

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
NOVEMBER 15, 2005

A Regular Meeting was held by the Board of Trustees on Tuesday, November 15, 2005 at 9:30 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

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

CITIZENS: Four (4).

APPROVAL OF MINUTES

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

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

On MOTION of Trustee Jennings, SECONDED by Trustee Apel with a voice vote of all in favor, the Minutes of the Regular Meeting of November 1, 2005 were approved as presented.

APPROVAL OF WARRANTS

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

Multi-Fund No. 35-2005-06 \$345,367.43

Mayor Kinnally: We will not be dealing with resolution 109:05 Donald Park Fire District because the town board has not considered this. There has to be a public hearing, and the next time they can vote on having a public hearing is Nov. 21. So we will be probably dealing with the contract for the fire district right before Christmas.

**106:05 NEGATIVE DECLARATION - PROPOSED ZONING CODE AMENDMENT
AND ADOPTION OF GREENWAY COMPACT PLAN**

Village Attorney Stecich: The only environmental impacts would be positive, so it is appropriate for a negative declaration under SEQRA.

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

WHEREAS, the Village of Hastings-on-Hudson as a Greenway Community has proposed to amend the Zoning Code and to adopt the Westchester County Greenway Compact Plan in order to elevate to the status of a Westchester County Greenway Compact Community; and

WHEREAS, the Board of Trustees on September 27, 2005 declared its intent to serve as Lead Agency for the environmental review of the proposed Type 1 action, pursuant to the State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, a full Environmental Assessment Form ("EAF") by the Village of Hastings-on-Hudson dated September 30, 2005, a copy of which is attached hereto, has been filed with the Board of Trustees; and

WHEREAS, the Mayor and Board of Trustees have reviewed the EAF and the criteria for significance set forth in 6NYCRR § 617.7©, now therefore be it

RESOLVED: that the proposed action s a Type 1 action under SEQRA, and be it further

RESOLVED: that the EAF is hereby accepted, and be it further

RESOLVED: that the proposed action will not have a significant adverse impact on the environment and does not require an Environmental Impact Statement for reasons as set forth in the EAF.

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

107:05 LOCAL LAW NO. 7 OF 2005 - ADOPTION OF GREENWAY COMPACT PLAN AND AMENDMENT OF ZONING CODE

Village Attorney Stecich: The operative provision is the amendment to the Zoning Code that says in any action taken under the Zoning Code which Board, whether it is the Board of Trustees, the Planning Board, or the Zoning Board, should take into consideration the policies in the Compact Plan. It is not binding, but it is another document you would look at like you would look at the Vision Plan or SEQRA.

Trustee Holdstein: Not unlike site plan review and steep slopes and other things that the Planning Board is obligated to do on any given project, does this become added on as a requirement?

Village Attorney Stecich: A little bit different because those are procedural steps you have to go through. This essentially becomes part of your Vision Plan for the Village. You have chosen it as the Vision Plan, rather than calling it a Comprehensive Plan. But essentially it is the same thing, two land use documents. It becomes one of your land use documents.

Mayor Kinnally: We have frequently said that we have many tools as part of our land use planning: the Zoning Code, the Vision Plan, SEQRA, planning principles that we have adopted and relied upon. This is one more thing that we bring into the mix, and it gives us some legitimacy with the state which is probably the best thing. The woman from the county who discussed this with us laid out in great detail the benefits for us. There is little downside in dealing with it. It probably is analogous to the LWRP.

Village Attorney Stecich: We hesitate to say they are part of the Comprehensive Plan. They are not the Comprehensive Plan with a capital C and a capital P. But if what was saying is this consistent with your Comprehensive Plan, what the court looks at as your Comprehensive Plan is your various land use documents.

Mayor Kinnally: Yes, substance rather than form.

Village Attorney Stecich: Exactly.

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

WHEREAS, the Village of Hastings-on-Hudson as a Greenway Community has proposed to amend the Zoning Code and to adopt the Westchester County Greenway Compact Plan, *The Greenprint for a Sustainable Future...the Westchester Way* ("Plan") in order to elevate to the status of a Westchester County Greenway Compact Community; and

WHEREAS, such status qualifies the Village for benefits including technical and funding assistance from Greenway and possible scoring preference on state grants; and

WHEREAS, on November 1, 2005 the Board of Trustees held a Public Hearing on the Proposed Local Law providing for the adoption of the Plan and the amendment of the Zoning Code, now therefore it

RESOLVED: that the Mayor and Board of Trustees hereby adopt Local Law No. 7 of 2005 adopting the Westchester County Greenway Compact Plan and amending the Zoning Code:

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

Section 1. Adoption of Westchester County Greenway Compact Plan

1. Pursuant to the provisions of Section 44-0119 of the Environmental Conservation Law of the State of New York, the Village of Hastings-on-Hudson hereby adopts the statement of policies, principles and guides detailed in *The Greenprint for a Sustainable Future...the Westchester Way*, the Westchester County Greenway Compact Plan, by which the Village of Hastings-on-Hudson becomes a participating community in the Greenway Compact.
2. Proposals to amend the Compact Plan may from time to time be made by the Hudson River Valley Greenway Communities Council (hereinafter referred to as "Greenway Council") in response to requests from participating communities. Within 90 days of receipt of any such proposal from the Greenway Council, the Village of Hastings-on-Hudson shall determine by resolution whether to accept or to reject such proposed amendment. Any proposed amendment so accepted shall be considered an amendment of the Compact Plan as adopted by the Village of Hastings-on-Hudson. Any proposed

amendment rejected by the Village of Hastings-on-Hudson will not be considered to be an amendment of the Greenway Plan for the Village of Hastings-on-Hudson, and notice of such rejection shall promptly be provided to the Greenway Council.

3. It is stated policy of the Village of Hastings-on-Hudson that, to the extent the Village amends its current, or enacts new, land use laws and regulations, such new or amended laws and regulations, where appropriate, should be designed to be consistent with the Compact Plan.

Section 2. Amendment of Zoning Code

To implement the Compact Plan in the Village of Hastings-on-Hudson, the Zoning chapter of the Code of the Village of Hastings-on-Hudson is hereby amended by the addition of the following provision:

§ 295-160. Greenway Compact Plan.

By Local Law No.7 of 2005, the Village of Hastings-on-Hudson has adopted the Compact Plan, as amended from time to time, as a statement of policies, principles, and guides to supplement other established land use policies in the Village. In its discretionary actions under this Zoning Code, the reviewing agency should take into consideration said statement of policies, principles and guides, as appropriate.

Section 3. Home Rule of Authority

Nothing in this Local Law adopting the Compact Plan, or in becoming a participating community in the Compact Plan is intended, or shall be construed (a) to limit the home rule authority of the Village under State Law to make local land use and zoning decisions, (b) to authorize any other entity to supersede the Village's land use laws and regulations or to impose any requirements on the Village, or (c) to prevent the Village in its sole discretion from adopting a local law at a later date for the purpose of withdrawing from the Greenway Compact or Westchester County Greenway Compact Plan.

Section 4. Separability

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of provision or application directly involved in the

controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Village of Hastings-on-Hudson hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 5 Effective Date

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

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	

108:05 FREE HOLIDAY PARKING

Mayor Kinnally: This does not mean that we are not going to be ticketing. If you are parking for more than two hours, be forewarned that you will get a ticket. We are going to enforce this because we want to encourage the turnover. Two hours should give everybody enough time. If not, move the car to another area. The enforcement is to discourage people who are living in the downtown area from leaving their car there the whole time. We are trying to get the merchants increased traffic.

Trustee Holdstein: I am going to vote aye because it is a wonderful thing that we do. I will, as I have done every year, remind our merchants to remind their employees similarly that this is not for their use. It is for the customers' use, and we provide ample parking, whether it is at Zinsser, weekends at the commuter lot.

Trustee Jennings: If we are worried about people who park all day long, people who are working in the stores as opposed to shopping in the stores, it is not much of a deterrent to say you have to move your car every two hours if you do this by parking space. If we did it by parking *lot*, that might be another matter. I suggest that next year maybe we consider something like that.

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 approve free two-hour holiday parking from Saturday, Dec. 3 through Saturday, Dec. 24, 2005 at the following locations: Boulanger Plaza, Steinschneider Lot, Post Office Lot, Warburton Avenue (North Street to Bridge), Main Street, Whitman Street, Spring Street, Southside Avenue, and Maple Avenue (Spring Street to Municipal Building Driveway).

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	

109:05 DONALD PARK FIRE DISTRICT AGREEMENT

Mayor Kinnally: As I said, we are not dealing with this resolution tonight.

VILLAGE MANAGER'S REPORT

Village Manager Frobel: Our road paving project is moving along nicely. If weather permits, we may be complete tomorrow.

Trustee Apel: This is wonderful, but there are other roads that are sinking in different places and there are pot holes. I do not know whether someone is driving around the Village now to take a look at the other areas which need some assistance, for example, driving up Mt. Hope from the high school there are huge ruts.

Village Manager Frobel: I will talk to Michael.

Trustee Holdstein: Mike has been very responsive. I would suggest that anyone who knows of a bad patch should let us know.

Trustee Jennings: How long can the patching continue? Is that a function of the temperature, or is it a function of the amount of asphalt material that we have purchased?

Village Manager Frobel: Part of it is the underlaying of the road itself. Whether it has good drainage, whether it was built correctly to begin with, often determines how long the pothole will stay intact. But roads reach a point where they are so fatigued underneath and failing so often that you are faced with no recourse but to reconstruct.

Trustee Jennings: But over the next several days, weeks, how long can we continue to do spot patching?

Village Manager Frobel: You mean when will the asphalt plants close? Typically, a little before Christmas. If it is a mild winter, or if a contractor has a major job he is working on, they will keep the plants open longer. But it is dictated by weather.

Trustee Jennings: There are so many holes in so many streets that we should keep patching as long as we can without busting the budget.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: Fred Yaeger is here. Any update on the waterfront, Fred?

Mr. Yaeger, ARCO Liaison: The current environmental and geotechnical site activities that have been conducted since the middle of September have been completed as of Friday. There will be some extra drilling and boring coming up after Thanksgiving and running through Christmas to get additional data.

Dave Kalet and I are going to be working closely with Hastings High School's environmental science class. This was an idea that was generated by Trustee Jennings. Dave and I give a presentation on November 29 to about 60 science students to talk about what we are doing there, about PCBs, and what we are doing to protect the community and workers there. At some future time we will probably ask the kids to come and take a look at the site.

In terms of a tribute to Neil Hess, the family wanted, in lieu of flowers, a donation to volunteer ambulance service and fire services. The company will be making a nice donation to the ambulance service and fire services to use as they feel appropriate. We worked closely with Neil, and the fire service was a strong program close to his heart. I think it would be a very ample and appropriate tribute.

Trustee Holdstein: I feel that the community should know that we are storing some stone on the waterfront, remnants of our Community Center; we are holding it for use at Kinnally

Cove. I would like to commend you for the willingness to be good neighbors, to allow us to use your site, store this material. That doesn't mean that we are going to not be as diligent and keep our eye on everything that is going on down there. But it is only fair to note what positive things are developing on the waterfront besides the stuff that we can all see, many of us as we commute on the train, in terms of the reclamation of the site. But also there is a genuine tone of much more cooperation than we have had with the previous owners under the umbrella of ARCO, and I think it is worth noting and saying thank you.

Mr. Yaeger: And we want you to be diligent with us. And I, as a resident in this community, working for Atlantic Richfield as a consultant but also seeing myself as a liaison to the Trustees, to the Village, I do live here and work here and I shop here in the community. I want to do whatever I can to build a good, close working relationship.

Jim Metzger, 427 Warburton: There have been some rumors that the remediation on the waterfront might be based upon the potential use. For example, if a road is going in, the remediation would not be as fulfilled as it would be if there was a school going in, or a playground. Is there any truth to that rumor? Or is the remediation going to be such that any use can occur anywhere on that site, and it would all be brought up to the same level of cleanliness?

Mayor Kinnally: The remediation is based in large measure on the settlement agreement that was entered into by the Village, with the DEC, with ARCO, and with the Riverkeeper. Different areas have different types of remediation down there.

Mr. Metzger: Is that document available?

Mayor Kinnally: It has been available for years. It is on the web site. But I will give you an example. The northwest corner is the most heavily polluted area. They are going way down. I used to know these numbers, twelve feet, I forget what it is. And there is a restriction on the use in that area. Other areas, they are not going down as deep because the material cannot be gotten out. So it is not a uniform remediation throughout the site.

Trustee Jennings: The amount of polluted, toxic material taken out of the site was determined by engineering and other considerations of feasibility and practicality, not by the planned use on the surface. The planned use on the surface has been restricted if all the stuff cannot be taken out, but that was the consequence, not the starting point. I thought what you called the rumor was predicated on the notion that you decide to put something on the surface first and that dictates the cleanup, and that is not correct. That is backwards. The cleanup was dictated by engineering considerations, and then the surface use follows if it is restricted

at all. But for most of the site, the cleanup plan is compatible with a wide range of uses so that our decisions about what to put on the surface going forward are only minimally constrained.

Mayor Kinnally: That is exactly right. There are certain areas that you cannot put any structure because you cannot put foundations or drive any piles through the cap. That was agreed to by everyone, except they would not want to have structures in those areas. But that is not to say that all those other areas you could not put residential. The understanding is that it is being cleaned up to a level that would be acceptable. You may not be taking everything out, but certainly you are isolating areas, you are having quite a bit of fill put on over the cap. So it is not the backwards way that the rumor had it.

Trustee Swiderski: I was actually probably the source over the core of that. I would not say there is an element of truth, but there is one possibility. Which is, the sooner we have an idea of where the roads and buildings will go, the more the fact of that can be incorporated into the planning ahead of time while the remediation is under way, that can save us money down the road. So if in three years' time we can say, the road is going to go here, sewers can go there, electric conduits will go there, it will, in fact, affect the remediation. Because it will give us a chance to pre-lay those things under the fill.

Mr. Metzger: That is a poor way to look at the remediation. Because 20 years from now, you have no idea what is going to want to occur down there. The way you have explained it makes absolute sense to me, and there should be a covenant on the land that certain things can happen in certain place. But I do not think that any future plan should determine a lesser level of remediation than is possible or that has been agreed to.

Mayor Kinnally: Let us use the road as a good example. We have to put X number of feet of fill on the site. If you were going to put a road in, and you want to put berms in around the road, you may not want to, or need to, put all of that fill in that area because nothing is going to be built other than a road. And once that road goes in, it is not going to be changed. It is going to be a spine road that will serve whatever the development is. If you are putting in raceways for the cut or conduits for the utilities, that area may be done a little differently.

Trustee Swiderski: But not less so. The point is that if you can pre-plan where the major utilities will go you will not be digging through the cap to lay those things down the road. You could do that ahead of time.

Trustee Holdstein: The remediation plan is what it is. That is part of the legal document. So the determination of where pipes might be laid or where roads may go does not affect the

remediation. When we define, and agree on, nine feet, twelve feet, six feet slurry walls, deed restrictions because of it, none of that changes under any circumstance.

Mayor Kinnally: But it does change the design engineering within the context of the settlement agreement.

Trustee Holdstein: Right, but if we have identified that they have to go nine feet in that section, and we determine a road is going to go there, they still have to go the nine feet.

Mayor Kinnally: Yes, but what else they have to do with it may change. Actually, we are all speaking somewhat in a vacuum here because we have not seen the design engineering, which is in the works but will remain somewhat flexible.

Trustee Holdstein: Besides the agreed upon cleanups and the depths and locations, I like to reemphasize three things: after it is all done, there is the commitment of this cap, or seal, over the entire site. Then there is a commitment of additional fill, landfill, of a certain number of feet. And then on top of that is a requirement that adds more because the Army Corps of Engineers is going to determine because of a flood plain that we are going to have additional footage on top of what has been agreed upon in the settlement.

Mayor Kinnally: I am not sure of that. There may be some areas that come up to what the Army Corps of Engineers wants, so do not say that it is going to be additional.

Trustee Holdstein: Not additional across the full site. The cap is the full site, the minimum two to three feet that we agreed upon. But after that, there is going to be a lot of spots that are going to require even further fill on top. So you are going to have a tremendous amount of depth after you have gone six, nine and twelve feet in the hot spots.

Mr. Metzger: I thought it was a simple question. Thank you very much.

Mr. Yaeger: From Atlantic Richfield's standpoint, both Dave Kalet and I attend the LWRP meetings on a regular basis. We are involved with that, and we want to also cooperate. Not to shortchange in any way, shape, or form the remediation efforts and whatever legalities we have, but we also want to do what you want when you get to that stage in terms of the planning. Whether a road goes here or there, we are going to cooperate fully to satisfy what the Village and what the LWRP decides to do.

2. Other

Mayor Kinnally: On the LWRP, I asked Phil Karmel to attend our December 6 meeting to give a brief update on where they are what needs to be done. It dovetails in with some of the things that we had talked about recently with the Saratoga plan and how we are going to go forward with an organizational structure to deal with this, and what else needs to be done.

Trustee Apel: I said that at every meeting I am going to ask about the LWRP, and you answered it. The other question is the large tract report.

Mayor Kinnally: They have it. It is from the Planning Board and they are working on it, I think Patty has given a report on that.

Trustee Apel: I just want to know when we are going to get it.

Trustee Swiderski: I want to give a brief update on what the committee of concerned elected officials is up to over the last three weeks. It comes down to three areas. The first is a standing request to the Board to move ahead with an appeal of this sTaxter Ridge decision, which asked the town to allocate the full purchase cost of a park, Taxter Ridge, across all villages as well as the town. We have asked the town board to appeal that decision. The deadline is November 22. The litigant in that decision is asking the town board not to appeal, and we are hoping the decision will be made next week and that it will be to move forward with that appeal.

Mayor Kinnally: An e-mail today said that the board wants to ask the court to extend the time, and they want to institute a mediation process to engage everyone.

Trustee Swiderski: I do not have a chance to react to that yet. I have to think about it.

The second issue is, the budget process is beginning in Greenburgh. The litigant and supporters are on one side of the fence, feeling that various items should be reallocated to the villages. Currently, we typically pay about \$110 a head in town taxes per typical household in all of the villages. It is probably a little higher in Hastings, but that is the official number. If what the litigant will probably be asking for goes through, town taxes per family in the villages would likely quadruple. It would be a serious increase. The village committee is coming out strongly in opposition to that, along with a series of its own requests for modifications to the budget, which is published and available. I will have a listing of those out to the Board in the next week and to anyone who is interested in this process.

Finally, the Pace study has not begun yet. There is an issue still unresolved of Tarrytown's participation that we are waiting to clear up. With that clarification, we hope to move

forward. The Pace study is specifically a consulting company we have hired to examine in detail what exactly it is the villages are receiving from the town, how much they are paying for it, how that balances out, and if we were to move to change the villages' status within the town, what are the mechanisms for doing that. The study is being jointly subsidized by all the villages.

This committee is meeting, probably, weekly, along with numerous e-mails. Certainly it is a motivated group. It is nice to see the mayors working together in representing our interests before the board, and it has caused quite a bit of a political ruckus. I think we are having a good effect.

Mayor Kinnally: We received in our packet the Adopt A Trail report, which was excellent. It is t a treasure of information, and a clarion call to people in the community to volunteer and to take what we have here and make it even better. So my hat is off to everybody who was involved in that workshop.

Fred Hubbard has come up with a proposal on the trees, the structure of our administration of it with the conservation committee, the tree committee. I would like to have a work session to deal with that, and also the same night to have an executive session to deal with personnel, boards and commissions. How about November 29?

[Agreement]

On MOTION of Trustee Holdstein, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Board scheduled an Work Session for November 29, 2005.

EXECUTIVE SESSION

On MOTION of Trustee Holdstein, SECONDED by Trustee Swiderski with a voice vote of all in favor, the Board scheduled an Executive Session for November 29, 2005 immediately following the work session to discuss personnel.

ADJOURNMENT

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