

PROCEEDINGS OF A MEETING OF THE VILLAGE BOARD OF TRUSTEES
January 24, 2012 – 7:00 PM

Present

Mayor: Robert C. Corby
Trustees: Paula Sherwood
Lorie Boehlert – arrived at 8:00 PM
Trip Pierson
Tim Galli
Treasurer: Mary Marowski
Building Inspector: Skip Bailey
Recording Secretary: Anne Hartsig

CALL TO ORDER

Mayor Corby called the meeting to order at 7:00 P.M.

TREASURER’S REPORT – MARY MAROWSKI

The Treasurer stated that the Abstract #10 voucher series was used twice in error. Abstract #12 voucher series starts with #410.

The Treasurer presented vouchers listed on Abstract #012 of 2011/12 fiscal year for approval. A **motion** was made by **Trustee Galli, seconded by Mayor Corby**, to approve payment of vouchers listed on Abstract #012 in the amounts stated below and to charge them to the appropriate accounts.

Abstract #012 – 2011/12

General Fund (#410-#440):	\$19,638.37
Sewer Fund (#420)	<u>\$ 24.54</u>
Total vouchers for approval:	\$19,662.91

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

Other business:

The Treasurer reported that the Village received a check from the CLG grant.

Sewer rents are due 1/27/12. At this date, \$10,753.56 is outstanding.

The Treasurer noted that the next budget meeting will be held on 1/26 at 5 PM.

STORMWATER MANAGEMENT PLAN

The Village is required to develop two stormwater management plans, including an overall plan and a facilities management plan. Mayor Corby has discussed this with the County. He was told they would assist in developing a plan that will be in compliance with EPA and DEC requirements. He will be meeting with Paula Smith and Todd Stevenson on February 3rd to discuss the parking lot improvements and the stormwater management plan.

BUILDING INSPECTOR’S REPORT – SKIP BAILEY

Mr. Bailey submitted a written report. In addition, the following issues were discussed with the Board members:

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- The bakery at 5 State Street is opened. There was a question about the number of seats that were approved. Mr. Bailey was asked to review minutes from PZBA and Trustee meetings that took place during the approval process to clarify issues regarding the number of seats, snow removal procedures, and parking places (including any requirements for a handicap parking space)
- 18 Washington Road has not completed their front porch renovation. Mr. Bailey has sent letters and left phone messages.
- Renovations for Fido's at 19 State Street have been completed. Trustee Sherwood said the business is advertising for "doggie daycare". If dogs are going to be outside, the Planning Board would have to approve. Trustee Pierson is going to visit the shop.
- The Village Office received a complaint about delivery trucks at the flower shop. The parked trucks have been idling and blocking driveways. Mr. Bailey will contact a DEC officer in the area and will discuss the problem with Mr. Weinstein, the parking monitor.
- The lawn in front of a house on State Street needs to be repaired after it was ruined from cars parking on it.
- Mr. Bailey has not had a response from the owner of vacant buildings on Schoen Place. He requested that the owner secure all openings including the second stories.
- The application for a Special Exception Use permit for a religious use at 21 Lincoln Avenue was approved.

DOS GRANT #C006861 – PORT OF PITTSFORD DOCK PROJECT

Town of Pittsford Commissioner of Public Works, Paul Schenkel, addressed the Board to ask them to approve Resolution #2 of 2012, a resolution to approve the agreement between the Village and Mason Trenching, the contractor selected by the Town through the bid process to construct new docks at the Port of Pittsford Park. The docks are funded in part by DOS Grant #C006861 which was awarded to the Village and is being shared with the Town. A **motion** was made by **Mayor Corby**, seconded by **Trustee Galli**, to approve Resolution #2 as follows:

Resolution #2 of 2012

DOS #C006861

Port of Pittsford Dock Project

Whereas, the Port of Pittsford Dock Construction Project is being funded in part by Department of State grant #C006861 that was awarded to the Village of Pittsford and is being shared with the Town of Pittsford,

Now therefore be it resolved that the Village of Pittsford Board of Trustees does hereby approve the agreement between the Village of Pittsford and Mason Trenching, the contractor chosen to perform the work for the Port of Pittsford Dock Construction Project, as written and presented to the Board on January 24, 2012 on the *Section 005213 Agreement Forms*, pending Town approval of the contract.

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

Mayor Corby signed two copies of the Agreement. Both copies were given to Mr. Schenkel. He will return a fully executed copy to the Clerk for Village records.

CANAL PAVILION UPDATE

Progress on the proposed pavilion could not move forward because SHPO said they had not received a letter from the Canal Corporation that confirmed support of EPF funding to build the

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pavilion on Canal Corporation property. Mayor Corby contacted Sharon Leighton at the Canal Corporation to ask for assistance. A letter dated 6/3/11 sent from Brian Stratton, the Director of the Canal Corporation, was sent to SHPO. The letter confirmed the support of the Canal Corporation as well as their understanding that the use of EPF funds will dictate that the land be “parkland in perpetuity”. It stated that the Canal Corporation had no designs to use the Schoen Place land for anything else. A copy of the letter was resent to Karen Ferguson at SHPO. Mayor Corby said this should clear up the problem and an approval letter should be forthcoming. Once the Village receives the approval letter, plans can be drawn up for the pavilion.

SEQR ADVISORY SERVICES

The Village Board received a proposal for SEQR advisory services regarding the proposed development for 75 Monroe Avenue from Arthur J. Ientilucci, AICP. Village Attorney Jeff Turner reviewed the proposal and recommended changes to the Limit of Liability portion of the agreement. The Village Clerk will fax the recommended changes to Mr. Ientilucci.

MINUTES

January 10, 2012: A **motion** was made by **Trustee Galli**, seconded by **Mayor Corby** to approve these minutes as amended.

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

November 15, 2011 DRC Meeting Minutes: Members of the PZBA and the APRB who attended this meeting reviewed and approved these minutes. Therefore, a **motion** was made by **Mayor Corby**, seconded by **Trustee Sherwood**, to approve these minutes as written.

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

CDBG 2012 GRANT APPLICATION

Mayor Corby informed Board members that the Village received notice that the 2012 CDBG grant application deadline is February 10th at 5 PM. Members discussed the possibility of applying for funding to install railings in the basement on the stairs leading to the bathrooms and for updating the bathrooms to make them handicap accessible. Another suggestion was to apply for funds to install ramps on some of the village sidewalks. Mayor Corby said an inventory would be needed to determine the best locations for these ramps.

Mayor Corby and Trustee Boehlert will put together a cost estimate to refurbish the bathrooms so that they will accommodate people that are mobility impaired. Mayor Corby said he would fill out the grant application.

EMPLOYEE TRAINING

The Village Clerk will schedule annual employee training in workplace violence and harassment.

HEATHERHURST DRIVE AND COURTENEY CIRCLE STOP SIGN

Members discussed the need for a stop sign at the Heatherhurst/Courteney Circle intersection. Mayor Corby will discuss this with Doug Yaeger.

PUBLIC HEARING–PROPOSED LOCAL LAW #1 OF 2012–AMEND R-5 DISTRICT

Proof of the legal notice below having been published, a **motion** was made by **Mayor Corby**, seconded by **Trustee Sherwood**, to open the public hearing.

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

“PLEASE TAKE NOTICE that a public hearing will be held before the Village of Pittsford Board of Trustees on January 24, 2012 at 8:00 P.M. at 21 North Main Street,

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Pittsford, New York , to consider the adoption of proposed Local Law No. 1 of 2012, entitled “Local Law No. 1 of 2012 of the Village of Pittsford Amending Section 210-19.2 (B) (3) (c) of the Village of Pittsford Code Relating to the R-5 District,” the complete text of which is as follows:

“Section 210-19.2 (B) (3) (c) of the Village of Pittsford Code for special permit review in the R-5 Zoning District under the Village of Pittsford Code is hereby amended to replace, in the second sentence thereof, the words “Village Planning Board” with “Village Board of Trustees.” This Amendment shall take effect immediately upon its adoption by the Village Board of Trustees of the Village of Pittsford.”

Mayor Corby explained that the purpose amending this section of the code is to clarify that the entire responsibility for making the legally binding decision on the special use permit rests with the Board of Trustees. The Trustees must determine whether or not the applicant meets the standards for special permit review.

There was no one present wishing to speak for or against the passage of this proposed local law. No written comments or phone calls were received in the Village Office regarding this proposed change. Therefore, a **motion** was made by **Mayor Corby, seconded by Trustee Sherwood**, to close the public hearing.

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

A **motion** was made by **Trustee Pierson, seconded by Trustee Sherwood**, to approve the passage of Proposed Local Law #1 of 2012 as written.

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

~Trustee Boehlert joined the meeting at 8:05 PM~

PUBLIC HEARING-MODIFICATION OF SPECIAL PERMIT-23 SOUTH MAIN ST.

Proof of the legal notice below having been published, a **motion** was made by **Mayor Corby, seconded by Trustee Sherwood**, to open the public hearing.

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

“Please take notice that a Public Hearing will be held before the Village of Pittsford Board of Trustees, at a meeting on Tuesday, January 24, 2011 at 8:00 PM at the Village Hall, 21 North Main Street, Pittsford, NY, to consider an application made by Carve Pitt, LLC, for the modification of a Special Permit granted on January 25, 2011. The requests for modification are to allow a television set over the counter/wine area and to allow the extension of business hours to 10:00 PM at a restaurant known as Hicks & McCarthy, located at 23 South Main Street, Pittsford, NY, which location is in a B-1A District, pursuant to Chapter 210-74 A (2), Special Permit Uses in B-1, B-1A, B-2, B-4 and M-1 Districts.”

David Watkins and Jay Hennen, partners of Carve Pitt, LLC, appeared before the Board to request a modification to their original special permit. They would like to have a television set over the wine bar area and they would like to extend their hours at the restaurant to accommodate a second seating for the dinner hour.

Chairperson Remegia Mitchell provided comments following a review of this application at the PZBA meeting on 1/23/12. Her memo stated that her Board had no concerns about the hours of operation but suggested that the approval states clearly the hours that the business closes to patrons in the evening.

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Members expressed concern for the nearby residents. Extended hours could mean that noise from people and cars in the parking lot would be happening at a later hour. It could also mean that day's end clean up at the restaurant would take place at a later hour. Banging of the dumpster lid and the sound of glass bottles being dumped could be disturbing to nearby residents.

Mr. Watkins stated that he has tried to put systems in place that keep the noise levels down. He has not been made aware of any complaints. Currently, his rule is that there will be no bottle dumping at night. He has instructed his employees not to dump bottles after dark. Major trash is removed earlier in the evening. Anything else goes into a smaller tote type container for trash that accumulates in the evening. He said that the breakdown procedure begins at about 8:30 in the kitchen regardless of how late they are open. He said that process would not be delayed past that time.

When asked who the TV is meant for, Mr. Watkins said some breakfast and lunch customers like to watch the news. Members clearly stated that more than one TV, unless special permission has been granted, would not be acceptable.

There was no one present wishing to speak for or against the modification of this special permit. No written comments or phone calls were received in the Village Office regarding the proposed changes. Therefore, a **motion** was made **by Mayor Corby, seconded by Trustee Sherwood**, to close the public hearing.

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

A **motion** was made **by Mayor Corby, seconded by Trustee Boehlert**, to approve the modification for a special permit for Hicks and McCarthy Restaurant as follows:

- One TV that cannot be seen from the street is allowed
- Hours of operation shall be posted on the door.
- Closing times shall be as presented: M-F – 7 am to 10 pm
 Sat. – 8 am to 10 pm
 Sun. – 8 am to 9 pm

These hours are approved with the understanding that there is a concern regarding noise after 9 PM because of the close proximity of residences to the parking lot.

Vote: Corby – yes, Sherwood – no, Pierson – yes, Galli – yes, Boehlert – yes. **Motion carried.**

The decision was filed in the office of the Village Clerk on January 24, 2012.

PUBLIC HEARING – TIME WARNER AGREEMENT

Trustee Galli introduced Chris Mueller from Time Warner. He explained that the two started their dialog approximately 1 ½ years ago prior to the expiration of a 10 year contract agreement with Time Warner. Trustee Galli and Mr. Mueller have been working back and forth on a new agreement. Mr. Galli said the new proposed contract expanded the definition of gross revenue to include non-subscriber services. Other changes were given to the Board in a memo dated 1/6/12.

Proof of the legal notice below having been published, a **motion** was made **by Mayor Corby, seconded by Trustee Sherwood**, to open the public hearing.

“Please take notice that a Public Hearing will be held before the Village of Pittsford Board of Trustees, at a meeting on Tuesday, January 24, 2012 at 8:00 PM at the Village Hall, 21 North Main Street, Pittsford, NY, to consider approving a renewal franchise agreement to provide cable television services between the Village of Pittsford and Time Warner Entertainment Advace/Newhouse Partnership, d/b/a Time Warner Cable. A

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complete copy of the proposed agreement is available for review Monday through Friday, with the exception of holidays, during the hours of 8:00 AM to 3:30 PM in the Village Office, 21 North Main Street, Pittsford, NY.”

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

Mr. Mueller explained the process of contract renewal. He said once the Village Board approves the agreement and it is signed by the Mayor, Mr. Mueller will have it signed by a Time Warner official. Time Warner will publish a legal notice for two consecutive weeks stating that the agreement is on file at the Village Office. He will need an affidavit of publication to send to the Public Service Commission to show that the Village held a public hearing. Once Time Warner signs and Mr. Mueller has the affidavit, he will forward both to the Public Service Commission for their lawyer’s review. Next the Public Service Commission will put the agreement on the docket for final approval by the Commissioners. Mr. Mueller said this could be a six to seven month process.

At the request of village resident John Limbeck, 62 State Street, Mr. Mueller explained the term “subscriber fee”. He said there are two parts. The first is a franchise fee that Federal law allows the local municipality to collect, up to 5% of the cable services that are in the residents’ homes. Non-subscriber fees generate revenue from things like advertisement sales from when advertisements are purchased to be placed on the Time Warner stations, a leased access channel (Channel 98) and the home shopping networks. The additional fees generated from non-subscriber fees will not affect the average subscriber unless they are using one of those three services.

Mr. Limbeck asked for the dollar amount of collected fees for the last ten years. He asked if that money should have been coming to the Village. Mr. Mueller said it is difficult to calculate the amount because it is different each year and is based on how much people spend. Trustee Galli added that the money wasn’t returned to the Village because there was no agreement to that effect in the last contract. Mr. Limbeck asked why Time Warner was allowed to collect that money if it wasn’t in the contract.

Mr. Mueller said that through Federal law regarding the three non-subscriber services, Time Warner has to collect non-subscriber revenue. The municipality decides if they want to participate in receiving that non-subscriber revenue. It was not in the last franchise agreement which is why the Village hasn’t collected the revenue. Trustee Galli worked very hard to make sure it is included in this new contract.

Mr. Limbeck asked where the money went since Time Warner has such a monopoly on service. Mr. Mueller answered that the money goes to all municipalities that elected to follow it. He said it is done on a universal basis. It is divided out based on the number of subscribers in each municipality. It is a prorated formula approved by the FCC and PSC and used over the last 15 years.

There were no others present wishing to speak for or against the proposed agreement with Time Warner. No written comments or phone calls were received in the Village Office regarding this subject. Therefore, a **motion** was made **by Trustee Galli, seconded by Mayor Corby**, to close the public hearing.

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

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A **motion** was made by **Trustee Galli, seconded by Mayor Corby** to approve the Franchise Agreement to Provide Cable Television Services between the Village of Pittsford and Time Warner Entertainment Advace/Newhouse Partnership d/b/a Time Warner Cable as presented.

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

The Board of Trustees thanked Trustee Galli for his diligence and efforts in this matter.

SMOKING SIGNS

Members discussed wording for signs that will be placed along Schoen Place for the no-smoking zone. Trustee Boehlert and Mayor Corby will continue to work on this endeavor.

5/31/11 PUBLIC HEARING REGARDING PROPOSED LOCAL LAW #5 OF 2011

Members discussed the public hearing that was held on May 31, 2011 to consider the adoption of a local law to impose a moratorium on the review of applications and construction in the R-5 district. At that meeting, the public hearing was closed but the Board tabled the vote. Mayor Corby will consult with Attorney Karl Essler on the procedure moving forward.

PCC TASK FORCE

Trustee Boehlert reported that members of the PCC Task Force have divided into four sub-committees. Those subcommittees are 1) administration 2) IT/technology 3) public works capital equipment 4) assessment of Village consolidation with the Town.

Trustee Pierson stated that the assessment of Village consolidation with the Town is not part of the purview of the task force. He said that sub-committee should be eliminated. He stated that Supervisor Carpenter should be 100% behind the Village on this issue. He said he feels strongly that residents of the Town of Pittsford considering what is best for the residents of the village is the same as if town residents took it upon themselves to decide what is right for the Town of Mendon or the Town of Brighton. He stated that for a subcommittee of the task force to be having a consolidation discussion is totally inappropriate.

Mayor Corby reported that he spoke to both chairpersons of the Task Force Committee and expressed the same concerns. The response he received was that the Task Force had been told that no topic was out of bounds. Mayor Corby said that consolidation is a legal issue because the village government is formed for the purpose of village residents. He said the only people that legally have the ability to make a decision about consolidation are the residents of the village.

Mayor Corby said that in New York State, villages are like small cities. Village government is structured to provide services to densely populated areas that have a heavier level of infrastructure. He said village government gives people who live in a village more representation as well as direct access to the government. They have a voice.

Board members agreed that the existence of this subcommittee is not appropriate unless all of its members are village residents. One initial charge of the Task Force was to respect the individual missions of the Town, School and Village. Members concurred that the existence of this subcommittee violates that principal. It was noted that there is no point in this subcommittee going forward because consolidation is both a legal issue and a village resident issue.

Trustees Sherwood and Boehlert will be attending in the next Leadership Meeting on 1/30/12 as Village representatives. They will relay to the Leadership Committee members that an assessment of consolidation is not something that is part of the Task Force's purview, that it is

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disrespectful to the Village and that it violates the principal of the charge and the mission of the Task Force.

75 MONROE AVENUE

Mayor Corby reported that he met with Chris DiMarzo to discuss thoughts for some potential changes to the proposed site plan for the development at 75 Monroe Avenue.

EXECUTIVE SESSION

A **motion** was made **by Trustee Sherwood, seconded by Trustee Boehlert**, to enter executive session to discuss the employment history of a specific employee.

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

Having taken no action, a **motion** was made **by Mayor Corby, seconded by Trustee Sherwood**, to leave executive session and reenter the regular session of the meeting.

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

STATUS OF CODE VIOLATIONS

The Board of Trustees will ask Mr. Bailey to follow up on the following areas and prepare a report to be provided to the Board for discussion at the February 14th Board of Trustees meeting. The Board wants to know the status of each of these on going violations in relation to the steps that have been taken leading up to the issuance of an appearance ticket.

- Securing the vacant wooden buildings on Schoen Place
- 18 Washington Road porch posts
- Fox/Blackwood Management site plan for Northfield Common
- 15 State Street compliance issues regarding stairs and lighting
- Former Great Northern Pizza parking lot and maintenance of landscaping
- Illegal window signs at Guys Pizza

ADJOURNMENT

There being no further business, the meeting adjourned at 9:55 PM.

Anne Z. Hartsig, Recording Secretary

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