

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
SPECIAL MEETING
JULY 28, 1998

The Regular Meeting of the Board of Trustees was held on Tuesday, July 28, 1998 at 8:10 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Wm. Lee Kinnally, Jr., Trustee James B. Keaney, Trustee Michael Holdstein, Trustee Anthony Gagliardi, Deputy Village Attorney Brian Murphy (8:15 p.m.), Village Manager Neil Hess, and Village Clerk Susan Maggiotto.

ABSENT: Trustee DeVita

Mayor Kinnally: The green copy on the table is the current draft of the tax trust agreement, which incorporates the various changes that have been discussed and agreed to between the parties. A preliminary draft was made available to a number of people in the community yesterday. Since then, certain editorial changes, none of them are substantive, have been incorporated to make the draft more intelligible and agreeable to all of the parties.

Exhibit B, which is referred to in the draft, is not attached to the green copy. The parties have not formally signed off on Exhibit B which deals with the periodic payments that are otherwise due and owing under the agreement. We indicated in past meetings that the minimum amount the Village would receive was in excess of \$795,000. The payment schedule deals with the timing of those payments, and certain interest numbers that are applied to the outstanding balances. Exactly what format that will take has not been agreed to. Apparently, F.C. Hastings' principals were not available yesterday and today to review the latest proposals.

Since this is a Special Meeting, the only item which can be considered tonight is the tax trust agreement.

Betty Wagner, 2 Sunset Street: I am so annoyed. I feel betrayed, violated. When I received the summer newsletter from the Mayor, everything was for the local Waterfront Revitalization Program. Nothing was suggested that there would be an agreement with the defaulted owners of the waterfront. You should have said something if you had this in mind.

There are too many questions that you have left unanswered. As an individual resident who has been paying real estate taxes for 40 years, I have had my hardship days but I paid my taxes. I tried to get a lower assessment because of a variance from one of my neighbors, and that was denied. I did not have lawyers' fees so I did not continue with it. As an individual, you have let me down but I still love my Village. I was born here, raised here and educated, and I still will work for it.

I do have a question to ask about a bond act which that was enacted in 1996. It is the brownfields program. Has any of this been explored in case of foreclosure on the property?

Mayor Kinnally: Brownfields funding has been discussed at length with the DEC over the last year and a half. In order to be eligible for brownfields funding we would have to have title to all or some of the property. It is under consideration at the present time. I am meeting with the deputy commissioner and her staff to explore this topic on the 28th of August.

Ms. Wagner: The percentages are very pleasing to me. I was told it is 75% by the brownfields program and 25% by the Village. That is great if we have property on the waterfront. I believe 28 acres of waterfront property is certainly worth more than \$450,000.

Mayor Kinnally: The \$450,000 is the assessment, not the value of the property. That would work out to something in the area of 4.5 to 5 million dollars.

Ms. Wagner: At the end of the payments, August of 2000, what happens? Do they start all over again? What if there are new owners? Can they not pay their taxes?

Mayor Kinnally: The Village cannot force anybody to pay their taxes short of foreclosing on a property. When this agreement is over in August of 2000 the Village is free to reassess the property at the value it deems the property to have. The \$450,000 assessment applies only during the term of the tax trust agreement.

Ms. Wagner: That means that if they do not pay their taxes again for three, four, five, six years, then we go back and we play this game again?

Mayor Kinnally: We are not playing any games, but we certainly could foreclose on the property. We could start an action of foreclosure now; it is always available to us. The problem is that we are involved in litigation. The owners of the property are contesting the amount of the assessment on the property, and one of the defenses in a foreclosure action is that the property is improperly assessed. So, we are looking at resolving a problem that we have now without jeopardizing anything that we may have in the future, including foreclosure on the property.

Ms. Wagner: We have to protect ourselves. We have to be in control of the waterfront. We are the Village of Hastings, not the developer. I understand that the federal government has now cited the Hudson River as a historic river. That gives more value to the properties along the Hudson River. We should not lose control of the waterfront for \$800,000.

Mayor Kinnally: We are not losing control of the waterfront. We still have our powers on zoning, on any development, on that waterfront. The day we have control of the waterfront is when we have title to the property. We are not giving up the right to get title.

Jeff Bogart, 5 Jordan Road: I think that this is a horrible settlement. I do not think there is a need to settle at this point. The Village needs to move forward on litigation to foreclose. If you talk about waiting four years for these owners to again move into arrears, you face the same problem all over again. If you do not have the backbone to move ahead with litigation now, will you have the backbone to move ahead with litigation in the future? Therefore, you should foreclose, and do it now.

Let us look at the amount of the settlement. It is pitiful. You are settling for less than 33 cents on the dollar. What do we have here, a bankruptcy proceeding? We should have a bankruptcy proceeding and then we get the property. There is no need to even vote on this tonight. I do not understand why this has been sprung on the Village and there is a vote tonight. There is a quote in the *Enterprise* that suggests that you need to vote on it tonight because there is some sort of a deadline. Who has imposed the deadline, the Harbor at Hastings? If so, why are they holding something over your head? Or is the Village the one who has proposed that this be passed tonight? If so, why are you giving the residents of the community so little time to digest a proposed settlement? This is something of a farce tonight in having the community come out to learn what the details of the settlement are, and to consider whether or not it is the type of settlement that the community wants. You have not even got a clean draft because you are still making changes to it.

We have elected Trustees in this community, and we have placed our faith in Trustees. But this is obviously a misplaced trust. We have a precedent, apparently, that is being established tonight. Everyone should consider withholding their taxes. We can settle with the Village for 33 cents on the dollar. Now it seems as if we have a law passed last week which allows everyone to hold off paying their taxes. Is this something that someone has by right? Can everyone in the Village hold off paying their taxes and sign a settlement to delay paying them, and pay once a month over the course of a year?

Mayor Kinnally: This is a procedure that is authorized by the New York State legislature. It enables the Village to enter into agreements of this nature. It is not as of right.

Mr. Bogart: But we are giving this ability to the Harbor at Hastings, is that right?

Mayor Kinnally: Payment over 24 months.

Mr. Bogart: What are we getting in return for this that we do not have as of right?

Mayor Kinnally: Part of it is the settlement of the lawsuit. Part of it is the immediate payment of the arrearage of '91-'92 and an agreement on the assessed value of the property for the next two years through the term of the tax trust agreement.

Mr. Bogart: And we are getting nothing else in return? It does not seem sufficient to me to enter into this type of agreement where we get 33 cents or less on the dollar.

Mayor Kinnally: Part of it is that we are settling a lawsuit. We are faced with the uncertainties of litigation, plus the added expense of litigation. We have estimated that litigating this issue would cost us upwards of \$250,000. I presented the terms of this settlement, not tonight, but two weeks ago; I went through it at length. It is not that we are springing this on the public tonight.

Mr. Bogart: I think that allowing two weeks for discussion in the Village, during the summertime when a lot of people are on vacation, where the terms of the agreement have not been set until maybe today or yesterday...

Mayor Kinnally: The terms of the agreement have been set. The agreement, in principle, was reached and I presented it two weeks ago. Those elements have not changed at all.

Mr. Bogart: The other thing is that this all takes place in secret because it has to do with the sale of real estate and the sale of real estate is in executive session.

Mayor Kinnally: It is one other thing, too. We are settling litigation and, under common sense and the public meetings law, meetings with counsel are not held in public. We are not going to discuss strategy, especially when our opponent is sitting in the room here.

Mr. Bogart: But both sides knew that there was a settlement under way. I am not certain what is gained by not telling the Village that there are settlement discussions underway.

Mayor Kinnally: In April of this year I announced that the Village was in discussions with the owners of the waterfront in settlement of the tax litigation. In every subsequent meeting I indicated to the Village that the Board was in active negotiations with the owners of the site toward settlement of the tax *certiorari* litigation. As Casey Stengel used to say, You can look it up. We have not hidden that from the Village at all.

Mr. Bogart: So it was just the terms of the settlement that we have not been told about.

Mayor Kinnally: We had not reached the terms of the settlement.

Mr. Bogart: But now you have. So don't you think that there ought to be a little more discussion? What is the rush to pass it tonight?

Mayor Kinnally: The people in the community asked for more discussion at our meeting when we first raised this on the 14th. We had a public hearing on the 14th, a public hearing on the 21st,

made the agreements available to the public yesterday and today, and had public comment tonight.

Mr. Bogart: I suggest that this be tabled until mid-September when people come back from vacation, have time to read the document and comment. There is nothing gained by passing this tonight. And, again, I think that the terms that you, our Trustees – the people in whom we have placed our faith – are terrible.

Ann Schnibbe, 8 Edmarth Place: I was unable to come to these meetings in person but I did read about them in the *Enterprise* and *The Herald Statesman* and watched them on Channel 16. I do not know what is going on here about losing the waterfront. I don't look at it that way. I think that you, the Mayor, Board of Trustees, and Village Manager, have done an excellent job on coming to agreement with the owners of the property.

I do not think you need any more long-winded speeches about why we should delay. I do not think that half the Village of Hastings is out-of-town, not the half I know. I think you have done a great job. I do not see why there should be a delay.

The only thing that puzzles me tonight is what came up in the audience before the meeting: in the year 2001 the 24-term is up and we will lose control of the waterfront; we will be giving it away. What does that mean? Is it something that could happen or that could be put over on us?

Mayor Kinnally: The position the Village will be in in 2001 is the same position the Village is in now with respect to any piece of property within our borders, that is, we will be free to assess the property at whatever value we deem proper. We have control to the extent that we have always had control over the waterfront.

Ms. Wagner: Mr. Keaney is chairman of the local Waterfront Revitalization Program. We are promoting it. I tried to get tourism in Hastings, which is a good way of getting revenue. This is what I am trying to say about losing control of the waterfront. The last time I spent several meetings with the owners of 28 acres of waterfront property is when they were trying to get 300 apartments built on the waterfront...meeting after meeting. So this is the control I am talking about.

Mayor Kinnally: This is a Special Meeting and we can only consider what is in front of us tonight. But let me allay your fears. It does not matter who owns the waterfront for the LWRP to remain in business and to have the input that it is designed to have. In my discussions with Mr. Kheel, when he was actively considering acquiring the site, he was very happy and committed to working with the LWRP in reaching a consensus on what the community wants. None of that is going to change as a result of this agreement.

Ms. Wagner: I am glad to hear it and again, please vote for this. Let us get moving on the waterfront.

Josephine Novak, Hamilton Avenue: I think it is vital not to rush through this. We should be getting some extremely high-powered lawyers. They have high-powered lawyers. We should have high-powered lawyers. We should be getting really responsible, really sophisticated, guidance from people who are specialists in this area before we make decisions.

I got the thing in the mail yesterday. I do not understand these things very easily, so I am still wading through it. I am going to have a lot of questions when I get through it. Half the Village may not be out-of-town but they have a lot of things going on and this has not been very publicized. We should have a Village meeting and a newspaper ad for it, or something that is noticeable: flyers.

Mayor Kinnally: Let me address the first thing that you raised, and that is that we ought to get high-powered, sophisticated attorneys. We are more than comfortable with the advice that we have been getting from the Ponzini firm. This has not been done in a vacuum. We have had advice of environmental counsel all through negotiations, and experts in the field of *certiorari* dealing with the possibility of success at the trial. We are not going into this blind, and I assure you that the attorneys have given us the advice that is necessary. We are not at all at a disadvantage in dealing with the owners of the site.

Ms. Novak: But we know none of this. Don't you think it would be good to educate us so that we can appreciate that you have made a very good decision, even though it seems bad?

Mayor Kinnally: At the meeting on the 14th I said that not only was the Ponzini firm involved, but the Sive, Paget firm has been involved at all times in giving us advice.

Ms. Novak: Sive, Paget is environmental.

Mayor Kinnally: The environmental component of this is exceptionally large because of the New York State Court of Appeals case that has said that in valuing real property you must take into account the cost to clean up the site whether or not the owners of the site are ultimately responsible for bearing that burden. The real estate and tax advice has been given by the Ponzini firm.

Ms. Novak: I do not understand why we never took the option to foreclose.

Mayor Kinnally: Foreclosure discussions have been going on for a long time, not only in the Village but also in the Town of Greenburgh, which decided not only not to foreclose but to enter

into an agreement that they would not foreclose on the site for a period of time. Foreclosure is not a magic wand that you wave over the site and say, Presto, we have the site. The basis of a foreclosure action is that the owners of the site have refused to pay the taxes that are levied on the site. We have a tax *certiorari* proceeding pending against the Village. If we were to start an action to foreclose on the site one of the defenses that the owners of the site would raise is that the taxes are illegal, and that there is a pending *certiorari* case. There is no way that a judge is going to grant the Village foreclosure when the very issue being decided in the foreclosure is pending in the *certiorari* case. So ultimately you will have somewhere, either in foreclosure or in *certiorari*, a determination of what the value of the property is and whether or not our assessment was proper.

Ms. Novak: Are we likely to lose more by being gutsy and going ahead and standing up for ourselves, because we have dodged lawsuits before?

Mayor Kinnally: We cannot dodge all of them because we keep getting sued week after week. Jeff mentioned we should have some spine or backbone in going ahead with the lawsuit. I agree with you. But you have to use one other part of your body, too, and that is the gray matter in your brain. I am not here to show spine. I am here to show common sense in getting the best deal for the Village. If I want my legacy to be, I stood up and spent a lot of money in Supreme Court litigating on behalf of the Village, then I have not done this Village a service. I am not ready to give away the store, but I am ready to make sure that the Village has used their advisors properly. Our advisors had given us good advice dealing with this matter throughout the entire tenure of the lawsuit.

Ms. Novak: You may well be able to convince me but I have not got the facts. And I am going to watch you vote tonight still without the facts.

Mayor Kinnally: I cannot convince you of everything, because I cannot share with you the advice that we got from counsel.

Ms. Novak: But we are getting 33 cents on the dollar. We are throwing away 66 cents.

Mayor Kinnally: We are not throwing anything away. The issue is whether we are going to get 100 cents on the dollar in litigation. We do not know what the courts would decide. We could end up getting 33 cents on the dollar and it would cost us \$250,000 to get there.

Mary Whiting, 39 Lefurgy: I was delighted when I read about this because we won't have a lawsuit and we won't foreclose on it. I cannot imagine why we would want to own the waterfront property. I think the greatest dream is to have it give us a little tax revenue and get somebody in there to develop it.

As far as having everybody having input and knowing about it, this is not a town meeting government. We had the last election in March and it was quite decisive in terms of support, not only of the people who ran but of the Board. I have lived here for 30 years and I have seen a lot of different administrations and I have been very politically involved. I am very happy that there are people who are intelligent and willing to give of their time, and think about it, and who can decide much better than I. And I am happy that we are not involved in any kind of litigation.

Mayor Kinnally: As a point of clarification, this Board has not ruled out the possibility of foreclosing on the property. We still think it is something in our arsenal, and we will pick our spots if we have to use it.

Mary Jane Shimsky, 35 Ashley Road: For the 1991 taxes, because they never contested the assessment, we are getting 100 cents on the dollar?

Mayor Kinnally: Yes, plus interest and penalties. It comes to \$395,000 and change.

Ms. Shimsky: For 1992 through '97, what we are getting, about 20 cents on the dollar?

Mayor Kinnally: I do not know what it comes out to. The total amount is about \$400,000.

Ms. Shimsky: If you do foreclose on the property for failure to pay taxes in 1991, what defense could they raise?

Mayor Kinnally: In a strict foreclosure the owners do not have a defense. They, or anyone with an interest in the property, could simply pay off the taxes and that would go away. The prospect of bankruptcy is always there also, and in a bankruptcy situation it is possible that the '91-'92 year could be contested.

Ms. Shimsky: I understand why people can look at these numbers and say this does not look like a good deal. We are owed 2.4 million dollars and this is all we are getting. We are giving up the right to collect close to 1.7 million dollars in taxes in order not to spend \$250,000 in legal fees, and that does not seem to be a very good tradeoff.

Mayor Kinnally: We are not owed 2.4 million dollars. We have levied 2.4 million dollars in taxes and they have said that what we have done is illegal. The court will determine how much we are owed. If the court says the assessment of the property should be "X" dollars and they fail to pay that money, then we are owed that money; we could foreclose and they have no defense.

Ms. Shimsky: Assuming they do not pay the taxes. But if they pay the taxes they are getting a 1.7 million dollar reduction in what has been levied.

Mildred Beece, 117 Edgars Lane: I was a member of Ferry Sloops for many years when we were berthed on the waterfront, and those buildings were abandoned and ramshackle; the roofs leaked, the windows were broken, and they were barren hulks with no running water. Why did we have an assessment of 2 million-plus on that whole area? Maybe it would be less of a shock to people today if the original assessment had not been so high.

Village Manager Hess: The assessment came on the books in 1989, and it was based on the purchase price of 27 million dollars of the properties by Henry Greene and the original partners in 1988. It was based on the equalization rate versus the market value based on that purchase price, and that is where the 2.3 million came from.

Marge Apel, 111 Rosedale: How can you still foreclose when you have made an agreement with them and lowered the assessment and they pay it?

Mayor Kinnally: We can still foreclose in two ways: if they default under this agreement we have the right to foreclose, and foreclosure is an option after the year 2000 because the agreement will be over, and they will owe us taxes like everybody else does. If they do not owe us money we cannot foreclose.

Ms. Apel: You do not have control of the property if you do not own it. We could have all these wonderful ideas, and even though we have zoning rights there is only so much you can do unless you have the property. That would be the reason that you would want to foreclose.

Mr. Bogart: It was interesting to hear someone mention that we are giving up potentially 1.7 million to save approximately \$250,000 in litigation expenses. Again, that seems to be unjustified. by what would be the ability to collect more than the amount that we are currently getting. This is not half a loaf, this is much less: a quarter of a loaf – 20 cents – not the 33 that I originally heard. The information which comes out here tonight would be interesting to the community. It is another reason why this should be tabled until mid-September when the community has a chance to digest the full implication of the proposed settlement.

Mayor Kinnally: None of the information that has come out tonight is new. All of this information was presented at the meeting on the 14th; we indicated that the '91-'92 tax year is not subject to the *certiorari* challenge, and that we are getting 100 cents on the dollar on that year. Trustee DeVita is out-of-town but went on the record with her comments last week. I will open it up to my colleagues.

Trustee Keaney: The real issue is whether this is a beneficial deal for the Village. Over the last three weeks another issue has surfaced: the timing/public notice issue. It has been publicly announced that the Board has been working toward this settlement and has been in negotiations

for some time. The particular numbers and components of the negotiation were not disclosed, and would not be disclosed while the negotiations were going on. When the terms were finalized they were announced to the Village very quickly. There have been five pages of financial information available for the last three weeks. A lot of people have taken them and studied them. I think if people are interested in studying them, they will.

Much has been made of the fact that this is the summer and that people are away, and that we should put this off until September. It is true that in the past we have adjusted our schedules, in some cases, when the summer came around. But the timing of this is the settlement of a litigation, and the timing is not entirely within our control. As the Mayor pointed out, this is going back on the trial calendar early next year, which means we would have to get appraisal experts, valuation experts, cleanup experts, and all the other experts that you need soon so that we can be ready for trial. It seems to me really foolish to put off a good deal until September.

Mention of Building 15 brought back to mind the discussions that we had when we were thinking of settling the Building 15 litigation. We were told that we should disclose our litigation strategies in public. There was a desire to rewrite the legal stipulation. We were told to do nothing to get out of a litigation morass, that we should continue to slug it out in court. I thought that was a bad thing to do then, and I certainly think it is a bad thing to do now. Certain cases, like this one, should be settled on a reasonable basis. It is obvious to everybody in the Village, now, that it was wise. I am not averse to slugging it out in a proper case. But this is not a proper case to slug it out. It is a proper case to settle.

We have a window of opportunity. The state, in particular the DEC, has finally gotten it. It took them awhile, but they are on board with the Village. They are actively working with us. We have Building 15 almost cleaned out. We are participating in the LWRP, where the building blocks of what the waterfront is going to look like are being put into place. The people of the Village want results. They don't want finely-spun, untried legal theories that guarantee nothing except more time in court, and more money down the drain. What the people want is results, and I am not willing to slow down and spend time on the hope that a judge will decide that this property is worth 27 million dollars. I think the settlement is realistic. It achieves a certainty of what our taxes will be over the next two years, so that we can budget properly. I think it achieves a good settlement for Village taxpayers, and it removes one more roadblock to the coming revitalization of our waterfront. I certainly intend to vote for it.

Trustee Gagliardi: I agree with many of Trustee Keaney's statements. I want to go through some of the things that I used to make up my mind: the likelihood of prevailing at trial; the expenses of proceeding to trial: the court fees, the expert expenses, the legal fees; the adverse effect of the Town of Greenburgh settlement. Jim used "roadblock." Ms. Schnibbe used "hurdle." I am going to use "barrier." This is one more barrier that we are knocking down.

Building 15 is almost done. The LWRP is formed. We have already gone through enhancement of MacEachron Park and the new restaurant. I believe the Tennis Club is looking to expand and make our waterfront more attractive. There is a possibility of acquiring Marinello Cove; ARCO's and the DEC's involvement towards the cleanup; President Clinton's designation of the Hudson as an American Heritage River. This is a practical deal in the best interests of the Village.

Trustee Holdstein: I chose to put some things in writing that I am going to read:

Having worked hard with this Board, negotiating the settlement before us, as well as listening to residents' concerns over the back taxes owed over the last few weeks, as this issue has reached a potential solution, as well as over the 2-1/2 years that I have served as a Trustee, I want to publicly state why I support this settlement and clarify what I see as some confusion about the settlement, as well as clarify some misinformation that has been part of the ongoing public discussion.

This Village is settling a lawsuit brought against us by the current owners, claiming the property is assessed at too high a value. Each year this Board, through the tax grievance process, hears similar complaints by landowners. In some cases we drop the value, in others we do not. Following our decision, some take the process further to court where someone else makes the decision for us. In some cases we have other large property assessments reduced. Because the current governor vetoed a bill supported by this Board to have a county-wide reassessment that would have "leveled the playing field," we continue to have many inequities in our tax rolls. In this particular case, the 2.4 million dollars that is owed is based on a assessed value of over 20 million dollars. This money also includes interest and penalties. This Board could have chosen to continue to fight for the full payment, yet when we considered several important facts we came to the conclusion that in the best interests of the Village this settlement was much more advantageous. The highest court in New York State has a ruling that allows a landowner to deduct the cost of the cleanup of a contaminated site, like our waterfront, from the value of the property, even if they are not the ones incurring the cost. We would have needed to spend in the area of \$250,000 to prepare to go to trial, and then additional monies during the trial. The outcome of that trial, like any other court case is, You can win and you can lose. If we had lost, the potential value of that property could have gone to zero, leaving us no money now and in the immediate future.

Communities throughout the county have been losing tax *certiorari* cases at alarming rates and that prospect, versus gaining nearly \$800,000 over the next two years, and having a site on the tax roles for more than double what the Town of Greenburgh settled for, seemed to be a far greater prospect for this Village. It is worth noting that the Greenburgh settlement, while valuing the property at half of what we are proposing to settle, cost Village taxpayers 1.2 million dollars that has to be paid back out of our school budget. There were some who praised their settlement, and hailed the fact that they were now deriving cash flow from the owners. However, that settlement is costing Hastings taxpayers, and is not nearly as good a settlement as we have negotiated, and I am glad that we did not join in their deal as they had requested the Village to do.

While there are bills proposed in Albany, they are not in place now. In addition, there are still major costs regarding the bulkheading of the site that make foreclosing a greater potential cost than settling this case as we have proposed. There is no guarantee that these bills pending will become law. Remember what I said earlier: the governor vetoed the reassessment bill.

Some have criticized the lack of time for analysis and comment. Yes, it is not ideal. However, had we settled with the proposal on the table back in May, allowing for more time, it would have been for way less money. Because the Board negotiated long, hard, and aggressively it took longer, but gained the Village much more money now and value to the property for the future.

Many of those who find fault with this settlement also did not want the Board to agree with the DEC on the settlement for the cleanup of Building 15. They requested that the Board continue court proceedings in that matter. Had we done that we would still be fighting in court, incurring those legal costs and owning a fire hazard in Building 15. Instead, that building will be completely clean of over 160,000 cubic yards of debris – a roadblock to progress on the waterfront removed – within the next 45 days as per the DEC order.

Many of those who object to this settlement also wanted the Board to put a moratorium on new development on the waterfront. Had this Board done that we would not have the new waterfront restaurant that has been the talk of the Village for the past two months, and been one of the most exciting new developments in the Village in some time.

I am not a lawyer, and while I have the utmost respect for our legal system, I would much rather fight for practical solutions to problems than taking what I consider risky chances in court, where losing is just as likely as winning. Over the last few weeks I felt it was my duty to listen to the community's feelings about this settlement. This Board has been working continuously on this settlement, with many executive sessions with counsel; especially over the last four months we have been meeting regularly and have had many spirited meetings before we agreed to this proposal. Many of our executive session meetings were quite contentious. There was much disagreement and vigorous, though respectful, debate. It was not easy, and it took a lot of work before we could agree that, as a Board, we felt we had done the very best for Hastings. When we reached that point, the Mayor properly presented our settlement.

I feel that now is the appropriate time to express my thoughts about this settlement of the tax *certiorari* case. I believe that we have an excellent settlement before us, and that the \$800,000 we will be receiving, with all the variables factored in, is an exceptional deal.

During my time on the Board I had been very critical of the current owners. Stating the obvious, they have certainly not been friends to this Village. I feel that this settlement is in the best interests of Hastings, and that has been the only vantage point from which I have viewed these negotiations. I believe the structure of the agreement protects this Village, and gives us the necessary tools to deal with any problems that may arise over the two-year period of the settlement. I look forward to voting "yes" on the tax settlement agreement, and to begin receiving money that has long been owed to Hastings.

Mayor Kinnally: Unfortunately, the community cannot see this Board when it meets in executive session. I agree with Trustee Holdstein that it was vigorous and respectful debate when we were considering the various proposals. And the debate went also to our advisors, because there was a lot of discussion and different approaches brought to the table in trying to reach a consensus on the various proposals. A comment was made a while ago, and I guess it is right, that when the presentation was made none of the Trustees chimed in because consensus had been reached. This Board endeavors to do things by consensus.

The proposal presented to the community on the 14th, the 21st, and now on the 28th of July reflects that consensus. Many of the same concerns that have been raised by the public on the

deed in lieu of foreclosure, on the timing of the payments and things of that nature, were raised and considered by the Board of Trustees.

I cannot say that everybody on the Board, our advisors (and I will speak probably to the other side), is 100% happy with what we have. Settlement by its very nature means that you give some things and you take some things, and a middle ground is ultimately reached. This Board worked hard, and I am not going to sell the agreement to the public. I think the agreement speaks for itself. But I am going to sell the process. This Board never lost the ultimate goal, and that was to try to come up with the resolution of the litigation, to do what's best for the Village.

All of us, including the five Board members, the Manager, the Village Attorney, and all our other advisors can second guess the amount of money. All of us can ask that question that can never be answered: What would happen if we went ahead with the litigation? But I think a fear of the "What if?" is paralysis, that you will never come to a decision.

In July of 1998 this is the right solution for the Village and in the best interests of the Village. Litigation, by its very nature, is uncertainty. The settlement of this lawsuit resolves some of that uncertainty. We did not try to get rid of this lawsuit for the sake of getting rid of it. But we had to face the reality of having a piece of property on which the Town of Greenburgh's preliminary assessment was nowhere near our assessed value of the property. We took that into consideration, and I worked closely with the Town of Greenburgh in discussing with them the settlement that they reached.

I don't mean to disparage the Town of Greenburgh in their settlement of their litigation. They did what they did because they openly came to the decision that their settlement was in the best interests of the Town of Greenburgh. I think our settlement is better than the town's but, more importantly, it is in the best interests of the Village. I recognize the arguments about timing, but we have to bite the bullet. I do not think that we are going to come up with any better settlement when you have to take into consideration in assessing the value of real property the amount of money it will cost to clean up the site: cleanup of the PCB's, and maybe a portion of the bulkheading; the cleanup of all the heavy medical metals; the petrochemicals.

I appreciate the frustration voiced by a lot of people. Unfortunately, we cannot share with you all of the elements that were considered when we cobbled together this settlement. But I think it is the right settlement. This Board has faced difficult decisions like this in the past, and history has borne us out. I think the proposal before the Board is the right proposal, for the right reasons, for the Village and, ultimately, in the Village's best interests.

53:98 AUTHORIZING EXECUTION OF A TAX INSTALLMENT AGREEMENT

Mayor Kinnally: We will consider the resolution authorizing the execution of a tax installment agreement. The resolutions on the settlement of the lawsuit will be on the agenda of our next Board meeting on August 11 at 8 p.m. in the Municipal Building. Let me read the resolution, with some changes that have been added since. (Ed Note: additions are underlined; deletions are [bracketed]).

WHEREAS, the Real Property Tax Law authorizes the Village to enter into tax installment agreement with the owners of the property whose real property are in arrears; and

WHEREAS, property owned by The Harbor at Hastings Associates and located in the Village of Hastings-on-Hudson is the subject of substantial tax arrears; and

WHEREAS, The Harbor at Hastings Associates has proposed to satisfy its obligations to the Village by entering into a tax installment agreement; and

WHEREAS, a tax installment agreement between the Village and The Harbor at Hastings Associates will be in the best interest of the Village because it is likely to resolve the issue of The Harbor at Hastings Associates arrears; now therefore be it

RESOLVED: that the Village Attorney is authorized to take all appropriate steps necessary to prepare a tax installment agreement as directed by the Board of Trustees with The Harbor at Hastings Associates consistent with the presentation made at the Regular Meeting of the Board of Trustees on July 14, 1998; and be it further

RESOLVED: that the Village Manager and the Receiver of Taxes are each authorized to execute [the] such tax installment agreement with The Harbor at Hastings Associates, subject to Village Board of Trustees's approval.

On MOTION of Trustee Holdstein, SECONDED by Trustee Gagliardi with a voice vote of all in favor, the preceding resolution was duly amended..

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

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

On MOTION of Trustee Keaney , SECONDED by Trustee Holdstein with a voice vote of all in favor, Mayor Kinnally closed the Special Meeting at 9:30 p.m.