

**MINUTES OF THE REGULAR MEETING OF THE HARBOR AND COASTAL ZONE  
MANAGEMENT COMMISSION (HCZM) OF THE VILLAGE OF MAMARONECK  
HELD AUGUST 15, 2012 AT 7:30 P.M. IN THE COURTROOM AT VILLAGE HALL,  
MAMARONECK NEW YORK**

**PRESENT:** Nick Allison, Chairman  
Jim Bilotta  
Clark Neuringer  
Kevin LaFolette

**ABSENT:** Peter Jackson  
Bert Siegel  
Alice Pernick

**ALSO PRESENT:** Norman Rosenblum, Mayor (Participated from the dais)

Anna Georgiou, Counsel to the HCZM  
Sven Hoeger, Environmental Consultant

**CALL TO ORDER:**

The meeting of the HCZM was called to order by Mr. Allison, Chairman at 7:40p.m.

**MINUTES**

On motion of Mr. Allison, seconded by Mr. Bilotta the minutes of May 16, 2012 Special Meeting were approved as corrected.

**Vote:**

Ayes: Allison, Bilotta, Neuringer, Lafollette

Nays: None

The minutes of June 20, 2012 were tabled.

**OLD BUSINESS**

- 1. Referral from the Board of Trustees for Consistency Determination of PLLI-2012 -- Amending Chapter 186 to remove the term "Cumulative Substantial Improvements"**

**NEW BUSINESS**

1. **Letter of Intent from Planning Board for SEQRA Lead Agency Designation on the Sarah Neuman Nursing Center Renovation and Expansion**
2. **1000 Taylors Lane- DEIS from Planning Board**

**The applications were taken out of order**

**NEW BUSINESS**

1. **Letter of Intent from Planning Board for SEQRA Lead Agency Designation on the Sarah Neuman Nursing Center Renovation and Expansion**

Ms. Georgiou explained the application is before the Planning Board which is requesting a designation of Lead Agency for this Action. If there is no objection by HCZMC within 30 days the designation is automatic.

On motion of Mr. Allison, seconded by Mr. Bilotta the Commission has no objection to the Planning Board's designation as Lead Agency for this Action.

Vote:

Ayes: Allison, Bilotta, Neuringer, Lafollette

Nays: None

1. **1000 Taylors Lane- DEIS from Planning Board**

The Planning Board as lead agency previously issued a Positive Declaration, a DEIS has been accepted and a public hearing was set by the Planning Board for 9/12. This was referred to the Commission as an involved agency under SEQRA for comment.

If the Commission would like more time to review the DEIS and comment they can request it.

Beth Evans of Evans Associates, the applicant's representative addressed the Commission, stating she would be happy to provide information the Commission requires.

## Public Comments

Dan Natchez, President of Daniel S. Natchez Associates, 916 E Boston Post Road addressed the Commission, suggesting the Commission request the documents (DEIS. He further stated in his opinion the DEIS is not complete and Part 2 of the EAF is not consistent with the findings of the DEIS. In his opinion the Commission should request more time to review the DEIS.

Ms. Georgiou suggested that the Commission request to have the comment period extended to October 1, Mr. Natchez suggested mid-October.

Ms. Evans responded that the first step was the EAF, the Planning Board then declared a Positive Declaration requiring further answers that are in the DEIS. She will be happy to give the Commission as much time as needed, and will return after the Planning Board opens the Public Hearing on September 12, 2012.

## **OLD BUSINESS**

### **1. Referral from the Board of Trustees for Consistency Determination of PLLI-2012 – Amending Chapter 186 to remove the term “Cumulative Substantial Improvements”**

Ms. Georgiou explained that tonight is the extension given to the Commission by the Board of Trustees for a determination of consistency, or inconsistency with the LWRP. The extension was granted until August 15, 2012.

To recap at the July meeting there was a draft resolution before HCZMC to find the proposed amendment consistent and it was not adopted..

There are two draft resolutions prepared for the Commission to consider this evening , one finding the proposed amendment not consistent with LWRP Policy 11, the other an advisory statement to the Board of Trustees stating why the Commission was unable to determine LWRP consistency. There is a third option if the vote is not unanimous tonight since only four members are present there is no action and there will be a default finding of consistency.

Continuation of Public hearing

Mr. Neuringer stated the only thing before the Commission is the issue of consistency, nothing else.

## Public Comments

Marty Spatz stated this is a major change, the existing law is great hardship to many folks sitting here tonight, 4 people hold the fate of many. He asked the chair to be clear as to what the residents will be faced with.

Mayor Rosenblum explained this came about when existing law was reviewed by the Board of Trustees (“BOT”) which decided to take out the cumulative and substantial wording. Because this is an unlisted action, if the Commission views the change as inconsistent it will prevent the BOT from passing the proposed law, but if the vote is not unanimous tonight it will go back to the BOT and become law.

Mr. Spatz stated that the BOT and Commission have been dealing with this for months, the residents are trying to protect themselves. He stated that now if a person owns a home that sustains 50% damage in the ten year period the resident would have to bring the home up to FEMA regulations. He asked can a resident be able to rebuild, and survive stating in most cases it is not achievable.

Mr. Allison stated that the Commission is trying to find whether the law will be consistent with the LWRP only.

Mr. Spatz of 650 Halstead, stated the current language is punitive and lacks insight, presently if a person wants expand their home it could cause a requirement to raise the home, “cumulative” will be devastating.

Mr. Allison asked Mr. Spatz if he recommended the removal of the 5 words in 2007 when the law was first passed, Mr. Spatz responded that no, he was not asked to approve the specific language.

Mr. Neuringer stated that there should be more meetings to find out how the original law evolved; the objective was to protect human life and health.

Mr. Rosenblum stated at one time in this county woman could not vote and that law was changed, this BOT realizes that this law needs to be changed.

Mr. Spatz stated that if the law remains as is the tax base will not be here as people will have to leave the Village.

Mr. Neuringer stated there is a lot in the language that doesn't make sense, and asked for information and a compromise from the BOT. To which Mr. Rosenblum stated that he takes exception that the BOT should tweak the law.

Stuart Tiekert stated this is about consistency, not the relevance of the old and new law.

Mr. Neuringer asked that audience where they were in 2007 when the original law was passed.

Marianne Ybarra 125 New Street stated that when the law was originally passed these people were dealing with the damage caused by the flood trying to put their lives back together.

Sue McCory stated that if someone wanted to renovate they must comply with the flood zone rules anyway, Congress has recently revamped the flood insurance program and many properties built before the flood insurance will lose their subsidies. Congress will no longer subsidize a flood vulnerable property. Property owners will be confronted with higher premiums if their property is not made flood safe. The proposed law is not consistent with the LWRP.

A resident at 619 First Street stated that people are not informed.

Mayor Rosenblum stated that at the BOT meeting it was announced, and noticed in the online papers. When the matter returns to the BOT it will go back for a continuation of a public hearing and concerned residents should attend.

A number of residents then offered comments to the Commission. Keith Yizer of 216 Hillside Avenue stated that the affected residents in the community are concerned.

A resident at 619 First Street stated that the residents need to be better informed and involved, laws are to be changed, anything that will help the residents remain in the Village is positive.

Rich Slingerland, summarized, stating discussions to change the law started in January. The law from 2007 stated if people have been doing repairs on their home and have reached 50% of the cost of the home (in the ten year period) they are required to elevate the home above flood level. Or if they have 25% damage to their home in 2 storm events they must raise their home. The Village has worked with the Department of Environmental Conservation ("DEC") to eliminate those two requirements. If a house sustains 50% damage in one storm event the house must be raised. The proposed law is to remove capital improvements such as a roof repair out of the 50% calculation.

The original law with the word cumulative affects over 100 structures. The proposed law was crafted to take out that mandatory provision because the DEC and other state regulators consider it onerous. The draft went back and forth to the DEC and the Department of State.

Mr. Slingerland further stated that there are incentive programs to raise homes and businesses, the State Office of Emergency Management will pay 75% of the cost and there is another program that will pay 90% but it is not open at present.

Mrs. Darlene Green stated that if the tax money went to fixing the river none of the residents would have to be here, no one has the money to raise their houses. She stated she worked hard for what she has, and now has a social security check to maintain her house. It is not fair to long time residents that have helped build the Village.

John a resident and flood victim, thanked the Board, people are speaking from a desperate feeling. He stated that he was not involved earlier and is trying to get informed. He wants to know how this is going to affect his family and the Village. The DOS verbally answered, the 2007 law was intended to help; not intended to be punitive.

Mr. Allison stated that the Commission reviews 44 policies of the LWRP to find if an application is consistent, and did not find it consistent at the June meeting.

Mayor Rosenblum stated that if the Board does not have a unanimous vote tonight it automatically becomes consistent.

Mr. Slingerland stated all new structures are not covered by the proposed law. The river problem is being looked at by the ACoE, the State and the Village. The cost would be 70-90 million dollars, of which the Village must pay part, if the homes must be made compliant the cost, would be ten times that.

Brad Stein, a resident stated the change in law is self-evident to those affected; the residents came out to let the Commission know to let it go forward. The residents do not know the LWRP, but consider the proposed law less stringent. But this does not mean the law as amended would be non-stringent. The government is saying the change is OK.

Ellen Halpern of Chestnut Avenue stated flood zone residents have to submit all the repair work that they are doing in their home, everyone else does not.

Paul Ryan one of the authors of the LWRP, explained to the Commission the origins of the LWRP. The LWRP (using the Department of State Template) was passed in 1985 and accepted by the State. In the state program the Coastal Zone ended at the railroad tracks, the state allowed the entire Village be part of the Coastal Zone. Policies 11 and 12 of the LWRP were discussed. Policy 12 is geared to coastal flooding; page 72 of the LWRP was read into the record. Mr. Ryan stated he believed Policy 11 only applied to new development not to existing buildings and that the proposed amendment was consistent with LWRP Policy 11.

Mr. Neuringer asked if any houses were mandated to be raised, the answer was no, the only house raised in the Village was Ms. Covington's on Nostrum Avenue, because the house was destroyed.

Mr. Neuringer stated two alternatives are raising the home or walking away, the third is a safety valve and request a variance. Mr. Ryan stated it was unlikely a floodplain variance would be granted.

Mayor Rosenblum again reminded everyone the commission is here only to determine LWRP consistency.

The commission discussed the proposed amendment to Chapter 186. Mr. Bilotta stated that he finds it not inconsistent if not totally consistent, Mr. LaFollette found it onerous and consistent, Mr. Neuringer asked if it could be modified, to which Mr. Bilotta responded that the Commission is not a legislative Board and they are not here to write laws.

Mr. Allison stated the turnout showed the process works he only wished it was the turnout in June. Important discussions regarding the concerns of the residents were heard. He thanked Paul Ryan for background on the LWRP.

Mr. Allison read a draft resolution finding the proposed amendment to Chapter 186 inconsistent with LWRP Policy 11, into the record. No second on motion to adopt, no further discussion and no vote taken – not adopted.

Ms. Georgiou then summarized the draft advisory resolution, no vote taken – not adopted.

ADJOURNED

On motion of Mr. Bilotta the meeting was adjourned.

Mayor Rosenblum invited everyone to the Board of Trustees meeting September 4, 2012.

Minutes prepared by

Francine M. Brill