

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
OCTOBER 20, 1998**

The Regular Meeting of the Board of Trustees was held on Tuesday, October 20, 1998 at 8:35 p.m. in the Municipal Offices, 615 Broadway.

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

CITIZENS: 50

APPROVAL OF MINUTES

Trustee Holdstein had the following corrections to the minutes of the Regular Meeting of October 6, 1998:

P. 9: Dorson, not "Dosin,...the people who monitored."

P. 18: "W-e, apostrophe, l-l. We'll all have different opinions."

On MOTION of Trustee Holdstein, SECONDED by Trustee Gagliardi, with a voice vote of all in favor, the minutes of the Public Hearing of October 6, 1998 were approved as corrected.

APPROVAL OF WARRANTS

Multi-Fund No. 44-1998-99	\$ 137,417.98
Multi-Fund No. 45-1998-99	\$ 224,169.47

62:98 AWARD OF BIDS FOR MUNICIPAL BUILDING RENOVATION

Village Manager Hess: We accepted bids on five contracts. Four of the contracts have been completely cleared for the bids. One of the bids we have not confirmed as of tonight, so I am asking that this item be put over until a special meeting one week from tonight for the award of the bids.

On MOTION of Trustee Holdstein, SECONDED by Trustee DeVita with a voice vote of all in favor, the Board tabled consideration of Resolution 62:98 until a Special Meeting at 8:00 p.m. on October 27, 1998.

On MOTION of Trustee Keaney, SECONDED by Trustee Gagliardi with a voice vote of all in favor, the Board voted to hold a Special Meeting to consider the award of bids for Municipal Building renovations at 8:00 p.m. on October 27, 1998.

PUBLIC COMMENTS

Mayor Kinnally: We will move things around on the agenda because a lot of people are here on the Proposed Remedial Action Plan (PRAP).

We had said last week that we were going to prepare a draft response for discussion this evening. Because of an inability to get together all the information needed to fashion a response, and after meeting with counsel in connection with this, we do not have a draft. We have had discussions with the DEC about extending the comment period to accommodate a full and complete review of the PRAP, the ramifications of it, and the drafting of the Village's response and comments to the PRAP. Environmental counsel is here this evening.

Let me outline for the community some of the areas we are considering. This is not a definitive, exhaustive list and is not in order of priority. The areas that we are looking at include requesting additional testing on the site for PCB's, PAH's, metals, not only in the covered and uncovered areas but also under buildings; removal of the metal hotspots as have been identified; further inquiry into excavation of portions of the site: the area and depth; support for the PCB alternative that is discussed at length in the PRAP; support for the bulkhead but also asking for specific deadlines for the submission of detailed design drawings; a timetable so that the installation of the bulkhead will be complete by spring, 1999; specific provision that the bulkhead be significantly higher than the current height of the site to accommodate the additional fill that will be necessary to bring the site up to compliance for the 100-year flood plain and to accommodate any additional fill that will be introduced onto the site as part of the remediation; the consideration of the demolition of existing buildings on the site; a further investigation and clarification of what institutional controls are; the form of deed restrictions; the extent of those restrictions; and, most importantly, the right of the Village to enforce any terms, conditions, and regulations of the DEC in connection with controls on the site and monitoring of the site.

The Village is also concerned about the need for additional data that ties in with the need for additional testing on the site and under the buildings; the need for a definitive statement that the ROD and any consent decree does not relieve ARCO of any future liability, and obligation to remediate the site should in later years additional contamination and health hazards be found when the site is being used. There should be a review of the existing buildings to see whether any of them pose a health hazard for free asbestos that may be in there. And the need for further cost estimates on various alternatives between zero to full removal of the fill on the site.

Mr. Hess reminds me that one of the other items is additional testing off-site: in the river to the north of the site in the area of Marinello Cove, in the area of the tennis club, on the site of the tennis club, and in MacEachron Waterfront Park.

The comment period is at least through November 11. If we get some further clarification from the state we will go to them with a formal request for additional time. I would not want to push this out beyond the end of November. First of all, I think the state wants to get something in connection with the bulkheading, although we have said that the bulkhead should really proceed independent of the PRAP on the PCB's, the metal, and the PAH's, etc. But I think we have a short period of time, and we can probably focus our efforts when we know that we have a cutoff. My request of the people in the community would be to send us comments by the current deadline, Nov. 11, preferably in writing. Not all the comments are going to find their way into our comments to the state, but we can use them as a guide and checklist.

Environmental Counsel Chertok will now give us a brief overview.

Mark Chertok, attorney: We are at the "remedy" stage, which means, under the governing law, that you have certain objectives. The objectives are, overall, to restore the site to what is called "pre-disposal conditions" to the extent feasible and authorized by law, which means that this is to some extent a balancing process that is determined by the word "feasible," which includes notions of cost effectiveness. When the DEC ultimately makes its decision it is balancing a variety of factors and considerations. At a minimum, however, the remedy is supposed to eliminate, or mitigate, significant threats to public health or to the environment through the application of processes that are consistent with scientific and engineering principles.

One of the factors includes the conformity with existing federal and state regulations, criteria, and guidance documents. For example, a number of the documents refer to what is called the "TAGUM", which is a Technical Advisory Guidance Memorandum issued by the DEC that has certain recommended cleanup levels. That guidance document forms the basis for many of the suggested cleanup levels you find in various portions of the document. And health risk assessments that were done by ARCO under the DEC's supervision have certain other levels which are arrived at through certain scientific principles. Again, we are not vouching for the necessary appropriateness of the results of that health risk study, just saying that is what is typically used by the DEC and by the EPA when they do these kinds of processes. You look at the overall protection of public health and the environment. You look to determine whether it is short-term or long-term. There is a preference for certain types of remedies, such as permanent remedies that will take care of the problem over the long term: remedies that will destruct the material. Then you go down in a descending order from destruction to separation to treatment you can solidify and leave it in place. Or you can control it or isolate it, typically by paving it.

They are also obliged to look at community acceptance of the proposed remedies. The remedy, once it is selected, is put forth in a document called the "Record of Decision," or "ROD". That is not the end of the process. The ROD is a conceptual document which sets forth the basic guiding principles for the remediation. After the ROD is adopted, you have the very detailed design drawings and engineering documents. You will have hundreds of large blueprints showing the exact details of the remediation and the design details of that process. That will take some time. After that you eventually start to work. I would add another item that is probably on the Mayor's list: the addition of cleanfill in addition to, or beyond, excavation over the site.

Mayor Kinnally: As part of our review process we are working closely with the consultant that has been retained by the Riverkeeper, Carpenter Environmental. They have been exchanging data and reviewing some documents, and I know Mr. Chertok has been having conversations with them. We will continue to work with them in our review of the data and our assessment of what has to be done to respond to the PRAP.

I will open the meeting for comments.

David Shapiro, 5 Travis Place: I am very disappointed that the response is not ready tonight. You mentioned on the one hand you going to seek further clarification from the state with regard to extending the comment period, but at the same time you said that the outside envelope of the comment period should not extend past the end of November. What clarification are you seeking? My concern is to have truly meaningful input into the Board's recommendation. And my concern is a temporal concern. This puts tremendous pressure on everybody. Myself and many of the people came tonight specifically because we assumed that the recommendation would be represented.

Mayor Kinnally: We were looking for reaction from the state regarding the request for additional time. I do not want to send them a letter and find out that they are not receptive to it. We did not want to surprise them.

Stephen Kanor, 101 Lefurgy: I spent a lifetime in cancer research, immunology, so I know some of the effects and problems that we have with what is there. I have only recently seen the extent of what is in that ground and it is pretty horrifying. What bothers me more than anything, and should be the overriding factor in what we accept, reject, or do, is the relative health of removal versus leaving it alone: that is, paving it over, sealing it until there is a day that science can remove these toxins better. The stuff that they are going to take out of there either by opening it or by removing it is going to be a horror show. There are going to be people here who are going to get sick. How many are going to be injured in one way or another is not clear. Until that is clear I think nothing should be done until we know the relative merits of leaving it, sealing it, or removing it.

Also, whose back yard are we going to dump it in, and when? I am appalled that that is not the key issue in this work.

Nadine Logan, Euclid Avenue: I am concerned because I have heard so many different opinions on this. I would like to request that the Board hire consultants and do some exhaustive research so that we can try to understand what is going on here and figure out how to proceed. I don't get the impression that we have any adequate or thorough review of this by an expert to let citizens decide what should be done. Should it be paved over or should it be removed? I hope that you do your due diligence.

Ben Fratkin, 299 Mt. Hope: This strikes me as such a complicated problem, in that everybody has great opinions. The Board should have some expertise in responding, and a consultant. You have some unofficial expertise from the Riverkeeper, but how can we deal with this in good conscience without having an expert consultant on-board.

Ted Herman, Euclid Avenue: How would you characterize what the list represents that you read. Are those recommendations?

Mayor Kinnally: Those are general areas that we are inquiring into, and that have been identified as potential targets for comment by the Village to the DEC. We have not crafted a draft response yet.

Mr. Herman: What will be the source of information that will inform the decisions around making recommendations?

Mayor Kinnally: It will be discussion with counsel, input from the data that we have received, informed judgement by the Board as to what is necessary to protect the health, safety, and welfare of the Village and to ensure that the property is cleaned up so that the Village can use the property in the future, and input from the community.

Joy Rose, 18 Terrace Drive: As someone in the community who has serious immunological disorders, my concern is that there is somebody medical on the committee as well who does know the medical repercussions of this kind of process. That is a big concern, and I know I am not the only one who has issues like this.

Mayor Kinnally: We are working in conjunction with the Westchester County Department of Health and the New York State Department of Health in that regard.

Dr. Jacques Padawer, 170 Villard: I think you are on the right track. Also, I would like to make sure that even though we give things in writing that people feel an obligation to speak

while the cameras are running. As a result of my being on camera, people from the Village have approached me with information, or questions, or other things, including some who have said that their father, or uncle, or whatever, have worked at Anaconda for a number of years and have died of cancer at a very young age. This is obviously not a scientific observation, but there is a possibility of asking people who are still in the Village to give you information about their families or friends as to when they worked there, how long they worked down there, whether they smoked at the same time.

I agree that if we do a sloppy job of digging up the "stuff," as Mr. Kanor intimates, there is the potential for real problems. But we have a question of risk/benefit ratio here. The Village can use that property, and if it is done properly the risk can be minimized very much. Ms. Rose is right about the immune system, but it is not just the people who are compromised because we are all compromised when it comes to that kind of stuff. So we don't have to worry about the exception. Let's agree that it is going to affect everybody. And I am assuming that the Village will have very strict control, with the DEC, as to how this is done, and it will not be another setup like we had with all the garbage that was put in Building 15. I would like to be optimistic on that point.

Regarding the PRAP, the metals are not going to be removed by any of the methods the DEC is talking about except excavation. I am worried about things like arsenic, lead, and mercury, which are probably more dangerous than the PCB's. Somehow there is a sort of sloughing that off. They talk about digging to 20 feet below the surface to the bedrock. That is setting up conditions that are so expensive and difficult that, of course, they are going to say we cannot do it. But one does not have to go to such an extreme. If one were to remove everything in the water table, which is down to about four feet, we would remove a lot of the mercury, arsenic, lead, nickel cadmium, including the PAH's and the PCB's.

Because of the heterogeneity of the site, because of the different uses of the site, testing is a gamble unless every foot is tested. You should insist that it be removed properly and that a layer be put down on the bottom that they can see what is above the water below there. Put about a foot or so of phosphate drop, which will trap the lead if nothing else. Above that put clean fill up to the level that you are talking about: the 100-year plain. We would then have something that would be really reliable.

Jean Zimmerman, 164 Rosedale: Thank you, Mr. Kinnally, for attending the meeting of residents on Saturday. There were between 30 and 40 of us there, and we appreciated that you came and listened and spoke, and were concerned about our concerns, which were many and varied. There are many complex and confusing issues here, and there are a lot of people in town who are very concerned. Nobody knows exactly how we should proceed on this issue. But there a lot of people who are willing to work very hard in whatever time frame we have in order to get

the answers we need to move ahead in a way that is safe and responsible for all of Hastings' residents.

We submitted a list of recommendations, but a lot of those recommendations are requests for further information. How can we continue to get the information we need in order to supply our input?. Can we have a liaison or some kind of a conduit or a regular exchange of information?

Mayor Kinnally: As soon as we get information we will disseminate it to the public. The vehicle for that is Board of Trustees meetings. We will also make the information available to the Conservation Commission and to the other Boards and Commissions that are involved.

Ms. Zimmerman: Because of short time frame, that is not really going to be adequate. The Board meetings are every few weeks. If we let this go another two weeks, and another, the whole thing will be over with. We will try to disseminate information and perhaps we can pull a little bit more weight if that is what it comes to.

Michele Hertz, Euclid Avenue: The Village needs to hire an environmental engineer. In Building 15 there seems to be a lot of asbestos on the ceiling. I don't think there is any reason to wait to find out if it is asbestos.

Mayor Kinnally: That is one of the things that we have taken up with the state. We will have the state go in and take a look, and if it is free asbestos we will have it remediated.

Ms. Hertz: But why haven't they done it already? It's been like that.

Mayor Kinnally: You will have to ask them. We are not responsible for these issues.

Ms. Hertz: That is why we need an environmental engineer.

Mayor Kinnally: We don't need an environmental engineer for that. If we suspect that there is asbestos we will tell the state and the health people to deal with it.

Ms. Hertz: Is Falcon Recycling still operating there? I have seen them around town.

Mayor Kinnally: Falcon was not the recycling operation down there. I don't know what they're doing. They were doing some construction work for F.C. Hastings. I don't know if they are doing anything now. We will look into it.

Tom Brown, 141 Overlook: Before you made a list of your concerns to the DEC. In those comments I did not hear any mention of the fact that they are going to leave 90 percent of the

heavy metals in the ground. They are only going to move 10 percent.. I did not hear anything that would imply questioning that. Is it okay that they leave 90 percent?

Mayor Kinnally: No, it isn't, and that is not what I meant to imply. What I addressed was additional excavation on the site and testing on the site; need for additional data; introduction of additional fill to the site; and the need for further cost estimates on the alternatives from between zero to full removal. I do not have enough information right now to say whether it is acceptable or unacceptable to leave 90 percent of the metals on the site. If those metals are 30 feet down I do not know if they pose a problem. I am not making a decision on that. These are the issues we are raising to discuss with counsel and with the DEC.

Mr. Brown: I don't think anybody here would find it an acceptable solution to leave 90 percent of those heavy metals down there. That is like declaring a victory when there is no victory.

Susan Gliner, 2 Fraser Place: I don't understand where the Board has been getting its information to make the technical decisions. There are amazingly complex issues involved here, involving medical decisions and engineering decisions. How is the Board going to make a decision about something such as how far to dig down if it doesn't have an independent consultant with expertise in such things?

Mayor Kinnally: The decision on how the site is to be remediated is made by the DEC, not by the Board of Trustees. The Board of Trustees does not have authority over the site on the cleanup. We have an input on the site. We are working with the DEC and with the Department of Health. Like everybody else, we can submit comments.

Ms. Gliner: We may not have the ultimate decision-making, but knowledge is power. If we don't have the expertise and the knowledge, if we don't have our own independent consultants, how will we know if we're telling them the right thing?

Mayor Kinnally: We have experienced environmental counsel who has been through this before. We are working together with Carpenter Environmental who have been retained by the Riverkeeper. The Riverkeeper has been working with us on this litigation and on the site for a number of years. We are seeing the same data that he is seeing.

Ms. Gliner: How do you filter the data? You're talking about consulting the Riverkeeper, some environmental consultants, and an environmental lawyer about issues that are incredibly complex: immunological issues, issues about metals, that these people don't have real expertise in. I don't understand how the Board can make an informed recommendation to the state if it does not have its own consultants and its own basis of knowledge.

Ken Tucillo, 14 Edgewood Avenue: For Mr. Chertok, if the DEC decides to stay with the plan as it stands now and not adopt any of the recommendations that we make, what are our options in terms of stopping that from happening, or do we have to sign off on this before it can become final? For the Trustees, what are your views on what we are going to do about this and how we are going to stop the current plan from going through without a real cleanup?

Mr. Chertok: The ultimate authority resides with the DEC with respect to deciding on the extent of the remediation. If the DEC decided to issue a Record of Decision, which is the final agency action for purposes of litigation that remained unchanged from the PRAP, then aggrieved parties would have the right to litigate. That is a challenge that is typically restricted to the administrative record. Those aggrieved parties might include ARCO, the Village, or citizens. There may be other options, but this is not an appropriate time to discuss them since they have not been discussed with the Board.

The Village does not have the authority to sign off. It can comment, as other entities can comment. There have been a number of comments about consultants. Carpenter Environmental has worked with the Village in the past on the Mobil site as well as on this site, and in the litigation that was brought against Harbor at Hastings and ARCO. They have expertise in the hazardous waste area. As more and more comments come in on the PRAP that means more and more work for the environmental consultants, which takes more time. When comments are submitted, if there are factual bases or there are places in the documents reviewed that you can itemize and articulate the basis for the concerns, that would be very helpful. That is what is needed to be more effective vis-a-vis the DEC if there is a concern.

Trustee Keaney: My thoughts are not formulated yet. I have gone to several meetings, as you all have, at the high school. We have had meetings here with the DEC, on-site with the DEC and with other experts. We are not taking this lightly. We are spending a lot of time in coming up with a response to the DEC's plan that will be the best and most feasible thing for the Village.

Trustee DeVita: I, too, cannot make recommendations tonight. I have been working with the Board and the Mayor. Certainly my concerns are what everyone's concerns are, and that is the safety and well-being of the people who live in this Village, and to try to get the cleanup done in a way that is safe.

Trustee Holdstein: I am sensing that people may be a bit confused. The PRAP is prepared by the DEC. The list that the Mayor read off are the things that we want the DEC to look at again and reexamine. The DEC is the lead agency. The State Department of Health is involved. We are trying to prepare a list to say that this PRAP is insufficient and we want you to go back and do the following and here is the laundry list of what we want done. We are not satisfied with 90 percent, but we have to throw it back to the DEC to make them go back and do our work for us

on this site and then see what they have come up with before we are going to go along with it. I believe the next step is the ROD. That list is for us to tell the DEC that they have not done enough homework. Go back and do more testing, give us more analysis, tell us what it is going to cost to dig 20 feet below, and to Jacques' point, put a phosphate rock cover, then refill 20 feet and then another four feet, as Ken talked about last week.

The input that all of you can give us will help frame this document so we can hold the DEC's feet to the fire and say we are not satisfied with this document, go do more work, and these are the comments from all of us in the community. Whether we hire an outside consultant, I think there is a general consensus that George Heitzman from the DEC is a pretty sharp guy. While we may disagree with some of the things he is saying, ultimately it is their call and we have to make them responsible. These are the experts to get the job done so we have to go back and tell them what we want done.

Trustee Gagliardi: I am not ready to make a decision. I have not seen the minutes. I am very interested in what the Riverkeeper has to say. We have a lot more work to do. It would be disservice to the community for us to make a decision today.

Vanessa Merton, 111 Pinecrest Drive: I am submitting written comments tonight. We have been assured many times that the DEC isn't going to do anything without the Village's approval. That is not the legal standard, but the understanding has been that the DEC was going to defer to the Village in terms of fulfilling its role, which is to represent the best interests of the people of the state of New York in terms of health and environment, and also economic impacts. We need to focus on the importance of the Village's comments to the DEC. One of the principal criteria in terms of whether a DEC decision could be attacked is whether or not there was community acceptance. What represents community acceptance? The voice of this Board will be the most powerful evidence on that point. If the Board signs off on this that will be deemed community acceptance for legal purposes. So it is not just input; it has legal significance.

The Village has to, in its response, try to avoid using meaningless terms like "the highest level of cleanup possible." We have heard from the governor and the DEC countless times that our waterfront is going to be cleaned up to the highest level possible. Last December, when the issue was raised that they were only going to require an industrial-level cleanup, that was dismissed by representatives of the DEC. But that is exactly what the current PRAP proposes to do. The Board should clearly state to the DEC that the community will not accept anything less than a cleanup that would permit future use as residential and commercial, without requiring any further removal, destruction, or containment of contaminants.

The Mayor raised the possibility at the Saturday morning meeting that the DEC could take the position it lacks the power to require ARCO to do this level of cleanup. The lead, the

manganese, and the heavy metals are the substances which are specified in the consent order which began the DEC's jurisdiction over this matter. Never has the DEC or ARCO ever taken the position that the DEC lacks the power to order ARCO to clean up these contaminants. In the current plan the DEC says it is ordering ARCO to remediate those contaminants. We disagree about how, that is, removal versus institutional controls. There is plenty of evidence that Anaconda was the source of these heavy metals and PAH's. The burden would be on ARCO to prove that it was not the source if it was trying to take advantage of that particular element of the law.

I agree that the DEC is not our adversary, but its experts are not necessarily acting in our interests. Also, our interests are identical with those of the Riverkeeper. The Riverkeeper is concerned with the cleanup of the river. We are concerned with not only the cleanup of this land but its possible impact on our economic future. We need our own independent evaluators...

Robin Herbert, 6 School Street: I agree that the Riverkeeper is focused on keeping the river clean, and I have heard comments that the issue of the other contaminants is a local Hastings issue, not necessarily the priority of an organization like the Riverkeeper. The health effects in soil are complicated medical issues. It is worth investigating if any physicians from the DOH have been involved in commenting on this. In my professional role I have gotten involved in various issues around landfills and other cleanups. It can be very helpful to have community and professionally based advisory boards relatively independent from all the various parties. I would strongly urge the Village to request this in its response to the DEC.

Mayor Kinnally: Point of clarification: do you mean on a monitoring basis?

Ms. Herbert: It would be best to have an advisory board comprised of people from the Village and outside experts, both to do a final review of the PRAP as well as to monitor the cleanup on an ongoing basis.

Sharon Siegel, 35 Hamilton Avenue: It is critical that you question the DEC about why they are not setting soil cleanup levels as per the state TAGM's. They require themselves and the EPA to use TAGM's. Even though they are not considered applicable, relevant, or appropriate standards, they are what we call "TBC's," To Be Considered. They require the EPA, and themselves, on most state sites and in almost all of the federal sites, to use these as the cleanup levels. And I find it questionable why they are not requiring it here. You also mentioned cost as an issue. I would again urge you to realize that cost is only one of nine factors that need to be considered.

Maryjane Shimsky, 35 Ashley Road: This is where we either have the potential of getting the waterfront or losing the waterfront. I would urge the Board to spare no expense in getting the

best experts, utilizing the talents of the community to make the most detailed, factual presentation possible to the DEC to make a good record for a possible legal challenge. When you consider the cost of experts and possible litigation it is so much smaller than the potential benefit we can get if this land is cleaned up. It is also less expensive than the potential cost to us if our children start to be poisoned by the contaminants down there.

Jon Lomartire, 88 Southgate: Now that the person who is responsible for the pollution is the owner that may make the DEC reluctant to impose upon them the level of cleanup that the community would want. Maybe you can consider a two-tier approach: as long as they own it and do nothing with the land other than cordon it off, they must contain the pollutants so they do not go into the river or pose any kind of airborne threat. Then have a second level of stringency, saying that to improve the property, disturb the area, or sell it, then they are going to be held to a much stricter standard to be able to use that property and gain the economic benefit for the community.

Michael Ambrozek, 16 Sheldon Place: We as individuals are not going to have an impact on the DEC. We have to look to the Trustees to be our advocates, to get the knowledge, to find out the facts, and utilize that to our best expertise. We need you to go forward valiantly. The waterfront is the most precious resource that Hastings has. I need to ask you to recognize what this community needs, and that you really make the greatest effort in this little time available to achieve the best results. It is not a question of the best cleanup. We really need to look at what the future of Hastings is going to get out of this.

Lloyd Morgan, 45 Dorchester: In the 1970's I sold a commercial building at 400 Warburton Avenue and both appraisers from the major banks said that in any other town comparable in Westchester County you would get twice as much for your building because of Anaconda. That waterfront must be totally clean, not just the technicalities. I am even more skeptical now.

Ms. Hertz: Is Carpenter Engineering's expertise about PCB's only? How they are helping if they are working on the river for the Riverkeeper?

Mr. Chertok: They are working on the site in terms of hazardous waste. If the Village wants information from them, they will provide that information within their expertise about the entirety of the site, whether it is PCB's, PAH's, heavy metals, or other issues. They are retained by the Riverkeeper for this particular matter, but at this juncture they are serving as an expert for both parties. They give us their opinions. If we do not want to accept their opinions we are not obligated to, but they are an expert in this area.

Mayor Kinnally: John Cronin, the Riverkeeper, told me that one of his goals is to make the property viable property so that it becomes an integral part of the Village, it becomes cleaned up,

and it is developed for residential purposes and for recreational passive use. They are not just friends of the fish. We have used Carpenter Environmental before. They are not PCB experts, they are remediation experts. They have given us everything we have looked for, and I would not hesitate in the future using them.

Mr. Brown: As so much of this is a political process, and the DEC is an agency of the state of New York, and we use Carpenter, which is a firm that Riverkeeper uses, I read an article the other day that mentioned how the state-wide Republican party had just donated \$35,000 to the Riverkeeper. Do you think that has any bearing on anything in this political process?

Mayor Kinnally: I don't know.

Mr. Brown: Is it worth looking into?

Mayor Kinnally: There is no reason to look into it. If I accept as fact what you are telling me they have given \$35,000 to the Riverkeeper. I don't know what else to say about that. I don't know if they are scoundrels, but...

Mr. Brown: I don't know either. I will double check it, but it would seem interesting that the governor and, by that way, the head of the DEC, the state's Republican agency would donate \$35,000 or so to the Riverkeeper.

Mayor Kinnally: I don't know how you link the head of the DEC to the state Republican party.

Mr. Brown: Who is his boss?

Mayor Kinnally: His boss is the governor.

Mr. Brown: And what party is he in?

Mayor Kinnally: You can answer that question. I get your point, Mr. Brown.

Mr. Brown: Maybe you should do some research into that.

Mayor Kinnally: I will rely upon you. Thank you.

Ms. Richman: I respect all the efforts you have gone to and all the meetings, but this one issue is a full-time job. With the short time frame we have, perhaps it is in our best interests to find an expert. I think people would be willing to pitch in and pay for an expert.

David Walrath, 100 Edgars Lane: I am an environmental engineer, but not that type of environmental engineer. Is Carpenter the type of environmental engineer that could make the tough issues that we are going to make with the state? Do they have the expertise with remediation so they can pin the state down on what is the appropriate way to handle this?

Mr. Chertok: I don't have any problems with Carpenter. They have been hired by the federal government to handle remediation of major facilities and they have been doing this. They have expertise in the area. If I believed we were not getting appropriate responses in the sense of time and expertise, then I would tell the Board I think we need someone else.

Fred Wirtz, 423 Farragut Avenue: We are approaching the eleventh hour with the most difficult problem the Village has ever faced. People are concerned about the level of expertise we are getting to advocate for our interests because they have not seen evidence of it. If Carpenter has not responded to this proposal to date, I am wondering if we are getting what we really need. It disturbs me that you have not said anything about their response to this proposal.

Mayor Kinnally: They are in the same process we are in, evaluating data and coming up with their response.

Mr. Wirtz: I would say, then, that we are no way near resolving this issue. And I am not convinced that we can move to decide what is best for the Village within the next month.

Mayor Kinnally: I agree. I am not convinced.

Peter Wolf: I would like to enunciate three of my concerns. One is the lack of confidence that I have in the data. ARCO is still ARCO regardless of whether they were the owner of the site or the pollutants. Becoming the owner does not change their goal of trying to get off the hook by spending as few dollars as possible. We almost have the fox watching the chicken coop. The fact that the values that come out of the sampling keep changing lends credence to that view. I still believe that Hastings-on-Hudson needs to have its own environmental engineer to evaluate the data.

Secondly, there is not enough knowledge about PCB's and especially the arochlor 1260. The nature of PCB testing lends credence to the fact that real knowledge may not be available for generations. Clearwater quotes the National Academy of Sciences by saying that the PCB's are the largest potential carcinogen risk of known environmental contaminants. There is evidence that there is damage to reproductive, neurological, and immune systems. If someone is exposed now and it goes to their children you may not know about it until their children have children. This is an unacceptable risk. The solution is that Hastings must have all PCB's removed from the site.

The third thing that bothers me are the institutional controls. They are risky and potentially dangerous. We need to assure ourselves that there are no subsurface migration of hazardous substances; limited assurances that controls will be implemented or later enforced is somewhat dubious. Thanks in part to Governor Pataki, the site has gone from the back burner to the front burner for the first time in 25 years. But there is no assurance that it will be on the front burner when the site is being developed. We need to get as much cleanup as possible now, and for what we cannot get cleaned up we must have safeguards put in now that prescribe the requirements for these institutional controls.

I would like to put forward Plan 5.1. 1) to have Hastings get its own environmental engineer who would review all data, conclusions, and recommendations; 2) to have all the PCB's removed from the site, including investigating the removal from under buildings; 3) to have the top four feet taken off the entire site, which would thereby eliminate the problems that exist with PAH's and heavy metals, etc.; and 4) to see this complete cleanup, and if we cannot do it to have stringent controls put in now, and that there is no deviation from them in the future.

Ms. Merton: The supplemental PRAP is replete with focus on the issue of cost. The financials from ARCO indicate that its post-tax quarterly profits in 1997 and 1998 range between 500 to 800 million dollars. Its chairman writes about ARCO's desire to be recognized as an environmental and health leader, and gives specifics on other cleanups that ARCO has done. It lists three examples of cleanups it has done, one at \$250 per cubic yard of waste and another at \$1,800 per cubic yard. If you take the 903,000 cubic yards that the DEC says in the latest PRAP is what would have to be removed under the maximum, the cost to ARCO at the rates of these other cleanups that ARCO has already done and is boasting about range from \$225,750,000 to \$1,625,400,000. If you do the math on our site, ARCO's cleanup costs per cubic yard would come out, under even the most expensive of the DEC's analyses, at only \$321 per cubic yard, and under the \$257,000,000 option it would come out to be less than \$284. This is, by no means, the priciest cleanup that ARCO has done. The Board should do more extensive research and make the point to the DEC because the DEC uses cost as the outstanding criterion for its rejection of Alternative Number 6.

Also, September 24th George Heitzman told us that there had been no analysis done of a complete excavation option, and yet in two or three weeks they were able to do a complete analysis on Alternative 6, while it had taken them over 2-1/2 years to do the analysis of the first five. May I suggest their analysis of Alternative 6 is highly suspect.

Has the Board already and if not, will the Board reach out to political leaders to lean on the DEC to use their political capital to look out for the interests of the people of our community? If the DEC persists in this completely inadequate, the options remains for us to go back to the EPA and pursue the whole option of the EPA, which is put aside in order to allow the DEC to complete its

"adequate state prosecution." I would ask the Board to please pursue both of those options parallel to its work with the DEC.

Eva Klein, Farragut Avenue: At the end of the 19th century and the beginning of the 20th, the Hudson River was considered a great industrial resource, supplying water and easy means of transportation to the factories on its shores. As the heavy industry gradually moved out the shores are being reclaimed, from the thick of Manhattan and Battery Park City through Yonkers and Irvington to Croton. The river today is valued as a great resource for recreation, entertainment sports, and fine living. While Hastings is lucky to be one of the river communities, it is also unlucky for having had the shore ruined by highly toxic waste. It is a slow and difficult process to overcome this setback. However, we dream that it could be done.

Mr. Mayor, you are in a unique position for an entire Village. I would like to ask you to share your personal vision. Imagine the year 2008, ten years from now. My daughter will graduate from Hastings high school. Her entire class will walk down to the waterfront. What would you like them to see and how do you think we get there from here?

Mayor Kinnally: I have articulated my thoughts and my hopes and aspirations for the waterfront on a number of occasions: to get the site cleaned up, to get it as a productive site, and to have mixed use: residential, passive, recreational. And to get the Hudson River back to Hastings where it belongs. That is my dream.

Ms. Klein: Do you see it happening in the next ten years?

Mayor Kinnally: Ten years to have development would be pushing it. My hope is that within the foreseeable future we will get a remediation and then we will pursue development. Certainly we have had progress in the last year down there, and I see more progress. But I share your hopes and your dreams.

Lin Osborn, 17 Villard: Can you tell me how far along on the LWRP process we are?

Mayor Kinnally: The LWRP has nothing to do with the PRAP, but Trustee Keaney could give us an update.

Trustee Keaney: We are gathering inventory analyses from the various subcommittees. We hope to have all of them in by our November 10 meeting. Then we will crystalize and distill those meetings, and produce by the end of the year a draft inventory and analysis section to the community, to the Board, and the Planning Board.

Ms. Osborn: Other communities along the river have gotten through their LWRP in less than a year and a half, many in about two years, many without having hired anyone to assist in their planning. These communities then have the Department of State's 46 environmental protections

behind them as law, and this Board has been foot-dragging in not hustling this LWRP process along. It is outrageous that we have had the LWRP in this Village for a year and we are not in square one. To have had this completed with its environmental protection would have put us in a much better bargaining position. I don't think that you are listening to the town. The SEQRA process for the last development was all eyewash. And the LWRP process, to you, is eyewash. It is not going to happen.

Trustee Keaney: You are invited to come to our meetings the second Tuesday of the month. Anybody is invited to come.

Mr. Wirtz: I believe the LWRP is very relevant to this process. Is the LWRP going to be able to have some input into the level of cleanup?

Mayor Kinnally: The LWRP is a planning tool. Its mission is to look to the future to the development of this site. It does not traditionally get involved in the remediation of the site. That is not what the state has contemplated, and it certainly was not what the Village contemplated in setting up the LWRP.

Mr. Wirtz: When the state came and described the purpose of the LWRP they presented cases of other villages, most of which have remediation problems. In fact, the great successes of the LWRP that they held out to us were precisely in villages that had problems similar to the one we are facing right here.

Mayor Kinnally: But the mechanics of the remediation are not generally handled by the LWRP. I do not expect that the issues that have been raised in connection with the technical response to the DEC will be going through the LWRP.

Ms. Siegel: It should be noted that we do not need an LWRP to make our wishes known to the state. The state is required to look at the anticipated future use of the site, the community's desired future use of the site, and we can make that very clear without an LWRP. It is imperative that the community let the state know that we have no intention of having industrial development down there.

Village Manager Hess: They have to submit it to the Department of State because we are under their coastal zone program until the point we adopt our own LWRP.

Ms. Merton: The Village Board enacted a resolution in December, 1997 that specifically stated that we want the maximum removal and we want cleanup to be for the uses reflected in the Marine Waterfront District. Have you asked George Heitzman why the DEC has not responded to our unanimous resolution?

Mayor Kinnally: I have not talked to George since the meeting, but I am sure it will be raised.

Ms. Siegel: Will it be possible for members of the community to see the Village's comments prior to submission?

Mayor Kinnally: We will make it available in the library and in the municipal offices here, and we will put it on Channel 16. We will call certain people and will let people know it is available. We do not want to have a meeting where discussion is not going to be fruitful.

Ms. Siegel: Including asking for an additional extension to the comment period?

Mayor Kinnally: That is one of the things we are going to do.

Ms. Merton: I would like to suggest that it could be very useful to discuss it at an open community meeting rather than at a Board meeting. If there is ever an issue in which the community could benefit from more discussion it would be this.

BOARD DISCUSSION AND COMMENTS

1. Trustee Paul Cardaci

We mentioned earlier in the evening the passing of Naomi Tor. I also want to note the passing of a former Trustee, Paul Cardaci. Paul served the community as a Trustee in the 1970's. I believe he served from 1973 to 1979. I served on the Board with him, and I would like to adjourn tonight in memory of Paul Cardaci, and ask that the Board minutes be sent to his family. I extend my condolences to his family.

2. Affordable Housing

Mayor Kinnally: We are in receipt of an incomplete report from Tri-State Engineering dealing with an environmental assessment that was done on behalf of the County of Westchester on the gas station site; it has to do with underground testing tanks and PCB's from ballasts that fell out of fluorescent lights. They are minimal levels that do not pose any threats. Questions have been raised about what is happening with that site. The County of Westchester will send us the full assessment. More testing has to be done.

Ms. Smith: The county has hired an engineer to do a feasibility study. An environmental evaluation is a critical ingredient because it was used as a gas station. They have located these three tanks. There is some leaking. It keeps coming up as a wonderful site waiting to be used for affordable housing, but it is a burdened site that will be expensive to use because of the tanks and a huge amount of rock. I am trying to press the county to move ahead with this as soon as possible. The Affordable Housing Committee has been looking at it for ten years, but it has been privately owned until fairly recently when the town acquired it through foreclosure. The price

was around a million dollars eight years ago. It has not been sitting out there for the taking at a reasonable price. I want people who are new to this to understand that.

The Building Inspector is being helpful in terms of trying to work out safe access for the engineer. There is a physical safety issue in getting into the building and into the section of it which has deteriorated very badly.

Mayor Kinnally: If you are looking for a pristine, easy-to-build-on site in the Village, it does not exist. All of these sites come with earned problems and attendant penalty costs. You have to have a willing buyer and a willing seller. We were not willing to pay what the seller wants for that site. A high price rules out any notion of affordability.

Ms. Smith: There are very few decent sites. They all are burdened, as all the builders in town who are trying to build here know. The county wants us to build 30 affordable units by 2002. No one site is going to have 30 units, so we need to be constantly trying to work on all the variety of sites. You cannot work hard on all of them at the maximum level, but you can keep things coming through the pipeline. That is our goal: to keep working on sites and trying to keep our eyes open for any new ones.

Reference was made earlier in the evening about ownership. Most communities need a mix of ownership and rental. That was part of the goal in this project: to have two ownership units and two rental units, to try to keep working toward both goals so both kinds of housing are available. Because peoples' needs are different who are in the affordable income area.

Trustee Keaney: Are the houses on Warburton two-family houses?

Ms. Smith: Each is an ownership house with an accessory apartment, not a two-family house.

Trustee Keaney: So each is a one-family home with an attached one-family apartment, which is within our accessory apartments code.

Ms. Smith: That is correct. And the size of the apartment is much smaller than the main house.

Trustee Holdstein: There is a stipulation that the renting of the accessory has to go to somebody also on the affordable housing list.

Ms. Smith: Forever, just like the ownership of the house does. The same qualifications apply.

Ms. Hertz: Do you know how bad the smells are from the factory below the site of the houses?

Ms. Smith: I am aware there is a problem up there.

Ms. Hertz: Are there other options as far as affordable housing? Instead of building houses, can we use already existing houses? If there are people in Hastings who do not have adequate insulation and their houses are not even being heated adequately, can affordable housing address those issues instead of building 30 new units? My issue is not using open park, wooded land, for anything.

Ms. Smith: The goal from the county is to create additional units of housing. We need every one we have got. To take it away from one group of people who already have it and say this is going to be affordable housing does not add additional units. A reuse of a commercial building or a residence that could be divided up into more units would be a possibility, but the goal is to add to the housing stock.

Ms. Hertz: Has the committee looked at houses for sale that would be affordable?

Mayor Kinnally: I don't know if the price of real estate in Hastings recently of liveable units would fall within the definition of affordable.

Ms. Smith: There are lots of people who are marginal who would not fit into our income limits who are looking for houses in Hastings who have to leave town. Our family-of-four limits are \$48,000, and generally there are people who are making more than that in a family of four who cannot find housing in Hastings. We have priced ourselves out of it in this community. But I understand the issue, and if there are other buildings that are not residential buildings we always appreciate those coming to the attention of the committee because we will look at them.

Susan Richman has suggested the idea of adding onto the top of the Post Office, and we sent a letter through the proper channels at the Post Office to see about that; that might be a way to add on to a commercial building and gain some residential space.

Trustee Holdstein: The concept of affordable housing is that it does not cost the Village taxpayers any money. For the Village to buy something and renovate it and then turn it over to the committee, that is coming out of our taxpayer dollars. But if we have property that has been foreclosed or property that is owned by the Village that we can turn over, like the Warburton site, it would not cost any taxpayer money; it would be done by our donating land that is not generating any revenue and then grant money funding it. We are trying to do something that does not cost us anything, provides homes for people who cannot afford to live here, and then the houses would start to generate tax revenue on a reduced rate, where this land is not. The argument about the land use is a different subject.

Ms. Hertz: Why can't grant money buy houses for sale that are affordable? How much will each house cost to build?

Ms. Smith: The houses will be purchases, so the owners will be putting some money in; it is not total grant money. My goal would be to have a unit of housing be under \$175,000. That is really hard to do in Hastings.

Mayor Kinnally: Part of the Village's contribution to make the unit affordable is the land. The unit itself has to be affordable, and the people who qualify for it have to fit within a certain income level, both as owner and tenant.

Ms. Smith: The income limits are established by HUD, so it is not something we have arbitrarily created.

Mayor Kinnally: The income limits range from \$33,900 for one person up to \$63,900 for a family of eight in a unit.

Ms. Smith: In this community the Board established a priority system; the first priority was for firemen and members of the ambulance corps, and then people who are employees of the municipal government; then school district employees, and then it goes on down. It is open to everybody in the end, but there is a preference or people who are contributing to our community. We are trying to keep them here.

VILLAGE MANAGER'S REPORT

Village Manager Hess: We have received a tax payment from Atlantic Richfield/ARCO of \$403,703.72, pursuant to the tax agreement. They have asked us to compute the balance of the taxes. They may wish to pay off the entire agreement right away. We have received approximately \$550-580 thousand of the total amount to date.

Mayor Kinnally: There will be accrued interest up until the date of payment, but the future interest will not continue to accrue.

Village Manager Hess: I want to announce the appointment of Meg Walker as the Village's planning consultant. Meg holds a B.A. from Wesleyan in Connecticut and a Master's in Architecture from Columbia. Her last five years have been spent with the Project for Public Spaces, and she has a number of years of experience in architecture and planning. She began with us on October 13.

EXECUTIVE SESSION

On MOTION of Trustee Holdstein, SECONDED by Trustee Gagliardi with a voice vote of all in favor, the Board scheduled Executive Sessions for Monday, October 27, 1998 and Tuesday, October 29, 1998 to discuss personnel.

Trustee Gagliardi: I would like to thank Jim Keaney and his committee for the wonderful reenactment over the weekend Friday, Saturday, and Sunday. I think everyone in the Village enjoyed himself. It was educational. It was beautiful weather. It was fun. Paul Perreton, Jim Keaney, Sue Winn, and others: thank you very much.

Trustee DeVita: I also would like to thank you, Mr. Keaney, and your committee; I thought it was fabulous. I would also like to thank all the spouses and family members who had to put up with a lot of time away from home, and who made major contributions on that weekend.

Trustee Keaney: It was a terrific weekend, weather-wise. The re-creators really appreciated what the Village did. I heard from several of them that they were never treated so nicely in other places. We gave them the best battle. The one thing that came out of it for me is the number of volunteers who put themselves out for an event that they believe in without aggrandizing themselves or getting very dramatic about things, who just want to do a good job for the Village. So we are now thinking about expanding that; about exploiting our Admiral Farragut connection, and perhaps a naval battle next year.

Mayor Kinnally: Miriam Boudin is a great storyteller who told a story at Peter Post's tavern of the Battle. You could close your eyes and see the action from how she put it to life. It was absolutely wonderful. There were so many people who were involved.

Village Manager Hess: We had over 1,200 people attend.

Mayor Kinnally: Thank you, Jim; it certainly set off our 1999 celebration on a wonderful note.

ADJOURNMENT

On MOTION of Trustee Keaney, SECONDED by Trustee Gagliardi with a voice vote of all in favor, Mayor Kinnally adjourned the meeting at 10:55 p.m .