

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
BOARD OF TRUSTEES  
REGULAR MEETING  
OCTOBER 5, 1999**

A Regular Meeting was held by the Board of Trustees on Tuesday, October 5, 1999 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 Elsa C. DeVita, Trustee Michael Holdstein, Trustee David Walrath, Village Manager Neil P. Hess, Village Attorney Brian Murphy, and Village Clerk Susan Maggiotto.

**CITIZENS:** Six (6)

**APPROVAL OF MINUTES**

On MOTION of Trustee Holdstein, SECONDED by Trustee Keaney with a voice vote of all in favor, the minutes of the Regular Meeting of September 14, 1999 were approved as presented.

**APPROVAL OF WARRANTS**

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

Multi-Fund No. 43-1999-00 \$ 38,805.70  
Multi-Fund No. 44-1999-00 \$ 16,602.93  
Multi-Fund No. 45-1999-00 \$ 42,140.93  
Multi-Fund No. 46-1999-00 \$201,045.20

**82:99 VISION PLAN**

**Village Manager Hess:** The "Vision Plan" was presented to the Board of Trustees and referred to our Village Attorney's office for review. The Board received a memorandum from the Deputy Village Attorney, Ms. Stecich, recommending this language for the resolution.

**Planning Board Member Patty Speranza:** The Planning Board is pleased that you have decided to take action on this document. It was the result of a massive community effort, with many meetings, committees, and subcommittees. The Planning Board discussed the resolution last night and hopes you would consider a change in the language: rather than simply endorsing the goals of the document, that you would adopt the plan. We have found

that having the planning principles adopted has come in very handy in terms of some of the reviews we have been doing.

**Mayor Kinnally:** The attorney recommended using the word endorse rather than adopt because of a concern that by adopting them they might come into conflict with, or in some way dilute, our Zoning Code.

**Boardmember Speranza:** Would there be consideration to expanding the resolution to also endorse the recommendations, actions and principles which are included in the document?

**Planning Board Member William Logan:** It may be worthwhile consulting again with the attorney to get some teeth in this thing.

**Village Attorney Murphy:** The language that you proposed is, in effect, becoming, or could be easily construed as, a Comprehensive Plan. As a Comprehensive Plan it does not necessarily meet the requirements necessary to enact that. There was a great concern that we will create a difficult legal situation with our existing Zoning Code. It will create more legal problems than it will resolve. We would be glad to take another look at it, but the amendments you proposed create an extreme potential problem.

**Boardmember Logan:** It seems that you have enough wiggle room in the latter part of this resolution. It says, "...prepared by the Planning Board as a document to provide guidance to the Board of Trustees' future legislative action."

**Village Attorney Murphy:** When there is ambiguity in a document and in a resolution, it tends to get construed against the person who is responsible for passing it. If there is ambiguity in this document, ultimately it could come back to rest on the Village's doorstep. I cannot endorse the Village taking this chance over what may appear to be a semantical argument but which could have broad-reaching legal repercussions.

**Mayor Kinnally:** The resolution does say the Planning Board prepared it as a document to provide guidance, but the adoption by the Board goes beyond it. It may have an impact that we do not want it to have, and it may come back to haunt us in the future. We can go back to Attorney Stecich and we will get back to you.

**Boardmember Logan:** Recently the Planning Board has had two very large Environmental Impact Statements come before us, for Shoprite and for the Andrus Home. It was extremely useful in that SEQRA process to have the planning principles we have already adopted be a reference.

**Village Manager Hess:** The Planning Board adopted those.

**Boardmember Logan:** But they have now become a reference document that is incorporated into SEQRA. If we can get that mechanism and that sort of reference occurring, it will largely fulfill some of the concerns we have.

**Mayor Kinnally:** This is a useful planning tool to have as a reference point to give the Village more safety, more comfort. We are taking a step beyond the planning principles, and we are saying that this is something that the Village's imprimatur is being affixed to. I would rather be cautious than jump into it and later have a problem. We will revisit it with the attorney and get back to you. That is not in any way to say that the Board is not behind what was done, but we want to make sure whatever stamp we put on it is the right stamp.

**Boardmember Speranza:** Is the biggest concern the zoning actions that were recommended in the plan?

**Mayor Kinnally:** No. The concern is that the document could be construed as an adoption of a master plan or a comprehensive plan, and that we have not touched all the procedural bases if it is construed as such. The attorneys can be used as a safety switch for us, and this is exactly what she is doing. She is anticipating problems. I do not want to override that until we have an opportunity to talk to her again.

**Boardmember Speranza:** Can we also speak with her?

**Mayor Kinnally:** Yes. If you think that will move it along, give her a call.

**Trustee Holdstein:** Patty, you made an important statement in your opening comments about "taking action." The Board is very much behind moving forward and taking the actions that are needed. To reiterate Lee's point that it is not that this Board is not behind it, we all talked about that. I wrote down, "taking action is really the key step after this."

**Trustee Walrath:** What concerns us is that we have an existing Zoning Code. We have guidance for future legislative action, which might change the Zoning Code. If we adopted the resolution we would have a potential conflict between the existing Code and this ideal we have for the future Code. It is probably better that the legislative action would be changes in the Zoning Code and other things necessary to then make the whole thing a comprehensive plan. If this were taken as a comprehensive plan we might have internal conflicts in our overall planning.

On MOTION of Trustee Holdstein, SECONDED by Trustee Walrath, the following resolution was REMOVED FROM THE AGENDA by unanimous vote:

**RESOLVED:** that the Mayor and Board of Trustees endorse the goals of “A Community Vision for Comprehensive Planning & Strategic Action Plan” prepared by the Planning Board as a document to provide guidance to the Board of Trustees for future legislative action.

### **83:99 – PAINTING OF MUNICIPAL BUILDING**

**Village Manager Hess:** Mayflower Restoration and Construction, the firm that did the painting on the external of the Municipal Building have proposed a maintenance program. From the date of completion, at the beginning of the second year, they would do a thorough inspection of all the external trim. It would take four men one day to correct all loose paint, caulking, window glaze, metal work, and paint to match existing. By doing this we would never need to have the entire exterior of the building painted again. They started these contracts approximately five years ago and their company, as well as their clients, feel it is working. For the first two years, the cost is \$1,000.00 per year. From the third year, it would increase 10% per year.

The repainting of the building this time cost \$14,075. Five years ago the repainting cost approximately \$20 thousand. I think the proposal is a good one, to have an ongoing maintenance program on the exterior of the building. We have certain areas that weather more than others. I recommend its approval.

**Trustee DeVita:** Is there a term length to this?

**Village Manager Hess:** We will do it on a year-to-year basis, based on this proposal.

**Mayor Kinnally:** If we can guarantee not having huge jobs in the future it is money well spent. If we see in a year or two it does not work, we have not spent all that much money if we will have that maintenance in the interim.

**Trustee Walrath:** Will they commit to renewals for a certain period of time?

**Trustee Holdstein:** If they decide not to renew, for whatever reason, they would have that right, just as we would have the right not to renew.

**Trustee Walrath:** The attraction of it is that we may never need to paint again. But if they have the option of pulling out, it is not quite as sure as if they do not.

**Village Manager Hess:** I understand what you are saying. We would not want to be committed for a large length of time either. I would like the Board to approve this. If this company is not around in two years, we should look for another firm for a regular annual maintenance program on the exterior of the building.

**Trustee Walrath:** There is some basis for escalation in here so, obviously, they are anticipating a continuing renewal. I would like to see that spelled out a little, either "X" number of years or as long as we wish to renew. I know we are not risking a great deal in the first year.

**Mayor Kinnally:** Let me make a suggestion: that we approve the proposal before us, and Neil goes back and discusses with them agreeing to a long-term contract.

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

**RESOLVED:** that the Mayor and Board of Trustees accept the September 13, 1999 proposal from Mayflower Restoration and Construction of White Plains, for an annual painting maintenance program for the Municipal Building as attached herewith.

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

**84:99 – SALARY OF VILLAGE MANAGER/TREASURER**

**Mayor Kinnally:** This is an increase of \$7,500 over 1998-99. The Board of Trustees met on four separate occasions and had lengthy discussions about the Village in general and the

operation of the Village, the Municipal Building, the Manager's office, and the departments that he oversees; we came to an agreement as far as an increase in salary. This is no different from any of the other people, or positions, that we evaluate on a yearly basis. Evaluating the Manager is the last item in the budget process because it is a lengthier process.

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

**RESOLVED:** that the Mayor and Board of Trustees establish an annual salary of \$122,500 for the Village Manager/Treasurer effective June 1, 1999.

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

**85:99 – INVEST IN KIDS PROGRAM**

**Village Manager Hess:** Over the next school year we are receiving through the Invest in Kids program a total of \$28,214 that covers personal services in our Youth Advocacy Program.

**Trustee Keaney:** Manager, I do not see the McBride principles attached. The county seemed to be going to that for all its contracts. That is something the Village in the past subscribed to. I would move signing this contract even though they are not attached, because I know we would subscribe to it.

**Mayor Kinnally:** Neil, could you find out why not?

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

**RESOLVED:** that the Mayor and Board of Trustees authorize the Village Manager to execute an agreement with Westchester County for the Invest in Kids grant.

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

### **86:99 CHANGE ORDERS – MUNICIPAL BUILDING**

**Mayor Kinnally:** I would like to have a motion to table this because the personnel involved in reviewing this are not available this evening.

On MOTION of Trustee , SECONDED by Trustee , the following resolution was TABLED upon roll call vote:

**RESOLVED:** that the Mayor and Board of Trustees authorize the Village Manager to execute change orders for the Municipal Building renovation project as attached herewith.

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

### **87:99 POLICY AMENDMENT – SMOKING IN MUNICIPAL BUILDING**

**Mayor Kinnally:** I would like to amend this resolution to state simply that there will be no smoking anywhere in the Municipal Building, and we are going to have to discuss food in the building sometime in the near future.

**Trustee Keaney:** This is how this discussion started off: food and drink and smoking. We should deal with the other two also.

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

**RESOLVED:** that the Mayor and Board of Trustees amend the policy on Smoking in the Municipal Building as follows:

There shall be no smoking anywhere in the Municipal Building. This policy shall take effect immediately.

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

**Mayor Kinnally:** A small step, but a giant one really. I think it is very good. Mr. Hess, thank you.

**Trustee Keaney:** When will we address the eating and drinking?

**Mayor Kinnally:** Next meeting.

### **VILLAGE MANAGER'S REPORT**

**Village Manager Hess:** The Southside/Washington job was held up several weeks ago because of the lack of a permit from Metro North. We directed the contractor to start working on Washington Avenue, which he has. He has done all his saw cutting on Washington and was completing his saw cutting in the island on Southside today. We are having our engineer take a look at the retaining wall on Southside Avenue. There is some question whether it may be undermined by their work, and now leaving that portion of the project. We will direct our engineering firm, Hahn Engineering, and the contractor, appropriately.

The masonry work at the library is being done nicely. They did their demolition fairly quickly, and were putting in the flagstone today in the southern portion.

The Villard and Whitman project: we have approximately three-and-a-half to four weeks left on that project. We are getting close to 20 days left on the project, depending on whether Con Ed holds us up in terms of other lines that have to be moved in the Whitman Street area.



The Library Board met on the \$35 thousand grant we received from the state. The Library Board engaged an architect who specializes in libraries to take a look at the library. Their recommendation after talking with him is to redo the front counter area for more efficient use of space. We are putting together a package to send to the state.

If the boiler is not up and working by Monday, the 11<sup>th</sup>, we will bring someone else in.

There was a gas rupture on Circle and Villard today, caused by Bell Atlantic. Initially we evacuated. The Fire Department and Police Department were there, and responded. We had opened up space here to bring residents whom we were going to evacuate, including a daycare center, but that was not necessary. Con Ed got the gas line turned off quickly, and indicated that people would be without gas for several hours. But no one was hurt, and there were no major problems.

**Trustee Holdstein:** What is the status of getting a response from the MTA so we can finish Southside?

**Village Manager Hess:** We had sent them all the completed permits approximately a week-and-a-half ago, and we have no response. I have our planner to get hold of people from the county to try and put pressure on them, and the is why we are proceeding working on Washington. We will work outside their permit area to get the project done.

**Trustee Holdstein:** We are finished with the paving, and it came out very well. But there is one spot which is really bad in front of the Draper houses. Is there any way we can patch a series of bad holes?

**Village Manager Hess:** That looks like a sewer connection that has settled.

**Trustee Holdstein:** Cars come wide, and it is a narrow street. Let us see if we can get those fixed. Regarding the construction that is going on, somebody had an objection, initially, to the new Draper Road being built. They tell me now that the wall looks gorgeous. We can see already the initial stages of what looks like a very beautiful roadway. It is amazing that when they start to see it the fear and concern goes away.

**Trustee DeVita:** About the construction on Southside, people have been asking me about what is going on. It would be nice if we could put a notice up, maybe at the train station or on a utility pole, apologizing for the delay. It is an inconvenience for the commuters.

**Village Manager Hess:** I am not sure Metro North will let us put up anything. Maybe we can put something on Channel 16.

## **BOARD DISCUSSION AND COMMENTS**

### **1. Update on the Waterfront**

**Mayor Kinnally:** On the demolition of the buildings, ARCO has hired a consultant who is developing the scope-of-work document, which should be ready in a week. A work plan will be developed, and the permitting process will be undertaken. The Village is going to be part of that permitting process in conjunction with the DEC. The DEC has up to 60 days to review the application for demolition because it is a listed site. I am meeting with the Commissioner of the DEC, and I will see if he can move that along.

I raised the possibility of using rail to remove some of the debris. They have looked into rehabilitating the rail spur in connection with the remediation of the site, but they cannot use it if we want the demolition done in a reasonable time period because it requires so much work. They are hoping that some of the brick will be left on-site to be used as fill. If the brick has any lead paint or asbestos, they would have to remove it. We will see probably by the spring a tremendous improvement in the vistas in that part of the waterfront. All those derelict buildings will be gone.

There has been approval of the work plan for the bulkhead with the DEC and the Corps of Engineers. The Department of State has not yet approved it because they need additional information. A question was raised at the stakeholders meeting: the bulkhead is supposed to be five-and-a-half feet above the mean sea level, but would it be above the 100-year flood plain? The answer is no. The thinking is that the buildings are going to be higher than the bulkhead in any event.

There was a conference in Federal Court in White Plains regarding the Riverkeeper's suit. White Plains. We were hoping to move the case along. That is going to happen. The judge wants to see some action in the suit. Although there were competing interests among the DEC, the Riverkeeper, and the Village, I think we prevailed at the end. There is going to be progress in this suit, and accountability to the court.

I discussed the RPA initiative again at length with ARCO today, and the Village is seeking additional sources of grants.

**Trustee Holdstein:** Is the RPA process something that is required as we move forward through the LWRP?

**Trustee Keaney:** It may not be required but it will be extremely helpful at some point in the LWRP process to have outside professional help.

**Trustee Holdstein:** RPA came to us with an offer to put in \$50 thousand, and ARCO was going to put in the other \$50 thousand. Now they have nothing. Do we need to continue with RPA? When it was first presented it was a win-win for this Village to have two parties each kick in \$50 thousand. Now that RPA has fallen down in their obligation, are there other bodies that do what RPA does?

**Mayor Kinnally:** Yes, there are. I told ARCO that this Village is not going to put any of its money up. ARCO has not said that they would put all of the money up, and a lot of interested funders will not fund it if ARCO puts any more money up.

**Trustee Walrath:** ARCO has expressed that they do not want to go more than 50 percent because they believe that the product would be regarded as their product rather than a product of a consensus that was built by the process.

**Mayor Kinnally:** Before we cast about for anybody else I would like to see if this can be salvaged. If it cannot we will go ahead and do something else. But there is a little momentum here in that ARCO and the DEC are behind RPA.

**Trustee Holdstein:** I disagree. I do not want this to hinder any of the processes of our LWRP moving forward, but I have a problem with RPA if we are going to hand over \$100 thousand to do the project after they snowed us to believe that they would raise the \$50 thousand.

**Mayor Kinnally:** The point is well-made, and well-taken. But I do not want to scuttle it right now. Let us see if funding is available, and if we want to get rid of RPA we can do so. I do not want to do it unilaterally. We are not the only party to this.

**Trustee Walrath:** At the stakeholders meeting on the 29th, Sandy Stash was absent. ARCO was represented by Mark Brekkus. Mike Lesser who has been the State attorney is leaving to be succeeded by the attorney who was involved in the cleanup of Building 15.

There were some technical questions on the bulkhead. That section was chosen because it is in the poorest condition, and the most likely to slide into the river. It will be built impermeable rather than with a filter.

There was discussion of the status of the supplemental site investigation plan. They have completed the initial investigations on the site. They do not have all the lab data back. There was discussion of data presentation format. It was agreed that they would get comments back as to how other stakeholders would like the data presented.

They are looking for an agreement on what step-outs will be required. George Heitzman asked for input. If this sampling—the most peripheral sampling, moving away from the areas of previously-identified areas of high concentration for the other pollutants—is not underneath the state cleanup guidelines, there is some question of what standard they are supposed to meet. This is the first time the state has been forthcoming on this, that they are willing to extend that sampling if any hotspots show up for the other pollutants: the PAH's and the metals.

Another item was operable "Unit 2," which is their code word for the part that is in the water. ARCO has declined to continue any efforts in that part. They were looking for a hold-harmless, that they were not going to get pulled in to the GE pollution of the river because they are doing this work. The DEC is going ahead with it, using its own funds. They are continuing negotiation with ARCO as to who is responsible for what.

**Village Manager Hess:** One correction: it is not DEC funds. They are using Superfund money. They are not using budget appropriations. If there is a determination that PCBs were related to the site, then they can recover from ARCO.

**Trustee Walrath:** There is supposed to be a remedial investigation draft in January, and they are hoping to finalize the remedial investigation in March, 2000. The next item was citizen participation, with a meeting planned.

**Village Manager Hess:** That has been confirmed for October 20th at the high school auditorium. The state will send out notices on the availability session.

**Trustee Walrath:** There was a discussion of requests for additional documents, but ARCO has denied that they have any additional documents. Another change is that Erin Crotty, who was a deputy commissioner who we have had fairly easy access to, is leaving.

A technical meeting has been scheduled for Nov. 17, and the next full stakeholders meeting will be in early December if there are enough agenda items to cover or in early January.

**Village Manager Hess:** George Heitzman requested that any additional PRAP alternatives be forwarded; our position is that we reserve the right to comment after we see all the additional sampling.

**Mayor Kinnally:** Mark Chertok and Pirnie are drafting comments, and I hope to have them available for review sometime next week.

**Trustee Keaney:** Who attended the stakeholders meeting on behalf of the Village?

**Trustee Walrath:** Mark Chertok, myself, and Neil Hess.

**Village Manager Hess:** Steve Schwartz and Warren Riznychok.

**Trustee Keaney:** Who attended on behalf of Waterfront Watch?

**Trustee Walrath:** Robin Herbert and Phil Karmel.

**Trustee Keaney:** Two attendees on behalf of Waterfront Watch. Thank you.

## **2. Health Concerns**

**Mayor Kinnally:** The Fire Chief is here to update us on health concerns.

**Fire Chief Robert Schnibbe:** The county executive has enlisted the fire service of Westchester County in distribution of repellents for mosquito encephalitis situation. We have a limited supply for distribution, and Mr. Gomes is working with us. We recommend giving out not more than one can of adult spray and one can of child spray, if needed, per household. The repellants contain DEET and can be purchased at retail stores.

## **3. Southside/Washington Project**

**Village Manager Hess:** We were asked to look at the Southside/Washington project for extension of the sidewalk near the station entrance going west on the north side.

**Trustee Walrath:** This would reach the northeast corner of the station, and people could either go in front of the station and its door or around the side of the station directly to the platform.

**Trustee Holdstein:** I do not have a problem if it is in the scope of the budget but we will have to look at the size of the utility pole where the sidewalk ends, and the amount of work that would be required to relocate that pole.

**Trustee Walrath:** There is room for one person to pass behind it if we continued the wall. It would be a narrow sidewalk.

**Trustee Holdstein:** It should be removed, but my concern is that people will not use it.

**Trustee Walrath:** We should provide safety for those who are going to observe the crosswalks. It would improve the view that pedestrians would have back toward Southside and cars coming around are going to have a better line of sight if it further down, because you are picking up 30 feet of straight portion.

**Trustee Holdstein:** Would it work within our proposed budget?

**Mayor Kinnally:** It is not in the budget. It would cost at least \$20 thousand between the sidewalk, the retaining wall, and possibly moving the pole. Permission has to be obtained from Metro North.

**Trustee Walrath:** I think we should look at it on its merits, and then decide when we are able to fund it, as two separate things.

**Mayor Kinnally:** Everybody should take a look at it and the Manager should speak to Metro North to see if it is doable.

**Trustee Holdstein:** Metro North might come up with the \$20 thousand as part of their contribution to this entire improvement, considering a great deal of the improvement is on their property.

**Village Manager Hess:** We will check on it.

**Mayor Kinnally:** How many people are going to use it? I do not find a lot of people who are hugging that sidewalk, going around the curb, and then making a crossing.

**Trustee Holdstein:** I agree, but is it our responsibility to provide proper and safe crosswalks.

**Mayor Kinnally:** One of the biggest impediments is the combination of the wall and the pole.

**Village Manager Hess:** I will see if our people can clear out the area proposed for the extended walkway so we can get a good look at it.

#### **4. Drainage on Circle Drive**

**Sam Feldman, 10 Circle Drive:** I am here to discuss the basin located directly in front of my house. According to Mr. Gennarelli, there are underground pipes coming from further up Circle that end at this basin, and then it percolates up; when it rains the water is over my ankles, so I jump. I have had one person fall doing this. As a homeowner, I cannot accept this from a liability perspective. I would have to bring the town in as a third party if this results in an injury. In the winter it slowly percolates out, and then there is an ice buildup going to Villard.

The other problem is that debris collects and there is a smell from this basin. Also it is a breeding ground for the mosquitos.

Everything else is great. I love the town and the house, but this is affecting my ability to enjoy it. According to Mr. Gennarelli, if a pipe is put underground connecting it to Villard that would end the problem.

**Village Manager Hess:** To put in the pipe and make the connection down to Villard would cost about \$10thousand. The Circle Drive area until 1981 had deep-dish brick gutters. They were difficult to maintain and clean, and caused flooding from backup of leaves. When the area was reconstructed they put in a number of these overflow basins which, from an engineering standpoint, is an acceptable method. In this project, as well as a few others, I can understand the problem you are having. That is why we asked Marco to take a look at it and see what it would take to correct it.

**Mayor Kinnally:** We will talk to the Manager, look at the budget, talk to the engineer and see what we want to do. We will get back to you.

**Robert Carrano, 6 Circle Drive:** I am just below Sam. I want to reinforce what he is saying. After a rain it will bubble up water, sometimes for four days. Then it will slowly come to a stop. So water will be running past my house for four days. In winter it starts to freeze, so we get tremendous ice sheets near Villard and Circle. And the smell is quite strong. If you welded a plate on top of it and sealed it, the situation would be much-improved because the water would roll down the hill and not be coming up.

## **5. Cropsey Painting**

**Paul Edelman:** I am the lawyer for the Hastings Historical Society. We have been over many years very interested in keeping the Cropsey painting here in Hastings. We probably have the only archive with documentation that goes back through all these years, so we felt that we had to take steps to get involved in this controversy at this time. We find the Board of Education has a very short-sighted idea that they might make \$750 thousand or a million dollars selling something that is a birthright of the Village.

I am here to get a feel as to where the Village may stand. There is nothing in the Historical Society's documentation that indicates the Board of Education has title to this painting. The painting was given to the people of the Village and the Board of Education is holding it in trust for the people of the Village. The Village, which is already in this litigation, should back up that position that since the people of the Village are the beneficiaries of this painting the Village, or the Board of Education, would be the trustees to keep this painting in the Village. As trustees, they do not have the right to sell it.

When the painting was brought to the school, there was no other safe place large enough to put it. It ended up in the basement of the school. They did not even know they had it for most of the time. There is a history of neglect on the part of the Board of Education.

We would like the Village, since they are already in this litigation, to take a strong stand to keep the painting in the Village.

**Mayor Kinnally:** We are going to meet with counsel at the end of this meeting to decide what position we are going to take in the lawsuit. I told the court on Friday that we would be very happy to take the painting. I have been trying to get the School Board to reconsider their position as far as letting the painting be exhibited. On the 14th, when we file our papers, we will make our position known. We have not finalized it yet.

I had asked the Judge if he could intervene to get this thing resolved amicably, and he said he would stand ready, willing, and able to do it, but the parties had to come to him. I have spoken to some members of the School Board about it. It is in litigation. We really do not want to say any more.

**Mr. Edelman:** With the money they are talking about...

**Mayor Kinnally:** That is a School Board issue. There are two different things. The first issue is, Who owns the painting? The next issue is, What can the owner do with the painting? If the painting is not owned by Village, the Village is not going to take a position on what the owner can do with it.

**Noni Balzer, vice-president, Hastings Historical Society:** Our Society records show that Mr. Thursby gave the Jasper Cropsey painting of the Hastings waterfront to the people of Hastings. Up until this point, the only group representing ownership of the painting has been the School Board of Hastings. I would urge you to take a strong position representing the right of the people of Hastings to the painting.

**David McCullough:** There continue to be a lot of mysteries involved in this whole situation. But the greatest mystery is the phrase "the people of Hastings," because legally there is no



such thing as the people of Hastings. The only one claiming to own the painting is the School Board. Since there is no legal thing called "the people of Hastings," the Village Board of Trustees is the closest thing to be a spokesman for the Village of Hastings. It would be effective that there be a counter-claim made so there is not just one claimant for the painting.

**Mayor Kinnally:** We will be guided accordingly by our counsel.

## **6. Other**

**Trustee Keaney:** Two "1999" events were held recently. Last Sunday we had "Spiritual History Day." It was very well-attended. We had a tour of all the houses of worship in town and we wound up the day at Waterfront Park. About 80 people attended. It was a beautiful setting, to sing songs and to appreciate the beauty that we have all around us. It was one of the highlights of the year.

We planted a tree at Draper Park in honor of the 221st anniversary of the Battle of Edgar's Lane and the first anniversary of the commemoration of the recreation of the Battle of Edgar's Lane. It is a cutting from a historic sycamore tree that stood, and still stands, in the plot in White Plains where General Washington had his headquarters when he was fighting the Battle of White Plains.

**Mayor Kinnally:** Neil, what are the updates on the entrance sign to Ravensdale, Cliff Street, and line paintings at intersections?

**Village Manager Hess:** We are going to be getting another proposal for the sign. We are expecting another bid on Cliff Street, and hope to start the project next week. We are trying to finish up the line painting downtown in the parking lots and meter spaces and there are a few in-seminations to complete.

**Mayor Kinnally:** Regarding Austin Avenue, deadlines have been set for the Thruway Authority to reconsider and evaluate certain proposals in front of them. In the interim, Sprain Road is not open. The only access to the site is from the Thruway. We are meeting this evening with our attorney to discuss what, if anything, the Village Board should do in connection with this now or in the future.

## **EXECUTIVE SESSION**

On MOTION of Trustee Holdstein, SECONDED by Trustee Walrath with a voice vote of all in favor, the Board scheduled an Executive Session immediately following the Regular Meeting to discuss litigation, personnel, and land acquisition.

### **WORK SESSION**

On MOTION of Trustee Walrath, SECONDED by Trustee Holdstein with a voice vote of all in favor, the Board scheduled a work session Tuesday, October 12, at 8 p.m.

### **ADJOURNMENT**

On MOTION of Trustee Walrath, SECONDED by Trustee Keaney with a voice vote of all in favor, Mayor Kinnally adjourned the Regular Meeting at 10:00 p.m.