

PROCEEDINGS OF A REGULAR MEETING OF THE VILLAGE BOARD OF TRUSTEES
October 23, 2014 – 7:00 PM

Present

Mayor:	Robert C. Corby
Trustees:	Lili Lanphear Lorie Boehlert Frank Galusha Tim Galli
Building Inspector:	John Limbeck
Village Treasurer:	Mary Marowski
Recording Secretary:	Dorothea M. Ciccarelli

CALL TO ORDER

Motion Mayor Corby, seconded by Trustee Galusha, to call the meeting to order at 7:00 PM.

PUBLIC COMMENT

Justin Vliestra, 19 Boughton Ave – Thanked the Board for their efforts to ensure that the Pittsford Canalside Properties project at 75 Monroe Avenue does not harm the environment. Mr. Vliestra discussed the drainage problems that occurred in the spring of 2013 at the site, when he alleges the developer broke the drainage pipe. He stated that the developer proceeded to contaminate the canal and plugged the pipe. He further stated that this action caused a potential hazard to the railroad tracks near the property. Mr. Vliestra explained that the standing water issue by the plugging of the pipe is causing the undermining of the tracks. The developer promised to fix the pipe, but instead proceeded to sue his neighbors and demanded the Village reroute the storm pipe. Mr. Vliestra reviewed what he referred to as the frivolous legal actions taken by the developer. In reference to when the Village hired Frank Sciremammano to review the SEQR determinations. He further stated that in March of 2014, there were environmental concerns that were identified by all the trustees. The Board enforced their concerns regarding the environmental issues in May of 2014. He stated that he supports the Board’s decision to appeal the recent court decisions and requests that the Village keep fighting to protect the community from the environmental concerns.

Chris Wilmot, 19 Silco Hill – Mr. Wilmot informed the Board that he has lived most of his life in both the Town and Village of Pittsford. He stated that although he does not currently live in the village, he does use the Monroe Avenue corridor. Mr. Wilmot disclosed that he has had a relationship with the developers of Pittsford Canalside Properties for over 25 years, and he feels they are good people. Mr. Wilmot indicated that regardless of who the developer is for this property, it is the worst site in Monroe County for development. Mr. Wilmot expressed additional concerns about traffic from the site due to a blind spot crossing the bridge. He commented that the Village owes its neighboring communities a sensible development. He stated that this location would be more suited to a bicycle park. He thanked the Village Trustees for allowing him to speak.

John Howe, 5 Village Grove – Informed the Board that he loves living in the village and enjoys walking through the many beautiful areas such as Schoen Place and the Library. Mr. Howe stated that the Village is a wonderful place to live and that he wants an environmentally safe place for his family. He further stated that the 75 Monroe Avenue area needs to be developed responsibly. He noted that he remembers when the area was an eyesore and a toxic waste dump. The current developers put their own money into the property to clean it up. He stated his opinion that this development will add more people to the village and will add to the community. The additional foot traffic in the business district will benefit the merchants. Mr. Howe concluded by stating that he applauds the Village’s efforts, but feels that this is a responsible development, and he indicated there should be a limit on the money spent on legal fees.

Proceedings of a Meeting of the Board of Trustees
October 28, 2014

Lisa Cove, 44 South Main Street – Informed the Board that she represents the general citizen. Ms. Cove stated that she walks the Village daily, and that vacancies have decreased. She further stated that parking in the Village will always be an issue, but that is consistent with many small communities. She stated that she respects the builders, but does not support the project. Ms. Cove stated her opinion that the majority of the residents have spoken regarding the development when they cast their votes in the spring. She further indicated that this development would drastically change the rent-to-own ratio in the Village. She raised the question that if the planned development were to be high-end rentals, who would want a unit that could hear the train at 2:00 AM in the morning? Ms. Cove further stated that the Village does not need the increased traffic. She concluded by stating that the project being proposed is too big and not appropriate for the Village, and that she does not understand why there is the continued push from the developer for the development when it is not wanted by the community.

Anthony Daniele, 31 Monroe Avenue – stated that he appreciates the Board opening up the beginning of the meeting for public comment. Mr. Daniele stated that he was not at the meeting to speak in favor or against the project at 75 Monroe Avenue. He expressed his concern with the financial impact. He stated that whether one is for or against the project, there is considerable amount of emotion in the Village on the subject. He indicated that he does not know anyone in the Village that does not want to preserve the integrity of what was built here hundreds of years ago. He explained that the Village was built on codes, and seven years ago, the R5 code was passed, which permitted this type of use. Mr. Daniele stated that the Board should follow the laws, and that tireless hours have been spent on the issue. He pointed out that the Village has spent over \$300,000 in legal fees, and the amount keeps climbing. The Board has done as much as possible regarding the project. He requested the Board consider the financial ramifications and strain. He concluded by stating that he does not want to see compromises in village services due to the legal fees.

Jean Moe, 29 Hearthstone Road – Thanked the Trustees for their efforts. Ms. Moe stated that she agrees with the Board's decision to appeal the court decision regarding 75 Monroe Avenue. She concluded by stating that the development at Pittsford Canalside Properties affects others in the community and not just the Village of Pittsford.

Alyssa Plumber, 66 South Main Street – stated that she agreed with the members of the public that the Village was built on codes. She stated that the developer of Pittsford Canalside Properties should have built what was approved by the Village Board and that if this had happened, the Village would not have had to spend the money on legal representation. Ms. Plumber thanked the trustees for pursuing the appeal and stated her opinion that the majority of the community is behind the Board.

Meredith Utman, 75 N. Main Street – Indicated that she is willing to pay the legal fees relating to the Pittsford Canalside Properties project, and that it is her opinion that there is no rift in the community. She stated that the issue is between the developer and the residents.

Trip Pierson, 10 South Street – Stated his opinion that the project will help the vitality of the Village. He stated that he is very concerned with the process regarding the decision to appeal, and that only two Trustees were able to speak to the attorney. Mr. Pierson stated that when the Village spends the money in reserves, it is very difficult to replenish the fund. He expressed concern that the Village does not have the funds to keep fighting this legal issue. Mr. Pierson concluded by stating that he cares about the Village and is very concerned with the current course the village is on.

Don Riley, 301 Exchange Blvd – Discussed the drainage issue with the Board, and stated that Mark IV was the only entity to clean up the site. He further explained that no one was aware of the drainage pipe that was on the property, prior to Mark IV's discovery. He stated that both parties are currently working on a

Proceedings of a Meeting of the Board of Trustees
October 28, 2014

resolution regarding the drainage situation. Mr. Riley requested that Mayor Corby be more forthcoming regarding the origins of the project. He stated that Mayor Corby wrote the R5 code for the 75 Monroe Avenue project. The Mayor was also a key player in having the property annexed into the village. Mr. Riley further stated the R5 code not only applies to the 75 Monroe Avenue property, but to other properties as well in the Village. He stated that Mark IV has spent several million dollars on the project that the Mayor had designed. He commented that the Friends of Pittsford Village, not the developers, brought the first lawsuit regarding the project.

Kenneth Morrow, Sutherland Street – Stated that the 75 Monroe Avenue project will reduce property assessment levels, due to the type of development and the current conditions of the property that have not been shared. He stated the developer made an error with their handling of the drainage pipe on the property and has been non-cooperative with the Village in resolving the issue. He concluded by stating that he salutes the Board's decision to appeal.

Wally Morse, 12 Sutherland Street – Informed the Board that he has been a long-time resident of the village. He stated that he would like to see the village kept vital with improvements. Mr. Morse stated that it is time to move forward with the 75 Monroe Avenue project. He pointed out that Judge Ark rendered a decision and was clearly concerned with roadblocks placed in front of the project. He stated that this project will enhance the village, and that he is looking forward to it being completed. Mr. Morse requested that the Board let the other Village Boards do their job.

Dottie Boehlert, 5 Washington Avenue – Stated that this type of development will offer the opportunity for the younger population to be able to move into the area. She further stated that she is very concerned with how the continued legal expenses will affect taxes and with the impact on the younger generation on purchasing homes.

Fran Kramer, 7 Golf Avenue – Questioned the Board as to whether this project will enhance or benefit the Village, and she stated her opinion that it will not. Ms. Kramer indicated that the project will affect the transit in the village and will drain current resources. She further stated her opinion that the development will change the Village forever. She indicated that she would be willing to pay more in taxes to keep the project out and to continue the legal expenses. She urged the Board to continue the legal fight and maintain what the residents currently have in the Village. Ms. Kramer also indicated that Mark IV should work with the Board to assure that the project is compatible with the Village.

Ed Starowitz, 8 Stile Road – Stated that as a taxpayer, he supports the project. He stated that the project will bring in tax dollars for the schools. He further indicated that the tax revenue will lessen the impact of unfunded mandates. Mr. Starowitz informed the Board that he was against the spending of more money on litigation, and that the project has met several of the needs of the community. He commented that continued action against the project was going to end up with the Village being sued. Mr. Starowitz indicated that there are conflicts of interest with current Board members. He stated that the project will improve the gateway into the Village. Mr. Starowitz further indicated that Sutherland Street and Pittsford Village Green are not historic developments, and the railroad tracks are not representative of historic character.

Mike Reynolds, 35 Church Street – Commented to the Board that the R5 zoning was passed and it states that developments need to look like Schoen Place. The currently proposed 7-foot retaining wall and the current location of the restaurant do not meet the criteria. He concluded by stating that the Village has the right to appeal the court decision regarding 75 Monroe Avenue to have it built as the regulating plan stated and should continue the legal fight.

Proceedings of a Meeting of the Board of Trustees
October 28, 2014

Mike Morris, 85 Brookside Drive – informed the Board that he had owned a property called Corbett’s Glen. He stated that he has spoken to the Board in the past about the 75 Monroe Avenue project. Mr. Morris expressed that this is a very contentious issue for the community. He further indicated that laws were followed, documents were signed, and approvals were given for the project. Mr. Morris stated that the Board was not elected to be Republican or Democrat, but was elected to do a job, and that job is to protect those that follow the law.

BOARD STATEMENTS

Mayor Corby stated that the Village Board is sworn by oath to uphold the Village Code and the law of New York State. He explained that the litigation that the Village faces was not our choice; it was brought about by four lawsuits by Mark IV and one by the Friends of Pittsford Village. He stated that the Village should not bend to the developer’s wishes simply to avoid litigation. He further stated that the Village has a responsibility to defend the Village Code, as this was part of the oath of office that members took when they were elected to the Board. He stated that large developers must follow the Code, just like everyone else in this Village. Only the Village Board has the legal authority to review compliance with the regulating plan; no other Board has that legal ability. The revised design is not consistent with the regulating plan, is not in compliance with the multi-family special permit, and is not in compliance with the restaurant special permit. The Village Board hired consultant Frank Sciremammano, an expert in SEQR and Environmental review, and determined there were twelve areas where there were changes to the design, which impose significant potential environmental impact to the Village. If Pittsford Canalside Properties built what they said they were going to build, there would be no litigation. The bulk of the litigation cost to date is due to four lawsuits filed by PCP to circumvent the Village Code and interfere with the Village’s governmental process. The judge directed the Village Board to have the Appellate Division decide some of the contested issues in the case, which he did not decide. The bulk of the research, paperwork, and documentation in the case has already been completed. Not to resubmit it would be foolish, as the work is already done. Contrary to comments made by Trustee Boehlert, Trustee Galusha and I have a right to meet with our attorney, because we are named in the litigation and because such conversations are a part of our official duties as elected officials. PCP and their spokespeople raising the issue of cost at this point is the ultimate in hypocrisy because the bulk of the cost is due directly to their actions.

NOTICE OF INTENT TO START LEGAL PROCEEDINGS AGAINST PITTSFORD CANALSIDE PROPERTIES REGARDING DRAINAGE ISSUES

Mayor Corby presented correspondence that was recommended to be sent by the Board regarding the notice of intent to start legal proceedings against Pittsford Canalside Properties regarding the drainage issues. He further explained to the Board that the reason for sending the correspondence is that evidence suggests that a drainage pipe has been cut and plugged due to remediation work being done on the 75 Monroe Avenue site. He stated that the developer has admitted that the situation created by severing the pipe violates the Clean Waters Act and that the situation may be spreading contamination from the property. Both Federal and State law require the developer to remedy the situation. Therefore, the Village is giving Pittsford Canalside Properties the opportunity to rectify the situation. Mayor Corby explained that the Board is not opting to go to litigation at this time, but is sending them a letter notifying them that they are requesting they remedy a situation they have created.

Trustee Galli requested the benefit of a discussion with the attorneys, as well as any consultants involved. He further stated that members of the Board should have the benefit of the discussion with the attorney. Mayor Corby questioned the other Board members as to their thoughts on a conversation with the attorneys. Trustee Boehlert stated she agreed with Trustee Galli and would like an opportunity to speak to the attorney.

Proceedings of a Meeting of the Board of Trustees
October 28, 2014

Trustee Lanphear stated that her understanding is that this is not starting a lawsuit, but is putting Pittsford Canalside Properties on notice. Trustee Galli disagreed, stating that he thought the content of the letter indicated the Board was starting a lawsuit. Trustee Lanphear agreed that if the situation is not addressed in 60 days, it would start a lawsuit.

Trustee Boehlert stated that she would like to speak to the Building Inspector and the consultants to find out if the applicant is moving forward with the situation, and whether this action necessary at this point. Mayor Corby responded that this is a situation that has created a long-standing hazard along the CSX railroad tracks, and that it is in the interest of public safety to have it addressed. He stated that this is the first step in having the hazard addressed, and that a responsible action would be to vote to have the letter sent at this meeting.

Trustee Lanphear reminded the Board that John Limbeck expressed concern to the Village Board regarding the ponding of the water on CSX property and the public's safety. She further stated that the Board was advised by the Village Attorney that the Village could not enter CSX property to address the issue or examine the problem. Mayor Corby further expressed to the Board that the situation has gone on over a year, and that without the knowledge of how long the approval process will take, the Board needs to take action. He further reviewed how the spring weather affected the situation on the property. Mayor Corby stated to the Board that it would be irresponsible not to take action.

Trustee Galli and Trustee Boehlert requested the opportunity to speak to the attorney before any action is taken. Trustee Galli stated that he needed transparency with the issue, and that he needed the benefit of a conversation with the attorney. Trustee Galusha suggested they have a conference call with the attorney. Mayor Corby suggested that the Board adjourn for a brief attorney client meeting to allow the Board members to speak with the attorney.

ATTORNEY CLIENT MEETING

Motion Mayor Corby, seconded by Trustee Lanphear, to enter into Attorney Client Meeting.

Vote: Corby – yes, Lanphear– yes, Galli – yes, Boehlert – yes, Galusha– yes. **Motion carried.**

Having taken no action, a **motion** was made **by Trustee Lanphear, seconded by Mayor Corby,** to leave Attorney Client Meeting at 7:50 PM and reenter the regular session of the meeting.

Vote: Corby – yes, Lanphear– yes, Boehlert – yes, Galli – yes, Galusha– yes. **Motion carried.**

Mayor Corby informed the public that the Board was unable to reach the attorney and they would continue the meeting until they received a call back.

BUILDING INSPECTOR'S REPORT

Residential

- Mr. Limbeck informed the Board that he had issued a Notice of Violation to Safeguard Properties for the property at 12 East Jefferson Road. He stated that the Fire Marshal as well as other agencies has been informed of the situation regarding the property. A premise warning has been issued.

Commercial

- Mr. Limbeck stated that following up from residents' complaints, he has made several visits to the Pickle Factory since the last meeting. He reported that the Parking Monitor, Steve Weinstein, has

Proceedings of a Meeting of the Board of Trustees
October 28, 2014

also been patrolling there with increased frequency. He has noted that employees are parking all day on Elm Street, and suggested changing the parking limit to two hours. Mayor Corby stated that the Board should plan a neighborhood meeting and address these concerns with the neighbors. Mr. Limbeck also informed the Board that there is a problem with people parking two or three cars abreast at the food cupboard, and that there is an abandoned car there that he notified their management to have removed.

- Mr. Limbeck reported that he obtained a copy of the Monroe County Emergency Railroad Response Plan and has it at his desk.
- Mr. Limbeck stated that the initial court appearance for Michael Newcomb, Jr. was held on October 16 2014. Mr. Newcomb pled not guilty and a trial has been scheduled for November 13 2014. Mr. Limbeck presented the judge with a summary of the actions and requested judgment.
- Mr. Limbeck stated that he was contacted by representatives for Chase Bank on State Street requesting to change all of their corporate signage. He will be working with them to bring them into compliance. They will be appearing before the APRB in November.
- Mr. Weis has submitted plans for his dumpster enclosure. Mr. Limbeck is working with him and New York State fence.
- Mr. Mina installed the Saha Med Grill sign without a building permit. He had received APRB approval for the sign. The fine for not obtaining a building permit will be assessed as part of his Certificate of Occupancy.
- The roofing work at 19 South Main Street has been postponed for one (1) week. The contractor has re-notified the residents and merchants of the change. A walk-through of the property was conducted with APRB Chairman, Paul Zachman, and the contractor has done a great job on the siding.
- Historic Pittsford is working with Mrs. Bolger to subdivide her property to gift the group the land that the Little House sits on. Mr. Limbeck has been working with one of their representatives to identify the process steps required for this to occur. It will require at least six (6) variances for the subdivision along with a site plan review.

Miscellaneous:

- Mr. Limbeck attached a draft of the Deputy Fire Marshal's job duties for the Board's review and consideration. He requested that the Board appoint him as the Deputy Fire Marshal for the Village so that his position with the Civil Service Commission can be established.

Motion Trustee Galli, seconded by Trustee Boehlert, to accept the duties as outlined as Deputy Fire Marshal for the Village and to appoint John Limbeck to the position.

Vote: Corby – yes, Lanphear– yes, Galli – yes, Boehlert – yes, Galusha– yes. **Motion carried.**

TREASURER'S REPORT

Proceedings of a Meeting of the Board of Trustees
October 28, 2014

Village Clerk, Dorothea M. Ciccarelli, presented vouchers listed on Abstract #8 of 2014/2015 fiscal year for approval. A **motion** was made by **Trustee Galli, seconded by Mayor Corby**, to approve payment of the vouchers listed on Abstract #8 in the amounts stated below and to charge them to the appropriate accounts.

Vouchers for approval – Abstract #8

- General Fund (#219-#220, #222-#244): \$37,897.84
- Sewer Fund (#221,#228): \$16,212.02

Total Vouchers for Approval: \$54,109.86

Vote: Corby- yes, Lanphear –yes, Boehlert - yes, Galli - yes, Galusha - yes. **Motion Carried.**

The Village Clerk reviewed with the Board the current bank balances and requested CHIP payment that has been submitted for \$47,280.51. She stated that we anticipate payment to be received in mid-December. As requested, a review of the attorney fees for the litigation related to Pittsford Canalside Properties was presented to the Board. The Board was notified that the information provided was tentative and further review was necessary to provide more accuracy.

VILLAGE CLERK

- The Village Clerk reviewed with the Board the ENI- Balance Works contract – The Employee Assistance Program. Jeff Turner suggested that an indemnification notice be included with the contract.

Motion Trustee Galli made, seconded by Mayor Corby, to authorize the Mayor to sign the ENI Balance Work contract with the additional indemnification paperwork to be included.

Vote: Corby – yes, Lanphear– yes, Galli – yes, Boehlert – yes, Galusha– yes. **Motion carried.**

- The Clerk reviewed the Bero Proposal for work to be completed on the CLG Grant and requested the Board authorize the contract.

Motion Trustee Lanphear, seconded by Trustee Boehlert, to authorize the Mayor to accept the Bero Proposal for work to be completed on the CLG grant.

Vote: Corby – yes, Lanphear– yes, Galli – yes, Boehlert – yes, Galusha– yes. **Motion carried.**

- The Village Clerk reviewed with the Board the proposal from Time Warner to switch services for the Village Hall for phone, internet, and email. She stated that this would provide email addresses for all the Boards and employees with the same provider, as well as expanded storage. She explained that this would also assist with Freedom of Information Act requests. The Clerk recommended to the Board adopting a policy that requires all Village business email correspondence to be completed on Village-provided email. The Clerk informed the Board that there would be an increase in the overall cost of these services, due to the expansion of the email services.

Motion Trustee Galli, seconded by Mayor, to authorize the expansion of the Time Warner Services contract, based on the communication proposal.

Vote: Corby – yes, Lanphear– yes, Galli – yes, Boehlert – yes, Galusha– yes. **Motion carried.**

VILLAGE ATTORNEY

Proceedings of a Meeting of the Board of Trustees
October 28, 2014

Mr. Turner informed the Board that he is continuing to work with the Village Engineer, Scott Harter, and John Limbeck on the drainage and pond ordinances. He informed the Board the items would be appearing on a future agenda.

MEMBER ITEMS

Trustee Galli questioned if any further information had been received from the consultant for the CSX bridges. Mayor Corby informed the Board that he spoke with Ron Northrup, and he had reviewed the railroad bridge, the ponding, and the North Main Street Bridge. He stated that both bridges are structurally sound, that the members that are deteriorating are not critical to the bridge. Mayor Corby requested documentation from the consultant, which will cost \$1,000. Trustee Galli questioned what amount had been approved for this expenditure, and was informed that \$3,000 was approved. The Board questioned the Mayor as to how the inspection was completed. Mayor Corby assumed he used binoculars and other equipment for his review. Trustee Boehlert asked further questions about the North Main Street Bridge. Mayor Corby stated the consultant said there was a lot of deterioration on the non-critical members, but the critical members were sound. Mayor Corby stated that as soon as the report is available, he will forward it to the other Board members.

Trustee Galli questioned what upcoming meetings have been scheduled. The Village Clerk reviewed the scheduled meetings, and the Board decided to cancel the previously scheduled meeting for November 25, 2014.

EXECUTIVE SESSION

Motion Mayor Corby, seconded by Trustee Boehlert to enter into an executive session to discuss specific personnel performance and attorney client meeting issues at 8:45 pm.

Vote: Corby – yes, Galli – yes, Lanphear– yes, Boehlert – yes, Galusha– yes. **Motion carried.**

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

Vote: Corby – yes, Galli – yes, Lanphear– yes, Boehlert – yes, Galusha– yes. **Motion carried**

**NOTICE OF INTENT TO START LEGAL PROCEEDINGS AGAINST PITTSFORD
CANALSIDE PROPERTIES REGARDING DRAINAGE ISSUES - CONTINUED**

Motion Mayor Corby, seconded by Trustee Lanphear, to send the letter drafted by Hodgson Russ regarding the drainage issues.

Vote: Corby – yes, Galli – yes, Lanphear– yes, Boehlert – yes, Galusha– yes. **Motion carried.**

ADJOURNMENT

Motion Mayor Corby, seconded by Trustee Boehlert, to adjourn the meeting at 9:28 PM.

Vote: Corby – yes, Galli – yes, Lanphear– yes, Boehlert – yes, Galusha – yes. **Motion carried.**

Dorothea M. Ciccarelli, Recording Secretary