

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
BOARD OF TRUSTEES  
REGULAR MEETING  
DECEMBER 2, 1997**

The Regular Meeting of the Board of Trustees was held on Tuesday, December 2, 1997 at 8:28 PM in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Mayor Wm. Lee Kinnally, Jr., Trustee James B. Keaney, Trustee Elsa C. DeVita, Trustee Michael Holdstein, Trustee Anthony Gagliardi, Attorney Brian Murphy, Village Manager Neil P. Hess, and Village Clerk Susan Maggiotto.

**CITIZENS:** Five (5)

**APPOINTMENTS**

Village Manager Hess announced the appointment of Dana Mayclim of Croton as Recreation Leader and welcomed her to the Village staff.

Mayor Kinnally announced the appointment of two members to the Affordable Housing Committee: John Seredinsky and Richard Zahurak, and thanked them for their participation.

**APPROVAL OF MINUTES**

Trustee Gagliardi had the following correction to the minutes of the Public Hearing of September 9, 1997:

p. 3, line 9: change “may” to “map”

On MOTION of Trustee Keaney, SECONDED by Trustee Holdstein with a voice vote of all in favor, the minutes of the Public Hearing of September 9, 1997 were approved as corrected.

On MOTION of Trustee DeVita, SECONDED by Trustee Gagliardi with a voice vote of all in favor, the minutes of the Regular Meeting of September 9, 1997 were approved as presented.

On MOTION of Trustee DeVita, SECONDED by Trustee Holdstein with a voice vote of all in favor, the minutes of the Public Hearing of September 16, 1997 were approved as presented.

On MOTION of Trustee Holdstein, SECONDED by Trustee Keaney with a voice vote of all in favor, the minutes of the Regular Meeting of September 16, 1997 were approved as presented.

On MOTION of Trustee DeVita, SECONDED by Trustee Holdstein with a voice vote of all in favor, the minutes of the Public Hearing of November 18, 1997 were approved as presented.

Mayor Kinnally had the following correction to the minutes of the Regular Meeting of November 18, 1997:

p. 4, Waterfront Update, line 1: change "I" to "The Village"

On MOTION of Trustee Holdstein, SECONDED by Trustee Gagliardi with a voice vote of all in favor, the minutes of the Regular Meeting of November 18, 1997 were approved as corrected.

### **APPROVAL OF WARRANTS**

On MOTION of Trustee Gagliardi, SECONDED by Trustee DeVita with a voice vote of all in favor, the following warrants were approved:

Multi-Fund No. 76-1997-98	\$ 49,510.51
Multi-Fund No. 77-1997-98	176,466.95

### **89:97 ADOPTION OF LOCAL LAW NO. 8 OF 1997 - TREE PRESERVATION**

**Mayor Kinnally:** A proposed Tree Preservation law has been on the agenda for many years. Many changes have been made that have strengthened the law and gotten us to the point that we hoped to get to when we started. Thanks to the Conservation Commission and to all the people who contributed with comments.

**Village Manager Hess:** We have had quite a bit of input. We wish to thank especially the original drafter Wayt Thomas. We recommend adoption of this law; it will be good for the Village.

**Wayt Thomas:** The earliest paper I found in my files on tree preservation was from May, 1991, and it may have gone back earlier. The law is very solid, much simpler than the earlier versions, enforceable, will protect the Village from loss of trees, and give the Village a tool for control.

**Mayor Kinnally:** We have moved at a stately pace and have achieved a good balance of preserving what we have without presenting too many difficulties in enforcement.

**Trustee Keaney:** There was initial opposition to the law, but it strikes a balance between competing interests and gives us a tool for proper planning. This is a good example of give and take in trying to strike a balance.

**Trustee Holdstein:** The Board received a letter from a person who could not attend our meetings with excellent comments in it, some of which were incorporated into the law. This is a good example of people contributing who cannot attend meetings, and we encourage other people to write; the comments usually find their way into our discussions.

On MOTION of Trustee Keaney, SECONDED by Trustee Gagliardi, the following resolution was duly adopted upon roll call vote:

**RESOLVED:** that the Mayor and Board of Trustees hereby adopt Local Law No. 8 of 1997 on Tree Preservation, as attached herewith.

<b>ROLL CALL VOTE:</b>	<b>AYE</b>	<b>NAY</b>
Trustee James B. Keaney	X	
Trustee Elsa C. DeVita	X	
Trustee Michael Holdstein	X	
Trustee Anthony Gagliardi	X	
Mayor Wm. Lee Kinnally, Jr.	X	

**90:97 CLEANUP - HARBOR AT HASTINGS SITE**

**Mayor Kinnally:** At the previous meeting we referred to discussions we have had regarding the cleanup; overriding all discussions was the issue of the level of cleanup the DEC will mandate. DEC Commissioner Cahill said last year that there was a lot of debate within the DEC on what levels would be required. We have urged that the highest level of cleanup be mandated, negotiated, and entered into the consent decree. We have said this many times to the DEC but now we think this Board should go on record with a statement as to the level to which we want the cleanup mandated. We are talking about residential development on the waterfront and the highest standard has always been desired.

**Trustee Keaney:** The higher the level of cleanup, the more options we have. This is an issue discussed by the LWRP, so the issue is timely. The industrial past of the waterfront is not necessarily what we envision for the future.

**Trustee Gagliardi:** This will show anyone what direction we are coming from and is the right thing to do.

**Trustee DeVita:** I agree that this is the right thing to do; it is one way to show we are committed to the highest level of cleanup.

On MOTION of Trustee Holdstein, SECONDED by Trustee Gagliardi, the following resolution was duly adopted by roll call vote:

**WHEREAS,** the Board of Trustees of Hastings-on-Hudson has reviewed documents pertaining to environmental conditions of the Harbor at Hastings site (the former Anaconda site), including the Feasibility Study prepared by ARCO with respect to hazardous waste at the site; and

**WHEREAS,** Village representatives have attended ongoing meetings among the New York State Department of Environmental Conservation (“NYSDEC”), the

New York State Department of Health, ARCO, FC Hastings, the Earth Pledge Foundation and other interested parties at which the remediation of hazardous waste at the site has been the subject of discussion; and

**WHEREAS,** the Board of Trustees believes that issues relating to the type and extent of remediation of hazardous waste on the site that will be required by NYSDEC are of the utmost importance; and

**WHEREAS,** the Board of Trustees believes it appropriate to express its concern regarding these issues; now therefore be it

**RESOLVED:** that the Board of Trustees hereby resolves that hazardous waste at and under the Harbor at Hastings site should be removed to the maximum extent practicable, and that on-site remediation (such as containment) should not be substituted for removal in the absence of a compelling demonstration that removal is not achievable; and be it further

**RESOLVED:** that if any hazardous waste is not required to be removed, it should be remediated consistent with applicable, relevant and appropriate standards and criteria with the objective of restoring the site, to the extent practicable, to pre-disposal conditions suitable for uses allowed under the Village's Marine Waterfront Zoning District; and be it further

**RESOLVED:** that copies of this resolution be sent to Governor Pataki, Commissioner of NYSDEC Cahill, Senator Spano, Assemblyman Brodsky, ARCO, FC Hastings, Earth Pledge Foundation, and Sustainable Development, Inc.

<b>ROLL CALL VOTE:</b>	<b>AYE</b>	<b>NAY</b>
Trustee James B. Keaney	X	
Trustee Elsa C. DeVita	X	
Trustee Michael Holdstein	X	
Trustee Anthony Gagliardi	X	
Mayor Wm. Lee Kinnally, Jr.	X	

**91:97 APPROVAL OF CONTRIBUTION AND MERGER AGREEMENT BETWEEN TCI COMMUNICATIONS, INC. AND CABLEVISION SYSTEMS CORPORATION AND RESULTING TRANSFER OF THE FRANCHISE FOR HASTINGS-ON-HUDSON**

**Village Manager Hess:** Rafael Zaratzian has attended meetings regarding the merger of TCI and Cablevision and the Board has a copy of his memo recommending the approval of the Village of the transfer of the franchise.

**Emily Spaulding, Director of Government Relations for Cablevision:** Cablevision is delighted at the prospect of being the cable provider for Hastings. We are in the process of getting rid of other cable properties in the United States so the metropolitan area is our focus. Our regional office is in Yonkers. This merger will happen by February; the Public Service Commission has approved the merger contingent on the approval of the villages. The operation will remain in place; we anticipate no major changes at the beginning.

**Trustee Holdstein:** Is this a merger or is Cablevision taking over TCI, and how will fees be affected?

**Ms. Spaulding:** Cablevision is taking over the operation of the franchise. TCI will own one-third at the corporate level. We envision no changes at the beginning or during next year. We plan to bring in new technologies and more programming. Prices are regulated by the FCC so we would continue to follow the benchmarks which are based on programming additions and expenses. Because we are centralizing everything in this area and have an existing regional staff, we may have economies of scale that will be helpful in the long run. I do not see it having any effect on prices.

**Mayor Kinnally:** I am somewhat concerned. I am familiar with prices and programming of Cablevision in Yonkers; there is less programming and higher prices. You say we should not have concerns about prices, but we do have concerns. Prices are higher in Long Island. Some programming like MSG that is standard here is considered a premium channel in Yonkers.

**Ms. Spaulding:** MSG will no longer be a premium as of January 1, 1998.

**Mayor Kinnally:** The point is that we will be paying more for premium channels.

**Ms. Spaulding:** The question about rates is a valid one. We have a new way to package programming a la carte so cost concerns can be addressed: there will be more choices cafeteria-style so you can choose only what you want and keep your prices down. We can only get approval for benchmark rates of 20 cents per channel. We are trying to move more down into the basic package.

**Mayor Kinnally:** A la carte is more flexible but can be more costly. We would expect that our pricing would not increase because you are rebundling.

**Ms. Spaulding:** I will take your concerns back to the company, but please note that there is so much competition.

**Mayor Kinnally:** In effect you have a monopoly—there is no competition. No other operator is likely to come in. Once someone has a franchise, it becomes an exclusive franchise. The only other choice is a dish.

**Ms. Spaulding:** We are supportive of public access in Westchester, we have satellite uplinks, and we are active in the schools. The Village can look forward to all these things.

**Mayor Kinnally:** We hope you will consider our service from TCI as a benchmark for Cablevision.

**Trustee Holdstein:** You should take a look at what we already get with basic, expanded basic, and premium, so that you can maintain our same level.

**Ms. Spaulding:** I am hearing that you are all satisfied with the pricing and want to maintain it. I will take this back to our regional vice-president at our corporate office in Woodbury, Long Island.

**Trustee Keaney:** My problem with the resolution is that you are asking us to give an advisory opinion, but I do not know if you meet the legal, technical and financial qualifications as stated in the resolution.

**Ms. Spaulding:** We can give you a six-inch notebook filled with all the details. I have no doubt Cablevision must and will live up to the current franchise; legally we are required to do this.

**Trustee Holdstein:** Would it have any effect if we did not pass the resolution?

**Rafael Zaratzian:** According to the New York State Public Service Commission, our input is limited to public access issues. If we do not do anything, on December 4 this will automatically pass.

**Trustee Holdstein:** So what is to be gained by voting?

**Village Manager Hess:** There is value in passing this resolution. TCI has lived up to its franchise agreement and we would expect Cablevision to do the same; we have worked with them before, and our franchise agreement is very specific. The FCC says all franchising authorities have to consider this.

**Bob Zant, 24 Crossbar:** Do you have any idea of future technological breakthroughs?

**Ms. Spaulding:** Cable modems are the future; this is what we are planning to do first. Yorktown has cable modems between the two high schools and students use them to speak with IBM scientists. Yonkers two years ago had a project for ten schools using high speed modems; the project is on hold until there is more support staff. We are near video on demand. Regarding expanding the number of channels, in two years every community will have 100 channels and with compression technology there may be more.

**Trustee Holdstein:** Can we require that the fees remain the same?

**Mayor Kinnally:** The fees are not part of the franchise agreement. So much is preempted; the role of the Village is to award the franchise.

**Village Manager Hess:** The levels of service, public access, and government access are all spelled out in the franchise agreement.

**Mr. Zant:** Are there any plans for WEB interaction with cable via telephone before three years?

**Ms. Spaulding:** Interactive cable has started in the Yonkers system and will be coming soon. High definition television is not in our immediate plans.

**Village Manager Hess:** We have been advised by the FCC that the franchisee has met the legal, financial, and technical qualifications.

**Trustee Keaney:** The resolution should say that we are relying on the judgment of the FCC because I have no knowledge that this is the case.

**Mayor Kinnally:** The record will show that we are relying on the representations of the FCC. A copy of the resolution will be sent to the Town of Greenburgh, the FCC and Cablevision.

On MOTION of Trustee Holdstein, SECONDED by Trustee Gagliardi, the following resolution was duly adopted by roll call vote:

**WHEREAS,** TCI Cable of Westchester (“Franchisee”) is the duly authorized holder of a franchise (as amended to date, the “Franchise”) authorizing the operation and maintenance of a cable television system (the “System”) and authorizing Franchisee to serve the Village of Hastings-on-Hudson (the “Franchise Authority”) with cable television services; and

**WHEREAS,** Franchisee is currently a 100% indirectly owned subsidiary of TCI Communications, Inc., a Delaware corporation (“TCIC”); and

**WHEREAS,** TCIC, Cablevision Systems Corporation, a Delaware corporation (“CSC”) and certain of CSC’s subsidiaries have entered into a Contribution and Merger Agreement dated as of June 6, 1997 (the “Merger Agreement”); and

**WHEREAS,** prior to the closing date of the transactions contemplated in the merger agreement (the “Closing Date”), Franchisee, or the owner thereof, will undergo an internal corporate reorganization (the “Reorganization”); and

**WHEREAS,** upon or following the Closing Date, the Franchise will be assigned, or control thereof transferred to CSC or to an indirectly or directly held affiliate of CSC (the "Transfer"); and

**WHEREAS,** Franchisee as Transferor/Assignor and CSC as Transferee/Assignee, respectively, have filed Federal Communications Commission Form 394 requesting consent by the Franchise Authority to the Reorganization and Transfer, now therefore be it

**RESOLVED:** that the Village of Hastings-on-Hudson finds that Franchisee, under the control of CSC, meets the legal, financial and technical qualifications to perform the requirements of the Franchise, and be it further

**RESOLVED:** that the Village of Hastings-on-Hudson hereby consents to the Reorganization and Transfer to the extent that the consent of the Franchise Authority is required by the terms of the Franchise and applicable law.

<b>ROLL CALL VOTE:</b>	<b>AYE</b>	<b>NAY</b>
Trustee James B. Keaney	X	
Trustee Elsa C. DeVita	X	
Trustee Michael Holdstein	X	
Trustee Anthony Gagliardi	X	
Mayor Wm. Lee Kinnally, Jr.		X

**92:97 DESIGNATION OF HUDSON RIVER AS AN AMERICAN HERITAGE RIVER - SUPPORT RESOLUTION**

**Mayor Kinnally:** We discussed this resolution at our last meeting and we thought it was a great idea. Are there any further comments?

Hearing no comments, Mayor Kinnally called for a resolution.

On MOTION of Trustee DeVita, SECONDED by Trustee Gagliardi, the following resolution was duly adopted by roll call vote:

**WHEREAS,** the Hudson River is an area of rich heritage intrinsic to the history of New York State and the nation and has played an integral role in the growth, development, and perpetuation of our people and our economy, and

**WHEREAS,** the American Heritage Rivers program of the Federal government is a voluntary non-regulatory program designed to focus federal assistance on rivers that have played an important role in the history of the nation, providing support for community-led initiatives to improve the environmental quality, economic vitality, recreation, tourism, and other resources of the Hudson River, and

**WHEREAS,** Governor George E. Pataki and the State of New York, in cooperation with the communities, not-for-profit organizations and people of the Hudson River Valley, are making application for the Hudson River to become one of the nation's first American Heritage Rivers, and

**WHEREAS,** the Village of Hastings-on-Hudson which borders the majestic Hudson River honors its history so interwoven with the River, cherishes the natural beauty of the River and the Palisades, and looks forward to a restoration of the River's environmental and economic resources, now therefore be it

**RESOLVED:** that the Mayor and Board of Trustees of the Village of Hastings-on-Hudson do hereby enthusiastically support the application of the State of New York for Presidential designation of the Hudson River as an American Heritage River.

<b>ROLL CALL VOTE:</b>	<b>AYE</b>	<b>NAY</b>
Trustee James B. Keaney	X	
Trustee Elsa C. DeVita	X	
Trustee Michael Holdstein	X	
Trustee Anthony Gagliardi	X	
Mayor Wm. Lee Kinnally, Jr.	X	

**VILLAGE MANAGER'S REPORT**

1. Our tree planting program will continue next week with Rosedale Nursery replacing several trees on Farragut, Main, Warburton, and Farragut Island.
2. School crossing signs for Farragut Avenue approved at the joint meeting of the Village and School Boards should be received this week. We will agree on a date to put up the signs and

start enforcement. We want to advise drivers of the new stop and yield designations. These will be strictly enforced and we hope the situation will improve at the school.

3. The DEC availability session will be held on December 9 at 7 PM and will be taped for Channel 16. Consultants will be here to review the findings on contaminants on the waterfront and the initial studies, and talk about where they are to date.
4. The Planning Board report, 163 pages long , is available at the library for both checkout and reference and can be purchased at Village Hall for \$20.00. The first forum on the report held on November 22 will be cablecast. There will be more meetings after the first of the year.
5. The Parkway Gas Stations Committee met last Tuesday and there were a number of very good suggestions. A report is being drafted for presentation in the near future.
6. The following is extremely important to seniors in the Village. Hastings has the second highest percentage of population of seniors in the county. The enhanced STAR exemption takes effect in 1998 for property owners 65 years of age and older with income not exceeding \$60,000. The basic STAR exemption will be available to all homeowners in 1999-2000. Applications and information are available at Village Hall. Applications must be filed by June 1, 1998 with the Town of Greenburgh.

## **BOARD DISCUSSION AND COMMENTS**

### **1. Waterfront Update**

**Mayor Kinnally:** No more screened material will be taken out until the spring but an additional 1,360 cubic yards of c & d have been removed. The screened material will go out quickly in the spring so the building will be clear by September 1. No more processing has been going on inside, and there has been an appreciable decline from week to week.

May I have a motion to go into Executive Session to discuss ongoing litigation?

## **EXECUTIVE SESSION**

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

### **2. Holiday Parking**

The free meter parking the Village is offering during the holidays is getting attention from the media, on various television and radio news reports and in the Gannett newspaper. The parking

will be offered on Saturday, Dec. 6; Saturday, Dec. 13; and Thursday through Wednesday, Dec. 18 through Dec. 24.

### **3. Other**

**Trustee Keaney:** I would like to thank the Manager for information on the bill in the New York State Assembly authorizing a taxing district to sue the party responsible for the loss of value resulting in a tax reduction. If the reduction were given because contaminants caused loss of value, for example, this would give the Village the right to sue the owner. I would like to get the text and perhaps we should draft a resolution in support of this bill.

**Mayor Kinnally:** We hope we can argue that since the owners did nothing to stop the contamination or to clean up the property, they should not be able to benefit from their negligence by a reduction in taxes.

**Trustee Keaney:** The tree lighting will be in VFW Park at 7:30 PM on Friday, December 12. A group of carolers will sing at the shops that will be open. We welcome music from all traditions and everyone is welcome to join our roving band.

### **PUBLIC COMMENTS**

There were no comments from the public.

### **ADJOURNMENT**

On MOTION of Trustee Keaney, SECONDED by Trustee DeVita with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 9:40 PM.