

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
REGULAR MEETING
SEPTEMBER 21 , 1999

A Regular Meeting was held by the Board of Trustees on Tuesday, September 21, 1999 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Wm. Lee Kinnally, Jr., Trustee James B. Keaney, Trustee Elsa C. DeVita, Trustee David Walrath, Village Manager Neil P. Hess, and Village Attorney Marianne Stecich.

ABSENT: Trustee Michael Holdstein

CITIZENS: Six (6)

APPROVAL OF MINUTES

On MOTION of Trustee Keaney, SECONDED by Trustee Walrath with a voice vote of all in favor, the minutes of the Public Hearing of September 14, 1999 regarding the Vision Plan were approved as presented.

On MOTION of Trustee Keaney, SECONDED by Trustee Walrath with a voice vote of all in favor, the minutes of the Public Hearing of September 14, 1999 regarding adoption of the Village code were approved as presented.

APPROVAL OF WARRANTS

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

Multi-Fund No. 38-1999-00 \$104,840.95
Multi-Fund No. 40-1999-00 \$ 9,400.00
Multi-Fund No. 41-1999-00 \$ 2,000.00
Multi-Fund No. 42-1999-00 \$198,825.21

81:99 - LOCAL LAW NO. 4 OF 1999 - RECODIFICATION OF VILLAGE CODE

Village Manager Hess: As you know from our public hearing last week, the Village Code as well as the Zoning Code have been codified into one document. The Code is essentially the same as it existed, but it is necessary for us to readopt the entire Code, since the chapters have been renumbered and the Codes are merged. I would like to compliment Village Clerk Susan Maggiotto and Deputy Village Attorney Stecich on a wonderful job in putting this

together. It was a long labor for both of them, and I think it is a vast improvement over our previous document.

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

WHEREAS, a public hearing was held the 14th day of September, 1999 by the Board of Trustees of the Village of Hastings-on-Hudson, notice of which was given as required by the Municipal Home Rule Law, the Open Meetings Law and the Village Law of the State of New York, and

WHEREAS, at said public hearing the Board of Trustees considered the enactment of proposed Local Law No. 4 of 1999, entitled "A Local Law to Provide for the Codification of the Local Laws, Ordinances and Certain Resolutions of the Village of Hastings-on-Hudson into a Municipal Code to be Designated the Code of the Village of Hastings-on-Hudson, and

WHEREAS, all interested persons were given an opportunity to be heard with respect to the enactment of said local law, now therefore be it

RESOLVED: that Local Law No. 4 of 1999 be enacted as attached.

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

VILLAGE MANAGER'S REPORT

Village Manager Hess: We have received the remedial investigation report for the Mobil site. It is on file at the library, and another copy will be available in our office for the public.

I have provided the Board with a summary report of information relative to Tropical Storm Floyd. For the 16th and 17th of September, we had a total of 112 logged calls. The calls included downed trees, power lines, telephone lines, cable lines all being down; basement

flooding; power outages; roads blocked; and some road flooding. The Public Works Department and the Police Department logged 127-1/2 overtime hours for those two days. We have an emergency response plan if there is a declared emergency, declared by the Mayor or myself. In this case, we never reached the point of declaring an emergency, but it is interesting to note some of the occurrences so we can learn from them and be prepared for next time.

We had scattered power outages around the Village. Con Ed gave them a low priority. Con Ed had over 13,000 customers out. Some of the last ones to go on were in Hastings on Saturday. It was approximately 38 hours between the first outage and the power being restored.

Although we do not have cellular phones assigned to the Police Department, several of the members of the Department have cellular phones, as well as myself. We tested them out Thursday night. They were fine. Friday we had interruption of cellular service, and we still have some dead areas in the Village now. Telephone service was not interrupted, but we are going to have to develop a backup plan in terms of cellular communications or telephone communications if we have another occurrence.

There were numbers of residences that had basement flooding. The Fire Department did a great job in responding when called to help people out. We had a flood situation, which is probably the worst it has been since 1971, in the Nepera area next to the Parkway. Farragut Parkway was also flooded. It was impossible to pump out any basements until the water receded. In two cases the flooding had reached several feet in basements. A fuel tank ruptured, and County Hazardous Materials was called in by the Fire Department.

The Police Department, Fire Department, and Public Works Department did an excellent job in terms of their response during the storm and their effectiveness. One area we have to be concerned with is our communications and telephone service. It is something we will have to address.

Mayor Kinnally: The response of all the personnel, DPW, Fire, the Police Department, and other employees of the Village, was good. Considering what happened in the rest of the county, we dodged a bullet. It is devastating to see what happened to some of our neighboring communities. You can see the power of the water by what happened at Reynolds Field when the culvert backed up and the retaining wall on the western side of the track was blown out.

One of the good things that came out of it is an appreciation by people in the community of the services that are provided here, especially by the Fire Department. I would call to the

attention of the people in the community a column, by a resident who happens to be a columnist for the *New York Times*, that appeared on Saturday morning, extolling the virtues of our Fire Department. It is headed, "A Reminder Of The Value Of Neighbors." Chief Schnibbe, you are to be congratulated and your men are to be congratulated and commended for their response not only to this disaster but to those that befall us day in and day out in the Village. Please take back the message from this Board that we truly appreciate the sacrifices your men give, and most importantly their families, to assist people in distress in the Village.

I placed a call to County Executive Spano inquiring as to the possibility of the area being declared a disaster area, and FEMA funding be available. A FAX has been sent to the Village outlining funding available for municipalities dealing with debris removal and emergency protective measures. Those expenses would be repaid through a grant: 75% to the Village, 25% would be our own contribution. Neil and I are, together with the department heads, putting together the data and the information, including the photographs that Neil had taken, so we can substantiate our losses and put in the claim.

We have sent a package to our neighbors in the flooded areas outlining the funding that is available to them through FEMA. There will be a FEMA team setting up shop in Westchester, at which time we will be able to present our documentation, and claim for reimbursement. I assume at the same time that the residents will be able to do that.

Village Manager Hess: Residents are required to call FEMA directly. Within three to 10 days of their application to FEMA they will get an on-site inspection of their property. They should document the damage with photographs, list items lost or damaged, and try to collect receipts or obtain receipts.. They should contact their insurance company to determine the extent of coverage they have now. Nepera is in a FEMA flood zone, and they would be eligible for low-cost insurance if they have the flood insurance.

Mayor Kinnally: The County Executive's office also indicated to me that they anticipate additional aid would be available for permanent mitigation measures undertaken by the community. We will send the information to the School Board because they will be able to put in an application for the damage sustained to Reynolds Field.

BOARD DISCUSSION AND COMMENTS

1. Update on the Waterfront

Mayor Kinnally: The manager and I and our counsel discussed last week our response to the DEC's suggestion that we give them some additional comments on a supplemental PRAP. We are coordinating with Malcolm Pirney. We have gotten some information from Hastings

Waterfront Watch. There is a stakeholders meeting on the 29th that Trustee Walrath and Village Manager Hess will be attending.

2. Mosquito Spraying

Mayor Kinnally: We received an announcement from the County Executive's office of the finding of at least three cases of encephalitis in Westchester. The County Executive and the Department of Health have announced that there will be spraying for mosquito control on Thursday evening in Westchester County from the Long Island Sound to the Hudson River, from 287-South to the Bronx border. The spraying will be done not with malathion, as had been done in the New York City, but with a pesticide by the name of "Anvil," which is a derivative of chrysanthemums. Any materials left outdoors should be washed down with soap and water to eliminate any residue. People are asked to stay inside during the spraying.

Jenny Lee, 59 Ashley Road: Is there going to be any cleanup of the playground equipment?

Mayor Kinnally: This information was sent to Hillside School and the Superintendent of Schools today. I am not sure what they will be doing.

Village Manager Hess: We have plans in the Village parks to have everything washed down on Friday.

3. Tree Preservation

Mayor Kinnally: An item has been brought to our attention recently by Wayt Thomas: the need for certain regulations in connection with the tree preservation law that was passed by this Board last year.

Wayt Thomas, Conservation Commission: It became clear with the Dudley Avenue property that there is no mechanism in place to implement the parts of the ordinance about restoring, or mitigating, the tree removal that they were permitted to do. This is particularly important in the cases of properties where the footprint of whatever is going in is so large that there is no place in which to restore on-site. If it is a forested site, for example, the trees are already there on the rest of the site. Do you want the replacements? If they take down a big tree, do they restore one small tree? Or should they be required to put in several more, replacing the one taken out? And should the restoration, or mitigation, be solely on-site, or can it be off-site? This is particularly important in cases where the area being developed is large and the remaining area of property is small. The Village should consider having some formal off-site mitigation possible. Not only is that fair, because it may have a large impact

in one area that could then be mitigated in a larger area of the Village, but also it would be helpful for the Village in terms of tree plantings elsewhere.

Mayor Kinnally: That is a very good point. We could all share the wealth to make the entire Village better looking, and to spread out whatever has been removed.

Trustee Keaney: The tree law says that we should come up with guidelines to address these things, and we have not. I think we should.

Mayor Kinnally: Wayt, I know you volunteered to assist with that. Your offer is eagerly accepted. You can work with Marco, and with Neil and Susan, and anyone else who has comments either here in the Village or elsewhere. You may have some comments from developers.

Trustee Walrath: We could also look at the size regulation, remembering the furor that came up at La Barranca when the owners chose to cut down a number of trees that were just small enough to get in under whatever size restriction we have.

Village Manager Hess: That would be an amendment to the law.

Mayor Kinnally: That is not a regulation. But we certainly can take a look at that.

Village Manager Hess: The administrative guidelines, to give some direction to the Tree Board on dealing with mitigations, would be adopted by resolution of the Board as opposed to an amendment to the law.

Mary Whiting, 39 Lefurgy Avenue: One of the problems with the tree law is the size of the property. The smaller the property, the bigger the problem when trees are taken down. This covers only one-point-something-or-other acres, and few properties in Hastings are that large. A few years ago a neighbor took down three huge oak trees that were not diseased. Our house is now ten degrees hotter in the summertime. We need to give serious thought to this. On the other hand, we do not want to make it onerous for people. The business of getting all kinds of notices, and costing a lot of money, is a real question. Unless a tree is on the border of a property, or its removal will impinge on neighbors, the law should say something about going up before a group of people, an appointed board, and make it very simple. Neighbors should be involved when it is on the property line, just as if you want to build an addition to your house if you are not far enough from your neighbors.

Mayor Kinnally: The issue of the size of the property consumed this Board's, and a lot of other Boards', attention and discussion. One of the problems we had to address was

administratively: Will this overwhelm our administrative staff? There was discussion on both sides of it. We will take a look at it again, but we have quite a few problems now notification-wise with Planning and Zoning Boards; we have to question whether or not we could do the type of notification for that.

Ms. Whiting: I understand. We do not want to make it onerous, but we are concerned about the loss of trees. We live in a community where there a lot of mature trees, and we have to think about that. Also, on Warburton where the new houses are going to be built, there were two houses on the right hand side and there were some street trees taken out.

Mayor Kinnally: If there were street trees taken out, they are supposed to be replaced. Marco is here, and he can follow up on that.

4. Stakeholders' Meeting

Trustee Walrath: The meeting in July discussed the bulkhead; the preliminary design has been submitted to the state and distributed to other stakeholders. The questions that came up were procedural, related to modifying the consent order. There were technical questions about the effects on groundwater flow through the fill.

There were questions on the sampling, which was to be completed by the end of August, and about "step-out sampling," which is meant to define the limits of the area that is not in compliance, that is, the limits of the area that does not comply with the standards of one part per million PCB's at the surface, and 10 parts per million subsurface. The step-out might lead to a very significant expansion of the area. We are not going to see the end of this until perhaps into early next year, unless they got a clean bill on all of the boundaries of the areas that they tested.

A report on demolition which has been distributed to the DEC and the Village was discussed. This defined pollution conditions in the buildings, such as asbestos, lead paint, and PCB's, that need to be considered during demolition, so that there is appropriate disposal of any contaminated elements.

There was a discussion of the proposal for a land-use planning effort. ARCO seemed to be unaware of the status of it. Mr. Hess stated that there was a problem with the RPA funding, and the Village's position was that we were not going to fund any portion of it. Originally ARCO was willing to pay 50% and RPA was supposed to come up with funding for the additional 50%. The point was made, and discussed, why ARCO would not consider funding 100%. They maintained the position that it was not the money, it was the principle: that they

did not want to have it tagged as their study. Mr. Hess asked Miss Stash of ARCO to contact the Mayor on this, and she said she would.

The next topic was "Operable Unit Number Two." This is the state's word for the river off the waterfront; "Operable Unit Number One" is the waterfront. ARCO has been dragging their feet, saying that they do not want to get mixed up in the proceedings as far as the river unless the EPA will assure ARCO they will not be pursued for "additional site-related work." They are worried about getting involved in the overall hazardous waste site that the Hudson River has become because of GE's discharges upstate. The DEC, Mr. Loesser, took the position that they are going to do the work themselves if necessary if they do not get ARCO's agreement.

There was talk of another public meeting in October to discuss the supplemental sampling.

There was a request from the DEC, pushed by Waterfront Watch and the Village, for information that ARCO might have in its files on historical prosecution of Anaconda for pollution on the site. There is an article in *The Hastings Historian* on a struggle to get recognition that they were leaching oil into the river. This wound up in federal court, and the ARCO people seemed to be unaware of it.

There was talk about requesting inputs on supplemental feasibility studies, that is, studies of alternatives that we may want to have included in the subsequent supplemental PRAP which is to be done at the time that they have the sampling in order. Waterfront Watch has filed with the state an exhaustive list of almost all the combinations that could be considered, and asked that they do be considered.

Trustee Keaney: What participants attended that meeting from Waterfront Watch?

Trustee Walrath: Both Robin Herbert and Phil Karmel attended, although the Mayor pointed out to me afterward that we had agreed in the meeting with them that it would be one person per meeting. But they both acquitted themselves well, and I did disagree whether two was appropriate back when we had our prior discussion. They both made a valuable contribution.

Trustee Keaney: The Mayor expressed a view that only one representative should go, but two went. Do you know the reason for that?

Trustee Walrath: I do not.

Trustee Keaney: At the next stakeholders' meeting, what will the plan be?

Mayor Kinnally: I will be in contact with them. I assume that they will abide by this Board's response to their request, and have one person there. I also hope that we can get an agenda prior to the meeting.

5. Other

Mayor Kinnally: We have received a suggestion from a number of people in town, including the Chamber of Commerce, about parking and parking enforcement. We have passed that along to the Safety Council. Questions have been raised as to whether our enforcement is more than diligent. We will be taking a look to see if Hastings can be made a more shopper-friendly town.

As of this time, there is no smoking in the Municipal Building. We will be revisiting that soon. I want to discuss smoking in the hook and ladder building with the Chief and the Fire Department. The building is the only Fire Department building owned by the Village. Questions have been raised whether or not, and to what extent, smoking policies should apply to a building that is used by the Fire Department.

Regarding the litigation involving the Cropsey painting, the Village has been granted an extension of time to answer and/or move with respect to the complaint. We will be meeting with our Village Attorney to go over our response to the complaint.

Michael Lyons, 31 Nepera Place: My house is right in the corridor of the Saw Mill River Parkway, the area that got flooded. I am speaking out on behalf of myself and the neighbors who could not come to this meeting. Is it possible to put a dumpster there to pick up the garbage that is remnants of the flood on both sides of the Parkway? We have residents on the other side of the Parkway that most likely have half of their lives sitting out in their back yard at the moment, too. Also, other villagers got flooded out besides the ones on the Parkway. There was a lot of damage caused by the storm. Is anything planned to be done for those residents?

Mayor Kinnally: I do not know about a dumpster, but regarding pickups, we will coordinate the dates when that will happen. Mr. Gennarelli, do you want to give a response to that?

Mr. Gennarelli: Our regular bulk pickup is on Wednesday. We are going to put an additional truck on tomorrow. We got an overabundance of calls in the last couple of days from people cleaning out their basements of flooded couches, rugs, whatever. Anything that is not picked up tomorrow, we will be out again on Thursday to pick up the balance.

Mr. Lyons: We have concerns about what happened as a response to the flood. There were some things that we thought were a bit negligible that we are going to look into.

Mayor Kinnally: You and I have talked about the response. I have asked the Village Manager to discuss it with the Police Chief, the Fire Chief, and the head of DPW. We have assembled all of the logs from the Police Department, and have made those available to everyone. We spoke earlier this evening about certain problems that we encountered, not just in your area but also with communications, with cell phones, telephones in general. We are addressing that. Every storm, we learn from. If there were problems, we will address those problems and see if we can come up with some solutions.

Mr. Lyons: I also have another concern, the flag pole in Reynolds Field. It is sitting at approximately a 30-degree angle. I would assume you had an engineer's report saying it will fall down. It is not shored up in any way. Saturday they had a football game there, we had heavy winds from the storm, and they raised the flag to the top of that flag pole. It should be shored up or there will be trouble.

Mayor Kinnally: We have nothing to do with that. That is School Board property. Neil and I met with the Superintendent of Schools and the Superintendent of Grounds for the School Board on Friday morning, and looked at the situation. They have cordoned off the area by using a snow fence. The Superintendent is getting whatever expertise is necessary to deal with the problem of shoring up and rebuilding the wall.

Mr. Lyons: Even if it is school property, would it not be the job of the police, or the Fire Department, or both, to see that safety prevails? Nobody has put any bracing on that whatsoever. It does not make any sense to run a flag up to play the Star Spangled Banner.

Mayor Kinnally: I will express your concerns to the Superintendent of Schools, but the Village has nothing to do with the repairs or the stabilization of any part of school property.

Mr. Lyons: I am not talking about repairs. I am talking about safety. So you have nothing to do with safety in the Village?

Mayor Kinnally: Yes, I do. I will talk to the Superintendent of Schools. When they put up the fencing around the caved-in area, they thought that there was sufficient safety so they could play the game. It turns out that the game was safely played.

Mr. Lyons: Should not an emergency situation prevail, where you can brace the thing up, or not fly the flag? It is like putting a sail on a sinking ship.

Mayor Kinnally: I agree with you. I will talk to the Superintendent once again. But we cannot walk on their property and start constructing on their property; we would need their permission. We will give them all the assistance they may need, but they are working with engineers, with construction people, with their own personnel in trying to assess how to address the problem with rebuilding the wall and the culvert system and with dealing with drainage. I will talk to them about flying the flag.

Mr. Lyons: While you are waiting for permission, if anybody gets hurt, you have been so warned. Why could not the Fire Department do something about shoring it up? If there was a fire in the school, do you have to ask permission for them to take care of the situation?

Mayor Kinnally: No, but the Fire Department will not shore up that wall. The Fire Department are not engineering people who will come in and take care of that.

Mr. Lyons: But they are supposed to take care of things in an emergency situation. That is their job.

Mayor Kinnally: Fire-related.

Mr. Lyons: So is the Police Department.

Mayor Kinnally: I understand. Your point is well-taken. I will speak the to School Board, and see what they are doing to address the safety concerns in that area. I know the lower field has been locked.

Mr. Lyons: It was not locked Saturday.

Mayor Kinnally: I have been told that the lower field is locked. I will accept your representation. I will address your concerns with the Superintendent of Schools tomorrow.

EXECUTIVE SESSION

On MOTION of Trustee Walrath, SECONDED by Trustee Keaney with a voice vote of all in favor, the Board scheduled an Executive Session for September 28, 1999 to discuss personnel and litigation.

ADJOURNMENT

On MOTION of Trustee Keaney, SECONDED by Trustee Walrath with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting.