

**PROCEEDINGS OF A SPECIAL WORKSHOP MEETING
OF THE
VILLAGE BOARD OF TRUSTEES
June 14, 2011 – 3:00 PM**

Present

Mayor Robert C. Corby
Trustees: Paula Sherwood
Tim Galli
Trip Pierson
Lorie Boehlert
Planner: Doug Fox
Attorney: Karl Essler
Recording Secretary: Anne Hartsig

Mayor Corby called the meeting to order at 3:05 P.M.

COMPUTER REPLACEMENT

A **motion** was made **by Trustee Galli, seconded by Trustee Boehlert**, to approve the purchase and installation of a computer for the Mayor's office from Integrated Systems at a cost of \$688.00, to replace a 2004 non-functioning computer. Computer replacement expense is a budgeted item.

Vote: Corby – yes, Galli – yes, Sherwood – yes, Boehlert - yes, Pierson – yes. **Motion carried.**

WORKSHOP MEETING

Attorney Essler said he had been charged with providing recommendations for a consultant who could assist the Village in considering potential amendments to the R-5 district. He introduced Mr. Doug Fox as one of the recommended persons. Mr. Essler said this meeting would be a workshop session to interview Mr. Fox and determine whether or not he should be retained to provide his services. In turn, he said Mr. Fox would provide a summary of his qualifications. He stated that the Board of Trustees and Mr. Fox will have dialog regarding the concerns of the Board and how he proposes to go about doing anything in furtherance of the Board's objectives.

Mayor Corby said the Board needed to describe their objectives so that Mr. Fox could understand the context of the charge. He would then be able to respond with a proposal for the services he would provide as well as a schedule. Mayor Corby estimated the process would take at least one more meeting. Mr. Fox said he would be available to meet with the Board again before June 23rd.

Mr. Fox shared his background and the experiences of his career with the Town of Penfield as the Director of Planning, as Planning & Zoning Administrator, and Deputy Director of Building and Planning. During the length of his career, he has had a SEQR process focus, has co-authored and assisted with Comprehensive Plans, and has written a number of revisions and new zoning districts for the Penfield Town Board. He served as the Clerk to the Planning Board for over twenty years and assisted with writing resolutions for both the Town Board and the Planning Board. Mr. Fox said he is currently retired but is doing consulting work and is doing two big projects for the Town of Penfield and he is working on a 2010 Comprehensive Plan that he started prior to this retirement. He does volunteer work with his Church and is the grandfather of three children. Mr. Fox stated that he is comfortable in researching code issues and has done some research of the Pittsford Village Code online.

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Trustee Pierson asked Mr. Fox about his relationships with Mark IV during his career with the Town of Penfield and about his experience with multi-family zoning. Mr. Fox replied that his primary Mark IV contacts were Richard Rosen and Don Riley who were developers making applications to the Penfield Planning and Zoning boards. He was staff liaison to those boards assisting in the review of their projects. He said he has dealt with multi family zoning. He stated that the Penfield Comprehensive Plan is proposing mixed-use zoning combining residential and low intensity commercial.

Mayor Corby said that in a phone conversation with Mr. Fox, he summarized the history from the annexation forward.

Mr. Essler said that the Board is in the process of retaining someone for recommendations about potential changes to the R-5 district. He told the Board they should express concerns with R-5 issues and obtain Mr. Fox's unofficial thoughts about his process for coming up with a proposal for the Trustees to consider. Mayor Corby reiterated that the Board must identify areas that are of concern.

Trustee Boehlert said that there are holes in the entire R-5 code and that it is not crystal clear. She said the Board wants to know how they should go about making changes, how quickly can changes be made, and can those changes be made at the same time we allow the applicant to move forward. She said the Trustees need direction from Mr. Fox about rewriting the R-5. She asked if the Board can address certain issues and leave some issues open to keep the applicant moving forward.

Trustee Galli said the R-5 district covers 7.4 acres at 75 Monroe Avenue and another 23 acres across the canal, approximately half of which is owned by the village and half owned by the Town. There is some proposal, long term, for residential use on at least the village owned property. We are talking about both sides of the canal. Both have waterfront property.

Mayor Corby clarified that the entire district is about 40 acres. There are 33 acres on the other side of the canal. Twelve are owned by the village and 23 are owned by the Town of Pittsford.

Trustee Pierson asked what method Mr. Fox would use when five people are thinking differently. He asked what the process is to get to the point where the Board can answer questions as to what changes they would or would not want to make in terms of whether it is height, density, size, scale, number of units, site coverage.

Mr. Fox replied that he would go back to the foundation of where this all started. He would start with the Comprehensive Plan, would look at the purpose and intent of creating the R-5, and he would ask if the village is still in line with that or, has the intent or purpose changed. If the answer is yes, he would go back to that point and build from that foundation to try to reach consensus on an overall scheme that would be acceptable to the majority of the Board.

Mr. Fox would try to bulletize the Comprehensive Plan recommendations for this general area and see if the Board is in agreement that those recommendations are still appropriate. If not, he would go back a step to see if there is language in the Comprehensive Plan that gives flexibility that would allow the Board to consider something that is not specifically aligned with the Comprehensive Plan recommendations. He would start with what all members can agree on as a group and then go forward to try to itemize concerns and look at examples across the State that may allow some consensus.

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Mayor Corby said that when the R-5 was approved, it wasn't clear what the use for across the canal would be. Since that time, it has become clear that the Town is going to build a rec center and have a park on their parcel. The Board would like to design more specific guidelines for that area. As a cooperative, joint venture, last year the Town and Village undertook a strategic plan to plan out the village parcel and town parcel and coordinate them so that they work together. He suggested taking language from that strategic plan and wrapping it into the zoning.

Mayor Corby said the concern he has heard from the Board is regarding the multi family component of this zoning district. The initial intent in the Comprehensive Plan was to ensure that any development was compatible with the unique and distinctive historic character of the village. Throughout this conversation, that has been the continuous theme of the Board members. They have felt this is one of the most important goals because they know the village stands out because they have all done a good job of preserving and enhancing its historic character, its walkable streets and all the other things that make this a beautiful place to live. That is the driving force behind all of the side issues that have come into discussion, to ensure that the end product is something that is appropriate for this village. The Board will provide Mr. Fox with materials that define the village including the Comprehensive Plan, the LWRP and other documents.

Mr. Fox said the northwest quadrant was identified in the Comprehensive Plan as having a more natural feel. He asked if higher density achieves that. Trustee Galli said that the term "natural" may refer to the fact that there are a lot of woods and some wetlands in the northwest quadrant. The Board will provide documents to show that.

Trustee Pierson said the two sides of Monroe Avenue are different. One is open space and the other is competing with the railroad tracks and the canal and is sandwiched between the two.

Mr. Fox asked if it has been agreed upon that solely residential is an appropriate land use for both sides of the canal. Trustee Pierson responded that the northwest side will eventually be a recreation center and park. The concern he has is that coming into the village, the 75 Monroe Avenue development on one side and the recreation center on the other side will take away from the centralized village hub. He has the feeling when you are coming into our village gateway, the rest of the village might be overwhelmed by those two areas. He'd like to minimize that feeling.

Mr. Fox said one thing that struck him about the R-5 district is the multi-family height limit. In his opinion, it seems like a tall range. He asked if the Board has issues with the height as well as the massing. Trustee Boehlert said that is one issue. She has pointed out all along that the code only refers to "stories" and an actual height is not specified. Trustee Pierson agreed that in his opinion, the R-5 has to be specific regarding the height requirement.

Trustee Galli said that from his point of view, the area is an important gateway. People coming over the bridge going east, at the peak of the bridge, will look out and the trees will be gone. He said you have to imagine looking at whatever the number of "stories" is.

Mr. Fox asked if the Board has considered the number of units per acre that would be acceptable. Trustee Pierson said it is in the current code but the Board does want to look at that issue. He said the issues he wants to get answers for are density, height, site coverage. He said the Board has been discussing these issues as well as the preservation of the tree area on the northwest side.

Trustee Galli said that in the one piece of the northwest quadrant contemplating residential, density becomes important because it is adjacent to a residential neighborhood and access is through a residential neighborhood. The more people traveling through, the more concerns the

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Board has for Grove Street, Line Street and so forth. The density affects more than just 75 Monroe Avenue.

Mayor Corby said the Board needs facilitation help on issues that have just been discussed. He said they need help finding a consensus about what the right fit would be.

Mr. Essler asked Mr. Fox how he would go about this and what his fee would be. Mayor Corby added that the time schedule is most important because the Board wants to minimize any delay into the process.

Mr. Fox said his fee would be \$50 per hour. He would immediately start research of similar zoning districts in other municipalities and would begin with General Code, which has searchable data bases. He would provide a range of appropriate densities and give the locations so the Board can see first hand through Google maps or travels to see what they look like and how effective they are.

Mayor Corby said the Board is not intending to throw out the existing ordinance. The intent is to adjust it and zero in on areas of concern and amend them. There is much in that code section that the Board would want to maintain.

Mr. Fox said he had a pretty good feeling going through the intent and purpose of the district. He said the actual code section may not necessarily give the feeling that the goals are being achieved. Part of the foundation is the purpose statement. He asked the Board to reread it. He said there is also a performance zoning overlay district that is associated with most of the acreage in the R-5 district. That also has a good stated purpose that gives a vision. The question now is, in looking at the R-5 Code, how do you achieve it?

Mayor Corby asked what a realistic time line would be. Mr. Fox responded that he would email draft modifications within one week. Options would also be presented. Next there would be modifications from the Board. Mr. Fox said he is willing to work with one or two members to set up a task force. It was agreed that Trustee Boehlert and Trustee Pierson would be the task force members. Mayor Corby said that all members should be interviewed because members have different issues to bring to the table. By interviewing all members, Mr. Fox would get the full spectrum. Members will talk individually to Mr. Fox by phone to share their thoughts.

A motion was made by Trustee Pierson, seconded by Trustee Sherwood, to retain planner Doug Fox to assist the Village Board in considering potential amendments to the R-5 zoning district.

Vote: Corby – yes, Galli – yes, Sherwood – yes, Boehlert - yes, Pierson – yes. **Motion carried.**

Chris DiMarzo addressed the Board. He said that to him, it felt like a steam roller is coming. He said it was his understanding that the Board was going to compile ideas and meet again with Mark IV representatives on June 23 to share their ideas about the 75 Monroe Avenue project specifically. But instead, what happened was that the Board hired a consultant to rewrite the R-5 zoning code, no matter what the outcome of the 6/23 meeting is.

Trustee Pierson responded that one of the things that the Board ultimately needed to do was to come to a consensus about whatever the numbers are for the R-5. He said that the R-5 on the other side is going to have to change. If the Board and Mark IV can come to an agreement regarding 75 Monroe Avenue and the project fits under what the Board is trying to do with the whole district, the moratorium can be reshaped so that Mark IV can keep moving forward at the

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same time the moratorium is in place for the rest of the R-5 district. Trustee Pierson said that the Board wants to keep moving forward with Mark IV so long as their numbers and the Village's numbers match up.

Mr. DiMarzo replied that he thought the meeting scheduled for June 23rd was to present new drawings so the Board can approve them and the moratorium would be stopped.

Trustee Pierson said Mr. DiMarzo and the Board are both saying the same thing. Mark IV is finding out what their numbers are and the Board will tell the consultant what they think the Village's numbers should be.

Mayor Corby said he hopes to get a bulleted list summarizing the consensus on what the Board would like to see. He said the first consultant was hired in 2008 when the R-5 was designed. Roger Brown worked on it at that time.

Mr. DiMarzo asked what has changed in the last two years. Trustee Pierson replied that there are two new people with new concerns. He stated again that the Board is trying to look at the two different areas and still keep the 75 Monroe Ave. project moving.

Trustee Sherwood said the Board is looking at the entire R-5 district to make sure it is in compliance with the Comprehensive Plan and the LWRP for the future of the village. The Board is not just looking at the 75 Monroe Avenue project.

Trustee Boehlert said the Board is trying to accommodate Mark IV while redoing the R-5. That is the reason there are two things going on.

Mr. DiMarzo said that with regards to 75 Monroe Avenue, there are five consultants who have given their opinion regarding mass, scale and so forth. A consultant has already rendered opinions to the Board. He asked if that opinion was worthless.

Trustee Boehlert replied that the opinion was on the R-5. She said if you read the last line it says "Based on the R-5, we believe this to be true". The Board is saying they need to look at the R-5.

Mr. DiMarzo said that perhaps the consultant should be asked specifically about 75 Monroe Avenue. The opinion might be the same because Mark IV has been working on the design. He asked if the consultant's work product is worth anything.

Trustee Boehlert said the consultant's work is worth something regarding the 75 Monroe Avenue project but it's the R-5 district that is the issue. In her opinion, Mr. Fox should not look at the other consultants' reports because the Board needs to look at the R-5 separately, away from 75 Monroe Avenue project. She said what the R-5 district should be and what the problems with it are has nothing to do with 75 Monroe Avenue project. The Board needs an independent person to take all of the information and synthesize it along with knowledge of other areas of other planning zones.

Mr. DiMarzo said he does not understand the urgency of changing the code at this point. If it is really about the code, he asked the Board to sit down with Mark IV to work on their project and to change the R-5 after their project is approved and finished.

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Mr. DiMarzo asked Mr. Fox if he has reviewed their plan and if so, if it fits within the R-5 district. Mr. Fox said he has not reviewed their plan. He has looked at the R-5 and the Comprehensive Plan.

Mr. DiMarzo said he has a fear that the Board is moving too fast and trying to “get by” Mark IV. As a customer of the Village, this is not good business.

Trustee Pierson said that is not the intention. The Board does not want to steamroll Mark IV. He said the best way to get something solved is to talk about it. Trustee Pierson said his intention is to talk about it and to figure out what this Board will accept.

Don Riley, a Vice President of Marketing and Development for Mark IV, addressed the Board. Mr. Riley asked if Town and Village owned land is zoned. He said his experience has been that municipal land, regardless of whether there is a zoning ordinance, it is not zoned. School districts have the same thing. Mr. Riley said he does not think that town land is subject to zoning. He said he thinks they can do as they please.

Mr. Essler said that Town land that is within the Town is the Town’s jurisdiction and they can do anything they want. If a town owns land in another jurisdiction, it can be subject to zoning. Village land at the moment, although it is actually zoned R-5, is not subject to zoning if the village decides to do something with it. But what the plan is ultimately is to probably convey that to an independent developer.

Mr. Riley responded that he doesn’t believe that is consistent with municipal statute. He thinks the talk about zoning is all directed toward seven acres.

Frank Hagelberg said he is having difficulty understanding a piece of this conversation. He said as he understood it, the Board was going to come up with a list of questions to be answered, or parameters, or some check list. He expressed two thoughts.

- 1) The applicant is in the midst of a process that was established by the R-5 zoning, where the Trustees refer the application to the Planning Board, which in turn asks for input from the APRB. The Planning Board then goes back to the Trustees. The Trustees then go through their discussions and deliberations about the special use permit. If something is approved, the applicant proceeds to the Planning Board for site plan approval and to the APRB for approval. In the middle of the process, the idea of amending the code rings strange because the goal posts are being removed.
- 2) Even if the rules of the game are changed right in the middle, Mr. Hagelberg said he wondered whether changing the ordinance is the necessary way to go because at the meeting held on May 31, 2011, the applicant said that the moratorium is not necessary because Mark IV is willing to roll up their sleeves and talk to the Board. They are willing to talk and hear the Board’s concerns. He asked why the parties aren’t still on that road. He said Mark IV is more than willing to listen to what the Board has to say and they have no issue with Doug Fox as a synthesizer for various thoughts among Board members for what the project should be. Mr. Hagelberg said what he does not understand is why the end product of this facilitation needs to be a code revision/modification rather than a list of suggestions they thought they were going to get. He said if the end result is to come up with a list for Mark IV, he is good with that. If the end goal is to modify the zoning ordinance in a way that would impact the project mid-stream, he has difficulty with that.

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Mayor Corby said the Board hopes to have a list of suggestions for the meeting on June 23rd. He said the purpose of that meeting is only to meet with Mark IV representatives to figure out a way to move forward while R-5 changes are being made. It will not be to discuss the modifications.

Mr. Essler assured the applicant that on very good faith, the Village Board wants to work with Mark IV to come up with a plan that everyone can be happy with without amending the R-5, with the understanding that there are probably going to be some amendments to the R-5 at some point to address concerns that have an affect on other portions that are not developed. However much both sides come at this in good faith, he said it is also fair to say no one of us has a guarantee that the parties will be able to come to that agreement. He said we all hope we will but if the Board can't come to an agreement with Mark IV, the Board will still need to know and have the advice of a consulting expert on what ultimately the Board thinks the R-5 should be. He said the hope is that the Board will come to an understanding with Mark IV and deal with the R-5 district later, but there is no guarantee. Mr. Essler said he has heard nothing but good faith from the five members sitting at the table about wanting to come to that agreement.

SUMMER HOURS FOR DPW CREW

Trustee Boehlert reported that it is the DPW crew's preference to have summer hours as they have had in the past. Board members discussed this option. A **motion** was made **by Trustee Pierson, seconded by Trustee Boehlert**, to allow the DPW crew to work on a summer hour schedule with the hours as specified in the 2010 union contract.

Vote: Corby – yes, Galli – yes, Sherwood – yes, Boehlert - yes, Pierson – yes. **Motion carried.**

ADJOURNMENT

A **motion** was made **by Trustee Boehlert, seconded by Mayor Corby** to adjourn the meeting at 4:20 PM.

Vote: Corby – yes, Galli – yes, Sherwood – yes, Boehlert - yes, Pierson – yes. **Motion carried.**

Anne Z. Hartsig, Recording Secretary