

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
FEBRUARY 1, 2005**

A Regular Meeting was held by the Board of Trustees on Tuesday, February 1, 2005 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, Deputy Village Attorney Marianne Stecich, and Deputy Village Manager Susan Maggiotto.

CITIZENS: Twelve (12).

Mayor Kinnally: Mr. Hess is under the weather this evening and is sorry he cannot be here.

APPROVAL OF MINUTES

On MOTION of Trustee Holdstein, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of Public Hearing #1 of January 11, 2005 were approved as presented.

On MOTION of Trustee Jennings, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Minutes of Public Hearing #2 of January 11, 2005 were approved as presented.

On MOTION of Trustee Holdstein, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Minutes of Public Hearing #3 of January 11, 2005 were approved as presented.

On MOTION of Trustee Jennings, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Minutes of Public Hearing #4 of January 11, 2005 were approved as presented.

On MOTION of Trustee Apel, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Minutes of the Regular Meeting of January 11, 2005 were approved as presented.

On MOTION of Trustee Holdstein, SECONDED by Trustee Apel with a voice vote of all in favor, the Minutes of the Regular Meeting of January 18, 2005 were approved as presented.

APPROVAL OF WARRANTS

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

Multi-Fund No. 63-2004-05 \$199,037.44
Multi-Fund No. 64-2004-05 \$ 93,612.10
Multi-Fund No. 65-2004-05 \$ 3,197.57

7:05 LOCAL LAW NO. 1 OF 2005 - MODIFY METHODS OF NOTICE OF PUBLIC HEARING

Mayor Kinnally: The purpose of this local law is to provide a flexible means of delivering notice to people within the 500 feet of an application on a variance application.

Deputy Village Attorney Stecich: The notices for site plan approval and subdivision approval are on the same notice as that required for a variance.

Trustee Holdstein: If I own a building that is within the 300 feet but I live in Poughkeepsie, does this mean that notice is to be sent to that building and the residents residing in that building, as well as to my address in Poughkeepsie?

Deputy Village Attorney Stecich: It is to be sent to that address and to the address in Poughkeepsie, not to the individual residents in the building.

Trustee Apel: As part of this law, could we ask that the owner needs to post it in the building?

Deputy Village Attorney Stecich: It was brought up, and I had drafted a law to that effect for the Zoning Board and the Zoning Board did not recommend it. There was concern that if you require that it be posted in the building and an applicant does not have a way of getting into the building it would mean that they did not give proper notice.

Trustee Apel: Could we require that once the landlord gets it he must notify his tenants?

Deputy Village Attorney Stecich: Yes, but if an applicant sends notice to the landlord and asks the landlord to post it in the elevators in the building, and the landlord does not do it, is the applicant in violation of the notice provision? The concern is that you are requiring notice that the applicant does not have control over.

Jeff Bogart, 5 Jordan Road: I was the one who brought it up at the public hearing. A distinction could be made concerning the responsibility of the applicant to notify the tenants and the responsibility of the landlord. The revised statute could state that failure of the landlord to notify the tenants would not be considered a failure of the applicant. That would

take care of the problem, while still placing a responsibility on the landlord to notify the tenants and increase the likelihood that the tenants would be notified.

I would like to suggest that these suggestions be added to the existing law. Newspaper notice should be in larger type size and should be publicized on WHOH and also sent out via the Village's e-mail distribution list. The Zoning Board of Appeals newspaper notices should be written in plain English so that they are more easily read by the general public.

Trustee Holdstein: I do not think that this board has any direct influence on how the newspaper chooses to print and what typeface they choose to print. Secondly, for residential variances the effort required to go through all the e-mailing, with everything else that we do in notifications, is a lot of extra work that may not be necessary—and I am all for getting as much notice to everybody on the key issues of the Village.

Mayor Kinnally: The e-mail list does circulate the agenda of the ZBA. So it is incumbent on the people to get on our e-mail list.

Deputy Village Manager Maggiotto: Newspapers charge by the column inch. That is the reason that those ads are in such small type. It would greatly increase our advertising budget to have all of our ads in the standard type or to put them in ads on the Hastings page. We would have to analyze the costs of doing that. As to the language of the ads, we could simplify the language.

Deputy Village Attorney Stecich: The new Building Inspector has been making an effort to make them more easily understandable. I have noticed the last few sets of variance notifications were clearer.

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 hereby adopt Local Law No. 1 of 2005 amending the Zoning Code of the Village of Hastings-on-Hudson to modify methods of providing notice of public hearings as follows:

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

Section 1. Section 295-143.C (Notice of hearing) of the Local Zoning and Planning Law of the Village of Hastings-on-Hudson, New York is hereby amended to read (new language underlined):

In addition, the applicant shall provide actual notice to certain property owners as follows:

- (1) The applicant shall either deliver by hand or send by certified mail (return receipt requested) or any other method of delivery providing proof of delivery a copy of the notice of the hearing to all persons who, according to the latest completed assessment roll of the village, own property within a radius of 300 feet of the property lines of the subject property; provided, however, that where, in the opinion of the Building Inspector, the appeal may affect property located more than 300 feet from the property lines of the subject property, the Applicant shall thus notify all owners of property within that affected area, as determined by the Building Inspector, but need not notify any person owning property more than 500 feet from the property lines of the subject property.
- (2) The notices shall be delivered by hand not less than 10 days, or mailed or otherwise delivered not less than 13 days, before the date of the hearing to the street address of each of the properties specified in Subsection C(1), whether or not the owner resides there, to any other address indicated by the assessment roll as the address of an absentee owner and to any other address known by the applicant to be the actual business or residence address of an absentee owner.
- (3) The public hearing shall not be held unless the applicant has filed with the Board either the return receipts from or other proof of the mailing of notice or, if the notice was delivered by hand, a written affidavit of service; provided, however, that the Board of Appeals may excuse the failure to notify each property owner pursuant to this Subsection C upon proof by the applicant of diligent efforts to comply with the requirements of this Subsection C and upon a showing that reasonable grounds exist for that failure to comply, including, without limitation, difficulties in determining lot lines or the names or addresses of the property owners.

- (4) No hearing or action by the Board of Appeals shall be held to be invalid or illegal because of the failure of any person or any village officer, agency or board, including the Board of Appeals, to comply with this Subsection C.

Section 2. 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	

8:05 LOCAL LAW NO. 2 OF 2005 - REQUIRE POSTING OF SIGN FOR VARIANCE

Mayor Kinnally: Again, we had a public hearing on this on January 11. I would make one suggestion in the language in the last sentence, prior to the public hearing the applicant shall provide an affidavit that such sign has been posted continuously at least 10 days prior to the public hearing. There were comments that somebody could put it up 10 days prior and then take it down. We want to make sure that it has been up there and everybody has seen it during that period.

Trustee Apel: What happens if somebody has an adjournment. How long do we want these signs up? What if it is six months?

Deputy Village Attorney Stecich: You take it down, and then you put it up at the next agenda so it is not continual.

Trustee Apel: But it is not stipulated that if something is adjourned you may take it down two days after the meeting, but you need to put it back up. I do not want a lot of these signs all over the place. It is not what we want our village to look like.

Deputy Village Attorney Stecich: For probably 99% of the applications the hearing and the decision are all on one night. It is a rare application that is continued. You are correct that that particular point is not addressed. But if you wanted language added to clarify it could be added and I do not think it changes it. I would add a sentence that says if the public hearing

is adjourned the sign shall be removed two days after and put up 10 days prior to the rescheduled public hearing date.

Trustee Holdstein: I am all for as much notice as is reasonable. The Village as a whole, and the Zoning Board and the Planning Board, do a terrific job. I read the notes of the public hearing since I was not here, and I am going to plead with my fellow Board members to turn this law down. I think this is a huge, unattractive mistake. Where I grew up in Shaker Heights, Ohio we were not allowed, in that entire village, any signs. You did not see for-sale signs, you did not see construction workers doing signs, and it looked a whole lot nicer. It is unattractive, it is unnecessary, I do not like it, and I see no reason to have signs all over the Village announcing zoning variances.

Dr. Magun stated that not a lot of people are out in force complaining. My suspicion is that most of what they hear are residents doing improvements to their home. The people within 300 feet are being notified. As I have experienced twice, if a neighbor has an objection to the design or how it might impact a view, they come out and they are heard because they have been notified. If this had to do with larger properties or major changes I would be open to listening to it. But I do not understand why we are doing this. We do a great a job between HoH and e-mails and all the other things we do to try to communicate. This is a poor law, and I am pleading with all of you to reconsider.

Trustee Jennings: I would like our minutes to show, if an applicant tells the Zoning Board in the affidavit that they tried to keep a sign out but it disappeared and it was not up for 10 days, that other parts of our village law permit the Zoning Board, if the circumstances warrant it, to go forward on an application for a variance even though the strict letter of this requirement may not have been met for reasons outside of the control of the applicant. For purposes of clarification, I assume that the Building Department will provide the signs with the lettering. I am trying to minimize the burden on the applicant. How much will it cost the Village to produce these signs? How many would we need?

Deputy Village Attorney Stecich: I would say probably an average of six a meeting, sixty or seventy a year.

Mayor Kinnally: The signs could be reused. I think there is a benefit to letting people know that this particular property is subject to a variance. I am not unmindful of the eyesore problem. For the record, Neil is against this. He thinks it is an administrative nightmare and he is not happy about having signs throughout the Village.

Let us put this over, and see what we can find out about how Yonkers and New Rochelle handle it. There is also the possibility of having a sunset provision so we are forced to revisit it to see what that experience has been from an administrative and aesthetic standpoint.

Trustee Holdstein: Another point is that, at 20 feet from the property line and lettering two inches high, the signs will be difficult to read without stopping your car or walking across the lawn, so what is it really going to solve? Where did this come from, and why?

Deputy Village Attorney Stecich: It was Arthur Magun's suggestion, the chair of the ZBA.

Trustee Jennings: Could we come up with some cost estimate of the signs and materials?

Jim Metzger, 427 Warburton Avenue: With all deference to Trustee Holdstein, there are certain areas of this village where people walk, there are a large number of people who rent, and there are a number of elderly people. Those populations may not have access to computers, e-mail, or have cable TV. The idea of posting five or six signs in a given month for ten days is not too much to ask to be able to inform the area of the Village that I live in, which is south of the Warburton Avenue bridge. When the 422 issue was being heard, the biggest problem we had in our part of the Village was letting people know that there were meetings going on and that there were issues being discussed.

Mayor Kinnally: This will not do that. This will only cover the public hearing. It will not cover an agenda item for action.

Mr. Metzger: I understand that. Notifying people of the public hearing would be a huge bonus, and this is a way to accomplish that, especially for the people who rent.

Ms. Halpern: I have seen these signs in Yonkers when I have driven by, and they are generally attached to the fence right at the sidewalk. I could not read them unless I stopped the car and, in some cases, would get out of the car to take a look at it. If I am driving by, all I would know is that there is a variance. I do not know whether that clarifies anything.

Mayor Kinnally: Because of my experience in Yonkers, having grown up there and having worked in City Hall, just seeing the sign I knew there was going to be a variance. It put me on notice to call the Building Department and find out what was going on. But these points are all good points, and that is why we have public comment and public hearings so we can go back and consider them.

Trustee Jennings: Since we are talking generally about ideas for better information sharing and notification, and parts of our community that may have difficulty accessing the media that we now use for this, perhaps we could have a telephone number where people could call and get a recorded message with information about all the meetings of the upcoming week and the agendas of those meetings.

On MOTION of Trustee Swiderski, SECONDED by Trustee Jennings, Resolution 8:05 Local Law No. 2 of 2005 - Require Posting of Sign for Variance was tabled.

9:05 LOCAL LAW NO. 3 OF 2005 - AMEND VILLAGE CODE NOTICE BY MAIL PROVISIONS

Mayor Kinnally: This has to do with an amendment to allow other method of delivery providing proof of delivery to be added to miscellaneous sections of the Village code. It allows that flexibility that we discussed in the first local law before us this evening.

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. 3 of 2005 amending provisions of the Code of the Village of Hastings-on-Hudson relating to notice by mail as follows:

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

Section 1. The phrase “or any other method of delivery providing proof of delivery” should be added to the following sections and subsections after the indicated phrase:

§ 14-4 (Defense and Indemnification – Responsibilities of village): in subsection C after the phrase “personally or by certified or registered mail.”

§ 112-50 (Conservation or Clustered Housing Districts – CCH-1 District – Notice of hearing): after the phrase “by certified mail, return receipt requested.”

§ 112-101 (Conservation or Clustered Housing Districts – CCH-2 District – Notice of hearing): after the phrase “by certified mail, return receipt requested.”

§ 184-19 (Licenses and Permits – Blasting – Notification required):
after the phrase “or by certified mail (return receipt requested).”

§ 217-16 (Performance Standards – Enforcement; notice of violation;
noncompliance): in subsection A after the phrase “by certified mail,
return receipt requested.”

§ 252-26 (Streets and Sidewalks – Obstructions at Intersections –
Notice; abatement): after the phrase “by registered or certified mail.”

§ 252-37 (Streets and Sidewalks – Excavations – Revocation of
permits): in subsection B after the phrase “by certified or registered
United States mail.”

§ 295-102 (Zoning – Certificates of occupancy): in subsection B,
paragraph (2), after the phrase “sent by certified mail, return receipt
requested.”

§ 295-149 (Zoning – Notice of violation): in subsection B after the
phrase “by certified mail(return receipt requested).”

§ 295-157 (Zoning – Amendments) – in subsection D, paragraph (3)(a),
after the phrase “by certified mail (return receipt requested).”

Section 2. 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	

10:05 LOCAL LAW NO. 4 OF 2005 - ELECTRICAL INSPECTION AGENCIES

Mayor Kinnally: We had a public hearing on this on January 11. We have had difficulties getting the New York Board of Fire Underwriters to do the inspections in a timely fashion, so

this gives us the flexibility to go outside of the New York Board of Fire Underwriters to other agencies who are properly certified and who meet whatever requirements we have.

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 hereby adopt Local Law No. 4 of 2005 amending the Zoning Law of the Village of Hastings-on-Hudson to permit electrical inspections by agencies other than the New York Board of Fire Underwriters as follows:

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

Section 1. Article V (Enforcement and Inspection) of Chapter 128 – Electrical Standards of the Village of Hastings-on-Hudson, New York Code is hereby amended as follows:

- A. Paragraph A of § 128-12 (Inspector and Deputy) is amended to read as follows (new language underlined):

This chapter shall be enforced by the Building Inspector in the Village of Hastings-on-Hudson. The Board of Trustees shall deputize one or more regular inspectors of the New York Board of Fire Underwriters or any other agency properly qualified to perform such inspections as his Deputy Inspector or Inspectors of all electrical installations as provided for in this chapter.

- B. Paragraph A of § 128-13 (Inspection Procedure) is amended to read as follows (new language underlined):

Inspections shall be made during the installation of an electrical device or wiring system, to assure compliance with this chapter. It shall be a violation of this chapter for any person, firm or corporation to install or cause to be installed, or to alter or to repair, electrical wiring for light, heat or power in or on properties in the village until a job permit has been issued and an application for inspection has been filed with the New York Board of Fire Underwriters or any other agency deputized by the Board of Trustees.

- C. Paragraph I of § 128-13 (Inspection Procedure) is amended to read as follows (new language underlined):

It shall be a violation of this chapter for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power, to any source of electrical energy supply, prior to the issuance of a temporary certificate or a certificate of compliance by the New York Board of Fire Underwriters or any other agency deputized by the Board of Trustees.

Section 2. 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	

Trustee Jennings: I would like to request that the Building Inspector prepare a report for the Board addressing the criterion standards that we should use in determining what alternative certifying bodies would be appropriate for us to designate as deputies.

11:05 VILLAGE ELECTION INSPECTORS - REPUBLICAN

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 appoint the following Village Elections Inspectors for General Village Election Day, Tuesday, March 15, 2005 as Republican Inspectors: Roberta Bennett, Jan Gustafson, Walter Honovich, Martha Koblosh, Mary Matzura, Eleanor McGinagle, and alternate Jean Hornbostel.

ROLL CALL VOTE	AYE	NAY
Trustee Michael Holdstein	X	
Trustee Bruce Jennings	X	

Trustee Marjorie Apel	X
Trustee Peter Swiderski	X
Mayor Wm. Lee Kinnally, Jr.	X

12:05 VILLAGE ELECTION INSPECTORS - DEMOCRATIC

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

RESOLVED: that the Mayor and Board of Trustees appoint the following Village Elections Inspectors for General Village Election Day, Tuesday, March 15, 2005 as Democratic Inspectors: Laura Gardner, Karen Jacobs, Viola Kepcher, Agnes Matzura, Cindy Metzger, John Russo, and alternate Mary Jane Shimsky.

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

13:05 RESCIND RESOLUTION 3:05 DESIGNATE VILLAGE ELECTION DISTRICTS

Deputy Village Manager Maggiotto: In October we passed the resolution designating the Village as one election district for Village elections only. As part of our housekeeping, subsequently we passed a resolution designating the location of the district. In that resolution the wording was an effort to help people to understand that they would still be voting at their district tables although in one election district; after the resolution was passed I became uncomfortable with the language of that wording. To keep the record perfectly clear and understandable, I want to rescind that resolution. The next resolution simply states that the voting for Village election will be one district voting in one location.

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 rescind Resolution 3:05 designating Village Election Districts as Resolution 85:04 provides for one Election District encompassing the entire Village of Hastings effective for the March, 2005 Village elections.

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	

14:05 DESIGNATE VILLAGE ELECTION VOTING LOCATION

Trustee Holdstein: Do we need to be more specific and say the Orr Room of the library?

Trustee Apel: I do not think we need to be specific for this because I do not want to have any trouble later if there is a problem with the Orr Room and you have to use upstairs.

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

RESOLVED: that the Mayor and Board of Trustees designate the Hastings-on-Hudson Public Library in Fulton Park for all voting of the Village Election District on the General Village Election Day, Tuesday, March 15, 2005.

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	

15:05 SCHEDULE PUBLIC HEARING CAMP FEES

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 schedule a Public Hearing for Tuesday, February 15, 2005 at 8:00 p.m. or shortly thereafter to consider the advisability of increasing fees for the summer camps.

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	

16:05 RETURN OF ACCOUNT AND AFFIDAVIT

Deputy Village Manager Maggiotto: The tax office must report to the Board of Trustees the delinquent taxes as of December 31, 2004. The number that is delinquent as of today is considerably lower. We are down to 54 properties, for a total outstanding of about \$70,000. We are again on target for a very good collection.

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 certify and approve the Return of Account and Affidavit as attached for the Village 2004-05 tax roll.

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

VILLAGE MANAGER'S REPORT

Deputy Village Manager Maggiotto: Angie Witkowski, Ray Gomes and I met with the consultants from McLaren to get everybody on the same page with Kinnally Cove. They came to the meeting with several designs, based on the work that had been done before and some of their own ideas. They are going to present these designs to the Parks & Recreation Commission meeting next Monday night. They will come to our Board meeting on February 15 with a presentation of several options and their recommendations. We invite the public to come and view them, and comment at that time to give the McLaren Group as much guidance as we can in developing the drawings. We will ask for them in a format that we can send t out on e-mail and put on the Web.

In March when the design is on its way to being completed, they will begin the permitting with the DEC and with the Army Corps of Engineers. That seemed to us the most critical part. They spoke with some assurance that the permitting will take, in their experience for what they anticipate we would want to do, about four months. We need the permit before we do any work. But we can do everything else up to the point of putting a shovel in the muck without the permit. The permitting process is going to be in tandem with the design process.

They expect that the construction documents will be finished in May, and a bid package will go out in the middle of June. If all goes well, at your July meeting we will be able to approve a bid for the work. It takes up to a month to get all the insurances and bonds in order; work can begin in early fall. With luck, before the season gets too cold, we may be able to launch some canoes or kayaks in 2005.

Our budget process is in full swing. I have some recommendations from the Trustees, but we are certainly open to more. Anything that you would like to see in or out of the budget, please communicate with the Village Manager or myself so that we can take it all under consideration. Our target date for the Trustees to receive the budget is the last Friday in this month and the first of the budget meetings will be March 1.

Lastly, but certainly not least, I would like to compliment the DPW once again on their snow plowing and their snow removal. Another fine job.

Mayor Kinnally: It was a fine job. Part of the ability of the DPW to do such a good job is dependent upon the willingness of people to move their cars from snow emergency streets. I saw significant improvement this year. The DPW did a great job and, in large part, it was due to the fact that people did cooperate.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: I am in receipt of a report from Dave Kalet and Fred Yaeger of ARCO giving us an update on what is happening. ARCO has narrowed the search for the remedial design firms and they are actively working on finalizing a contract with one firm.

Six firms are bidding on the demolition. They are looking at buildings 54, 53, 52B, 79A, 22A, 18, 19, and 15. ARCO will be ready for a public hearing on March 1. It is anticipated that the application will be similar to the prior applications for a demolition permit. Our practice has been not to take action on an application on the same night as the public hearing. But in the past we have taken action on the demolition application where there has been no significant deviation from the prior application. So we may have both the public hearing and action on the demolition application on March 1.

Guski Transportation's lease has not been renewed, and they have been asked to vacate the premises by March 1. Riverside Auto Body will remain on a month to month basis during the remedial design process. So the utilization of the waterfront is being scaled back. The only active use will be Riverside Auto, and I think 478-PETE will have a small storage in the area, and Guski will be vacating. That will significantly scale back whatever traffic we have coming in and out of the site.

Fred Yaeger is here; he has been retained by ARCO to be their liaison with the Village and with the Village Board.

Mr. Yaeger: In addition to us fostering communication, Atlantic Richfield is going to have a Website. It will be oneriverstreet.com. It will be on-line by the end of this month, and we will have updated information, as well as answers to frequently asked questions.

2. Safety Council Recommendation - Stop Sign on Tompkins Avenue

Mayor Kinnally: The Police Chief is here. We have a recommendation from the Safety Council to erect a stop sign. Chief, do you want to explain that?

Police Chief O'Sullivan: Several residents attended a Safety Council meeting complaining of vehicles speeding on Tompkins Avenue in the eastbound direction in the area of James Street where it curves down to the right toward the cemetery. They pick up speed going around that curve. One resident in the area had his lawn run over. Also, as they come down Tompkins they cut the corner sharp where they are turning left into James Street. There have

not been any accidents there yet, but we have had some near ones. We think the stop sign would be a good measure to slow people down at that area.

Trustee Holdstein: I travel that road on my way to and from the gym. The proposed stop sign at least will stop traffic, force them to look over at James, look at what is coming up Tompkins towards them before making either a left on James or a right and continuing down the slope on Tompkins. I think it is a good idea.

On MOTION of Trustee Holdstein, SECONDED Trustee Jennings by with a voice vote of all in favor, the Board scheduled a Public Hearing on February 15, 2005 to discuss a stop sign eastbound on Tompkins at James Street.

3. Definition of "Mixed Use Building"

Mayor Kinnally: We have a joint meeting with the Planning Board scheduled for this Thursday night to consider the definition of mixed use and the rezoning of the 9-A property. We may spend out time more productively if we defer this to that meeting because a lot of what we talk about has to be discussed in the context of the Planning Board and their recommendations to us, and how they wrestled with this for a long period of time.

Having said that, my inclination right now is to look at this more in the context of a variance application than to change the language in the zoning code. A former chair of the ZBA is here, Jerry Quinlan. I believe that was the thrust of your comments when you were last here.

Jeremiah Quinlan: I came prepared to discuss that issue, and perhaps you could bring my thoughts to your meeting on Thursday. I am going to make a few arguments about why I think it should remain in the Zoning Board.

I do not see the need for a change. Any property owner or contract vendee has a right to go before the Zoning Board and ask for a variance to put residential on the ground floor of a multi-use building. Under Article 7 of the Village law, there are certain criteria set by statute that a Zoning Board member must use to come to a determination on whether to give a use variance or an area variance. They have tried to develop a fair balance between the property owner and property rights which are very near and dear to my heart, and also the surrounding property owners and rights which are very near and dear to my heart. I am afraid with some of the proposals going before the Planning Board that you are reinventing the wheel. This has been studied. These criteria have been developed by the courts and the legislature. And some of the criteria that you are talking about with the Planning Board are not as specific, and more general.

First, it would be very unusual to put it back with the Planning Board; we might be the only village in the state that had done so because it has already been created for the Zoning Board under Article 7. Second, it becomes more subjective in nature. Members come to meetings with their own baggage. With these statutory criteria you had to focus in. Forget about what you think about that development or this development, or this house or this house, or that use or this use. You had four or five things you had to look at. You listen to the facts, you applied them to the law, and then you made your decision. And you forgot about the baggage you came in with that night, which we all have.

Third, when you are aggrieved by a decision of the Zoning Board you have the right to go to the courts. If you have specific criteria that the Zoning Board had to apply to the facts, then you can go to the courts and appeal your case. If you have a general, subjective thing before the Planning Board, it is going to be much more difficult to do.

I am suggesting that the Board leave things the way they are. It has been working. If you decide to take it away from the Zoning Board, I would ask you to think about the view preservation law, where you had it go before the Planning Board for a recommendation, and then before the Zoning Board for approval. If you do change it, do not leave the ZBA out of it. The more people that look at these issues, the better decision the Village will make.

Trustee Jennings: In our previous discussion we were not talking about the Planning Board versus the Zoning Board in a sense of one would do a better job than the other. The question was whether or not it would be better for the Village to have something in between existing extremes of as-of-right under our zoning on the one hand, or the stringent criteria defined from Albany and in the courts that determine the deliberations of the ZBA and the use variance on the other. Leaving the system as is puts us between those two poles. The gist of the discussion over redefining mixed use in the CC was a question of whether we needed something in between in this case. Whether that intermediate procedure should be exercised by the Planning Board or the Zoning Board could still be an open question.

Your points are very well taken and your argument is very well made. But we were trying to grope with the problem that the current system may be not as flexible as we need for this particular issue in the CC.

Mr. Quinlan: I do not know, Bruce, who has told you that a use variance is stringent.

Trustee Jennings: You just did.

Mr. Quinlan: I did not use the word stringent.

Mayor Kinnally: Well, I think the sense was. It is not subjective in that there are certain guidelines that have to be followed.

Mr. Quinlan: I do not think it is stringent. I think it is fair and balanced.

Trustee Jennings: Tell us more about the criteria for a use variance.

Mr. Quinlan: A use variance is granted by the ZBA to allow the use of land for a purpose that is otherwise not allowed or prohibited by zoning code. The standard required is called unnecessary hardship. You have to prove that the applicant cannot realize a reasonable return under any permitted use. That is called the return criteria. The second criteria is uniqueness. The alleged hardship relating to the property is unique to that property. It cannot be a hardship that affects all or, or a substantial portion of, the zoning district or neighborhood. The third is character. The required use variance, if granted, will not alter the essential character of the neighborhood. The final one is it is not a self-created hardship. In other words, the hardship has not been created by the property owner for him or her or the corporate self. It is up for the Zoning Board to apply the facts as presented to those four criteria and decide whether you are going to get a use variance or not. You may think they are stringent. I think they are fair. But there are four particular tests that you must meet.

Trustee Jennings: Those criteria are designed to make something that is presumed undesirable pass some stringent tests in order to be acceptable to the community. But it begs the question that we were wrestling with the other night, which is do we want to start with that presumption with this question of residential on the ground floor. If we do, then your arguments fall into place, and they are very well-taken, and the present system of use variance and the standards that apply to it are appropriate. But we still have to decide that prior question.

Mr. Quinlan: But do we really know. It seems like there are two people spearheading, or at least one spearheading, this discussion, and that is Ginsburg and Anderson. I do not know why Mr. Anderson has not made an application to the Zoning Board for his use variance. He was told he could do that last time by a number of the Board members. I think he is afraid that this levels the playing field between property owners and neighboring property owners. He would like you to make that playing field un-level so that he can benefit from it.

Trustee Jennings: Questions about zoning arise in relationship with particular proposals, to be sure. But issues about how the CC and mixed use should be defined are issues that are not solvable by reference to any one developer. We are trying to think about this in a general way, and no one's arguments are predicated on either support for, or opposition to, any

particular project or developer. I know mine are not. It is true it got the ball rolling, but there is a more general question here of public policy than just the one project.

Trustee Apel: People have told me that they were upset that they got such last-minute notification of the joint meeting. Is there still an opportunity for people to come to another meeting to have a discussion of this?

Mayor Kinnally: I do not know if we are going to have another joint meeting. But certainly to the extent that we consider this, we always have public comment.

Trustee Apel: I just want the public to understand that there will be another opportunity to discuss this.

Mayor Kinnally: But I want the public to understand that this is a meeting for the boards to have discussion. This is not a meeting to have public comment. This is for the boards to get an understanding of the genesis of some of the ideas of the Planning Board. It is an informational session for us. We have sent the issue back to the Planning Board. The Planning Board has written back to us, and there is no gray in what the Planning Board sent back. But we have questions and we do not want to make decisions in a vacuum. The meeting will be taped, and people will be able to view it, but this is a working session for the boards. There will be further opportunities to discuss whatever comes out of that meeting.

Danielle Goodman, 38 Ashley Road: I would ask that with respect to any discussion about rezoning of 9-A that you entertain discussion about your neg dec with respect to SEQRA on this underlying zone. I have undertaken some research and found a couple of documents issued by the DEC. My statements are borne out of some glowing things Governor Pataki in his state of the state address about the City of Yonkers and its attempts to revitalize the Saw Mill River. There is a Hudson Basin Riverwatch document report dated July, 2003 which cites testing of the Saw Mill River at or about the border between Hastings and Yonkers. The data collected fell outside the parameters established for a healthy stream.

When we discussed the rezoning the last go-round I did not hear any discussion regarding water quality, what we were doing to the environment. Instead of joining the municipalities who have been responsible for overbuilding the Saw Mill watershed, which is part of the Hudson watershed, please reconsider what we are doing. Another DEC documents asks for local governments to help prevent and fix the problems with respect to the watershed.

I ask you to reconsider the neg dec vote. There are opportunities to set the land aside for watershed management to get grants. We could put together a coalition of citizens, of the corporations that live and work in the 9-A corridor; it is an opportunity to be creative.

PUBLIC COMMENT

Amy Boaz, 22 Nepperhan: I live on swampland, which is on the Nepperhan Creek by the Saw Mill. We have become aware in the last week of the sale of a parcel of land, 0.6 acres, at Nepperhan and Farragut Avenue. There is a small triangle there at the very tip that belongs to the Village, and then the 0.6 acres is for sale by our neighbors. We are deeply chagrined to be bringing this forth publicly. We like our neighbors very much and we deeply respect the right of our neighbors to sell their private property. However, we must remember this is marshland. I have a 1990 survey that states clearly it is swamp. We are alarmed that the land is for sale for development because we all assumed that it was not able to be built on. We need to remember that our neighborhood association has been fighting over the last months over the drainage issues. Why is this marshland not preserved?

Mayor Kinnally: You were right in your initial comments that this is private property and someone has put it up for sale. What they do with it is a private matter until such time as they come to the Village for an application for whatever they want to do with it. I understand that you do not want to see any development there. But at this point, since it is a private matter and there is no application before the Village, it is not appropriate for the Village to make any comments that could affect someone's property.

Ms. Boaz: But it is extremely delicate ecological marshland.

Mayor Kinnally: I understand it is extremely delicate, and I am trying to tell you that this issue is extremely delicate for the Village. It is inappropriate at this time for us to interfere with anybody's right to dispose of property. I understand your concerns, but I am not so sure this is the forum to get a response from us. I would not want anything that I or my colleagues say to adversely affect the value of that property.

Ms. Boaz: How can we be assured that the delicate ecological balance of that area will be preserved upon the sale?

Mayor Kinnally: If it is private property and can be built on, I do not know. The best thing for everybody to do is to seek some guidance from attorneys. Have you sat down and talked to the neighbor?

Ms. Boaz: She assures us that the sale hinges on ecological restrictions. But how can one be assured of that?

Mayor Kinnally: I do not know until there is an application before us to do anything. Someone may buy it as an adjacent piece of property. I do not know what they want to do with it.

Ms. Boaz: So you are saying upon the sale, then, perhaps the citizens might...

Mayor Kinnally: No, upon an application by either the current owner or the future owner to do something with that property. The Village has no right to interfere with anybody's conveyance of that property. But to the extent that they want to use it, and they have to come before the Village for an application for a subdivision or a building permit or whatever, that would probably trigger whatever review we would have. Just on the say-so of somebody that it is a delicate ecological site, we cannot interfere with their trying to sell that property.

Will Guterman, 394 Farragut Avenue: The reaction to that news is widespread. There is some concern. It is not all panic.

Mayor Kinnally: I do not for a moment discount the concern, but I hope you appreciate my concern.

Mr. Guterman: Absolutely. That is some of the same message that we have been trying to convey in our community. But with other land in the Village that has been undeveloped, or designated like swampy land, what types of building, what types of foundations have had to be laid, or what kind of processes have to go through before a building goes up?

Mayor Kinnally: I really do not know. If it is wetland—I do not think there is a designation swampland—then there are certain restrictions I would assume, but I do not know. What can be built where and how depends upon the application. That is all I can say. It is hard to say in a vacuum.

Steve Ellis, 24 Nepperhan: What precedent or provisions or process would there be to getting the Village to purchase the land? Has anything like that ever occurred in the past where there is greenspace and it is in the public interest to keep this open?

Mayor Kinnally: The Village has bought open space in the past, but in the nature of parkland. The request for us to buy property and keep it green is not an unusual one because we had it earlier. Danielle Goodman wants us to buy the 9-A site. It is an expensive

proposition. I am not inclined to buy isolated pieces of property in the Village to keep them green because there is a lot of property like that. I invite the adjacent property owners to sit down with the owner of the property and see if they can buy it.

Mr. Ellis: So the Village would have to see some recreational value?

Mayor Kinnally: You would have to assess whether or not it would be a wise thing for the Village to buy this property and to take a look at the price tag. If it is wetlands, what kind of parkland is it going to be? I know there is a stream. I would be very reluctant to spend money on something like this.

Mr. Ellis: Would the seller bring that forward as a proposal to the Village?

Mayor Kinnally: Whatever the seller wants to do. It is not appropriate for the Village to tell either a seller or a buyer what to do in marketing their property. But my gut reaction to whether or not the Village wants to buy this property is we are in the middle of budget season and I do not think we are going to budget for this.

Ms. Goodman: I am mindful of fiscal tightness, and I was not proposing that the Village lay out the money. I was proposing that we could easily find monies and they need not come out of our pocket.

Trustee Holdstein: You do not easily find those sums.

Mayor Kinnally: I will ask you to head that committee to easily find money. It is not around, and any grants that we have require a match. I do not see that the Village is looking to buy the 9-A property, either.

Trustee Apel: At a previous meeting there was a mention of outstanding environmental grants, and there was supposed to have been some information on it tonight. Sue just told me she will get the information that we wanted.

There is an informational meeting on the Ridge Hill development on February at the Riverview Caterers. The public is invited to come and get information before the final EIS is submitted.

Mayor Kinnally: I met last night with the mayor of Yonkers and the mayors of Irvington and Ardsley on Ridge Hill. The mayor of Yonkers indicated that they were within a couple

of weeks of coming out with the EIS. He expects to have a fairly rapid approval, that being Yonkers.

We expressed reservations about the traffic assessments and the approach that the City of Yonkers had taken to this. I am going to circulate a draft letter that the Village might send to Yonkers. The mayor indicated that he was concerned also with the traffic, but more the north-south configuration, not the impact on the east-west arterials of Jackson Avenue and Tuckahoe Road. He is approaching both the county and the state to get Tuckahoe widened by 10 feet to allow a turning lane in the middle. The approval of Ridge Hill, he said, is contingent upon the construction of a bridge that would allow traffic to go directly from the Thruway into Ridge Hill, and there would be a reconfiguration of the traffic around Tuckahoe Road and the entrances and exits from the Sprain.

He discounted problems with Jackson Avenue, and he thought some of the problem that we have with Jackson Avenue could be solved if the state would put in a turning lane on Jackson and 9-A. He is probably right, but that has been long in coming. But I said there were problems with backups on Jackson Avenue not only at the intersection of Sprain but also farther east at Fort Hill and Central Avenue. To the extent that they are asking for traffic to be either on Sprain or on the Thruway, the access and egress from both of those roads is onto Jackson Avenue. You are going to see a larger influx of traffic going east-west. The City of Yonkers has not, and they have to, address this. We are going to make sure that our concerns are addressed.

The mayor has suggested setting up a meeting with representatives of the developer, with the planning boards of the communities, and maybe members of the Village boards. I thought that was a good idea, and he is going to get back to us with that information.

Mr. Metzger: I would like the Board to consider the effects of that traffic when looking at the 9-A site because those issues are intertwined. And keep in mind that Ginsburg Development is planning a 450-unit housing development on Warburton in Yonkers, but right at the Hastings line, with parking for over 700 cars. The closest access to the Saw Mill is through downtown Hastings. So in addition to the relatively minor traffic issues imposed by 9-A, we now have Yonkers swamping our village from both sides.

Mayor Kinnally: I agree, but the closest and the quickest access point to the Saw Mill from that area in Yonkers is up Odell, across Executive Boulevard.

Mr. Metzger: It is a hill, and I understand from people that live in the area that it is an nightmare to navigate. So there is a good chance that people heading north will come through the Village because it is a much easier connection to the Saw Mill.

Mayor Kinnally: It is a very tough hill between Warburton Avenue and Broadway but St. John's Hospital is there, and it is one of the first areas that is plowed. But that is not to say people are not going to come through Hastings. And to a certain extent, we want them to come into Hastings to shop here. But it is something that regionally all of us have to look at.

We also addressed the Villages' looking into the issue of what benefit we get from the Town. At a prior meeting of the mayors at Ardsley Village Hall the issue of the villages jointly going in on the Michaelian Institute study was addressed. The cost is around \$19,000. Six villages are interested in it. Hastings, Ardsley, Irvington, Dobbs Ferry, Tarrytown, and Elmsford. Elmsford has asked for some relief because they spent over \$6,000 on attorney's fees in connection with our trying to persuade the Town Board to see the error if its ways on the tree litigation. They have asked if they can put their contribution on the tree litigation toward the cost of the study. So instead of the \$19,000 being divided up six ways, it could be divided up five ways. It is probably money well spent. In fairness, I would recommend that we divide it five ways rather than six and that we go forward in that regard.

So I would ask for approval that I go back and tell them that we will do this, and share it five ways. What is the sense of the Board?

Trustee Apel: Sounds good.

Trustee Holdstein: Aye.

Trustee Swiderski: Yes.

Mayor Kinnally: About \$3,800.

On the Bernstein suit against the Town of Greenburgh, we were asked if we wanted to submit an affidavit, and we did, not in support of any party, but to assist the court in its deliberations. The affidavit described how our parks are open to all people regardless of whether they live in the Village, with the exception of the pool, the skate park, and the tennis courts.

On the Manager's search, we were supposed to have meetings last week with Bennett Yarger, and Dick Bennett was snowed in, so those meetings have been rescheduled for next Wednesday and Thursday. So our process continues.

Trustee Apel: We have to consider maybe at our next meeting the fact that the property north of 9-A is going to be up for sale. Dobbs Ferry has put a moratorium on that area because they want to sell it to build a retail development. We should send someone to those meetings and keep up with what they are planning to do.

Deputy Village Manager Maggiotto: The Quarry Committee has two events that we urge the public to attend. In preparation for the public meeting on February 16, we have arranged for Dr. Fred Hubbard, our Village naturalist, to give a tour of the quarry site on Sunday afternoon, February 13 12 noon. It is a wonderful experience for anyone who has not been in there to see this magnificent site hidden away.

The public meeting on February 16 is an opportunity for anyone with ideas about uses for the quarry to tell them to the committee. A video of the tour will be shown, with comments from residents on the tour who remember the quarry from when they were children and what it was like, and the committee will present a history of the quarry.

EXECUTIVE SESSION

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

ADJOURNMENT

On MOTION of Trustee Apel SECONDED by Trustee Jennings with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 10:40 p.m.