SEQRA process.

Ms. Goodman: But I think you can do it before SEQRA.

Trustee Apel: The Planning Board is looking at the Vision Plan again. In terms of that, this is an issue of how much traffic do we want in the Village and how many other things do we want in the Village, and what are we willing to accept, and how many people, and all this other kind of stuff. This is something that you look at in advance, not necessarily tied to a particular issue. This is something that we should be looking at. I think the Planning Board probably will. And yes, in that context we should be saying maybe we need traffic studies in different areas, or maybe we already know intuitively about those particular issues. I know they are going to be looking at other issues in terms of property size and, hopefully, they will be looking at quantity of people and what it is going to generate if we build whatever in different areas, and cars and so forth, and traffic. In terms of what Tim and Danielle are saying, regardless of whatever we are building anyplace, that this is something that we should be considering in the Village anyway.

Mayor Kinnally: We have a lot of traffic in the Village. There is no question about it. We will look into it. But the volume of traffic generated on that street, somebody said it is an artery. It is our only east-west road. That is the problem. We had an issue about trying to redirect some of the traffic on the side streets and we did some studies. I do not know what the answer is at this but we know there is a problem and we take it into consideration.

Mr. Vincent: I appreciate that you acknowledge it is an artery, which is a problem. But that does not mean that it is okay. There is a lot of residential housing on that street. There are 20 children under the age of seven on that street.

Trustee Jennings: I appreciate the point that you are making, also. It is very well-taken. Safety issues are a reason for a traffic study. It is not just the SEQRA process. We have done something like that around the school. In this past Friday's *Enterprise* there is an interesting story about a traffic study just completed in Ardsley. The state had a methodology where they were able to trace where the traffic was coming from and where it was going to, rather than just counting the number of cars that go past a fixed point. The lesson to be learned from this story is common sense is sometimes misleading. The traffic does not necessarily come from where you think it is coming from, and the solution is not always what common sense suggests the solution might be. So just to underscore your point that a careful study and a careful methodology can be vital to making good decisions as complicated as traffic flow.

Susan Newman, Ginsburg Development, 37 Hollywood Drive: We have always shared the Village's concern about traffic. When this board put its moratorium in place to study the rezoning of the LI site, one of the premier prefaces to the study was to figure out a zone that would lessen the traffic impacts and take into account traffic. I have sat through every Planning Board meeting and saw the diligence through which the Planning Board had addressed that issue. The ShopRite proposal generated 700 cars per hour. A typical office building, which I know some of the members of this Board would endorse for that site, would generate 175 cars per hour. The Saw Mill live/work concept would generate approximately 40 cars per hour. The Planning Board, even though there has been resistance for other reasons to residential, really did their homework in terms of addressing this Board's mandate that they look for a solution that inherently had a reduced traffic impact.

The other issue is that I would be happy to work with this Ravensdale group. I think that there are solutions or a discussion worth having in terms of this is a preexisting condition. As a development project we are last into the community. We always know that as last into the community you have a certain obligation to solve the problems that you create. But you cannot do that in the absence of not knowing, and not helping, preexisting conditions. I would like to suggest that we formally get some acknowledgment from the Board that it would be nice if we could talk with people from this community and maybe we can jointly think of ways to solve preexisting conditions. We cannot go substantially beyond what would be logical should the development occur here, but given the access that we have to professionals and our vested interest in this community, and how hard we have worked for four years to come up with a solution that does not have substantial impacts, maybe this an appropriate meeting ground for us with the community. We do not say that Ravensdale is not a problem. We just say we would have minimal impacts on it. But let me take that one step further, and let us try to be proactive and figure out what needs to be done there, and maybe come up with a plan.

Teresa Grande, 21 Ravensdale Road: You are not the school, but here is a traffic implication. We have had the bus alternating every year between the early and late bus. My husband works full-time, I work full-time, and we have trouble when he is on the late bus. This year, in addition to last year, we found out that he is on a late bus again. This was the first year that it had not been alternated. We were told that because of Clarewood and because Jackson and Ravensdale have so much traffic that there is no way to get those kids to school on time if they are on a late bus. So how it directly affects me is that from now on Ravensdale will probably always be a late bus. Nobody guaranteed me that there was going to be this alternating pickup every year, but it is something that we assumed. I feel like already there is impact. He is in 4th grade. So this is a new development and this is beyond any other buildings that are going to be put on 9-A.

Ed Dandridge, 31 Ravensdale Road: My first comment goes to Ms. Newman's discussion over the difference between 100 cars an hour or 40 cars an hour. With all due respect to that rather raw data, incremental numbers mean nothing in the abstract. We do not have a context here, so I would reiterate what has been said already, which is that we need to have some sort of baseline not only for Ravensdale Road but perhaps for other roads. I would like to thank Village Manager Hess for making sure that Ravensdale was paved. The irony is that the potholes are the only thing keeping traffic to a respectable observance of the speed limit. In our haste to do good, we did good but maybe not made it safer. I would ask the Mayor to speak to the chief of police to find out if we have more speeding tickets now that it is a much speedier zone.

Regarding the super-majority amendment that may or may not be relevant based on the status of the protest petitions, Jane Gross asked you if you had any understanding of the history of super-majority in our town and whether an amendment had been offered in the past. I was wondering if you had a chance to exercise diligence on that and could share that with us.

Mayor Kinnally: I always exercise diligence, I think. I have not found any, or heard of any, efforts made in the past to deal with the super-majority in the Village. I know it has happened in other communities throughout the state, but I have not seen any indication of it here in Hastings.

We will continue working with the school. Every year they look at the distribution of the kids and tinker with the bus routes. I did not know that was always going to be a late bus. Good luck with the school board on that. Busing continues to be a problem, but we encourage it because it cuts down on the problems at Hillside School.

Trustee Jennings: In light of the information that we received this evening about the definition of mixed-use, I would be in favor of taking it up again and discussing it further, with further input from the Planning Board and other interested parties. We owe some closure on it. I feel like it is sort of still hanging there in the air: are we going to take it up again, or not? I would favor taking it up again.

Mayor Kinnally: I agree, and I was remiss. I would like to have any more information from the ARB and the Planning Board to assist us with that. We should revisit this on Dec. 7. We owe it to everybody. Is that the sense of the Board on that? Thank you, Bruce.

Trustee Holdstein: I have a suggestion: an informal get-together with the Planning Board with some of the property owners downtown. Jerry Quinlan wrote us a letter and then came before us discussing it. He is a property owner who had a different opinion. Maybe if we all get together and talk about it people can get comfortable with a change that works for everybody. Given that we identified a half-dozen of these sites, perhaps we could modify the law so that it works for all the property owners.

Mayor Kinnally: I received notice today from the Westchester County that Jack Gavin, who served as a Trustee on this board in the 70s and whom I had the pleasure of serving with, has been nominated and will be inducted into the Westchester County Senior Citizen Hall of Fame at a luncheon on December 10. Congratulations to Jack.

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 personnel.

Mayor Kinnally: I would like to note the passing of Jack Lynch, who was a Trustee on this Board from 1960 to 1964, and who was a member of the Hook and Ladder Fire Company from 1936 to his death. I would like to adjourn this meeting in his memory this evening.

ADJOURNMENT

On MOTION of Trustee Apel, SECONDED by Trustee Holdstein with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting in memory of Jack Lynch at 10:35 p.m.

