

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**BOARD OF TRUSTEES**  
**REGULAR MEETING**  
**APRIL 19, 2016**

A Regular Meeting was held by the Board of Trustees on Tuesday, April 19, 2016 at 7:38 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Mayor Peter Swiderski, Trustee Meg Walker, Trustee Nicola Armacost, Trustee Daniel Lemons, Village Manager Francis A. Frobel, Village Attorney Linda Whitehead, and Village Clerk Susan Maggiotto.

**ABSENT:** Trustee Walter Stugis

**CITIZENS:** Five (5).

**Mayor Swiderski:** Trustee Stugis phoned in ill and apologizes for his absence.

**PROCLAMATION** - Healthy Teen Brain Day

**Mayor Swiderski:** The first order of business is reading a proclamation for Healthy Teen Brain Day, which is celebrated tomorrow.

**WHEREAS,** our youth are our greatest joy and our hope for the future so it is necessary for us to support them making safe and healthy decisions while creating a supportive envision that safeguards their future; and

**WHEREAS,** many of our youth are making very healthy and safe decisions to remain marijuana-free and providing leadership in their schools and communities help other youth remain marijuana-free; and

**WHEREAS,** there is strong objective evidence that marijuana is harmful to the adolescent brain, with the potential to cause distorted perceptions, difficulty with thinking and problem-solving, disrupted learning and memory, and impaired reaction time, attention span, judgment, balance and coordination; and

**WHEREAS,** it is with special pleasure that I join with the youth and adult leaders of Westchester Coalition for Drug and Alcohol-Free Youth in celebrating the first Healthy Teen Brain Day to applaud and support our youth who are making healthy decisions; and

**WHEREAS,** on behalf of the citizens of Hastings-on-Hudson, I am pleased and proud to join all associated with the inception of Healthy Teen Brain Day and urge all citizens to acknowledge this very important day; now therefore

I, Peter Swiderski, Mayor of the Village of Hastings-on-Hudson, proclaim Wednesday, April 20, 2016 to be Healthy Teen Brain in Westchester County and proudly join my fellow residents in marking this very special occasion.

**Mayor Swiderski:** How many communities join us on this?

**JoAnn Reed, Director of Youth Services:** I believe the last count they had was about nine. I will have more accurate information tomorrow.

**Mayor Swiderski:** And what are you doing tomorrow?

**Ms. Reed:** Tomorrow there is going to be a press conference at Students Assistance of Westchester, located in Tarrytown, where all the communities will come together to proclaim the day:4:20 on 4-20.

**Mayor Swiderski:** So you are looking to seize back the time and the date.

**Ms. Reed:** Yes, exactly. To change the connotation behind it, yes. Thank you for your support of this.

**Mayor Swiderski:** Thank you. I am sorry there is not more. It should be universal.

### **APPROVAL OF MINUTES**

On MOTION of Trustee Armacost, SECONDED by Trustee Lemons with a voice vote of all in favor, the Minutes of the Organizational and Regular Meetings of Apr. 5, 2016 and the Public Hearing of Apr. 6, 2016 were approved as presented.

### **APPROVAL OF WARRANTS**

On MOTION of Trustee Walker, SECONDED by Trustee Armacost with a voice vote of all in favor, the following Warrants were approved:

Multi-Fund No. 71-2015-16	\$ 10,911.49
Multi-Fund No. 72-2015-16	\$512,172.46

## **PUBLIC COMMENTS**

**John Gonder, 153 James Street:** I was a little disappointed that the Board at their last meeting cut it down from five to three, but I can take care of that, that is no big deal. But I wish you would start your meetings on time. Today you were three minutes late. I got to give Mr. Lemons credit. Two weeks ago at the Community Center he started the meeting right away because he had a quorum. That is what you should start, at 7:30. You could give us four minutes, but when you cut it down to three that is pretty bad. I can be short. I took a technical report writing course and I will never forget Twist, Cover, Refrigerate. That is a good instruction and was on Gulden's Mustard, and it may still be on there. I am not sure because I changed mustards. The reason I am saying three minutes is not enough, it is because people like the artists have a problem, the people over on Ravensdale with affordable income, people over the Zinsser twice they come here and would like to submit their views on certain things that take place. You are only going to give them three minutes? I think that is a mistake. I wish you would give the tax break to veterans because they are going to be really hurting with this huge town reassessment. I am one of them; 460 percent increase over \$5,400 and something.

**Patrick Randolph Bell:** The assessment, I would love you to talk about it sometime. Supposedly it has been mistaken for a lot of people, maybe you could address that. A lot of the villages, are sending letters to Greenburgh saying we need some more info on this. Healthy Brain Day came out of nowhere today. I wish the resolution would have been online. I hope you understand that for students around the country who might use medical marijuana, which now New York is using, there is a big debate about whether these kids can bring medical marijuana to school. For people who have different diseases and seizures, marijuana is a healthy brain thing to use. Friday was the national day of silence for students to recognize the LGBTQ community who may face silence in their life and cannot speak up. I am also upset about your five-to-three minutes of public comments, where you should have had public input before you changed the amount of public comments. With that in mind, I would like to take my next two minutes in silence.

[Two minutes of silence]

**Mayor Swiderski:** It feels like a wealth of time, does it not?

## **26:16 ADOPTION OF BUDGET AND TAX RATE – FISCAL YEAR 2016-2017**

**Mayor Swiderski:** It is worth adding a more color so it is clear what this represents. This is a 0.37 percent tax increase. For a taxpayer with an average assessment, that represents \$1.29 more per month in the local property tax increase for the Village. The general fund will

increase by 1.55 percent. I want to thank both the Village Manager and the Assistant Treasurer for the hard work on this, and the Board for the line-by-line analysis.

On MOTION of Trustee Armacost, SECONDED by Trustee Lemons the following Resolution was duly adopted upon roll call vote:

**RESOLVED:** that the Mayor and Board of Trustees adopt the 2016 - 2017 Village Budget as follows:

**APPROPRIATIONS**

General Fund	\$14,660,257
Library Fund	\$ 855,777
Pool Fund	\$ 386,513
Draper Fund	\$ 31,000
	\$15,933,547

**REVENUE**

Property Tax	\$10,575,513
State Aid	\$ 540,000
Sales Tax	\$ 1,200,000
Other	\$ 3,618,034
	\$15,933,547

and be it further

**RESOLVED:** that the property tax rate be established at \$246.53 per thousand of assessed valuation.

**ROLL CALL VOTE**

**AYE**

**NAY**

Trustee Meg Walker	X	
Trustee Nicola Armacost	X	
Trustee Daniel Lemons	X	
Trustee Walter Stugis	Absent	
Mayor Peter Swiderski	X	

**Trustee Armacost:** Could we reiterate that, by definition, keeps us under the one percent tax cap again.

**Mayor Swiderski:** I was going to give you the floor since, in many ways, you are a leading light on this.

**Trustee Armacost:** It is important for everyone to understand that we stay under the one percent cap again. Mr. Gonder just recently received his tax freeze credit, and a few of us on the Board of Trustees as well as other citizens received it late also, but we eventually did get it, so we can look forward to that, hopefully, again next year as a result. I want to commend the Village Manager and the team for their hard work on the budget. It will be interesting to see what happens when we have the audit this year, to see where we stand at the end of the year in terms of excess, revenue surplus, at the end of the year. We can make choices at that point about where we want to put that. Hopefully, there will be excesses.

**Village Manager Frobel:** Yes, hopefully. I would add that I am also hopeful that our participation in the tax freeze will remain intact. Our neighbors are exceeding the cap and that could, I am not saying jeopardize, but it will have a factor. Remember, we all joined together to approve the savings. I wrote to our consultant reminding her that Hastings certainly met and exceeded our expectations and our commitment towards that overall goal. But I am a little concerned about our neighbors. You are not allowed to exceed the cap and you are not allowed to pass a resolution granting yourself permission to exceed the cap. Once you do you are not eligible for the rebate that we were working for. So I do not know the answer to that. We may still meet our goal despite our neighbors going over, but I do not know that for certain.

**Trustee Armacost:** When will we find out about that?

**Village Manager Frobel:** I wrote to our consultant a few days ago. It is going to take time for her to get an answer from the people in Albany; they are not real responsive to questions.

**Trustee Armacost:** Although they hopefully will be responsive to us if we stand out as a stellar community in terms of their program.

**Trustee Walker:** Maybe we can appeal it.

**Trustee Armacost:** Exactly.

**Mayor Swiderski:** While we are opining on this topic, I want to say that not only did we keep under the cap, but because we have spent years getting to the point that we now have a

10 percent general fund surplus and real control over both spending and understanding of our revenues, we were this year able to do a number of things that we have been waiting to do. That includes a significant increase in our re-paving budget, to \$340,000 from what was a few years ago \$200,000 and recently went up to \$275,000. But now we are even higher, at \$340,000. That will allow us to begin to afford rebuilding curbs instead of just putting in those asphalt things that survive exactly one pass of a snowplow. We are able to do things like afford a renovation of Riverview Park, police equipment that does not have to go into a bond but can get paid out of the current funds or go into this year's budget, and planning for further park renovations later on this year. It is a good place to be. We have earned a place where we can finally begin to rebuild the infrastructure we long acknowledge needs it. It is certainly the budget I feel happiest passing in a while because we get past the austerity and begin to finally fix the things that degrade it. So thank you.

**Trustee Walker:** So win-win.

**Trustee Armacost:** Moving in the right direction.

**Mayor Swiderski:** I am going to try not to be competitive, but is the lowest increase in the Rivertowns.

**Trustee Walker:** Yes, very low increase and yet we still have the money to do many of the things we have been wanting to do for a long time.

**Mayor Swiderski:** Reviewing the budget and passing the budget is the first priority of a board, and to be in this position after many years of austerity and rebuilding our finances is a nice place to be. Thank you for everyone's participation in that effort.

#### **27:16 AUTHORIZATION OF TRANSFER OF FUNDS**

**Village Manager Frobel:** I hope so, Mayor. I know we talked about it during the budget work sessions. This will allow us to accomplish two capital projects that we are enthused about and looking forward to seeing completion at essentially no expense to the taxpayers. It is coming out of the debt service fund. We spoke with the auditors, as we advised you. The language is from their office, and we are looking to make this transfer so we can be ready to complete work at Riverview Park and, soon, award the contract for the sidewalk construction on Hillside Avenue.

On MOTION of Trustee Armacost, SECONDED by Trustee Walker the following Resolution was duly adopted upon roll call vote:

**RESOLVED:** that the Mayor and Board of Trustees authorize the following transfer of funds:

From: Debt Service \$131,000  
To: Capital Projects \$131,000

for the purpose of avoiding long term financing of improvements to Riverview Park and construction of a sidewalk along a portion of Hillside Avenue.

<b>ROLL CALL VOTE</b>	<b>AYE</b>	<b>NAY</b>
Trustee Meg Walker	X	
Trustee Nicola Armacost	X	
Trustee Daniel Lemons	X	
Trustee Walter Stugis	Absent	
Mayor Peter Swiderski	X	

**28:16 AWARD OF BID FOR SAW MILL LOFTS INFRASTRUCTURE IMPROVEMENTS**

**Village Manager Frobel:** The resolution reminds us that entered into this agreement with the county to be the facilitator to pass through county money to the developer for Saw Mill Lofts. The bids were prepared by the county and were opened in Village Hall. The recommendation from the county is that it be awarded to the low bid. The prices are favorable. The county has allowed themselves some flexibility. The award is larger than the bid because the county expects to have the low bidder perform additional work on-site. It also allows additional monies to be paid for the engineering firm which prepared the specifications and acted as the agent for the Village with our engineer.

**Mayor Swiderski:** To summarize, we have the Ginsburg development on 9-A. Twelve of those units located in a single structure are affordable housing. Part of the way the county helps to subsidize that affordable housing and realize the goal of 700-plus units countywide that they obligated to build, is to hire firms to carry out portions of that development. This is us acting on the county's behalf to spend those affordable housing monies.

**Village Manager Frobel:** Yes. It is for infrastructure improvements: sidewalks, some pads for lighting, and some conduit work for underground utilities.

**Trustee Armacost:** Are we contracting with a different company than the company that is being used for the non-affordable housing units?

**Village Attorney Whitehead:** It is just for infrastructure. It is not for the building of the buildings. This funding goes just towards a portion of the infrastructure. So it may very well be a different contractor because you had to bid this and it had to go to the lowest responsible bidder, whereas Ginsburg got work they are paying for and hired anybody.

**Trustee Armacost:** This one, even though they received the lowest bid, it seems there is a little padding in there. What is that exactly?

**Village Manager Frobel:** I tried to explain. It is not so much padding as the price allows the county to have the contractor do additional on-site work with the additional money that was awarded under the grant. Even though he bid exactly what they want, their explanation is if there be additional work they will have them do it at those favorable unit prices.

**Trustee Lemons:** So that is not a little slush fund to cover overages on what is spec'd out in what they bid on?

**Village Manager Frobel:** Not to my knowledge. I posed the question.

**Trustee Lemons:** It looks odd. To see a bid come in at \$314,000, and then decide let us make it \$397,000.

**Village Attorney Whitehead:** I have dealt with this before on other county HIF projects. The county board of legislators has approved up to a certain amount that was based on estimates that were provided. The reason the county asks you award it for up to the higher amount, which takes you to the maximum amount they have allocated, is to cover something like a change order. Or if there is some additional work sometimes there are additional things that were left out that the county wants done under this contract. It allows the county flexibility to use the funds that have been allocated for this project.

**Trustee Lemons:** If there is a balance left, what happens?

**Village Attorney Whitehead:** It just does not get used.

**Trustee Lemons:** It just seems odd. Apparently that is the standard way of doing business, but it is like an invitation for the contractor to say...

**Trustee Armacost:** Oops, I went over bid.

**Village Attorney Whitehead:** You just have to hope that the county properly oversees the contractor. They have to approve all disbursements, which go through the Village but the county reviews it. They keep a pretty tight ...

**Village Manager Frobel:** In your packet you will see exactly this question I posed to this county. There is a written response in writing, and it is reasonable. I will admit it is very unusual. I have never seen the practice.

**Trustee Lemons:** It makes you a little uncomfortable, right?

**Village Manager Frobel:** I do not understand the logic. If I was a high bidder I think I would be sore.

**Trustee Lemons:** Yes. One of the things I noticed in the breakdown of the bid is there are a couple of up-and-down discrepancies in the bidders. There are some fairly large differences with pavers. I am just hopeful they inspect those properly because when you are going for low bid it is all in how in how it is spec'd.

**Village Manager Frobel:** It is definitely an unbalanced bid. When I opened the bids that day, I cautioned the two low bidders. I said one of the reasons they will look at this closely is for that very reason.

**Trustee Armacost:** And do we know anything about the firms? Do they have good reputations?

**Village Manager Frobel:** I believe they do. Yes, I did ask some of them for their opinion on that.

**Trustee Armacost:** Have you heard of the firms, Linda?

**Village Attorney Whitehead:** I have not dealt with them, but I believe Zaino from the county said the county had worked with them before.

**Village Manager Frobel:** The Village has worked with the high bidder. He bid, in fact, on the Quarry Trail phase one. I am very familiar with this work. And the low bidder has a good reputation. I checked that.

On MOTION of Trustee Armacost, SECONDED by Trustee Lemons the following Resolution was duly adopted upon roll call vote:

**WHEREAS,** on August 26, 2014 the Board of Trustees authorized an Intermunicipal Developer Agreement (IMDA) with Westchester County and Saw Mill Lofts, LLC in an amount not to exceed \$446,000 to provide infrastructure and other improvements for the Saw Mill Lofts project through the county's Fair and Affordable Housing program; and

**WHEREAS,** pursuant to the IMDA, construction of the infrastructure improvements shall be performed through a competitive public bid by the Village; and

**WHEREAS,** the project was duly advertised and three (3) bids were received and opened on April 6, 2016; and

**WHEREAS,** the lowest responsible bidder was Paladino Concrete Creations, Corp., Mt. Vernon, New York; now therefore be it

**RESOLVED:** that the Mayor and Board of Trustees does hereby award the construction contract for infrastructure improvements for the Saw Mill Lofts Project to Paladino Concrete Creations, Corp. in an amount not to exceed \$397,000, with the balance of \$49,000 to cover all associated engineering costs.

<b>ROLL CALL VOTE</b>	<b>AYE</b>	<b>NAY</b>
Trustee Meg Walker	X	
Trustee Nicola Armacost	X	
Trustee Daniel Lemons	X	
Trustee Walter Stugis	Absent	
Mayor Peter Swiderski	X	

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

**Village Manager Frobel:** We went out to bid and had a pre-bid conference walkthrough with three interested parties on the Hillside Avenue sidewalks last week. We will be opening them next week. We are looking to have you award it at your next meeting. In the specs, it is required the work be done before June 1 so we are confident that in that four-week period the road will be serviceable. I am not saying all the finish work will be done, but the sidewalk will certainly be ready to be walked on. So we are moving forward on that.

We had a half-day meeting with Westchester County engineers on the Warburton Bridge project. I was accompanied by our engineering firm. We met with the commissioner of the DOT for the county, the lead engineer and the landscape architect, and we shared with them the preliminary findings of the bridge report. We said we would send them additional photographs. I would characterize the meeting as defensive. The county seems confident that the specifications, the changes, and the inspections were all appropriate and that they are satisfied, although they indicated the report would be sent to their consulting engineer who did the design work and the specifications and performed the inspections. They needed to hear again the documents we are still waiting for. We were promised they would be sent to us. They indicated that some of the observations we brought to their attention are on their, "punch list," which is a list of items yet to be finalized, addressed, and final signoff and pay. So there are things we identified that the county was aware of. There were some things they were not certain of, and they were going to send their inspectors out immediately to review. But I have not heard back from them.

**Trustee Armacost:** What recourse do we have?

**Village Manager Frobel:** I am not certain. The county is satisfied with the change order from the granite curbs to the concrete, single-pour. They are satisfied with the repairs to the parapet wall, the items our engineer point out in terms of paint, and some structural work are on their list to be addressed. They will address them with the contractor. But in answer to your question I am really not certain.

**Trustee Armacost:** And what about the rusting on the fence?

**Village Manager Frobel:** The rusting of the fence they do not understand either. It is all stainless steel, but they would send an inspector out immediately and they were unaware of that.

**Trustee Armacost:** If they come back and say we are satisfied with everything, but we know the fence is still rusting and we know there are problems, what can we do?

**Village Manager Frobel:** I do not know what our recourse is.

**Trustee Armacost:** We are stuck with a sub-par bridge, which our people have to drive on.

**Village Manager Frobel:** The consulting engineer will review our findings. Let us give him a chance to digest this and react. The reaction I am sharing with you is what I heard at the table from the commissioner, the county executive's chief of staff whom I meant to mention was in attendance, and the in-house engineer. They are not the final say.

Obviously, they are going to rely on the engineer who was out there inspecting it and designed it. So we need to give them a little time to digest what we have shared with them. But I do not have a direct answer to your question.

**Mayor Swiderski:** And the contract is not considered closed yet, right?

**Village Manager Frobel:** No.

**Mayor Swiderski:** You indicated they have not paid the contractor in full. So they have a punch list, and certainly the engineering preliminary report which pointed out flaking paint and missing bolts can be added to that punch list. So at the very least, there is no reason for them not to do that.

**Village Manager Frobel:** There is not. And some of the items we pointed out the county is aware of the concerns. They are on the list and they will take care of them.

**Village Attorney Whitehead:** Did you say the county had an outside engineering firm doing inspections?

**Village Manager Frobel:** Yes.

**Village Attorney Whitehead:** Do you know who that is?

**Village Manager Frobel:** I can get you the name. It is the same firm that did the specifications and the design. They have a service in-house that performs inspections. I believe so, but I could be wrong on that. It was affirmed from the Long Island firm that I have the initials for but cannot recall.

One final item. I want to preview an item that is going to come before you perhaps as early as next week. Since 2008 the Village has been suspended from completing the Quarry Trail. The Quarry Trail Phase 2 was delayed in 2008 because of inadequate funding. Since that time the Village has tried through a variety of funding mechanisms to secure the additional money we need to complete that work. Most recently, in 2014, we made application under two different programs for funding. One was the environmental protection fund and the second one was a recreational trails program.

I did not think we would get funding from both, but we did. What I have been doing, and Meg has been a big help in this, is trying to sort out the details as to how we can make this work. It is complicated because, again, it is two funding sources for the same work. We have been able to modify it so some of this money can be and will be used to work on the

design for Quarry Park and will also be used as the match towards one of these grants. Late last week I finally received the draft copy for the second grant, from the environmental protection fund. There was a host of paperwork that accompanied that grant from the Federal Highway Administration. They recently got involved in this process, which takes a longer time to get it all off the ground. Having said that, I am going to be coming back to you with a recommendation that we continue our relationship with RGR Landscape Architect. Veteran members will recall that this was the firm we hired in 2008 and they did the complete design of the Quarry Trail from the Aqueduct all the way to Southside. We split the bid in half, and only half was completed by that firm Landi,. The other work never got done. I am going to be suggesting to you that RGR, which is a well-known and good firm, be allowed to essentially pick up their work, prepare the specifications, go out to bid, and get that Phase 2 completed.

**Trustee Armacost:** Do we know how much money is involved?

**Village Manager Frobel:** The grant from the environmental protection fund is about \$62,000, which is a 50/50 grant. That requires a total grant of about \$146,000 so we need to match that.

**Trustee Armacost:** So we need to match \$62,000.

**Village Manager Frobel:** Yes, and we are going to be matching that, in part, with a second grant: the recreational trails program, which is also a grant for about \$65,000 or thereabouts.

**Mayor Swiderski:** That seems odd.

**Trustee Armacost:** That is very clever.

**Trustee Walker:** They said that was OK.

**Village Manager Frobel:** A portion of it they are going to be able to allow, as I understand it, to match it.

**Trustee Walker:** Right. Because one comes through transportation monies and the other is parks monies. One is from the environmental protection fund through the parks department, and the other is DOT.

**Village Manager Frobel:** Federal DOT.

**Trustee Walker:** Federal, through our state DOT.

**Village Manager Frobel:** Right. It is very complicated.

**Trustee Walker:** They will cancel each other out somehow.

**Trustee Armacost:** Congratulations. What you are saying is we do not have to come up with the additional \$60,000.

**Mayor Swiderski:** Not all of it.

**Village Manager Frobel:** When it all shakes out I am certain there is going to be some required cash. But our goal, and Meg's goal, has always been to absolutely minimize that. We have also modified that second grant to include eligibility for some of that design work at Quarry Park.

**Trustee Walker:** When we applied, we made it into one big project, the trail and the design of the park. This is not including construction yet. Designing the park and completing the trail, we said this was one project. We asked that the money from these grants go to both of these things. It has to get spread around, but I think they accepted that.

**Trustee Armacost:** So do you have any other secret grants?

**Trustee Walker:** Well, we have been sitting on this for awhile. It has taken a long time to get the paperwork.

**Mayor Swiderski:** Time consuming and tedious.

**Village Manager Frobel:** And the state is very limited. There are one or two people working on these grants for the whole state, which has taken almost two to three years to get to this point. And, of course, your purchasing power diminishes as these grants linger.

**Mayor Swiderski:** Congratulations. Again, the amount of work here is substantial.

**Trustee Walker:** And this gets us to the point where if we approve other monies we can then go into construction and complete the capping of Quarry Park. It is good to keep pushing it along.

## **BOARD DISCUSSION AND COMMENTS**

**Mayor Swiderski:** We have on the agenda one item, the consent decree. This is simply a continuation and opportunity for any further comments remaining out of the Board on the consent decree. The last time around, Marge Apel's last meeting, and she had first dibs on her comments and came in with quite an extensive set. While the Board commented additionally above and beyond that, I did not want the conversation to end with that. So this is a chance, if there are any other items but that does not mean you are obligated to add, to speak up. What then happens is the consolidated issues identified are formalized into a set of points.

I will, with our attorney, return to the three parties to the consent decree and see what modifications we can get that does not involve a full rework. I think that will not be greeted warmly, so the idea here is to see if we can change things within reason and then return to the Board with those changes for a vote. In addition, we are waiting, and I think we may have received it today, some of Attorney Chertok's answers to questions on Building 52.

**Village Attorney Whitehead:** It looked like what he said was a timeline.

**Mayor Swiderski:** Of when they will be delivering the answers.

**Village Attorney Whitehead:** He will be doing different things.

**Mayor Swiderski:** It happened at the end of the day so I did not have a chance to open the e-mail and check. We are also waiting for a response to the questions we submitted to BP that came out of both the Board discussion and the public discussions. Those were synthesized into a letter which went from our engineer, attorney and environmental attorney to BP. That occurred about a month ago, and today we got a listing of when what they plan to respond to those questions. Upon reviewing the responses we will determine if they were sufficient for us to cast a vote on the demolition permit.

This has now gone into a second or third month of an extension. I am informally seeking, should the responses out of BP be sufficient, a vote on the demolition permit in May. The consent decree vote ideally would happen somewhere in the time period, but it depends upon when we can set up a mutually agreeable time period where we can all discuss and negotiate any changes and get those approved among the three parties before returning to the Board. If experience is any true indication, that tends to take its own sweet time. Because all due respect, lawyers bill by the hour and there is no real incentive for that to move as quickly as the participants would prefer. I am being a little sarcastic.

**Village Attorney Whitehead:** And I will let it go.

**Mayor Swiderski:** We have seen that there is a couple of weeks between drafts. So if the parties agree to a change there are a couple of weeks before we see a redline draft, then another meeting to review and approve, so that can go on for another month or so.

**Trustee Lemons:** The document that our environmental consultant prepared is very detailed. I can imagine it is going to take a while to respond to that.

**Village Attorney Whitehead:** Yes, and that was not just questions. A lot of it was requests for additional information.

**Trustee Lemons:** Exactly, and I thought it was good because it was comprehensive and thorough.

**Mayor Swiderski:** We see this heading into a late spring ideally, hopefully, before the summer. We will have feedback, discussion, and then resolution and vote. With that said, I am opening the floor up on the consent decree for further comments and questions. I have none.

**Trustee Walker:** I wanted to bring up some issues that the Shoreline Advisory Committee has come up with. That is a committee appointed by the Board that is quite professional, with architects, marine engineers, environmental engineers and boating folks. The Village is concerned and this Board is concerned, about the design of the shoreline, particularly access to water-related uses, to marine uses, and where that would be located, how it would be designed, where we could put floating docks, piers, and other kinds of boat access, including even marinas. That was one aspect of it.

The other aspect is to think about the shoreline as something we use that is not just there to mitigate tidal surge and deal with flooding issues, but maybe as a natural area but also has human uses. So in addition to the pathway, or promenade, that we have always talked about along the shoreline to run along the river which might be included in this sloped shoreline that is in the consent decree, we want to look for other potential uses in this area, so that this is a human-friendly as well as nature-friendly as well as a resilient waterfront and shoreline.

We applied for a grant from the Department of Environmental Conservation's estuary program because they are concerned about erosion control and resiliency and flood control. Their grant was to river communities to look at these issues. We have got them on two sides because they are also looking at what BP/ARCO is doing in terms of their remedial design and then they are giving us money to develop a program and a concept design. With the

match that the Village is required to put in, we will have about \$50,000 to spend on a consultant. We are not doing construction documents, but we want to do community engagement, community meetings, then work this consultant to come up with a concept plan for these marine uses, for the way the shoreline would be designed, and so on, then present that back to both the community and to BP.

We want to work with BP on this, not just come up with something that we give to them at the end. We would like to have a liaison from BP to at least come to several meetings and be a part of this. That was important. This committee read over the consent decree pretty carefully, and their concern is that we are creating this uniform, 100-foot wide swath of almost useless land along the river. Yes, a pathway is to be carved out of it, a level area which is going to belong to the Village, and the rest of it will belong to the Village. It is going to be maintained by BP/ARCO. However, the concern is that this may be resilient and may be tidal surge-proof but not very friendly to human use. And it is not very attractive and we are not even certain you can grow things on it, particularly in the tidal areas; you may not be able to grow anything. So it may just be this armored, sloped area that runs 80 feet and then maybe you have vegetation at the upper 40 feet.

They are very concerned about this, to the point where they said can we delay the consent decree approval until we have a concept and then we write that concept into the consent decree. I said I would bring it up and I do not think we can delay it, but we need to have this concern raised with BP/ARCO, and the DEC for that matter. What we are hoping is that there would be some agreement with BP/ARCO, and if they participate and the DEC participates in the design of the shoreline, that then they will build it and it will not be just this armored 100-foot swath, that it may have some ins and outs, it may be steeper in some parts and shallow in other parts.

The other concern was that it is so shallow, this slope, that yes maybe you can grow stuff on it, but it takes up so much land we are eating up so much of our waterfront. It is like 25 percent in some places gets eaten up. That was a concern, that we are sacrificing a lot of upland area, and could we not have some areas where it is shallow and some areas where it is steeper. We have more usable land in some place, potentially. And even create maybe little coves and places where you could have some protected areas, maybe some wetland areas. Do it in a more natural way that would also be human-friendly. That was their concern. I thought is there a way we come back and do a memorandum of agreement or memorandum of understanding after the consent decree.

Then, looking at the amount of land that is part of this committee's charge, we understand that it is the two acres up at the northwest corner, it is the 2.5 acres they estimate would be the amount for the strip that would be this 30-foot wide pathway or promenade, then an

additional 1.75 acres which is unspecified. It says it would be open space that would be located based on a development proposal for the site formally submitted to the Village for its approval. I think this committee would like to have a little more land at their disposal to work with. That is another question.

Then there is the additional eight acres. We do not know what is going to happen to that. That comes later. But at least maybe the 1.75 could be part of our consultant's charge to look at in addition to the rest.

**Mayor Swiderski:** What is the acreage you are referring to?

**Trustee Walker:** It is 1.75, and I am not sure exactly where that number came from. That was a question: what was the purpose of that 1.75 acres. We are also interested in seeing a diagram of this and a section. There was supposed to be a diagram that came along with the consent decree and I do not think anybody has ever seen it. Having some plan or diagram would be helpful. There was a section that was done, and I do not know if it was done by the DEC or BP/ARCO last summer, in a slide presentation where there were some sections through this shoreline. But we wondered has that been updated, is there any more information. We need to get as much information as we can right away so we can get our RFP or RFQ out to find a consultant. We are short on information to give them.

I am raising several concerns, some about the consent decree and some about getting additional information. I think that would summarize it. We do understand, rereading it I understand, the sloped shoreline is going to be maintained by BP/ARCO and only the 30-foot swath is going to be maintained by the Village. So it is the open space that is being given to the Village, which is right now about 6.25 acres that is the Village's responsibility. They have to take care of the armored area or the vegetated area, whatever it happens to be. That is the question. Does that make sense?

**Mayor Swiderski:** Completely, and it is reasonable.

**Trustee Walker:** I think it is reasonable. We are hiring somebody to do this. We want to give them a little t of leeway.

**Mayor Swiderski:** Right, agreed.

**Trustee Armacost:** Most of the points I had relating to the consent decree had been raised by Marge, which was the question of the 65 feet, some slightly vague language around various things like what is the company. We are assuming it is BP/ARCO, but what is it. These have all been raised before; definition of industry, et cetera. And, of course, the points

that Kathy Sullivan raised on the 100-year floodplain, 500-year floodplain, all those are important.

**Mayor Swiderski:** If I could just rewind to your first point, the 65-foot height ...

**Trustee Armacost:** Did we get an answer to that yet?

**Mayor Swiderski:** Nothing has gone yet for discussion with the three parties, but there have been a couple of takes on that. Marge's point was that that is a zoning limitation and does not belong in the consent decree at all. Other people have said it should be lowered so the effective height is what it was in the original consent decree, essentially above sea level. It was not 65 above sea level, but 65 above the original elevation in the original consent decree.

**Trustee Armacost:** Right, and some people do not want it in at all.

**Mayor Swiderski:** That is right. Those are the two positions. When you say that has been raised, which one are you referring to?

**Trustee Armacost:** I do not have a problem with it being in the consent decree. I understand the purpose of why it was there and the goal of Riverkeeper to not have a shoreline which has massively tall buildings. That was the intention, and I know they do not have a big problem with it being lowered. To me, the lower the better for a variety of reasons. Whatever language we can have that keeps it low is better for all of us in terms of preserving the views.

The other point that had come up was the issue of the 11 feet. Is it 11 feet everywhere, how does that affect things, do we need more? All those kinds of question are important. But I think Marge raised them and we went over them a million times.

The points I was not able to be in a discussion about because of the issue of my decision to go to the Ethics Board, which made a decision in my favor that there was not a problem to discuss these things, related to Building 52. There are a group of people who feel that we cannot make a decision on the consent decree without having a view on 52. We seem to be separating them, and I am asking the question can we? They are tied together, and I do not feel as if we, as a Board, have raised all the questions we need to raise on 52 to be able to make the decision on the consent decree separately necessarily.

The question that group of people have is, if our goal is to have the absolute best possible remediation possible what is the best decision. Is the best decision to have a cap over the area which is the most dangerous area in terms of PCBs, which is what the building

represents, or is the best remediation to remove that building and completely excavate and clean as thoroughly as possible. Is it the best remediation as opposed to the business remediation, meaning that you might say the best remediation, 100 percent remediation, would be you have to excavate everything and take everything away, it has to all be cleaned, et cetera, and the business-oriented remediation would be you can do 75 percent: you can leave some stuff in, it is OK, it has got a cap, it is safe enough. The question these people are asking is, how do we know we have got as safe as is needed, looking into the future. If you want to do the absolute best possible remediation and no caveats that relate to the amount of money spent, do you leave the slab in or do you remove the slab under the building and anywhere else.

**Mayor Swiderski:** That is clear, but I do not know if that is a consent decree question, because the consent decree is not what sets the cleanup parameters.

**Trustee Armacost:** No, it is a 52 question, which is why I am saying do we need to answer those questions before we can decide on the consent decree because the consent decree has a view on 52.

**Mayor Swiderski:** I get it. I have disaggregated the two votes. I do not think they have to happen simultaneously. The demolition permit is truly independent. We can vote on that regardless of whether a consent decree is passed or not. The consent decree is endangered if we pass it and then, in the end, do not pass 52.

**Trustee Armacost:** That is the point I am trying to raise. I am trying to say there is something, I do not know if the word is "disingenuous," a bit peculiar or shortsighted about passing the consent decree and then later deciding we are going to deny the demolition permit.

**Mayor Swiderski:** Right now, it looks like the opposite will happen, that we are likely to get the answers and an ability to determine the 52 vote prior to the consent decree. I have no problem in making that a condition for a vote on the consent decree.

**Trustee Armacost:** I think that is a better way to go. It is cleaner because it is strange to go back afterwards and then have a different opinion on it.

**Mayor Swiderski:** I think it makes sense. I am not the judge, jury and executioner here. I am going to ask the rest of the Board because we have to be jointly comfortable in our vote. Is that something the rest of the Board would prefer to see, that the demolition permit be disposed of first so it is not conditionally deteriorated by the passage of the consent decree?

**Trustee Walker:** That at least separates it out and makes it a little purer, because then we are focusing on one thing without it causing a problem with the consent decree.

**Mayor Swiderski:** I think it is cleaner. It is more conceptual than anything else because it impacts the consent decree whether we pass it before or after. So the fact of the consent decree's dependence on it is there regardless either way, regardless it is cleaner. I think I have no problem with that.

**Trustee Lemons:** And I think our discussion is going to be clearer if we do it that way.

**Mayor Swiderski:** Because there are no caveats.

**Trustee Lemons:** There are no caveats at all, so then it is possible to isolate those issues which really are about the consent decree, which there are and Meg raised them. It is easier for us to make a decision down that way and have that discussion.

**Trustee Armacost:** The question that came up in this conversation was fundamentally about how can we be sure what the best way to remediate is. If the ultimate goal is safety of people, how do we know it is being remediated to the absolute best possible standard for us?

**Mayor Swiderski:** I am going to caution you on that because in the end engineering limitations and a cost-benefit analysis played into the state's negotiations with the DEC. An engineer will tell you, and I have said this many times, you can build the pyramids of Egypt anywhere you want, it just takes time and money. The same thing can be said about the waterfront. We could theoretically excavate down 50 feet if we are willing to spend a billion dollars, two billion dollars. But the benefits are not clear there and there is some risk. The depth the state chose of 12 feet was driven by the water table and the difficulty of excavating below that in these conditions. That cost-benefit decision was the state's to make, not ours. We cannot insist on a greater level of cleanup there than the state, without throwing away the consent decree, killing it effectively. The consent decree, were it to at that point die, would never be reborn. And it does not have to be reborn because there would be no incentive for BP to move forward with a billion-dollar solution when the state has already dictated a \$350 million solution. The greatest level of cleanup is not the question here, the question here is given the state's parameters of 12 feet depth and given the state's limits on what percentage of PCBs parts per million is their mandated level, is 52 coming down better to achieving those long term versus not. I do not think there was much disagreement on that on the Board last time around. There are engineering issues around taking it down that have some exposure potential that has to be controlled, but long-term the more you remove generally the better you are off.

**Trustee Armacost:** But the part I do not remember agreement on was the slabs; whether removing the slabs is better or not better at the end of the day.

**Mayor Swiderski:** The state will tell you that without a building you have got to remove the slabs if there is pollution underneath it. That is a state mandate. The building acts as a cover to protect the slab, and they are willing to leave the slab in place if the building is a protective membrane, effectively, on that slab. But elsewhere on the site, if there are PCBs under slabs, and the site arguably is largely slabs, those slabs have to be broken up and removed to get at the PCBs.

**Trustee Armacost:** But that was not stated so that was one of the questions we had to ask because it seemed as if some slabs were going to be left. If they are all going to be removed that is one thing.

**Mayor Swiderski:** No, it depends upon what is underneath it. Drilling happens everywhere, and if the drilling comes up cold with no PCBs or contamination those slabs are likely to remain in place. They may be broken up, but they are going to remain in place. It is where PCBs have been detected under the slabs that they will be broken up, removed and the PCBs excavated down to the 12 feet.

**Trustee Lemons:** One of the issues, and I know it has been discussed and I see part of where you are coming from, was even if there are contaminants down that there are high-level that slab is thick enough to protect us, there was a barrier. But the problem with that is if you have flooding and other things that will ultimately disrupt that. Anything you leave down there, even if it is under a thick concrete slab, there is no guarantee it is going to stay there. And it probably will not stay there because with the movement of the water table it will not stay in one place, and whether that complication happens in 10 years or 15 or 50 years it is likely to happen. You cannot live with it. You do not want to live with that uncertainty.

I had a lengthy discussion with the state part of this that we have not heard much about, the Department of Health. The person who will be in charge and has a long 20-year history on this site knows it very well, and she is the lead person for the state. I talked to her mainly because I wanted to know what they were thinking in terms of air quality monitoring. One of the things she emphasized with me is that the problem of thinking you have capped things and sealed things and then something happens, she said what we often are not thinking about is the 15 year out problem. It is very likely to happen, and it will simply undo anything you have covered up and bring that whole issue back up for you. She was not very ambiguous about what kind of a conclusion that would lead you to.

I think the idea of leaving that slab, we have seen the sampling. There is a lot more sampling now. There was a suggestion maybe the slab could be taken up and the building would be left, that it would not compromise the building. That is hard to imagine structurally. But to leave significant contamination under that slab I do not think is seen as feasible.

**Trustee Walker:** It is probably feasible to take the slab up and leave the building because it is supported on the piles.

**Trustee Lemons:** Except if you look at the sampling along the wall of the building there is very high contamination. We had this discussion before about what would be required in terms of shoring up and stabilizing the walls in order to dig down 12 feet next to them, to excavate. While that might be conceivable, it compromises the ability to do cleanup that is a further out. That is not to mention cost, but just feasibility, again, if you could just do it.

**Trustee Armacost:** So in addition to what is the best possible remediation and do you or do you not keep the slabs, the other issue is trying to understand the abatement process for the building. If the building is kept, then an abatement process, and if the building goes there is an abatement process, which of those two processes is safer. Either way, you have to abate that area with or without the building. I am not clear yet and cannot answer when someone asks me the question which is safer. Maybe you know. What exactly happens with the building up or with the building going down?

**Mayor Swiderski:** The comparison is not abatement against abatement. The comparison is abatement versus leaving it in the ground. If you abate within the building, but leave it within the ground, that totality is your exposure, not just the fact that you cleansed the interior of the building of PCBs. You also have to account into your argument what has been left beneath the slab. The two abatement processes are greater than just what happens to the building. I can fairly safely say you bring down a building you are going to generate more dust than you will sandblasting within the building alone. Probably. If there was no issue under the building then we would not be having this discussion. You would abate within the building and that would be the end of it. But that is not the issue, the issue is what is under the building.

**Trustee Lemons:** I am not sure that is even the case. This, again, goes back to my discussion with the Department of Health. One of the standard ways of dealing with what is safe on the walls or in the steel structure of the building is containment, or coating and covering. She was cautioning that you can do that and render it as safe as you can imagine, but as soon as you have to penetrate that, which you always will have to because pipes will break and whatever and we know things will happen, taking the longer view, the 10, 15, 20 year view you are always going to perforate whatever protective barrier you have got.

**Mayor Swiderski:** If that is the route you take.

**Trustee Lemons:** If that is the route you take. I do not think the remediation or abatement is the same as taking it down. It would leave you, going back to a lot of the issues we have already talked about, with the fact that if there were any hope of ever financing something in that building you could forget that. I do not know of any financing organization that would go anywhere near that.

**Mayor Swiderski:** The question you asked was part of the submission to BP, which was tell us the risks involved.

**Village Attorney Whitehead:** Details on the abatement.

**Trustee Armacost:** To be able to explain this to people my main concern is the safety issues of either cleaning the building while keeping it standing, or cleaning the entire site with the building being removed. What is safer and better for the people who live in this village and live near the Village, including all our employees who work here right next to it.

The second thing is the issue of removing all this toxic waste. We talked about the slabs and we cannot be flip about it. We need a serious statement from somebody who has some knowledge about what is the best thing to do with these slabs. I am persuaded if I am told the best thing to do is remove them all and that is the cleanest way to do it. But if people are telling me to keep the slabs there I want to know why we should be keeping them and why we should be keeping some and not be keeping others and have they all been tested adequately and what happens if the 500-year flood comes next year. All those kinds of questions, which fall into some of the questions Kathy was raising as well.

I may not have summarized all the points that came up, but those seemed to be important points people had raised and concerns they have, which are concerns I share, because the safety issue is the most important issue to me.

**Trustee Walker:** Is it not a matter of practicality? They will remove the slab, and if there is contamination under it they have to excavate it out. And it is all going to be based on their tests. If there is an area on the site they feel has no contamination they could leave a slab.

**Village Attorney Whitehead:** Or the testing shows has not contamination.

**Trustee Armacost:** But that is a question. How adequate is the testing? We know one place which is very contaminated, and then each time they test they find the story becomes

more complex. If we are going to go the route of remediate and remove slabs then let us do it properly.

**Trustee Lemons:** there is a standard approach to doing that. Most of the time it is VOCs that are coming from underground tanks and things like that. You do borings and monitor those test wells over time, and you keep boring out until you are picking up clean. You still monitor there. There is usually a prevailing direction that things move underground. It might be a little more complicated. You might remember I was asking about that in the meeting, that it might be more complicated because of the tidal situation. Usually there is a predominate water flow and you have to always test in the direction of that flow, and you go out until you are not picking up anything anymore or whatever you are picking up is below the levels you deem OK.

**Trustee Armacost:** I am not a scientist like you, but I can look at maps and the visuals. We had green spots right next to red spots. I just do not understand it. How can it be green, red, red, green, road, green?

**Mayor Swiderski:** When the remediation begins the process is essentially dig-test, dig-test, dig-test until it comes up clean.

**Village Attorney Whitehead:** There is a lot more testing that gets done as part of the process.

**Mayor Swiderski:** How does that happen? It is pretty straightforward. They know what structures were where and what was done in them so they know where the PCBs were used, down which pipes they were flushed, and where they were dumped. So their testing is informed, in part, by where the sluices were, where the cisterns were, where the pipes were. It is possible to have PCBs present right next to the pipe that leaked, and five feet away not have it. That is, in part, informed by what they know to poke at. But once they begin digging and excavating, in the end I am sure they will end up excavating significantly more than initially expected because of the test and dig.

**Trustee Walker:** I do wonder about keeping slabs in place and then covering them with two to five feet of fill. Does that affect drainage, does that affect the imperviousness?

**Mayor Swiderski:** In most cases they plan to break up the slabs before that, breaking it up for the drainage, which is a drag because these could be stable platforms.

**Village Attorney Whitehead:** I do not think they are stable.

**Mayor Swiderski:** Not sufficiently. They would have to be re-piled, if that is a word.

**Trustee Armacost:** One other question came up. Did the DEC sign off on the abatement plan?

**Mayor Swiderski:** That was the consent order.

**Trustee Walker:** You mean the remediation or the abatement?

**Trustee Armacost:** The abatement plan, not the remediation.

**Trustee Walker:** Oh, on the building.

**Mayor Swiderski:** Not yet, it has not been submitted.

**Trustee Armacost:** That seems a bit odd, does it not?

**Mayor Swiderski:** No. You are talking about a demolition permit for Building 52?

**Trustee Armacost:** On the abatement plan, yes, for the building.

**Mayor Swiderski:** They are developing it. That goes through an approval and monitoring process that the Department of Health runs. It has to be done under their guidelines and auspices. They are going to require air monitoring stations like they did when we brought down the other buildings directly next to, and then at some distance from, the site that monitors that. So yes.

**Trustee Lemons:** They will develop what they call a community air monitoring plan – CAMP. There is a generic one you can look at, not customized for this site, and one of the things they talked about was they are, of course, very aware that the building sits right next to the train platform and is very close to structures, that there might be even a necessity of building a barrier. They talked about that, and they are not concerned about the structural.

**Trustee Armacost:** Who is "they"?

**Trustee Lemons:** The Department of Health. They are concerned about our health, is our number one concern. We have to be extremely vigilant through all of this and have to stay in conversation with them as this moves ahead. There are a lot of things we can live with, but one thing we cannot live with is feeling like we jeopardized anybody's health.

**Trustee Armacost:** Yes, exactly.

**Trustee Lemons:** They are committed to that, too, but we are more committed to it because we live here.

**Mayor Swiderski:** We are all responsible.

**Trustee Lemons:** We are responsible for the people of this village so we have to do that. But my sense is that we are not going to see any details of the community air monitoring plan, and whatever else the Department of Health is going to specify, until they know it is worth putting their time into it because they do not have a sense yet, we have not passed the demolition permit. Until that happens we are not going to see that specificity.

**Trustee Armacost:** Just to summarize, all these questions relate to exactly the point Dan made, which is making sure we have done our absolute best, even if it means being a bit of pain, to ensure the health of everyone in our village, particularly the people who are closest and who are commuters, et cetera, are protected.

**Mayor Swiderski:** Like me.

**Trustee Armacost:** We want to protect you, Peter. That is our main goal.

**Mayor Swiderski:** I walk down that sidewalk 30 feet away.

**Trustee Armacost:** But very seriously, all these different questions relating to the building, whether it is up or whether it is down, relating to the slabs, relating to the extent of that remediation: those are the things I took away from the conversations I had. I want an objective answer to those questions, not one that has been pre-decided.

**Trustee Lemons:** This is now going back and focusing on the consent decree. For me there is one big issue, and that is the potential trap, which I have been convinced we will not be walking into, of having any suggestive zoning language. One thing we want to be absolutely sure of is that we are not setting ourselves up for someone to come along and say you said 65 feet and when we zone we say no, it is not going to be 65 feet. We have to be sure and confident about our language there around that so that it is clear, so that we do not consider it to be a zoning document, and that all it does if it remains in there is set an envelope, but we are going to work inside that envelope and we have every intention to that. We will not be bothered by the fact that it is that high, and if we want to set it lower for good reasons we will set it lower. That is my biggest issue.

The other one has already been raised, being clear about what we are pegging the base of an 11 foot height to and the base of a 65 foot height to. Or if the height changes, whatever, that we are clear about what that is because that has definitely shifted upward. That is my read, that it has shifted upward.

**Mayor Swiderski:** It has. Not much, but it has.

**Trustee Lemons:** It has a little, anyway. There could be other reasons it could drift over the course of the next few years and we do not want that.

**Trustee Walker:** The 11 feet is set, though, is it not?

**Village Attorney Whitehead:** The 11 is above sea level.

**Trustee Lemons:** It is below mean sea level, I think is the definition.

**Mayor Swiderski:** It is set, but 11 feet is two or three feet higher than what was the point where they did their original calculation from.

**Village Attorney Whitehead:** Where the 65 came from. So the 65 and 11, or 14, is going to be higher.

**Trustee Walker:** Somewhere between six and eight feet.

**Village Attorney Whitehead:** That is the point. That it should be 65 above the current existing elevation.

**Trustee Walker:** To speak to the 65 feet, I agree that we should put language in to say this is not zoning language. But it gives us, as you say, an envelope within which to work when we start figuring out the heights we want. There may be some place where it is not going to block views where you want a tower. I am not saying it is a skyscraper. I am just saying there might be some tall feature that does not block views, and why preclude that. I am speaking as an architect. You want the little leeway for some creativity.

**Trustee Armacost:** I agree, but it can be low creativity.

**Trustee Lemons:** The developer can trade off a little height for more open public space. For a view corridor it would be great.

**Trustee Walker:** Right. When we do the form-based code the point is we will be looking at the view shed and view corridors very carefully, and where you can build a little higher and where you must build low, and where you might not want any buildings at all.

**Trustee Armacost:** We should try a very low creativity as much as possible.

**Mayor Swiderski:** I do not know.

**Trustee Walker:** I do not know, it would be even more interesting to have a little leeway for creativity. Also if we set it at all two stories it might not be financially feasible to build anything there that is only two stories with the piles they have to put in and so on. I do not know what the answer to that is.

**Trustee Lemons:** It may be ugly.

**Village Attorney Whitehead:** All the same.

**Trustee Lemons:** All the same, and the thing is that if can go up and then you are down, and then you have more greenspace because you went up, we do not want to tie ourselves into a position where we cannot get that, because there is going to be some height level that is going to preclude anything other than the uniform height. I certainly do not see that as being very appealing.

**Trustee Armacost:** So are you saying that you are in favor of removing the height language altogether?

**Trustee Lemons:** I would prefer it if there were no height language in there because then there is no worry about is somebody trying to tie us to that. Then, as we do zoning, we would set it where we think it should be which we are going to do anyway. We do not want to undercut our flexibility on zoning either, because as Meg says, when we start to work on form-based zoning we do want to have flexibility.

**Village Attorney Whitehead:** My recommendation, if it is going to stay in there, it needs to be revised to read no higher than 65 feet above existing grade as of now, and that the Village has the right in adopting zoning to set a lower maximum height. Just so there is a recognition of it in the document.

**Trustee Lemons:** Is it your view that if we have that kind of language that protects us?

**Village Attorney Whitehead:** I think you are fine now, I think that helps you. And it makes it clear. Let us make the document clear so somebody reading it knows what they are getting into and recognizes that you may set it lower. It is also important to add in that it is above the existing grade that exists today, not above the final grade.

**Trustee Walker:** We will have to make what that point is. If you remember when this was written, there were buildings going up in Yonkers and buildings proposed, even on this site, but there were how many stories?

**Mayor Swiderski:** Ten stories on a site.

**Trustee Walker:** Yes, there have been proposals for all sorts of things on this site. But yes, they were proposing 10-story buildings. In Yonkers, they were proposing 30-story buildings. Riverkeeper was concerned for that reason.

**Trustee Armacost:** And they were right to be concerned. That is not in the character of our village so we need to protect against that.

**Village Attorney Whitehead:** Structurally, with the piles that are needed, that is going to limit the height of a building that can go here as well.

**Mayor Swiderski:** The volume of shouting will, too.

Is that the extent of the commentary? Then I need to distill this. I will circulate the distillation with the Board before it heads off for a discussion with the tripartite. I am going to ask, at that point, that at least one Boardmember accompanies me in those discussions. We cannot have three, but at least one. I will be reaching out so there is more transparency. Then we are closing the consent decree discussion.

## **2. Other**

**Mayor Swiderski:** There is nothing else on Board discussion, but I did want to bring up the rest of the year. I do not want to necessarily get into detail here, but it is worthwhile to understand the year before us, what we have on the agenda. Over the next few weeks various Trustees will take responsibility for these agenda items.

In sustainability, the recent program to put solar on private and commercial homes came to a successful end and we will be seeking to do something similar with municipal buildings where we can. We are overdue for a review of our recycling efforts, to redouble them, as well as work on lowering overall waste. On the waterfront, we have Meg's effort and the

waterfront edge work is significant and somewhat time bound. I am unilaterally limiting Meg to not much more than that because there is so much to be done just there.

We have the consent decree and Building 52 demolition permit. Should those both pass, we then have monitoring the demolition of Building 52 and the disposition of the water tower, which would be open to the community. On the downtown agenda, we have a request in from the VFW to remove the existing holiday tree there which has gotten rangy and is difficult to put lights on. We may replace it with something temporary and functional like a band platform. We also have a downtown infrastructure plan we would like to carry out, marketing for the downtown, and a downtown cleanliness effort that is ongoing and we want to revisit. Infrastructure, we mentioned roads and curbs and that is something over the next couple of months we would come up with a list to execute on, as well as revisiting the infrastructure plan.

In Parks and Rec, we have got the Hillside Avenue sidewalk, Riverview Park which is a complete rebuild, Reynolds Field playground which has to be finished, a strategic plan for all the parks for Parks and Recreation since a number of new parks are going to be coming on line, and finally the renovation of Quarry Park. In transportation, we have got a Slow Down Rivertowns effort, the Transportation Working Group has demonstration projects they are going to have us execute on. And then in planning and development we have got the Artis proposal, which I am sure will come back to us, and later on in the year we have to begin the waterfront rezoning. Finally, we have, on an ongoing basis, the deer project and early next year restarting the budget process which always takes time.

These are at least 20 projects, each of them significant, and most of them requiring time coordination and many of them requiring public input. Many of them we cannot avoid or put off for another year. It is quite an agenda for this year coming up and essentially starts immediately. It is going to keep us busy and the community engaged in providing input throughout the full year. Over the next couple of weeks I will be doling out homework and various Trustees will come to own these items. The Village municipal government member who will liaise with us on this, as well as any committees that will be involved, will be identified as well. It is a heck of an agenda, but at the end of it lasting important impacts on the Village will be left behind. So it is exciting.

**Trustee Walker:** The Transportation Committee has been full steam ahead, and they have been meeting the same nights as our Board meeting. They need some input from us. So either they meet on a night when we are not meeting and one of us goes, or maybe they give us some questions and we discuss them as a board.

**Mayor Swiderski:** That is another way to do it. One of the things they have raised which is super critical is coming up with triage. We are getting requests. What lands up in their lap, what do we cover, what do we direct to Fran and the superintendent of roads, all of that we have got to work out a formal method for what goes to them and what goes to the Village.

**Trustee Armacost:** If they schedule the meeting in between our meetings it will make it much easier. For budget we were meeting pretty much every Tuesday for a while, but if they straddle our meetings it will make it easier for us, and typically we are free that night so it makes it possible for one of us to meet them. Or they could move to another night, but I think that was problematic for some of them.

**Trustee Walker:** It is probably going to be easier if they can meet on the odd Tuesdays.

In writing the charge we were talking about having some community meetings. Perhaps rather than them getting this onslaught of issues that keep piling up there could be an organized way of dealing with it in a public meeting where they do the triage in public. Everybody comes and write down all the things they have been hearing, maybe in different neighborhoods, and people put dots on it or something like that. There are various ways of doing it. But maybe there is a way to do it that is out in the open and public.

**Trustee Armacost:** There are certain parts of the Village that have more problems than other parts. It feels as if there should be a James Street meeting or a South Clinton or a Clinton meeting. There are areas where people have a lot to say in that area. It would be easier to invite people to talk about this area of the Village now.

**Trustee Walker:** Some cities ask their neighborhoods to get organized and have, let us say, a traffic calming kit. The community applies for it. In Portland, Oregon they do this. A neighborhood applies for it and they have volunteers who will put it into place. They get the first kit because they organized the volunteers and they are ready to go. It could engage people perhaps that way.

**Trustee Lemons:** Maybe that is a good idea to have neighborhood ones, but I also wonder if it is not good to have a couple of big public meetings with people in table, by neighborhood, so everybody gets to hear. We all get focused on our neighborhood and want this taken care of, but it is good to hear all of the concerns around the Village. There is going to be prioritization and decision-making.

**Mayor Swiderski:** Their charge included public meetings, and they are first getting their bearings on what the issues are. But with triage, it is business as usual moving forward. What do we do with all the stuff that comes in. We have got to address that.

**Trustee Walker:** And some of the things we think are rising to the top may not be.

**Mayor Swiderski:** But we do not want to flood them either. In fairness, they have to have a charge they can deliver on, and a tidal wave of 50 ideas is not where you want to be. You want to have a couple of demonstration projects that you move ahead on, and then you begin to queue up the other ones behind that. The question is, what do we do with what comes in to us. There are categories that we can deal with without infringing on their charge that are not going to be solved that night.

**Trustee Armacost:** We can have a joint meeting with them. We did that with the Comprehensive Plan and with different groups, to create that decision-making process. There are some things that are low-hanging fruit that are easy to do like painting lines in a particular way or putting a stop sign here or there. But there are other things which are not low-hanging fruit that have been asked for. We need to make decisions about some of those things as well.

**Trustee Lemons:** The other concern you are getting at, Peter, is our agreeing with them so we are not stepping on their toes and they are not stepping on ours. There are a lot of things they would be happy not to have thrown at them, but we need to know what those are.

**Mayor Swiderski:** That is right, and it should be a fairly easy line. We are not going to solve that here. It may be what would have traditionally gone to the Safety Council and continues to do so, like stop signs and yield signs, but they handle traffic calming devices.

**Trustee Walker:** New bike lanes and better crosswalks.

**Mayor Swiderski:** Right. Whatever it is, something that is clear so we know what to do to appropriately gate, or shunt.

**Trustee Walker:** So we will put that on an agenda coming up pretty soon and you can talk to them about how they want to interface with us.

**Trustee Lemons:** We are approaching summer, and I wonder when we are going to discuss the summer meeting schedule.

**Village Manager Frobel:** We will have it on for the next meeting.

**Trustee Walker:** One other thing. We have been requested to discuss the reassessment at a meeting. Do we want to have Board discussion, reaction, response, whatever?

**Mayor Swiderski:** I think we can put that on the next one.

**Trustee Walker:** For example, do we want to write a letter saying we believe it should be phased in over five years or something like that. What our options are I do not know.

**Mayor Swiderski:** At least one other town has taken action. It is not quite as one of the public speakers indicated. One letter I am aware of was written by Irvington.

**Village Manager Frobel:** They are part of it. They have adopted it.

**Village Attorney Whitehead:** They are not an assessing unit anymore so it affects their Village taxes as well.

**Village Manager Frobel:** We have our own assessing unit.

**Mayor Swiderski:** So they are even more affected than we are.

**Trustee Armacost:** They, like us, have had the highest assessment increases.

**Mayor Swiderski:** It is complicated, but I do not have a problem not dodging that. Let us put that on for the next meeting as well.

**Trustee Armacost:** The decision before phasing it in is do we adopt that or not.

**Village Attorney Whitehead:** I do not think you are ready. You may want to wait another year to see how it plays out.

**Trustee Walker:** The decision is if we want to write a letter expressing an opinion over phasing in or other alternatives.

**Mayor Swiderski:** That is right.

**Trustee Walker:** Have you discussed it at the Village Officials?

**Mayor Swiderski:** That has dominated the conversation for the last three meetings.

**Village Manager Frobel:** The lead has been those communities that are in that situation. So the Mayor and I have been more or less just listening.

**Mayor Swiderski:** But then you have a community such as Elmsford that has essentially been subsidizing the rest of Greenburgh.

**Trustee Walker:** Right, and now they are getting hit.

**Mayor Swiderski:** No, the opposite.

**Village Attorney Whitehead:** They are going down.

**Mayor Swiderski:** It is the town budget as well as here that is directly affected proportionately.

**Trustee Walker:** They are just realizing how much they have been paying over the years.

**Mayor Swiderski:** That is right, more than they have to.

**Trustee Walker:** Subsidize everyone else.

**Mayor Swiderski:** That is right, so there is some cross-village equity.

**Trustee Walker:** Yes, and they do not want to phase it in over five years. They want to get their relief as quickly as possible.

**Village Attorney Whitehead:** Then in Hastings there are people whose assessments go down. They do not want it phased in because they are saying I have been subsidizing the people who are underpaying for years.

**Mayor Swiderski:** I am surprised at the paucity of e-mails we have gotten on this topic. I have counted five in total, three asking when are we going to adopt the roll because their assessment went down and they want to see that reflected in their village taxes, and two asking what are we going to do about the assessments going up. It is very limited input.

**Trustee Walker:** To Greenburgh's credit, they made it very clear what you do if you want to appeal, so people are going that route.

**Mayor Swiderski:** And we also were clear that this is a town assessment, not the village's. That sunk in, and I do not know about you all but in any party or event inevitably somebody asks.

**Trustee Armacost:** You hear how badly it was done, how many inaccuracies, how much they got it wrong. That is something we can certainly write about. If people have missed the deadline now that seems unfair. I do not know whether people even understood how they could grieve.

**Village Attorney Whitehead:** They can still grieve. This was an informal process. What is being done this month is informal with Tyler. Once the tentative roll comes out, someone still has the opportunity to grieve. They can still go the Board of Assessment Review.

**Trustee Armacost:** To me, to extend that period, that informal period with Tyler...

**Village Attorney Whitehead:** They cannot. They legally have to have a tentative assessment roll posted by a certain date. The idea of this period now, with the informal, was to try to get Tyler where people could meet with them and maybe adjust the assessment before the formal tentative roll gets finalized. When the tentative roll comes out that starts the grievance period. They are taking the month of May to finalize the tentative roll. The tentative roll has to be out by June 1, grievance day is the third Tuesday in June. You can file your grievance then, go to the Board of Assessment Review. There is still time if you missed the Tyler informal meetings.

**Trustee Walker:** Has anyone discussed hardship cases.

**Mayor Swiderski:** No such thing.

**Trustee Armacost:** If there is a phasing in, I think there are categories of people who are more vulnerable. For example, the elderly, fixed-income, those categories of people. But to say across the board if you are in a micro-mansion and your assessment went up, everyone would be happy not to be subsidizing you anymore. So phasing it in, that kind of a non-equitable way of doing it, I do not know that solves the problem. It exacerbates the problem.

**Village Attorney Whitehead:** No, the phasing in does not. That is why the state told Greenburgh nobody has ever done it and we do not think it works.

**Trustee Walker:** People are asking about that so we just need to make that clear. We can put it on the agenda.

**Steven Siebert, 113 Hamilton Avenue:** I know this is out of order.

**Mayor Swiderski:** It is out of order, but you did not speak earlier.

**Mr. Siebert:** I have talked to a lot of people who are concerned about the impact on seniors and people with a fixed-income. It is less the issue of phasing this in and so forth. But as Niki said, as a village we need to think creatively how we can mitigate the impact on people who have lived here for 30 or 40 or 50 years. It is a concern to me and a lot of other people. People I have talked to have said that while there is no decision that has to be made immediately, which is why it has not been raised, there very important issues here that we need to talk about as a village for the people who are vulnerable.

**Trustee Armacost:** Did those people understand they could have had a conversation with Tyler?. Did they have the experience of a number of us where a peculiar assessment was made? Is there a role for the Senior Council or something like that.

**Mayor Swiderski:** But that has passed.

**Trustee Walker:** If people did not realize there was this opportunity to go in and perhaps there were abnormalities with their assessment, if there could be assistance given to them to go into the grievance procedure. That is one way of dealing with it.

**Trustee Armacost:** it would be a great role and a legal aid issue almost.

**Trustee Walker:** That is something to think about.

**Trustee Armacost:** Or volunteer.

**Trustee Lemons:** What are the private financing ways of dealing with this? What you are talking about is houses and properties that now have much more value than they were ascribed. those values, at some point, somebody will cash in on. Is it possible like in a reverse mortgage way or something like that to work out tax financing? I do not know.

**Village Attorney Whitehead:** Nobody knows for sure yet how much the tax increases are going to be and will not know for another year. First of all, it depends on a balance of the whole and then what the tax rate is going to be. So while they gave an estimate on that form, that estimate is based on last year's assessment roll and tax rates. : But if so many people are being adjusted now it changes that. Because your taxes, your share of the pot, depends on everybody's else's share of the pot.

**Mayor Swiderski:** Understood, but it is strongly indicative. And even what we consider a big adjustment, if 10 percent adjusted it, it would still be largely indicative. So it might change by 10 percent, your taxes go up \$1,000 instead of \$1,100, it is still indicative.

**Village Attorney Whitehead:** The other thing that people have to understand is that there is not a direct relationship between the increase in the assessment and the increase in your taxes. So if somebody sees their assessment went up 30 percent does not mean their taxes to up 30 percent .

**Mayor Swiderski:** Right, and that is complicated. I am sure everybody is sick of me using the Play-Doh analogy. The concept of what an assessment is and what a levy is is tough. People think that somehow we are going to be raking it in because the assessment roll is up 17 percent. It has nothing to do with what we do. It is simply just how things are. Now, some small impact conceivably on town taxes; that we may land up paying a little bit more of the town taxes, but those town taxes are a couple hundred dollars. So that may go up a little bit more proportionately, that is about it. IT is not significant.

**Village Manager Frobel:** I will have Susan call Edye McCarthy, our assessor.

**Mayor Swiderski:** I was going to say let us see Edye can come for that session.

**Village Manager Frobel:** Let us get her to narrowly define what we wanted to talk about so she does not ramble around. But I think you are going to hear from her that as far as creativity goes you are very restricted as to what is available. State law is very specific. And you have probably followed in the paper the discussion about the homestead exemption. She will explain what that means and why the town decided not to go that way, and about the phase-in and what that could mean. .

**Mayor Swiderski:** Let us do that and not talk further here because it was not on the agenda. Let us see if we can get Edye at the next meeting.

### **ADJOURNMENT**

On MOTION of Trustee Walker, SECONDED by Trustee Armacost with a voice vote of all in favor, Mayor Swiderski adjourned the Regular Meeting at 9:30 p.m.