

**PROCEEDINGS OF A SPECIAL MEETING OF THE VILLAGE BOARD OF TRUSTEES**  
**August 24, 2015 - 5:00 PM**

**Present**

**Mayor:**

Robert C. Corby

**Trustees:**

Lili Lanphear

Frank Galusha

Alysa Plummer

Margaret Caraberis

**Recording Secretary:**

Dorothea M. Ciccarelli

**CALL TO ORDER**

**Motion** Trustee Caraberis and seconded by Trustee Plummer called the meeting to order at 4:00 PM.

**Vote:** Corby – yes, Lanphear– yes, Galusha – yes, Plummer – yes, Caraberis– yes. **Motion carried.**

**CONFLICTS OF INTEREST**

Trustee Galusha stated that he had a conflict of interest, and that he is under direct order from the court not to be involved in anything pertaining to 75 Monroe Avenue. The Board reported that they had no other conflicts of interest.

**NORTHFIELD COMMONS**

Greg Barkstrom reported that the paving on site was half-finished, and that progress was being made. Scott Harter agreed, and added that there had been an attempt at a site walk that day, but that Doug Yaeger was unavailable, and that the purpose of this is to get an assessment of landscaping needs. He stated that he felt this was necessary before moving forward with phase three of the process. He stated that he had reviewed the files from the property going back several years, and detected an established desire by the Village to improve not only the paving but the visual appeal of the property. He explained the need, which he had conveyed to Mr. Barkstrom, of the need for a basic plan off which the improvements would be made moving forward. He recommended a discussion between the Board and Mr. Barkstrom regarding their expectations for the next stage of improvements. Mr. Barkstrom and Mr. Harter explained that due to the unavailability of Mr. Yaeger and Mr. Vlietstra of the Planning Board, the site plan had not yet been accomplished, and as such a figure for the letter of credit was not yet determined. Mr. Harter explained difficulties involved in determining such a number, and cited previous project involving a letter of credit, but estimated approximately \$75,000 to \$150,000. He added that he would prefer to err on the side of overestimating.

Trustee Lanphear summarized that the Board was awaiting a letter of credit and site plan for phase three, which Mr. Harter confirmed. Mr. Barkstrom stated that he felt the landscaping was a much smaller project than the lighting, since much of the area had been previously landscaped. Trustee Galusha stressed the importance of listening to Village advisors. Mr. Harter stated that he felt the variance had been intended to cover the paving project, and that this number had been assembled hastily and was perhaps too conservative. He stated that his intent was not to come up with a high number to penalize anyone, but rather to ensure that the Village's objective was covered. Mayor Corby, with agreement from the Board, stressed the need for a specific figure. He reviewed the items remaining to be improved, stating that in the amount should be items that per Code requirements, need to be addressed. The Board recommended using a letter from John Limbeck

outlining these issues as a basis for this figure. Mr. Barkstrom added that this letter was based on as-built items for review.

The Board stated reluctance to wait another week, which Mr. Barkstrom stated would be necessary in order to speak with the Planning Board chair, who was at the time out of town. Trustee Lanphear reviewed the decision from the previous meeting that the letter of credit would be provided before, not after, phase two began, and stated she did not feel comfortable with allowing phase two to begin before the issuance of the letter of credit. Mr. Barkstrom reviewed the timeline for the completion of phase one, which he anticipated would be complete by mid-week, and stated that he was unsure how soon following that phase two would begin, but estimated the end of the current week or the beginning of the following week. Mr. Turner asked if they would delay phase two while a credit amount was determined and Mr. Barkstrom stated that he would prefer to determine an amount. Mayor Corby stated that this amount needed to be determined between Mr. Harter and Mr. Barkstrom and then brought before the Board for approval.

### **ATTORNEY CLIENT SESSION**

**Motion Mayor Corby, seconded by Trustee Plummer**, to enter attorney-client session.

**Vote:** Corby – yes, Lanphear– yes, Galusha – yes, Plummer – yes, Caraberis– yes. **Motion carried.**

**Motion Trustee Caraberis, seconded by Mayor Corby**, to leave attorney-client session.

**Vote:** Corby – yes, Lanphear– yes, Galusha – yes, Plummer – yes, Caraberis– yes. **Motion carried.**

### **VILLAGE ACCEPTANCE OF DRAINAGE IMPROVEMENTS**

#### Village of Pittsford Policy on Village Acceptance of Drainage Improvements

From time to time, the Village of Pittsford Board of Trustees receives requests to assume responsibility for drainage improvements which serve the public as well as private property. Pursuant to Article VIII of the New York State Constitution, the Village may not expend Village funds on private property, but the Village may, in its sole discretion, accept easements to service improvements and/or the dedication of the improvements where there is a strong public purpose for doing so. Accordingly, the Board adopts this policy to address these situations.

1. The Board of Trustees will not accept drainage improvements unless there is, in the sole opinion of the Board, a public benefit above and beyond merely providing proper drainage to private property. Where drainage improvements solely benefit private parties, the Village will not accept the improvements absent a special assessment mechanism to perpetually fund the upkeep of the improvements at the expense of the benefitted properties.

2. Where, in the sole opinion of the Board, the drainage improvements serve a public purpose, such as protecting the health and safety of public property, roadways, or other critical infrastructure, the Board of Trustees may accept drainage improvements if the following conditions are met:

a) The improvements are on public property or subject to a permanent easement granted to the Village in accordance with applicable law;

b) The improvements are guaranteed by a bond or letter of credit, in a form acceptable and from an institution acceptable to the Village, based on a cost of the improvements has been agreed to by the Village Engineer;

c) the improvements are constructed to Village specifications and a plan of work approved by the Village Engineer and/or Superintendent of Public Works;

d) the Village Engineer, following inspections during and upon completion of construction, certifies that the improvements have been constructed to Village specifications;

e) there shall be an escrow agreement between the requesting party and the Village, into which the requesting party shall in advance deposit a sum equal to the expected cost of review by the Village Engineer, the Superintendent of Public Works, or outside consultants, as determined by the Village Board of Trustees, and from which said review costs shall be drawn; and

f) such other requirements as the Village Board of Trustees may direct.

Requests for Village assumption of responsibility for new drainage improvements should be made as early as possible in the development review process, and shall include the proposed location and plan of work.

Nothing in this policy shall be read as eliminating any required approval or permit, under the Village Code or any law or regulation, nor as eliminating or limiting the authority of any other Village Board, nor shall acceptance of any improvement by the Village be deemed as an action on behalf of any other Board satisfying any requirement imposed by said Board.

**Resolution Mayor Corby, seconded by Trustee Plummer**, to approve the resolution on Village acceptance of drainage improvements.

**Vote:** Corby – yes, Lanphear– yes, Galusha – yes, Plummer – yes, Caraberis– yes. **Motion carried.**

### **RESOLUTION ACCEPTING ESTIMATE OF COSTS TO BE POSTED AS SECURITY FOR STORMWATER DRAINAGE WORK TO BE PERFORMED AT 75 MONROE AVENUE, PITTSFORD NEW YORK**

WHEREAS, the Village of Pittsford Board of Trustees issued a Notice of Intent to Sue pursuant to alleged Clean Water Act violations arising from stormwater drainage at 75 Monroe Avenue; and

WHEREAS, the Pittsford Canal Properties, LLC, the owner of 75 Monroe Avenue (herein the “Owner”) has proposed a plan of work, which has been recommended by the Village Engineer, for the construction of certain improvements at the expense of the owner to resolve the drainage issue (the “Project”); and

WHEREAS, the Owner has submitted to the Village Engineer for the cost of the Project (a copy of which is attached as Exhibit A), which will be secured by security posted by the Owner; and the Board of Trustees has evaluated the security estimate.

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. NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees of the Village of Pittsford as follows:

1. The Letter of Credit Estimate submitted by the Owner is accepted.
2. Nothing in this Resolution shall be read as requiring a Letter of Credit as the specific form of security; the form of the security to be posted has not been presented to the Village.
3. Further, nothing in his Resolution shall authorize any work prior to the acceptance of the required easements and related transactional documents for carrying out the Project.
4. This Resolution shall be effective immediately.

PASSED AND ADOPTED by the Village of Pittsford Board of Trustees on the 24<sup>th</sup> of August, 2015

**Resolution Mayor Corby, seconded by Trustee Plummer**, to approve the resolution accepting costs to be posted as security for stormwater drainage work to be performed at 75 Monroe Avenue, Pittsford, NY.

**Vote:** Corby – yes, Lanphear– yes, Galusha – yes, Plummer – yes, Caraberis– yes. **Motion carried.**

**RESOLUTION ADOPTING THE RESOLUTION FOR OWNERSHIP AND MAINTENANCE OF LANDSCAPED MEDIAN ON NYS ROUTE 31 AND MEDIAN LANDSCAPING PLAN**

Whereas, the Village of Pittsford Board of Trustees issued a Special Use Permit for Westport Crossing in which it required a median in Monroe Avenue (Route 31), which is a State Highway; and

Whereas, the New York State Department of Transportation (NYSDOT) requires the Village to be responsible for the median in such cases; and

Whereas, a Landscaping Plan is required for the median and a plan has been submitted (a copy of which is attached and incorporated herein); and

Whereas, nothing in this Resolution authorizes any physical activity or plan constituting anything other than a Type II action under the State Environmental Quality Review Act regulations for which no review is required, as NYSDOT agreement simply relates to maintenance responsibility and the landscaping refers to plantings in a median required by long-standing policy of the Village.

Now, therefore be it resolved by the Village of Pittsford Board of Trustees as follows:

1. The Village of Pittsford Board of Trustees hereby approves the attached Resolution For Ownership And Maintenance Of Landscaped Median On NYS Route 3, and directs the Village Clerk to execute the Resolution and submit it to NYSDOT.

2. The attached Landscaping Plan for the Monroe Avenue (Route 31) median is accepted.
3. This Resolution shall be effective immediately.

Passed and adopted by the Village of Pittsford Board of Trustees on the 24<sup>th</sup> day of August, 2015.

**Resolution Mayor Corby, seconded by Trustee Plummer**, to approve the resolution for resolution for ownership and maintenance of landscaped median on NYS Route 31, Village of Pittsford.

**Vote:** Corby – yes, Lanphear– yes, Galusha – yes, Plummer – yes, Caraberis– yes. **Motion carried.**

### **RESOLUTION FOR OWNERSHIP AND MAINTENANCE OF LANDSCAPED MEDIAN ON NYS ROUTE 31, VILLAGE OF PITTSFORD**

Whereas, Pittsford Canalside Properties, LLC proposes to construct access to New York State Route 31 in the Village of Pittsford and construct related landscape improvements within a proposed median on Route 31 as shown on the NYSDOT Highway Work Permit application plans prepared by BME Associates, and

Whereas, the State of New York will only allow the landscaped median to be constructed on the highway if the Village of Pittsford accepts ownership and responsibility for all maintenance of all signs, curbs, plantings, planting beds, and mulch including watering, replanting, pruning and removal of dead or diseased plant materials within the raised curb limits of the median and,

Whereas, the State of New York and NYSDOT shall not be liable for any damage or injury to the developer / property owner, the Village of Pittsford, their agents, employees, or to any other person, or to any property covered by the Highway Work Permit.

Now, therefore, be it resolved:

Section 1. That upon construction of the median and landscape improvements, the Village of Pittsford agrees to own, maintain and replace all signs, curbs, plant materials, planting beds and mulch located within the raised curb median within NYS Route 31.

Section 2. To the fullest extent permitted by law, the Village of Pittsford agrees to defend, indemnify and hold harmless the State of New York, NYSDOT, and their agents from and against all claims, damages, losses and expenses, including but not limited to, claims for personal injuries, property damage, wrongful death, and/or environmental claims and attorney fees arising out of any such claim, that are in any way associated with the developer's / property owner's, activities or operations covered by the Highway Work Permit.

Section 3. That this resolution shall take effect immediately.

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Section 4. That the Village Clerk is hereby directed to transmit two (2) certified copies of the foregoing resolution to the New York State Department of Transportation, 1530 Jefferson Road, Rochester, New York, 14623, Attn. David Goehring, Regional Traffic Engineer.

**Resolution Mayor Corby, seconded by Trustee Plummer**, to approve the resolution for ownership and maintenance of landscaped median on NYS Route 31, Village of Pittsford.

**Vote:** Corby – yes, Lanphear– yes, Galusha – yes, Plummer – yes, Caraberis– yes. **Motion carried.**

Bryan Powers stated that he was not familiar with the first resolution, and requested a copy, which was given to him. He inquired about a resolution regarding trees on Sutherland Street, to which the Board replied that they had no objection to such a resolution, but had not received one from an attorney.

### **NORTHFIELD COMMONS**

Mr. Harter stated that during his conference with Mr. Barkstrom, they determined the appropriate amount for the certificate of credit to be \$75,000. He stated that they had also spoken with Mr. Turner.

**Motion Trustee Plummer, seconded by Trustee Lanphear** to that the Village receive a letter of credit in the amount of \$75,000 by 3:00pm on August, 25, 2015 to ensure filing of a complete site plan application to the Planning Board by October 1, 2015, the improvements required in the approved site plan, which shall be completed by June 1, 2016.

Mr. Barkstrom stated that he would like more time to complete the lighting, but found the timeline for the landscaping adequate. Mayor Corby suggested November 1, 2015 as the potential date for a plan deadline, and Mr. Barkstrom clarified that he would like to extend the June 1, 2016 deadline for lighting, but would not object to an extended plan deadline. He requested a few years to phase in the lighting, citing the substantial cost. The Board elected to remain with the proposed deadline, and Mayor Corby stated that Mr. Barkstrom could always apply for an extension at a later date, stating that the Planning Board has a history of granting extensions. The Board elected not to amend the motion.

**Vote:** Corby – yes, Lanphear– yes, Galusha – yes, Plummer – yes, Caraberis– yes. **Motion carried.**

### **ADJOURNMENT**

**Motion Mayor Corby, and seconded by Trustee Plummer**, to adjourn the meeting at 5:45 PM.

**Vote:** Corby – yes, Lanphear– yes, Galusha – yes, Plummer – yes, Caraberis– yes. **Motion carried.**

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Dorothea M. Ciccarelli, Recording Secretary