

VILLAGE OF MAMARONECK
HARBOR AND COASTAL ZONE MANAGEMENT COMMISSION MEETING MINUTES
February 25, 2014 – 7:30 PM
169 MOUNT PLEASANT AVENUES, COURT ROOM, MAMARONECK, NY

Attendees:

PRESENT:

Chairperson Cindy Goldstein
Clark Neuringer
Cindy Goldstein
Jim Bilotta
Brian Glattstein
Alice Pernick
Kevin LaFollette

Absent: Nick Allison

Also Present: Les Steinman, Land Use Boards Counsel
Anna Georgiou, Counsel to the HCZMC
Robert Galvin, Village Planner

1. Open Meeting

The meeting of the HCZMC was called to order by Chairperson Cindy Goldstein at 7:30 P.M.

2. Old business

Chairman Goldstein started the meeting by asking Mr. Steinman for an update on open items from our January meeting.

Mr. Steinman replied that the first open item was getting a copy of the final Scoping document that was adopted by the Planning Board on Mamaroneck Beach & Yacht for the draft Supplemental Environmental Impact Statement on the sewer improvements and I believe that Mr. Galvin circulated that and the comments in the packages. Many of the comments that this Board submitted to the Planning Board were incorporated into the final Scope and when the Supplemental Environmental Impact Statement is accepted and circulated for review by other involved agencies such as this Board, you will have another opportunity to review it and raise issues you want to see responded to for the final Supplemental Environmental Impact Statement. At this time that is all that has happened that the Planning Board adopted the Final Scope on February 12, 2014 and now the applicant is busy preparing the draft Supplemental Environmental Impact Statement so, there is nothing going on at the Planning Board at this point.

Mr. Neuringer replied that it was his understanding that there was a special meeting of the Planning Board?

Mr. Steinman replied that there was a special meeting on February 11, 2014, it was a work session to discuss comments that they had received on the Draft Scope, and then on the 12th which was the next night, actually that special meeting had been cancelled several times due to the weather and it just turned out that we had the special meeting the day before the actual meeting and it was adopted the next night.

Chairperson Goldstein responded that there was a question that had been brought up here a month or so ago regarding examining the sewer repair and replacement separate from the overall site plan and wasn't that a problem with segmentation?

Mr. Steinman replied no because the study of the overall site plan is actually ahead of this. Before the sewer problem arose the Board was already preparing to adopt findings as to the entire site plan so they've already done that Environmental Analysis and then this issue arose which required the Boards to stop and require a Supplemental Environmental Impact Statement with respect to the sewer improvements.

Chairperson Goldstein responded that this Commission has not seen anything on this

Mr. Steinman replied that there have been no findings on the overall plan and what I believe will happen is there will be a single set of findings that will incorporate the Site Plan including the sewer improvements and that will then get sent, once that happens the entire matter will come to this Board for consistency.

Mr. Neuringer asked Mr. Steinman, in a general sense, what is your understanding of the anticipated scheduling for the Planning Board with respect to going forward with the Supplemental EIS and the sewer pipe.

Mr. Steinman replied that at this point the Planning Board is waiting on the applicant to submit the Draft Supplemental Environmental Impact Statement. That's the next step and what will happen then the Board will review it to determine whether it's adequate for public circulation and comment, if it is the Board will accept it and it will get circulated if it's not the Board will develop a memorandum for what they believe are issues that have not been addressed and then send it back to the applicant for revision.

Mr. Neuringer asked if it is possible at the time that the applicant makes a submission to the Planning Board for informational purposes that the HCZMC also receives a package

Mr. Steinman replied that it is possible, but the only thing I would suggest is that if the Board ultimately decides not to accept it, review of that might be premature. When it is submitted it can be provided to HCZMC as well. I think if the Board wishes it can request that from the Planning Board.

Mr. Neuringer replied that I only bring it up because there have been some suggestions by some parties that for some reason process with respect to HCZMC has had the effect of delaying procedure or process for applicants and I just thought if it's possible even as the Planning Board is reviewing it just so we can become familiar with it I don't see a down side to it.

Chairperson Goldstein replied that she agrees the worst thing is that they waste a few hours looking at something that doesn't end up coming to us. I don't see a down side to it either.

Mr. Steinman replied that when the time arises we will see that you will get a copy of the draft.

Ms. Pernick asked as for the non-sewer part of it is that part of it on hold?

Mr. Steinman replied basically yes.

The next item was what to do with the records. What is submitted by the applicant is the official copy and that needs to meet retention requirements of state law. Copies are made for you individually and those need not be retained.

Chairperson Goldstein asked if that pertains to our notes and other research that we do, there is no need to keep any of those types of documents?

Mr. Steinman responded, your own individual notes no I don't think so but when you get into e-mails that's a separate subject and has different classifications on the records retention schedule, my suggestion on e-mail is to tie into the Villages e-mail system and have your e-mail address at the Village. The Village will do all the monitoring in accordance with the e-mail retention requirements.

Mr. Glattstein asked of the records kept by the Village are they accessible to Board Members in order to research it

Mr. Steinman replied that they are public documents

Mr. Glattstein asked in what way, would we have to go down there or is there a way to get it on the internet?

Mr. Steinman replied that some of them are posted

Mr. Galvin explained that the Village has what you call Laserfiche, they put the documents into the Laserfiche which can very easily be obtainable just by searching on it which can be done through the clerk's office at this point in time. Eventually it will be accessible to the public.

Mr. Steinman spoke of the last item, the Procedures for the Board, the Chair had drafted an outline of Procedures there was some initial discussion I haven't had an opportunity prior to the last meeting to look through them during the hiatus between meetings I've had an opportunity to take a look and embellish them and broaden them a bit but, I only got that work done in the last 24 – 48 hours so there is nothing that I have to circulate to you at this point. I did get a copy to the Chair prior to this meeting and my understanding is that sometime after this meeting it will be circulated to all Board Members for comment.

Chairperson Goldstein replied that Procedures for this Commission has been a long time coming and they're going to be just a little bit longer.

Mr. Steinman replied that they are being worked on and I think they are very important and they will be given the attention they deserve.

Chairperson Goldstein replied that that item will be held over as old business once again. Now, onto item

- A) First Three Year Renewal of Perimeter Permit for Nichols Yacht Yard (Perimeter Permit #09-0762. Temporary 60 day Extension was approved by the Commission on January 15, 2014. The Applicant is seeking a renewal of the Perimeters Permit or, in the alternative, an additional 90 day extension of the existing Perimeter Permit through June 30, 2014.

Mr. Natchez for the Applicant spoke, stating that the Board has received a letter from Nichols outlining their position. It is the position of Nichols that this was approved in 2009 nothing has changed; it is conformance with the code and should be renewed as presented. There were questions that were raised as to whether or not the Village Code allowed this to be done and I would suggest that it actually does, the question was whether Nichols being a Marine Commercial use under the MC Zone could have access to the littoral area of Spadaro without upland access. Nichols did submit their memo dated February 16th which I think discussed that at length. Specifically the zoning in 1985 was changed as a result of a lawsuit which the Village lost, then it went to Albany then it became home rule to be able to allow governing anything beyond the mean high watermark in terms of permitting or anything else. In 1985 the law was changed to extend the zoning in effect the mean high water which is paragraph 12 and further out if the State did not have any claim to the underwater lands there. In this case as well as the other Perimeter Permits that were approved and in existence that have the same issue, where there are Perimeter Permits for the Marine Commercial Zone that the LWRP fully supports using the littoral rights of non Marine Commercial Property. Mamaroneck Boat and Motors does so with an agreement from Indian Cove, Rushmore does so with terms of a property on the Crescent in part. In all cases there are agreements as provided in your code on Chapter 240 that allow that to be done providing that you have a written agreement. If the upland property owner does not want to allow you to use their littoral rights, you can't do that. In terms of what is in front of you in specific, the state has claimed the land in two places. There were letters patent, called the Elijah Rushmore Grant, which were granted to the upland property owners and a license that the state requires for more than (5) boats that are moored and that license extends in front of the Spadaro property and a portion in front of Indian Cove and there are agreements between both that were done in 2009. We believe that it is fully compliant with that. There are paragraphs within the license itself that says the license itself does not grant/take away the ability of the upland property owners consent. In other words the state can give a license but that portion that is in front of someone's littoral rights cannot be affected unless the littoral rights owner agrees to it. In this case that is what you have, you have copies of that which were provided in the packets that you received and requested at your last meeting. It is a complicated thread but if you take away and no offense, with all the legal mumbo jumbo, and put it down into the specifics of what you have basically the big issue was which was done in 2009 was, you cannot have access from the residential property for commercial purposes and so the access for Nichols is through the waters of Nichols and not through the upland of Indian Cove or Spadaro property. This is something that is going to be before you on others that are being renewed. These things were discussed at length unfortunately the minutes of history were not as detailed as the minutes of today, however the documents we submitted back then we have copies of part of which you already have. If the Commission is comfortable we can discuss it and go forward if the Commission wants more time to review it Nichols is prepared to do that. We

think the matter is relatively simplistic. It's complicated because how do you have something commercial in front of a residential, but the commercial aspect has to do very specifically with the water. There are citations that were given in both the Nichols letter and the Village Code that we've given you that I think fully support being able to do this. One last thing as a question of precedent prior to 1985 what you have in front of you the Coastal area of 1986, In 1986 you can see the configuration of the Perimeter Permit is basically the same the issue of the docking facility on the Spadaro side of Nichols which is over the littoral rights line was in place back in 1986. At worst you would be a previous non-conforming use, but what I'm trying to suggest is that there is no precedent being set because you are not creating something that has not already been created and already been reviewed and approved by your Board back in 2009.

Chairperson Goldstein responded by asking Mr. Steinman about the research that he has been doing on this matter.

Mr. Steinman replied that the question is complex and ultimately the answer is somewhat ambiguous. The Zoning Code in certain places and the Village Code in certain places indicates the intent to extend the Village's zoning to the extent permitted by law into the water. The section that Mr. Natchez referred to which was adopted back in 1985 reflects the state of the State law of that time, since that time in 1990 or 1991 the Navigation Law was amended to give the Village of Mamaroneck certain additional rights but it's not absolutely certain that the Board took advantage of those rights and made it without doubt that the zoning fully extended out into the water in accordance with those additional rights that the Navigation law gave it. So, and I'm still missing, I have not been able to determine the existence of a Marine Zone Map which supposedly has the area of the Zoning Districts so it is a question that is not free from doubt at this point and may require ultimately some further legislative clarification by the Board of Trustees.

Mr. Neuringer asked would it be legislative clarification or interpretation by the ZBA.

Mr. Steinman replied that it could be two ways, it could be either.

Chairperson Goldstein replied that she's concerned about section 240 which is also ambiguous talking about these renewals are as of right unless they're not. "As of right means something but when you finish the sentence it's unclear so is that anything that we need to include in our analysis"?

Mr. Steinman replied, I think that the fact that this is an existing permit which differentiated slightly from an application coming before you new, I think the Board has been diligent in examining it and raising issues about making sure the renewal is appropriate but at this point I can't give you a clear certain answer with respect to the extent to the Village's intent to have its zoning apply into the water to cover this and of course the issue being the Commercial use in front of Residential property so that's where we really are at this point.

Chairperson Goldstein asked if Mr. Resler would you have anything to add on this in terms of scope and history of water in the Village of Mamaroneck.

Mr. Steve Resler replied that he could add a little about practice in New York both at the state level and other Municipalities in the state and offer some other comments with regards to the village's authorities. In my opinion and I'm not the Attorney here but there are many attorneys that would agree with this, when your municipal boundary goes off shore into the water, you can zone in that

area. There is no state preemption of anything in that case, the state preemption has to do with navigation per se. But when you're zoning you're not dealing with navigation per se you're dealing with the same things in the in water areas that you're dealing with in the upland area. The character, the community character, patterns of development and all other things that affect the affairs of the community, the delegation of authority in section 46A of the Navigation Law to regulate structures is limited to structures there was an amendment to the State Executive Law in 1991 that was part of the same amendments that extended and delegated some authority to the Village to regulate structures. It allows a municipality approved LWRP and a Harbor Management Plan as an element of that to regulate all structures and most important, all uses on, over, in and under the waters within the municipality or (and this is extra territorial authority) to a distance of 1500 feet from shore where the municipal boundary ends at the shoreline. That is similar to the way the State Navigation Law reads right now. People often misinterpret the 1500 distance as limitation. The Law says essentially that you can regulate the operation of vessels for example, upon waters within the municipality or within 1500 feet of the shore of the municipality. That's an extra territorial authority and that same authority is reflected in the 46A amendments that give the Village the authority to regulate structures. It may seem a little confusing right now but there are different ways that you can address all structures and uses in the waters within the municipal or corporate limits of the Village. I would argue that what you are allowed to do in the in water portion of the Harbor or any of the waters in or adjacent to the Village, is tied with what you're allowed to do on the upland which is also limited by what's allowed or not allowed on the upland except in the rare instances where the owner of the adjacent upland gives someone not a right but permission to occupy or use the area in front of their property. If you are talking about an instance where a commercial operation would use the in water space in front of a residentially zoned area, that can be done, that has been done and it's become common practice in New York and the States Public Lands Law expressly allow for that when we are dealing with State underwater lands.

Chairperson Goldstein asked if Mr. Resler is saying that the Village should be adopting, formally a Zoning Code.

Mr. Resler replied that I think ultimately you should work to extend your Zoning out into the water clearly with no ambiguity what so ever, but I think it would be kind of ridiculous to extend land side zoning into the water. I think you should create a new zoning district or category for different portions of the Harbor. Call it whatever you want an entering zone, a harboring zone and then break that down to characterize parts of the Harbor differently so that you would allow for certain intense uses for part of it limiting uses in others, if you want to preserve an area for shell fishing or nature study or some kind of passive recreation, develop zoning standards for that just as you would do in the upland you would do on the water.

Chairperson Goldstein asked for any questions

Mr. Neuringer replied that he would like to thank Mr. Resler because he very distinctly and very quickly answered a question that has been perplexing since this application came before us and that went to a basic question of who controls the water and you just answered it but, it also answered something and I would like to take back my suggestion of the notion al an interpretation of the ZBA, that would not be the process it should be a legislative process as it currently exists if I understand Mr. Resler's comments correctly there is a conflict because the Zoning Code of the Village of Mamaroneck stipulates one thing and what Mr. Resler is saying is it's common practice to allow, permit, and encourage uses that are divergent from the upland uses and that's fine but not in the

Village of Mamaroneck, we haven't gone that step yet and we should. Right now there appears that there is a conflict and it has not yet been tackled but he has offered a very simple solution, it's called Zoning. Create a Zoning District.

Mr. Resler replied that he wants to clarify that what you are allowed to do in the water adjacent to the upland and remember it is limited on how the upland is zoned, so you ordinarily cannot use the adjacent in water space, the in water space adjacent to the upland for something other than what is permitted on the upland. However, when you move further out into the water that begins to change a bit so you can allow something further out to take place out there that would ordinarily be limited closer to shore and there is no well defined boundary to that. It's basically judgment and common sense plays out here. In a case where I can say that is best reflected is Commander Oil vs. DEC in the town of Oyster Bay where an upland area was zoned for heavy industrial uses primarily oil storage and shipment from barges to oil storage tanks and then trucking them off somewhere on Long Island in Oyster Bay. The State of New York and the Town of Oyster Bay both claimed ownership of the underwater lands and would not give permission to maintenance dredge that area for barges that needed to off load at that facility. The courts ultimately decided that while the underwater land is owned either by the State or Oyster Bay the public policy for that area was reflected in the laws that applied to the upland and how it was zoned. The upland was zoned to provide for heavy industrial commercial uses specifically the transshipment of oil from barge to landside then the in water same adjacent to that upland the same was allowed to be used and dredged in order to provide for that use.

Mr. Neuringer replied that he believes that he understands and that it was explained very well. Mamaroneck has a unique Harbor. We are a fully diverse and intergrated working Harbor and from what I hear the description and from what I read in our on zoning code we have residential properties boarding the Harbor along with commercial properties and the water in front of residential properties according to our zoning code would be the uses permitted would be consistent with the uses permitted on the upland but, this case presents a very interesting conundrum that there are commercial uses adjacent which have an arrangement with their next door neighbor to allow those uses to occur in the water in front of the residential portion of it. I don't believe unless I'm missing something that the Village of Mamaroneck has a mechanism in place to reflect that, I think there's a conflict currently and this has nothing to do in my view with Nichols. Nichols did everything appropriately in terms of their application, review, approval, they are before us not asking to change one thing and this should not be seen in any way, shape or form in my opinion as beating up on Nichols but it raises an interesting question not about Nichols so much but about the Village of Mamaroneck. There was a question posed early on who controls the waters? You have answered it. Now I think the torch is passed to the Village of Mamaroneck to do something about it.

Mr. Bilotta asked let's say we allow the extension of use of commercial adjacent to residential property, in my eyes that use would be pleasure craft and it really won't look any different if the Spadaro's put six boats out there vs. Nichols putting six boats out there.

Mr. Resler responded that, that's not really focusing on the use. Whether vessels are use for recreation, whether it's an accessory to residential use or accessory to or a part of a commercial use I don't think it's a deciding factor here. The deciding factor here when you are looking at it that way is, is it a commercial water dependent use that supports recreational use because that's the key.

Mr. Bilotta asked to finish his question, there is another part in the Harbor where there is a commercial mooring service adjoining a residential piece of property, what if that person decided to expand their commercial operation to the residents next door to either side of them. Now you have a commercial enterprise expanding, how is that different from that one? You said we are not setting a precedent but I'm not sure of that.

Mr. Resler responded that it is not a precedent because we find these circumstances all over the State. As I mentioned before the Public Lands Law was amended to allow for that where the owner of the upland hasn't any objection to it. That's the key, that's important the owner of the land has to agree to it. It use to be where the owner of the upland could not do that because it's an ownership interest tied to riparian rights tied to the ownership of the upland and you could never give those up.

Mr. Bilotta replied, that goes back to my question. You have a commercial enterprise that's been there forever in a residential zone what if he wants to expand?

Mr. Resler replied that he would still need permission from the upland owner.

Mr. Bilotta asked what if he gets that.

Mr. Resler replied that he does not see a problem

Mr. Glattstein asked if there is a limit, you mentioned something about 1500 feet

Mr. Resler replied no. I mentioned 1500 feet I'm trying to distinguish between areas that are already in the incorporated Village. The municipal boundary, I'll go back to that 1985 case that Dan mentioned the court erred in that instance by saying that the Village did not have the authority to regulate structures out there. It erred because an important issue was never raised to the court and that's where the municipal boundary is. Is it on the shoreline or is it a go out into the water? Your municipal boundary extends out into the water. You can regulate everything inside your municipality. The reason the court made the decision it made and this is repeated throughout the State, the issue in regard where the corporate and municipal boundary is, people don't understand that, once you step into the water where the village, town or city boundary ends at water's edge you've left the municipality you can't regulate anything out there. The only place in law where you have the clear authority to regulate in that instance is in the State Navigation Law when it comes to the over water when it comes to the use, speed, operation, anchoring, mooring, vessels over water that is an extraterritorial authority that allows you to regulate something outside the municipal limits. You won't find that anywhere else in law in this state or any other state. That is where the 1500 feet comes from it is an extraterritorial authority allowing you to regulate up to 1500 feet beyond your municipal limits. If your municipal limits go 6 miles into the Long Island sound, you can regulate everything in the world up to six miles just as you can on the upland. That's the important point to make. But, because of all these differences all over the state and you have them between the Village of Mamaroneck, the Town of Mamaroneck, the Village of Larchmont the legislature amended the Executive Law and several other laws in 1991 to provide for Harbor Management Plan as now is the LWRP. You don't have to look at every little detail on the shoreline to figure out who has the authority to regulate what, where and what circumstance and tie everything to exactly what's owned to the upland and all that you can develop a Harbor Management Plan just like you developed a Zoning Map for the Village essentially and once you've done that and made sense in some manner of how that in water space is to be used you can now clearly regulate everything and anything in the

world without any questions being asked without having to contest in a courtroom what you can and cannot regulate anymore it's all over its all the authority to regulate everything fully delegating to you at that point and that's what I'm trying to recommend long term here.

Mr. Neuringer asked Mr. Resler, with respect to the inter property agreements, you stated that you must have permission by the upland owner, except that the upland owner cannot give permission for something that is in violation of the zoning ordinance.

Mr. Resler responded that the zoning law is not now in effect in the water. If the upland is zoned Residential adjacent to Mamaroneck Harbor, does it then make sense to carry that zoning out into the water?

Mr. Neuringer replied no

Mr. Resler replied, I think you have the authority now through different venues to regulate and control and give permission or deny permission to do things out in that space, you have that authority now and there is no doubt in my mind that you haven't.

Mr. Steinman replied that the Village clearly has the authority the recent case law reaffirms it, the question in my mind is whether they have fully exercised it and I think what Mr. Resler is pointing out is that it should be a more nuanced look as to what types of uses should be permitted in the water not just a "knee jerk" whatever is permitted on the upland is limited to what's permitted in the water. That is the kind of ambiguity I've tried to convey to you exists since I've been researching this.

Chairperson Goldstein replied that she thinks they understand that and back to this I don't know if we will be able to clear up this ambiguity tonight, I feel that time is moving by and I don't think that anyone on this Board wants to punish Nichols by slowing things down so are there any questions?

Ms. Pernick replied that this all sounds great moving forward it's kind of a road map of what we should be doing next but in the absence of the Village having taken these steps yet is there anything that would prevent us from allowing Nichols to use the water in front of Spadaro that way? Is there any reason why we couldn't approve this?

Mr. Natchez addressed the Board and stated that he respectfully suggests that with what I gave you from the excerpts of the zoning code specifically 342-7D allow this Board to move forward on this application. I think what we are hearing from most everybody here that in your review and updating of the Harbor Management Plan and putting in a meaningful map to go with it, this is something that should be taken up on a longer term basis but in terms of the application before you and ones that will be coming to you on renewals, you have problem in other facilities. These issues were reviewed in 2009, 2010 they are not new and they all required the upland property owners to give permission in writing and the State also required licenses from the office of General Services these are all in place and set in a place for you to continue without "creating a precedent" but do raise a spectrum of what's the best long term solution to come to grips with this which is put that part of the updated Harbor Management Plan.

Chairperson Goldstein responded that she wants to be clear that counsel does not feel that there is any particular issue with renewing this Perimeter Permit.

Mr. Steinman replied that I cannot give you any definitive answer , all I can explain to you is that the language that is being relied upon by the applicant here is really a fact as it relates to what the law was at the time this was adopted and the exception it carved out is no longer necessary to be carved out because the State has given the Village additional authority but it just not appear clear to me so far that the Village has exercised that authority.

Ms. Pernick replied that they haven't exercised the authority to disallow it either

Mr. Steinman replied that, that is what he is saying that they haven't exercised their authority to specifically disallow and to specifically extend its zoning to the area that is covered by this permit, that is what I'm trying to say.

Chairperson Goldstein stated to Ms. Georgiou that I believe that we have a draft resolution contemplating that this might be the situation and if we could all take a look at that and if anyone had anymore question or any statements from the public regarding this renewal for the Perimeter Permit.

Ms. Georgiou replied that the Draft Resolution actually summarizes and lists the conditions from 2009.

Chairperson Goldstein stated that she believes that there was some specific language written about access from water and not from residentially zoned property. I believe that that should stay in the resolution.

Ms. Georgiou replied that I believe so; these are really what are in the two resolutions. One is a Negative Declaration the other is a Consistency Resolution.

Chairperson Goldstein read,

WHEAREAS, the Applicant now seeks the first three-year renewal of the Perimeter Permit and

WHEAREAS, the Commission has considered and evaluated the Application, including the Applicant's compliance with the Perimeter Permit and approval conditions.

Chairperson Goldstein asked for a motion

On Motion of Mr. Glattstein and second by Mr. Neuringer

NOW THEREFORE BE IT FURTHER RESOLVED that the Commission, based upon review of the Application, and all other relevant materials, deem this a Type II action requiring no further action under the State Environmental Quality Review Act.

The motion passes

Ayes:	6
Nays:	0
Abstain:	0
Absent:	1

AND BE IT FURTHER RESOLVED that the Commission reaffirms its September 16, 2009 determination of the Perimeter Permit’s consistency with the Village’s Local Waterfront Revitalization Program.

Chairperson Goldstein asked for a motion

On Motion of Ms. Pernick and second by Mr. Glattstein

The Motion passes

**Ayes: 6
Nays: 0
Abstain: 0
Absent: 1**

AND BE IT FURTHER RESOLVED that the Commission has completed its review and evaluation of the Application, the Application is approved, and said renewal shall remain in effect for three years in accordance with Village Code §240-20 (H), subject to the Applicant’s compliance with the Perimeter Permit and conditions of approval as set forth in the annexed approval resolutions.

The motion passes

**Ayes: 6
Nays: 0
Abstain: 0
Absent : 1**

3. NEW BUSINESS

A. Determination of Consistency for (Proposed Public Law) PLL-S-2013 amending Chapter 342—75 of the Zoning Code related to actions requiring site plan approval (Change of use).

Mr. Galvin explained that this has come before the Commission previously at the last monthly meeting as a Notice of Intent to be Lead Agency. The Commission sent a memo back to the Board of Trustees indicating that they had no objection to their assuming Lead Agency Status. They subsequently held a Public Hearing and made a SEQRA Determination that this is an Unlisted Action which has been verified and certified in the documents. They also sent a referral to County Planning which came back with a positive referral approving of the streamlining of the code. Sven Hoeger reviewed this on January 30, 2014 and said that this was consistent with policy 7 to 10, 11 to 17 and 30 to 44. The law is a Site Plan Change of Use, previous to this any type of change of use of a building even if it was just all interior work and didn’t include any additional parking spaces or façade changes, it would have to go through a Site Plan review process with the Planning Board. The revision of the law essentially changes that and says “any change of use or intensity in use other than in relation to a one to two family dwelling that will affect the characteristics of the site or increase the requirements under this code in terms of parking, loading, circulation, draining, utilities, landscaping, or outdoor lighting”, so in other words if it is just a simple change of use with just interior work it will just be done through the Building Department process and if it does affect the intensity of use it will go back to the Planning Board for Site Plan Approval.

Chairperson Goldstein asked for any questions or comments, (none) we have a resolution that states it is an Unlisted Action.

WHEREAS, the Harbor and Coastal Zone Management Commission (“Commission”) has reviewed proposed Local law S-2013, referred to the Commission by the Board of Trustees, that would amend Chapter 342-75 of the Zoning Code relating to uses and actions requiring site plan approval by the Village Planning Board (“Local Law”); and

WHEREAS, the Village Board of Trustees having determined the proposed Local Law is an Unlisted Action pursuant to SEQRA, and after circulating its Notice of Intent to be Lead Agency to Involved Agencies, declared itself Lead Agency on January 27, 2014 and adopted a Negative Declaration under SEQRA finding no significant adverse environmental impacts; and

WHEREAS, the Commission has considered and evaluated the Local Law for consistency with the Village of Mamaroneck’s Local Waterfront Revitalization Program (“LWRP”).

Chairperson Goldstein called for a Motion

On motion of Mr. Lafollette, seconded by Mr. Bilotta

Motion passes

Ayes: Mr. Lafollette, Mr. Bilotta, Ms. Pernick, Mr. Glattstein, Ms. Goldstein, Mr. Neuringer
Nays: None
Abstain: None
Absent: Mr. Allison

- B. Notice of Intent for Board of Trustees to be Lead Agency for PLL-A-2014 amending Chapter 342, the Zoning Code, to add provisions for a new Harbor Island Scenic Overlay District.

Mr. Galvin explained that PLL-A-2014 is a recommendation that came out of the updated Master Plan from 2-3 years ago. In the Master Plan or Comprehensive Plan it indicated that we should be looking at properties along Harbor Island protecting scenic vistas and to provide protection not only from upland down towards the Harbor but from the Harbor into the upland areas. I did a review of Boston Post Road and came up with a recommendation based on the Comprehensive Plan as well as review of the topography in the area. Currently you can do 4 to 4.5 stories on a wide road and you could go up to 50 feet, we’ve revised that for the overlay zone in C-1 to be 3 stories and 38 feet. This has gone to County Planning and they thought it was a good idea and Sven Hoeger has given a commentary that you would get into when it comes back for a Consistency Determination.

Chairperson Goldstein asked to hold question on this until it comes back to the Commission.

Ms. Pernick stated she did not get a map and asked what the boundaries were

Mr. Galvin replied that it runs from Rockland Avenue, its properties fronting the Post Road to the BMW Facility and it doesn’t go further than that due to the Sewer Treatment Plant.

Ms. Georgiou stated that the Board needs to reach a consensus that you have no objection to the Board of Trustees being Lead Agency

Chairperson Goldstein asked for a clarification on what makes one Board more appropriate to be Lead Agency than another?

Ms. Georgiou replied that typically the Board that is primarily responsible for the action would be the Lead Agency. Sometimes that is not so clearly defined, but here we are talking about legislation that's being adopted and under normal circumstances the Board of Trustees, the Legislative Body would be the Lead Agency because they are actually adopting the Legislation.

Chairperson Goldstein asked if there were any additional questions (none). Asked if a motion was needed on this

Ms. Georgiou replied that normally just a consensus of the Board and it will be reflected in the minutes. There is a 30 day period so by law and when that 30 period passes and there are no objections raised then automatically the Board of Trustees would be Lead Agency and we are within that time period.

Mr. Neuringer asked Mr. Galvin if this matter was still open

Mr. Galvin replied that it is open for a Public Hearing. Notice of Intent goes back to them and then they would close out SEQRA at that point in time because they would be Lead Agency and then they would have the Public Hearing and then they would send it back to the Commission for a Consistency and then you would have 30 days.

Chairperson Goldstein asked if there were any objections from the Board

None

- C. Notice of Intent for Board of Trustees to be Lead Agency for PLL-B-2014 adding a new chapter 109, establishing regulations regarding the planting/and or growing of bamboo in the Village of Mamaroneck

Mr. Galvin explained that there are a number of communities and municipalities in Nassau & Suffolk County that have been experiencing this problem so that is where much of the legislation in New York State comes from. In the Village, I don't know to what extent I know the Building Department has taken in some complaints from people that their neighbors Bamboo has come into their property. This is an issue and the Board of Trustees is attempting to put some boundaries around that and make people responsible for it and have some education about it and the responsibilities of having it. They're taught about Clump Running Bamboo and Clump Bamboo those types of things that are naturally more invasive than other species of Bamboo. This is a proposed law adding a new chapter on the regulation of Bamboo. The planting of Running Bamboo would be prohibited there's a duty to confine Bamboo and they define what's regulated and what's not regulated. The Board of Trustees has a proposed law, they have given Notice of Intent to be Lead Agency, it has been sent to Westchester County Planning. Westchester County has not reviewed this because it is not in the Zoning Code. Westchester County only reviews things in term of zoning issues. So the Board has a Resolution and a Environmental Assessment Form filled out and they are looking to have this

Commission indicate that they have no objections to the Board being Lead Agency on this and then opening up a Public Hearing on this.

Chairperson Goldstein asked for any objections to the Board being Lead Agency

Mr. Neuringer replied that he attended Monday night's Board of Trustee Meeting and there was a little bit of commentary on this proposed law and there did seem to be a fair amount of confusion, and even though it is a proposed legislative act and I do understand the notion of Lead Agency status and so forth it would seem to me that in this instance the notion of looking at Bamboo and writing a local law to control it is more of an environmental issue that perhaps could be looked at and maybe even rationalized by this Commission as opposed to the Board of Trustees who have their head in so many other areas, I don't know how much they are really putting their heads into issues relating to Bamboo and I would also be interested in if Mr. Resler has any thoughts, comments, on this from the perspective of the State as to what's going on in the State. I know what's motivated the Board of Trustees apparently of what's going on in Nassau and Suffolk, but does the State have any information that is would like to pass on to us regarding the big problem of Bamboo.

Mr. Resler replied not with Bamboo specifically but it does with invasive species. The State has an invasive species program not just for critters but also for plants. It is struggling with that right now it does have an invasive species tasks force it has an active legislation requiring that the DEC create a list of species that are to be regulated, some prohibited some regulated heavily so that they don't wind up being transported and used in the State and others regulated to a lesser degree.

Chairperson Goldstein asked if Bamboo was on the list

Mr. Resler replied that it is on an interest list but it is not high up on the list

Mr. Galvin replied that Sven Hoeger's commentary really goes into this in some detail, that it does have the potential to become invasive in the future and he talks about the uplands and I believe it to be a very good commentary that he has put together.

Mr. Resler replied that he would like to offer a perspective from another hat that I wear unrelated to what I do with the State of New York. I'm a Visiting Researcher with the Darin Fresh Water Institute. I'm a scientific diver, and I've been their lead researcher on certain invasive species in Lake George. Once an invasive species starts to take over there is very little you can do to control it. We have spent millions of dollars in the past 3 years to try to contain one species in particular and we have not been successful, milfoil, most people know about milfoil. It's taken over huge areas of Lake George and for more than 15 years Lake George Park Commission, DEC, the Counties the Towns and Villages surrounding Lake George have invested tens of millions in trying to control that. To get to the Bamboo issue you might also want to consider a broader range of things rather than just one species it is a start.

Mr. Neuringer replied that is exactly my point. It is my understanding that Bamboo doesn't rise to the level of being on a list in New York State of being categorized as being an invasive species.

Mr. Resler replied that it does beat out certain species if it gets out of control from your yard the same way phragmites does.

Mr. Neuringer replied that he was going to ask the question about fragmities, if someone's property has fragmities and that spreads like crazy, why wouldn't the Village of Mamaroneck be interested in prohibiting the spreading of fragmities from one property to the other. Why is Bamboo being singled out?

Mr. Resler replied, a different perspective, I've had many lives over more than a 4 decade career in Public Service and I use to enforce these sorts of laws. As a note, you already have laws on the books you can use to deal with this sort of an issue. It's a nuisance, the same way a tree overhanging ones fence into someone else's yard. It can be a nuisance so the land owner can bring a charge against the neighbor for being a nuisance and damaging their property values or their uses of that property. You have that on the books now.

Mr. Neuringer asked wouldn't that be a lot more elegant solution

Mr. Galvin replied that it might not be more elegant it might be more difficult. Obviously the Trustees have felt that this is something that they need to explore because of situations that have arisen and it is somewhat, and Mr. Resler is correct about nuisance law but sometimes it is more difficult to navigate those types of things rather than have a more clear cut approach on the legislation to do that.

Mr. Glattstein asked wouldn't the nuisance law depend more upon the private individual taking issue with the invasion?

Mr. Resler responded "Yes"

Mr. Glattstein replied that I also think this isn't necessarily confined to the Wetland area or the Harbor area I think this is also something I think a little bit broader for the entire Village and that's why I can see why it should really be a legislative action and dealt with in that manner.

Chairperson Goldstein asked if anyone has any objections to the Board of Trustees being Lead Agency in respect to the Bamboo issue.

No Objections

Mr. Resler asked if he could add something that is somewhat related to the conversation. It has to do with the Commission and the way you do business and what you review and how you review it. I hope that I am not opening a can of non-native worms but it has to do with SEQRA and what an Involved vs. Interested Agency is. If you go back to the basic definition of what an Involved Agency is, it is my opinion in instances where you are not also operating as the Harbor Commission and you have to issue a permit on your own, you are not an Involved Agency. An Involved Agency is an agency that makes the final decision; it has final decision making authority over something. Your consistency review and decision making authority and responsibilities are not a final decision. It affects an agency that has to make a final decision but it is not the ultimate arbiter. You do not issue a permit, deny a permit, you don't fund anything, and you don't decide not to fund something. You don't undertake Capital Projects. The Department of State is delegated authority by the Federal Government to decide whether or not something a Federal Agency will authorize or consider authorizing or funding or doing is or is not consistent with State Coastal policy. If the Department of State determines that something is not consistent with State Coastal policy, consistency provisions in the Federal law

prohibit a Federal Agency from authorizing whatever is being considered. That's a decision the Federal Agency has to make to the applicant and say the State of New York has determined that what you want to do that we have to give permission for is not consistent with State policy we therefore pursuant to consistency provisions are prohibited from authorizing this. If the applicant wants to challenge that, they don't challenge New York State they challenge the Federal Agency or they appeal the Department of States decision administratively to the U.S. Secretary of Congress who either agrees with the State and upholds the decision or overrides the State not overrule it because nobody gets to second guess our decision or in your case your decision. You are deciding whether or not something is consistent with policy or not, no one else has the authority to do that. The result of your decision affects another agency it either has to deny or approve ultimately that will be challenged but you're only an interim part of the review and decision making process you are not the end result therefore you are not an Involved Agency you are an Interested Agency.

Mr. Galvin replied that is why this was sent to Interested and Involved Agencies. Just one comment taking up where Brian left off in terms of Sven's comment, Bamboo species are in all kind of environments but the mostly found in the uplands area.

- D. Notice of Intent for Board of Trustees to be Lead Agency for PLL-V-2013 amending Chapter 294 – Storm water Management and Erosion and Sediment Control, to Update Certain References and Revise Provisions for Consistency with other Laws.

Mr. Steinman stated that the Harbor Coastal Commission is being treated as an Involved Agency otherwise they would not be getting this in the first place and if they have any objections to the Board being Lead Agency because only an Involved Agency can object to another Involved Agency being the Lead Agency. I wanted to state that for the record.

Chairperson Goldstein asked if there is something in our statutes that we have adopted that makes it so here or is that custom?

Mr. Steinman replied that is the practice that has been since I've with the Village they have been treated as an Involved Agency that's why the Board gets all these referrals.

Chairperson Goldstein asked for any objections to the Board to be Lead Agency on the Storm Water Management Law

No Objections

Mr. Galvin stated that he will put together a memo regarding the actions tonight and give it to the Board of Trustees and copy you on it.

Chairperson Goldstein recognizes a member of the public

Doreen Roney spoke regarding the Storm Water Law stating that she has looked into it and 2 things came to her attention. First, in the law definitions juridical Wetlands are being removed and that might be something for you to consider as whatever kind of agency you are and there have been changes to impermeable surfaces and impervious cover and these are in the definition section. I was unclear on this and this has to do with our Storm Water Pollution and Prevention Plans it also has to do with the Storm Water design manual which are things you might come across. I sent an E-Mail to

Pat Farracane at the at the D.E.C. to clarify and in our definition we are removing the word gravel and he basically says due to the compaction of use gravel surfaces are considered impervious surfaces a product proposed as porous pavement must satisfy the specification to defined in table 5.15 of the New York State Management Design Manual. Mr. Farracane is saying that if we remove gravel from our definition it doesn't go in line with the Storm Water Design Manual yet our law is saying that we are going to be in compliance with it. I can forward the memo to you.

Chairperson Goldstein asked if Ms. Roney would send it to the Commission

Mr. Norman Hinerfeld addressed the Commission. My wife and I have lived on Hommocks Road for 40 years and this is the first time I've sat in on a session of your Commission and I want to congratulate you on the efforts that you're doing on behalf of all of us but this raises my concern that is why I'm taking this moment. Reading the press I understand that somebody in the Village is trying to emasculate this Commission which I think would be a grave mistake. I don't want to get into a discussion but I want to talk about the role this Commission with regards to the operations of our Village. Mr. Hinerfeld went on to tell a story regarding a broken sewage pipe that he and a friend found 30 years ago that was spilling out into the Larchmont Harbor and with the help of the HCZMC going to bat with the Board of Trustees at the time, they were able to find the problem and have it rectified. He wants the Commission to know that they have a real role and not let anyone push them aside.

Chairperson Goldstein thanked Mr. Hinerfeld on behalf of the Commission's predecessors. Next Item on the Agenda

E. Discussion on Proposed Changes as part of LWRP Update.

Chairperson Goldstein stated that we are on a very short time frame the Board is accepting written comments through the 28th this Friday at mid-night. I think if we are going to make comments we need to do it before mid-night. A couple of us have been at some of the Board of Trustee Meetings and work sessions dealing with this issue and I understand pursuant to a grant obtained a long time ago from New York State the Village has undertaken an update of the LWRP and a sub-committee was formed with members of each of the land use and other related Boards to work with a consultant and come up with changes. I will say that I am personally concerned about some of the changes that they are proposing because one of the very major things would be to remove the Consistency Review Process from this Board as a matter of course during an applicant's procedure and make this Board only responsive when its specifically asked to respond. This is not how this has worked over the past 30 years. I think we should start by hearing from some members of the public if there is anyone else who wants to speak on this and then I'd like to hear what the other Commissioners are thinking.

Ms. Felsher addressed the Commission. She stated that she made some comments at the Board Meeting last night. I would like to comment on a couple of things. The first is the lack of solicitation of public input and the lack of opportunity for the public to actually provide input and what I would very much like to do and I've sent an e-mail to the Board of Trustees earlier today and I would ask if it's the proper thing to do for you to ask that there be an extension of time. I was at the last LWRP Revision Committee Meeting which was in this room but the public sat in the back and was not allowed to speak or ask questions and in all honesty I was President of the School Board here in Mamaroneck, I've been practicing law for 40 years, I'm Chief operating officer and General Counsel of an Investment Management Firm right now, the way it was done was in a manner I felt the

Committee Members didn't even know what was in front of them. They were given a draft at that time; there were some questions that I think discussion was shut down they didn't even come to the Board Meeting last night, that was done only several weeks ago so that this draft hasn't even been in existence very long. I would really like to press if you could also press to have a real open public hearing maybe two, where there was time to review changes that would be publicly available to the LWRP with an intelligent summary the way I might do it if I were presenting something, a summary in bullet point form or paragraph form of the major changes and the rationale for it because to ask a member of the public to go through a hundred and some odd page document with marked changes when you don't know what's going on is useless. In addition the LWRP Committee should be at a meeting and be prepared to discuss if they can what they might have been thinking in connection with some of these changes. I think that is a very important process. As Paul Ryan stated two weeks ago the original LWRP was adopted with a tremendous amount of public input over a fairly significant amount of time and to think that a revision to a document of this type even though it's taken a long time to get there the input in getting there has been short. I've heard that one of the arguments made that there was some deadline of December 31 and they therefore have to get it done and they have no options maybe they dragged their feet for years but there's nothing they can do now. Maybe I have too much faith in the more intelligent powers that be but if something doesn't make sense do you really need to go forward. So, I would ask you to think about that as a Commission and perhaps make that comment. I wanted to comment on the point the previous gentleman made as well as what Cindy discussed being the change in the authority in the LWRP to actually make Consistency decisions, the issues that were presented that have to be resolved are legitimate issues one is that the Commission should not be able to override legislative action of a legislative body that that would not be Constitutional and the other that the Commission determination process not create what would be undue delay or hardship for applicants and to address those issues in some way is reasonable. The idea of taking the Consistency Determination out of the LWRP for all determinations as well as what I view as the completely outrageous proposition of not even requiring an advisory opinion to the Board of Trustees for legislative acts and in fact for all acts is just ridiculous. There is no rational for that opt out provision and it's just a way to circumvent any real review and to let the Board if they want to do something they are just going to do it, at least that's the way it feels. On that point, the way our Village is run there are many actions I think of the Village Board of Trustees that are not legislative actions like approving contracts or programs. I don't believe that those are the types of actions that an LWRP Consistency review by another agency would cause one to be in violation of the New York State Constitution because that is not a legislative action it's a mixed body in terms of what it does. So again I would really urge you if you feel appropriate to make comments along those lines. One last thing I would like to bring up that I didn't last night was the Wetlands Permitting process, right now as I understand it the Planning Board has the authority to grant Wetland Permits but the HCZMC has the authority to grant permits for Marine Structures. That has created a double permitting process for the same exact item that's being built and so the proposal is to move saltwater Wetlands Permit or Tidal Wetland permitting into the HCZMC to avoid that duplicating of process I would suggest that the same exact situation would exist to Fresh Water Wetland Permitting because there are often items that do require and if they don't should require Marine Structure Permitting in connection with Fresh Water Wetland activity and so my suggestion is that all that permitting get put into the HZMC.

Toni Ryan, former Trustee addressed the Commission she stated that back in July she got an urgent notice that there was a very important meeting and I believe from Dan Natchez and it had to do with a meeting to talk about what your powers were going to be and how they were going to be limited so I wrote a letter to the Chairman and members of the update committee, the Mayor and Board of Trustees which I would like to read to you and ask you to put in your comments back to them. The

letter says "In December of 2012 I chose to end my Six Year Tenure as a member of the Board of Trustees, however because the Village had applied for and received a grant to update our LWRP a document that has served our Village incredibly well for almost 30 years, I'm familiar with the several iterations of the proposed updates that were presented and reviewed. When I left the Board nothing regarding the LWRP had been formally accepted. The purpose of this memo is to express my deep oppositions to the proposal to give ultimate authority of Consistency to the Board of Trustees. During my first few years as Trustee I was the Board's Liaison to the HCZMC and I can tell you that the determination of consistency is not cut and dry, it is something that has to be learned by living with and interrupting LWRP principles as they apply to each application. Will the Board of Trustees be immersed in the LWRP so that they know it inside and out? I hardly think so nor should they be. That's what the original Coastal Zone Management Commission was tasked to do and what the combined Harbor Coastal Zone Management Commission currently does and should continue to do. The HCZMC is a Land Use Board the Board of Trustees is not nor should it be. Neither should it be involved in Land Use decisions other than actual zoning changes. I believe that stripping the people who volunteer their time of their authority is insulting. Passing this proposal will set a precedent that will usurp the power of this Land Use Board. It will have opened the door for the Board of Trustees to then become involved in Planning Board, Zoning Board of Appeals and Board of Architectural Review Board determinations. Passing the proposal will set a dangerous precedent and will needlessly change the mission of this commission that was established in a valuable document that has worked for our Village for almost 30 years." So in addition to that I'd like to add that while I wasn't involved 30 years ago, I'm very intimately involved with someone who was involved 30 years ago and I remember the excitement that people felt at this document that was being worked on and my recollection is that there was a committee, a large committee over 30 people the input from those people was given to the Coastal Zone Management Commission and that Commission who was going to work with that document all the time wrote the LWRP, that's where it came from, that's my understanding. I never actually understood why the actual update for a document that you intimately work with was not a function that you were made to be involved in. So my suggestion is that as an advisory to the Board of Trustees, suggest to them that perhaps it is your turn to look at the input and to update not re-write but to update the LWRP as the original grant was written to accomplish. I think that's your job and I urge you and suggest that you use your authority to continue to do what you do I thank you for the work you do as I think the document that was written all those years ago is a wonderful document. I think you need to continue to promote it and just update it and put in what is not required by the State, don't change it to the to the degree that it's been changed and don't give up your authority.

Mr. Bilotta asked what direction are we going everyone is very well spoken very well written but to what end are we doing that and what would the outcome be on this?

Chairperson Goldstein replied that my thought by putting this on the agenda was that this Commission should have an opinion about what's going on with this update. It affects us as volunteers, it affects the Village it affects many things so the thought was if we could come to some kind of bullet points or consensus we could submit a memo to the Board of Trustees stating whatever we want to state to them as a Commission and possibly slow this process down because it seems to be moving at lightning speed, if that's what we agree to do.

Mr. Bilotta replied, we are going to take notes from everyone and present something to the Board and should we agree to that first before going forward?

Chairperson Goldstein replied, I was unsure of everyone's level of understanding of the process and where we are and really the implications of this Final Draft that's being circulated that the Board of Trustees could adopt in March.. I wanted to make sure that everyone was up to speed on that and we reach consensus.

Mr. Bilotta asked if the Board of Trustees is under any obligations to listen to our remarks, our points?

Chairperson Goldstein replied, under obligation to listen, I think so. Are they under any obligation to act that would be up to them.

Mr. Neuringer asked to respond to Mr. Bilotta's question. His stated that I think it's a fundamental and basic question that you raised and thinking about it my answer would be that I find it unique, absolutely unique and borderline astonishing that during this entire process the HCZMC has not been asked one time by the Board of Trustees to comment on anything having to do with an update of the LWRP. As an agency that lives, breathes, eats, and sleeps with the LWRP you would think an enlightened Board of Trustees might be interested in seeking out a commentary from this Commission. It has done ZERO.

Ms. Pernick replied, Clark I wouldn't say zero but it pre-dates you, Jim I'm sure you were on the Board at that time and Nick as well, but when Carl Birman was our Chairman we did go to a meeting of the update committee and submit our comments but that was a long time ago and our representative that was on the committee, Peter Jackson has not been on this Commission for a year maybe longer. We were at a meeting but it was quite a long time ago. None of what is being proposed; taking away our authority was on the table at that time.

Mr. Neuringer responded, that may be true from a historical prospective and it certainly pre-dates my time on the Commission but you just have to go with actions that have been taken and the fact is just about a month ago some in this Village were presented with a hundred twenty some odd page draft of a proposed re-write of the LWRP including radical proposed changes to the functioning of the HCZMC without any suggestion of review, prior review, commentaries, by this Commission. Maybe I'm taking it personally but it is outrageous, why on earth would a Board of Trustees do that? What was the thinking, why would we be excluded?

Mr. Bilotta asked what is going to change now that's going to make them listen to us now.

Mr. Neuringer replied, that's a great question and let me jump ahead, whatever we do and submit to the Board of Trustees they are obligated to do nothing about it. Whatever member of the public comes and addresses the Board of Trustees on any subject they are obligated to do nothing about it, indeed what really, really paints this particular Board of Trustees is the fact that people, the public who come before it and very passionately come before it on issues of concern are met with a curt thank you after the commentary, no dialog, no interest in pursuing the conversation, no intellectual curiosity as to what might be meant or raise the level of concern, a curt thank you, so you are right we can do an awful lot of work, submit it to the Board of Trustees and expect nothing! That doesn't mean we shouldn't do it, and it's my belief that we have a responsibility and an obligation if we agree to do so as a Commission to formulate some thoughts, some concerns that may be expressed by the public, and transmit that to the Board of Trustees especially in view of the fact that they didn't ask us to.

Mr. Bilotta replied, how do we go about that?

Mr. Neuringer replied, exactly what we are doing now

Mr. Bilotta replied, I think it's going to take more than that

Mr. Neuringer replied, I think we should listen to comments and I think the Commission should just create a short brief memo, I don't think it has to be lengthy expressing some of the concerns that we have heard and that we may believe in and submit it.

Chairperson Goldstein replied, I think the process can be something similar that we did for Mamaroneck Beach and Yacht, we'll hammer some things out here, we'll agree I'll circulate it in an e-mail and we'll all sign off on it or amend it or do whatever we need to do with it then submit it. It seems a battle worth fighting.

Mr. Tony Weiner addressed the Commission he stated that your minutes will be submitted to the Board of Trustees which they will approve of course after they have read them in depth so, that is one way will be transmitted because they will have to vote on accepting your minutes.

Mr. Bilotta asked how does that work.

Mr. Weiner replied that the Board of Trustees after every meeting, after you approve them gets sent to the Board of Trustees they will then vote, that you get to see on TV, that we accept the minutes from the Harbor Coastal Zone Management Commission on February 25, 2014 which therefore technically means they've read those minutes. I'm here because its Toni Ryan's fault, Toni Ryan nominated me for the HCZMC a number of years ago and it is one of the most formative events that's happened to me because as my second commission I became very involved in what's going on. The LWRP as it has been previously stated was a community wide endeavor. It was an effort that Paul Ryan was part of, Dan Natchez and many other people built together to help preserve and keep this Village what it is and what it needs to be in the future. It's a forward looking document. The current LWRP revision is a rewrite not a revision so we don't know where it came from because the members of the committee that were picked by the Mayor, none of them had any consistency training or experience with consistency. As a matter of fact, there are very few people in this community who have actually been trained in consistency and I'm one of them. Consistency is incredibly difficult, it's dealing with policies it's not black and white. The question is in the LWRP was something broken? That was the first question that was never asked, what's not working? The other things that are important here are what are the knee jerk reactions bamboo? That a knee jerk reaction. The other thing to realize here is that the Board of Trustees may approve a re-write but it doesn't end there. It has to get approved by other agencies upstream and based on my reading it's a pretty good chance it's going to get thumbs down. Which means it's going to be pretty embarrassing for the Village of Mamaroneck to have spent thousands of dollars to have something that going to be considered to be inconsistent.

Mr. Bilotta asked, when you say upstream who do you mean?

Mr. Weiner replied the State and the US Government. There are people in the Department of State like Mr. Resler, who are here to help us all we have to do is ask them about what it is what needs to

be done. The Commission has more experience in dealing with the LWRP than anyone else in the Village; do you see problems with it? What do you feel needs to be clarified? As Mr. Neuringer pointed out you will be the affected agency but you are having no chance to deal with the affect that is going to be put on you. As a lover of the LWRP, and someone who feels that it is incredibly important I also believe it to be an embarrassment to the Village when what has been put together will with all probability be told that it is not very good or even just laughed at. We have a good document, we have a system that works you guys are doing a very hard job with little to no support and it just doesn't make sense. The whole thing is inconsistent. Thank you.

Mr. Paul Ryan addressed the Commission he stated, before he gets started he wanted to thank Mr. Heinerfeld, for many of you who didn't know Mr. Heinerfeld's wife Ruth was the head of the National League of Woman Voters for I don't know how many years and a true lady. The second thing I would like to mention, I've been sitting here since 7:30 and I am very proud of you people. I'm proud of your professionalism and I wish that other Boards and Commissions were as professional as you are. You have a difficult task and I think the problem with this Village now is that it is not following a process. The process 30 something years ago starting in 78 or 79 when the Coastal program first started, Mayor Oppenheimer had a Commission of 30 something people that discussed if we even wanted to get involved in it. The two things that got the Village involved were the Grey/Blue Building at Harbor Island that restricted views of the Harbor and the other were the boataminiums on the east basin, and did we want our Village to turn into a ribbon of concrete from shore to shore like Greenwich and so many other places are. This Committee came and made recommendations, based on their recommendations the Village formed the Coastal Zone Management Commission of 5 people. I was one of those first 5 people. We went through the process ourselves with the blessing of the Board of Trustees who was the Lead Agency. They gave us the authority and the privilege of drawing up the LWRP to date and we were basically the first in the State, we were a test case in New York State. The Committee of 30 something became a Commission of 5. A Commission of rules and regulations and you are the upshot of that. Here we don't follow the same process; we went from a Mayors Ad Hoc Committee right to the Board of Trustees. What does the Board of Trustees, with all respect to them know about Coastal Zone Management? There is a difference between practical and practicable, there is one heck of a big difference. I don't think that those 5 people sitting on the Board of Trustees dais knew the difference and what difference it could make when you interchange those two words, it makes a huge difference. By any means practicable means we will almost have to do it that way and anything practical is well if you like to well fine and if you don't fine that's the difference. So the Mayor's Ad Hoc Committee should have filed a report with you guys. You are the professionals that deal with consistency, that deal with the Harbor, that deal with the permit granting authority, not the Board of Trustees they don't know it, they don't work with it so I would suggest that you write a letter to the Board of Trustees and Mayor and say we deserve and we need the right to go over this draft and make our changes and submit our changes to you and then you can work with it as the final authority and send it up to the Department of State. I also happen to agree with Mr. Weiner, I think when the current version gets to the Department of State our reputation will suffer in this Village. We are still used throughout New York State as a model of what to do. We also did the Underwater Land Study that's under the New York State Coastal Water web site, that's still being used. That brings me to another thing, you talked about zoning earlier, back in the late 90's the City of Rye started charging property tax on underwater land and they did this not to raise money, but to establish the right of ownership and who owned what. We were dealing with land grants given by the Office of General Services. Some were for beneficial use, some for commercial use; I believe there were 3 different types of grants. This is where Mr. Steinman would say we need Zoning in Our Harbor so you don't get the kind of problem in the future that you dealt with, with Nichols because it will be spelled out. You

are the ones to do that not the Board of Trustees not the Zoning Board, the Planning Board, not the B.A.R. the other Land Use Boards, you guys because it's a working document that you will have to work with and no one else and right now what I see of the draft it is being gutted like a dead fish and that is all you have left. If you'll be advisory you might as well all quit and go home. There's no obligation to call you in for your opinion, well if we want it we'll ask you for it. The Mayor comes out and says that the greatest assets to this Village are its volunteers and then the HCZMC is treated like this, I think not. Thank you very much.

Mr. Stewart Tiekert of 130 Beach Avenue addressed the Commission, he stated that he would like to second what Ms. Felsher said, that if you are going to do a memo to the Board I think an excellent suggestion would be that the Board of Trustees does a Public Hearing devoted to getting the public involved in this LWRP process. Like Toni I got the notice for the July meeting of last year on this, I was amazed to see it was July 3rd, a week-end traditionally when people are not around. I showed up at 5:30 I sat down, people talked a lot and shortly before 6:30 they started to wrap up I think Dan (Natchez) got up he wanted to say something he was shouted down, I think it was said that they had to clear the room because the orchestra was coming in I thought it was a joke but, there was an orchestra scheduled to come in at 6:30. So, even if they wanted to take comments it wasn't available. I want to touch on one thing that has come up a couple of times is the grant. There seem to be two parts to this grant; one part is the updating of the LWRP itself another significant part appears to be the placement of the two underground sediment control structures in the Village. It's actually half of the original grant amount. The document goes on to talk about a scoping session to design this, hiring of contractors; I've heard nothing about this. The Village has tremendous problems with water quality this appears to be half the value of this grant and I hope you ask what the status of that work is.

Mr. Bilotta asked if that was for the sediment control grant

Mr. Tiekert replied yes while looking through paperwork and stated that it was a copy of the original grant and that he could leave it. Appendix (B) talks about equipment \$50,000, it then talks about the design and engineering drawings for (2) Underground Sediment Control Structures and their construction on public property transfer stations within the Village. Mr. Tiekert went on explain how the grant was written he mention that it was pretty explicit and wan not sure what the status was. I am concerned, someone spoke about the removal of the definition for Judicial Wetlands from the Storm Water Management law which is under re-write and I don't think that it changes the status but I do think that it is symbolic that it is one definition the Village wants to remove I out of ninety definitions, it's a fairly important one to this Commission. This gentleman (he points to the audience) talks about his experience and the great work that the Commission does here and I guess my first real introduction was the Knolls Ridge Project. A resident of Mamaroneck called me and I then started to pay a lot of attention to it. I started to go to a lot Planning Board meetings where the residents raised the same concerns that the plan called for building a retention pond in the middle of what was a Wetlands. The Applicant kept coming back and the consultants kept how this could all be done. I believe the applicant spent something like \$150,000 getting through the Planning Board process to come to the HCZMC who decided that it was not consistent with our LWRP, which I believe was further backed up by the Department of State. I think that demonstrates how necessary it is to have a Board whose chief concern is to the environment to be a check and a balance so, I do hope you will give a memo to the Board of Trustees there are a lot of people very concerned about this. Thank You.

Mr. John Hofstetter former Trustee of the Village of Mamaroneck addressed the Commission; he stated that he has been involved in the LWRP process for a long time, remarkably long frankly and it is shocking to me that we have spent so much money on a document when it was my understanding that it was not suppose to be a re-write and isn't even a revision It's basically a devolution of what we originally had. Portions are cut out completely, if you read through parts of the introduction the description of the community geographical markers that are in the original are not even in the new version and the new version basically says I think that the Boston Post Road runs through Harrison and then through Rye. So, geographically, factually, when I got to that point I realized that this is a document that needs a lot of work still. We are here now its 9:30pm the meeting started at 7:30pm people in this room waited a long time to get to a point to talk about this and they are here before you to talk about it because they are not getting a voice at the Board of Trustees and through the LWRP Committee that is supposed to be listening to them. That's part of the reason I'm here because I frankly don't think that people were given the opportunity to be heard. To me being on the other side of it as a member of the Board of Trustees it seemed remarkably consultant driven not resident driven not even LWRP Committee driven because the documentation that should have gone along with any of the recommendations and suggestions just doesn't seem to be there. The change in authority that we were talking about, and at one point there was a change in the geographical boundaries that the LWRP would cover, nobody seems to be able to explain where that came from . No where were we talking about a change in authority, and there is an air in the room that we heard earlier that in fact there is really no need to change the authority because you are not a final ruling on anything it has to go through somebody else. You can make recommendations, you can make suggestions, you can write a report and make documentations and demonstrate but at the end of the day it gets pasted to another agency for them to make a determination, so there really is no need to change the authority. Going back earlier to Lead Agency, and I know that this is something Les (Steinman) was talking about, the Board of Trustees, maybe during his tenure that might have sent things onto the HCZMC to make determination and Lead Agency I would just recommend in the future you look at historically if that has happened previously to this Mayor, I don't remember it happening in the beginning of when I was on the Board of Trustees. I do remember it happening at the end so maybe it's just this Mayor that has referred things to you for Lead Agency. Going back to the Board of Trustees they are under an obligation to listen and it's a moral obligation. It's an obligation of their oath of office to listen to the residents of the community and if they don't do that then the process truly is flawed and it's a flawed document from the very beginning and if that's the case everybody in this community would have justification for not following that document. I think our biggest problem with our LWRP as it currently stand right now is just that. There are not enough people who truly understand the document as there were 30-35 years ago. People bought into it they were part of the process they believed in it and everybody else in the community believed in it as a result. There was a feeling of, we created this and the result were going to live by it I don't get that feeling by the way this document has evolved. It has just been remarkable to me by how the lack of community involvement has occurred and frankly I've attended a lot of the meetings that have been available and I really haven't been able to speak. Even when I was on the other end there were LWRP Committee Meetings where they had a meeting and even the Board of Trustees was not permitted to speak, which I found remarkable. So, from that perspective my understanding of this whole process was that there was supposed to be updating of what we currently have, digitizing a lot of it, creating digital maps, somebody said that one point there were no maps in the original LWRP and I'm assuming you guys have a copy of the LWRP you would know that there were maps in there and I think that's how stories get told and the myth becomes the truth and the reality is this is a revision of a document that should have taken several months, maybe six months and it should have taken a fraction of the cost. I believe it's up to \$100,000. The grant was a mere fraction of that and we are going to be paying for

that unnecessarily. So, my recommendation to you and everybody in the room and everybody watching out in TV land is let's get it right the first time before it goes to the State so we aren't embarrassed and we don't have to pay more money for it. Thank you.

Chairperson Goldstein replied that because it's getting late and we do need to take some action, can we please try to keep the comments as brief as possible.

Nora Lucas addressed the Commission, she stated that she read every draft of the LWRP until this current one, I'm having trouble getting through it. I say that as a Architectural Historian who has worked with 40 page documents by the National Park Service on how you can't submit multifamily buildings for a Nationally Register Nomination. I've read a lot of dry reports this is about the driest and it has some basic errors as John pointed out. The Boston Post Road doesn't go through Harrison. This is our planning plan of 22 years; this is a document that is based on many other documents they've written it's very generic it doesn't reflect us. It takes our 44 policies and dilutes them into 13 policies that have to do with Long Island Sound and not the Village of Mamaroneck it's not the right document for us. More significantly I foiled all of the comments and the minutes to try and figure out why our consultant, (it seemed to be our consultant) was recommending that the Board of Trustees have the override authority over a decision that you make and there is no evidence, nothing, nothing turned up except in the document itself BFJ in one of the mark ups put the comment in. It's unclear as to where that came from. So, I just think there is a big public participation component that's supposed to be part of the grant, there were 3 public meeting in 2011 that were charettes but all of the other meetings where people haven't been able to talk and I think anybody who was not at the Board of Trustees meeting last night or who didn't have the chance to watch it should because you can just sense that there is this critical mass of people in the Village who aren't happy with the current draft, who want to have their opinions made known and I think and once the State finds that out they'll say do over and we've spent a fortune and apparently not done a portion of the grant which is sort of the bricks and mortar portion of it. Thank You.

Mr. Dan Natchez addressed the Commission, he stated don't feel discriminated against, the Marine Industry also has not been able to be part of this in any meaningful manner. That being said coming back to Madame Chair's question and Jim's continued question "where do we go, what do we do" I'd like to give you some suggestions for some specific things you may wish to comment on. In no order of priority and in the way of background a cover letter that the Marine Industry and other associations I represent outlining what we thought were major issues and then a detailed blow by blow page by page section 3, 4, & 5 which will cure your insomnia Friday & Saturday nights, if you would wish to go through it. In terms of comments to the Board which is what I think you need to get to should you choose to because the time is late both figuratively & literally, the biggest thing before you I think is consistency, and whether or not this Commission should be advisory or only advisory for legislative matters or continue your role as you are which is a full land use commission which is what the intent was originally. The reason for that is the policies are an "if" issue not a "how" issue, is what's being proposed part of the vision that this Village has set forth in a blueprint as opposed to how to build something. Which is more if you will a specific permitting action such as; you want to build a building you want to remodel, you want to put an addition on you want to expand something. The polices are much different then what I would call a zoning code and one of the things I think you need to express, should you so desire, that it is important that the policies are consistently applied throughout the Village by one Board and that should be you except for legislative matters or legal issues that have been raised by counsels. I think a second issue which appeared at the final draft without any discussion public or within the work session is the permitting authority for the Wetlands

Permit. It's not discussed in the LWRP policies but it is discussed as a limitation of the LWRP. What it says is to split the baby between the Planning Board for Fresh Water and the HCZMC for Salt Water. The irony is that the decision of the boundary of the Coastal Zone Management was the entire Village which was done so for lots of reasons but the most sensitive reason was (1) consistency for the entire Village as opposed to segmenting a tiny corner here a little nook there and the (2) was so it gives this Commission and the Village standing for any action taken outside the Village that affects this Village in terms the water coming down for adverse environmental impacts it should be with one commission and if that doesn't convince you all the rivers and streams have seawalls with over 90% of those rivers and streams have seawalls the only places that don't are some of the Wetland areas like Otter Creek. It is important if those seawalls or rip rap need to be replaced, modified, improved requires a Marine Structures Permit which brings it back to here. So, the suggestion of splitting the baby to speed up the process does just the opposite it complicates the process it actually confuses and delays things. I think that it is interesting since I was a part of the original conception of the writing of the LWRP and when the LWRP was originally implemented consistency was done at the beginning not after SEQRA was completed, over time it was split between sometimes before sometimes after right now it is after. There's been an interpretation of recent date that some things shouldn't get here. There was a previous interpretation by a previous Village attorney that anything that dealt with the water even if it was a type 2 action wasn't a type 2 action it was a listed action everything had to come to you all. What I'm trying to suggest is that different people as knowledgeable as they are will interpret thing differently over time and that is part of the issue why there should be one commission doing policy. While your members will change and things may change over time, there are things that you need to do. The other aspects of it are there have been points that there are tremendous inconsistencies within the LWRP as written there are a tremendous number of factual errors that are in there. There are the inventories regardless of all the information that has been given its still wrong and incomplete, Federal Wetlands have been taken out of the LWRP even though everyone knows that they are there, it's these types of things but most importantly the policies when they were originally written were proactive. These were the things we wanted not the things we didn't want, over half the policies and language in the LWRP today is negative. It gives the reader an ugly feeling if you don't know what's behind it as opposed to the positive feeling of a blue print of here is a direction that we want to go. Last but not least we have been commenting for three years on some of the terms that are used and it is ripe with inconsistent terminology, confusing terminology, and terminology that's not defined, when we already have in chapter 240 in other codes, language that's defined what the area of the boundaries are, instead of saying it's now written with all of Long Island Sound in chapter 240 in which we gave the Board of Trustees last night, it talks about the Coastal area we use the Village's Coastal area so it was clear what you are doing, these are the types of things that I think you can bullet point to the Board in a constructive meaningful manner saying these are the things that should be addressed and undertaken and that it would be wise to involve you all in that process. Thank You.

Doreen Roney addressed the Commission, she stated that last night when I was at the Board of Trustees meeting I asked who did the inventory, we have a grant and it specifically says appoint a waterfront advisory committee, that was never done. I want to get to the inventory; I want to get to the policies because these are the important things that guide you. If you compare both documents a lot of stuff of inventory that's in the current document is missing.

Mr. Neuringer asked, just for clarification when you say both documents you mean our existing LWRP and the proposed draft?

Ms. Roney replied yes, what's in it, I spent a week and I feel like an old lady. Look at the maps, you have all kinds of maps in your document, if you look at your maps and you try to find that inventory for example: the significant fish and wildlife habitats, I won't even get into Wetlands because there are some missing and there are different ones, there's steep slopes, hydric soils, look at your maps it is very difficult to see the current maps that you have because I've had to enlarge them but that is the inventory fishing and wildlife habitats it's very important. There is language that says being considered in the future for DEC for a significant Coastal fish and wildlife habitat in some of the conservation areas, that's unfinished business. I'm bringing out these points because what I'm saying and I don't know (maybe Mr. Resler can say) if that document cannot go through a consistency review through your Board. I'm not sure I think it should. Quickly, the Wetlands issue we've had the example of having the Planning Board do review on a Wetland that your Board had a different opinion. Wetlands has to be under your Board it's the primary concern of the Department of State and US Army Corp of Engineers that they are protected and preserved no matter where they are. The other thing I'll point out is looking through the policies you guys really have to do this. Take the policies you use now and make sure that they appear in that document because if they don't we might as well not have an LWRP and the last thing, historical and archeological resources what this new version is, is a good update to the comprehensive master plan. It's a land document we have to get to the water and the land because that's what you guys do. The most important thing is that your law demands involvement as early as possible because in 240-27 it says as early as possible an agencies formulation of a direct action. I will be more than happy to give you what I have found.

Chairperson Goldstein replied that being that we are up against a deadline which is Friday night at midnight; I don't believe that there is any chance that we are going to be able to look at the individual items but what I think we will need to incorporate in any correspondence that we send to the Board of Trustees are some broad brush strokes and I think we've gotten a lot of good suggestions and if we are so lucky as to be allowed to participate in this if we can slow this down if we can get an extension, have some public dialog on this then we will drill into the extreme.

Doreen Roney thanked the Commission for hearing her and stated that there are so many people who want to be involved in this whole process and you've always listened and I'm very saddened that our Village is taking this type of direction in such a crucial document that impacts us for flooding and all kinds of things.

Chairperson Goldstein asked Mr. Resler what his suggestions would be for effective next steps also knowing how the Department of State will look at anything we try to do.

Mr. Resler looking at his notes replied that a few things jump out (1) you should send any comments you compile as a result of this to the Department of State. The Department besides me should know the Community feels. They are going to ask the Village Board questions and they need to know everything that's going on here in order to deal with this. Last night Les (Steinman) said something that I said I wanted to reiterate and that has to do with the timing of this. Someone else tonight asked a question about the contract end date and butting up against that. The Department has since it began this program as an element of a National and State program required substantial public involvement and input and buy in and ownership and consensus of an LWRP. An LWRP is a comprehensive plan for the Coastal area. It's very similar to the community's comprehensive plan, it's subjected to the SEQRA process the document itself is the EIS as part of the SEQRA process. It's subjected to the National Environmental Policy Act process all that is done up front from the State's Coastal Program was first developed, the policies are developed and the design of the program is

designed for the program overtime to be implemented through a LWRP. An LWRP takes National and State policy objectives and refines them to suit the circumstances in a municipality. That whole process has gone through a vetting process whenever you develop an LWRP or develop amendments or changes to it, it doesn't go through that whole process again it goes through some tinkering but it still has to go through a certain procedural process. Timing is very important here. Let me back up. I will reiterate what Les said what I said last night and what the people have said here tonight because I think it is one of the most important things you need to do and that's to go back, take a closer look at what's going on with this document and don't submit it to the Department of State until everyone is satisfied with what it says. It will be sent back if it goes to the Department in the condition it's in now. As far as the contract end date goes the Department has been telling municipalities that are using EPF Grants that they are up against deadlines and they have to complete a work plan and the contracts they were provided with by certain dates or they are not going to get the rest of their money and in some cases they will have to pay it back. In an instance like this, we have come so far for so long a period of time I can't imagine the Department saying if you don't get this to us by March 30th you ain't getting your money. I can't imagine that happening. So, I would back off a minute go back and revisit this, clean this document up and re-submit at a later date. Procedurally, I'm going to go back to the SEQRA consistency issues, the woman who just spoke and quoted something out of your local law regarding the timing of consistency reviews. At every level of government a consistency review is to be initiated, and I'm using the same language that's in your local law, as in State law as is in the Federal Coastal Zone Management Act Federal Regulations. As soon as possible in a formulation of an agency's review. It is not to be done at the end of the SEQRA process because it is a part of the SEQRA process in many instances. Consistency is designed to guide the SEQRA process it's also designed to short circuit it in certain instances. If something comes to you, and I'll give a simple example, if someone brings an application to you to put a commercial facility in an area zoned for only open space/recreation or park or residential use and you look at your land use plan in your LWRP implemented by your zoning laws, you immediately know it doesn't comport with your land use plan which was enacted to implement the policies and purposes of your LWRP it's an immediate no, it's not consistent with the LWRP. You do not need to go through the SEQRA process to arrive at that conclusion that's exactly what it's meant to do. Conversely, if something comports with the land use plan contained in your program and meets performance standards to go with it, it's a go. You don't need to re-hash every single element and every single affect of something through the SEQRA process. That's what the program is developed to do and that implements a large part of policy six of the 44 State Coastal Policies that are missing from the current document. That policy says expedite decision making, I left a few words out but that's what it's purpose is, that's what a comprehensive plan is meant to do and that's why the consistency review process is done. To back that up for any attorneys in here; if you go back to the original Coastal Management Program document there is a long explanation and analysis of the SEQRA process in the State of New York and what elements do not work and why the consistency process was developed to make things better in New York at the Municipal, State and Federal levels. So, you should be getting your reviews as soon as possible, immediately upon receipt of another entity and if there isn't sufficient information in there for you to begin to understand the effects of something on policy you use the SEQRA process to get that information if it's not currently available to you, use it to your advantage. You can often times right up front in the beginning of the SEQRA process determine whether something is or is not consistent to your LWRP, if it's consistent with it you and or the Lead Agencies, that then forms a basis for a Neg Dec. It will not have a significant adverse effect it will have beneficial effects in every way which is why it's consistent and should proceed immediately. If it is not consistent with any policy or purpose it's dead right then and there and that provides the basis for a no decision and that is essentially what I wanted to say on that. Someone asked about document consistency the document itself doesn't go

through a formal consistency process but if it doesn't comport with current State CZMP policy (leaving out policy six is just one example) or National objectives it's suppose to advance the policies and purposes of the National State program as its reflected in the circumstances here in this community and if it doesn't do that it's not going to pass mustard.

Chairperson Goldstein thanked Mr. Resler and asked the commission for any thoughts in terms of what they would like to say to the Board of Trustees. She stated that they have a lot to digest and asked counsel if they could establish a process where a draft letter could be sent around by e-mail and be signed off by members of this committee and not violate any sunshine laws.

Mr. Steinman replied that it would be helpful to identify the basic parameters of what's going to be included and then you draft it along according to that discussion.

Chairperson Goldstein replied that she wrote a few things down and I just want to expedite this as much as possible. I think we should mention something about community input, community buy in, community participation.

Mr. Neuringer replied, I think there are two things that I've heard tonight. One, are the very, very important concerns by members of the public on specific issues as contained in the proposed or latest draft version of the LWRP re-write and people have commented on some specific areas and I'm certain that a memo could be drafted commenting back to the Board of Trustees tackling those but I also heard something else tonight saying that as it was thought as a part of the grant to go through this process one of the requirement or the strong intent was community participation and I think we've heard from the public that that has not occurred or if it was suggested that it had occurred it's to the minimalist level so there are those two things and then the pressure that we heard last night at the Board of Trustees meeting that we're up against a deadline and so their suggestion is give us comments by February 28th and then we'll do some revisions and we'll get this thing out and it will be sent up to the State by March but we were also told or advised don't send something up unless it's something that the community believes in or backs or has processed. It seems to me if you digest all of that what the communication ought to be strongly to the Board of Trustees is some way, somehow initiate a process where the community is involved and get to the State as soon as possible pleading for more time because otherwise there's going to be essentially a flawed document being sent up to them.

Mr. Glattstein replied, that I think that one of the suggestions that was made which I think is perhaps a good vehicle for that is that the current submission for the LWRP should be clearly marked like a red line document to show the changes from what we've been relying on for the past 30 years to what it is that they would like it to become and that should be made available to the public either through web-site or some other means and there should be a meeting where the people, the committee who put this together should be able to provide some reasoning and rational behind the changes and actually get some public input as to whether or not it the wishes of the community. I think that might be a suggestion as well.

Chairperson Goldstein asked the commission if everyone agrees not to spend a lot of time trying not to go through specifics and trying to identify what sounds like an enormous number of inconsistencies or omissions. I just don't think that we have the time to do that.

Mr. LaFollette replied, that he agrees with Clark, we need to get out there that there needs to be a request for more time from the State if that's the deadline that's being used right now because it does seem like there's not a lot of clarity to the documents and certainly to this commission.

Chairperson Goldstein replied, that we would also request that we have a role in the public input

Ms. Pernick replied that in addition to the public input, our input I think would be very valuable and we have an expertise that's been developed over years and the Board and those who haven't had to actually use this document don't have.

Chairperson Goldstein replied, I don't see that the public was involved in the initial phases like what the Ryans were talking about. It's one thing you're given a document and you say this is good this is bad. The whole point was to be community consensus from the start not just to review something you've been handed so I don't want to make them think that this is going to be such a huge task that they have to backup far enough. I think all this can get done especially if we offer our services.

Clark Neuringer replied, it really shouldn't be a huge task because we are not going back to square one and the reason is we're not writing an LWRP. This was supposed to be, and I understand the grant application and what was put forth was supposed to be an update. We have a document that was established through blood, sweat and toil 30 years ago and the intent was an update and not a re-write and as such it seem to me it should not be all that difficult there are some striking things in the current draft proposal that was generated apparently by consultants I don't think by the LWRP committee no one seems to be able to put their finger on where some of that language came from but there are certain things that just jump out and there is no rationale offered. Why, where or how did it come to be.

Chairperson Goldstein replied that we should also make specific mention that we are concerned about the changes in the HCZMC authority and removing the consistency review from this Board as well as we can refer to other inconsistencies errors, omissions and inventory that's come to our attention from conversations with the public.

Mr. Paul Ryan addressed the Commission, he stated, may I humbly suggest that you tell the Board of Trustees, not ask them tell them forcibly that you the HCZMC are the logical, responsible, community forum to discuss the proposed LWRP revisions and that you will hold hearings and you will let the public address you and address their concerns and then you will forward your report along with your draft proposal onto the Village Board for action the way it was done 30 years ago.

Mr. Neuringer stated what you just suggested is totally logical and makes sense which means it probably won't happen.

Mr. Ryan replied, you can't be shot for asking, and it's the truth you are the logical Board to address this. You can sit here all night long and take comment on the LWRP where the Board of Trustees, and again they don't know practical from practicable and probably don't care, they have a whole other agenda to talk about like Bamboo. I think you have to be forceful otherwise you won't get anywhere. Thank you.

Mr. Resler addressed the Commission, he stated, I understand a couple of weeks ago someone was saying that Charlie McCaffrey was recommending what's on the table now in regard to your role, that

you should be advisory only in all circumstances. I talk to Charlie weekly, Charlie and I work together for a couple of decades we talk to each other about these matters every week and not just here and when I heard that I confronted Charlie with it, Charlie denies that he never said that he offered 4 options that could be considered by the Village, he has never taken a position according to him with regard of which of the 4 options should be chosen contrary to what somebody else has been saying. I want that on the record.

Chairperson Goldstein replied, we will figure out who did this after we fix it. We don't need to know we just need to get a better result. Now, do we have enough specificity for e-mails to go back and forth and is everybody pretty much comfortable with the topics and we haven't left anything off.

Mr. Glattstein asked, are we going to be addressing just the public's concerns about inaccuracies and it being incomplete and terminology not being specific enough?

Chairperson Goldstein replied, I think in general terms I think we can say that but I don't want to say because I haven't looked at it enough. We will circulate it enough so that everybody is comfortable. Chairperson Goldstein asked Mr. Steinman if they needed to take formal action to authorize this.

Mr. Steinman stated that most of those comments have been made to the Board of Trustees already as well. You don't have to worry about getting every comment in there you can say that they were voiced here and that you have concern about them and they should be examined carefully. Just like you did last time on the same process, just a resolution authorizing you to prepare a draft, a memorandum to be circulated in a very short period of time to get comments and for you to finalize and transmit the memorandum to the Board of Trustees.

Chairperson Goldstein asked for a motion

On Motion of Ms. Pernick and second by Mr. Neuringer

All in favor

Aye: Chairperson Goldstein, Mr. Bilotta, Mr. Glattstein, Mr. LaFollette, Ms. Pernick & Mr. Neuringer

Against: None

Absent: Mr. Allison

Chairperson Goldstein stated that there are two more things on the agenda and 1 will have to be cut a little shorter than she would like to. Because Mr. Resler is here, he and I had a conversation that part of the authority of HCZMC is to develop and update a Harbor Management Plan and it seemed like a really good time to start that conversation which would be a public conversation. We will circulate, I guess from the Department of State. The guidelines for the preparation of a Harbor Management Plan which certainly would require that we speak with the Harbor Master and open it to the public. Mr. Resler I don't know how much time you would have to give us to sort of advise us, I'm so sorry.

Mr. Resler replied, that I can't give an answer to that, I'm officially retired but I'm also back on the state payroll to deal with things out of the ordinary like this, so they call me back to deal with things. I developed the Harbor Management Plan in the State, I developed the legislation for it, I built those

guidelines. What I do now is ordinarily consistency training, I don't ordinarily do programmatic stuff but I could probably get the ok to do that with you. I love doing Harbor Management it's pretty exciting stuff. Make another request for that type of technical assistance and I'll talk to George Stafford and do whatever I can to get down here and help you with that just do it quickly because I am literally under the surface of water for a good six months of the year when the weather gets a little better.

Chairperson Goldstein replied, I will do that and thank you for being here so late tonight. We have two sets of draft minutes December 18th 2013 and January 15th 2014, does anyone have any amendments to those?

Mr. Neuringer replied no I don't but I would like to make a comment and just express admiration and gratitude to the person who has been taking the minutes and submitting them to us, they are extremely good.

Ms. Pernick replied, it's like reading a transcript

Chairperson Goldstein replied, it is and no one in the future will ever wonder what we thinking because it is there.

Chairperson Goldstein asked for a motion to adopt the December 18th 2013 minutes

On Motion of Ms. Pernick and Second by Mr. LaFollette

All in favor

Aye: Chairperson Goldstein, Mr. Bilotta, Mr. Glattstein, Mr. Neuringer, Ms. Pernick & Mr. LaFollette

Against: None

Absent: Mr. Allison

Chairperson Goldstein asked for a motion to adopt the January 15th 2014 minutes

On Motion of Mr. Glattstein and Second by Ms. Pernick

All in favor

Aye: Chairperson Goldstein, Mr. Bilotta, Mr. Neuringer, Mr. LaFollette, Ms. Pernick, & Mr. Glattstein

Against: None

Absent: Mr. Allison

Meeting Closed at 10:20 PM

Minutes prepared by
Kathy Guadagnolo

