

**TOWN OF PITTSFORD
TOWN BOARD
JUNE 21, 2011**

Proceedings of a regular meeting of the Pittsford Town Board held on Tuesday, June 21, 2011 at 7:00 P.M. local time in Pittsford Town Hall.

PRESENT:

Town Board: Supervisor William A. Carpenter and Councilpersons Sandra F. Zutes, John J. Higgins, Jr., Karen W. Green, and Jared C. Lusk.

ABSENT:

There were no Town Board members absent.

ALSO PRESENT:

Staff Members: Paul J. Schenkel, Commissioner of Public Works; Gregory J. Duane, Finance Director; Jessie Hollenbeck, Recreation Director; Richard T. Williams II, Town Attorney; Julie House, Personnel Director; Patricia E. Chuhta, Town Clerk.

ATTENDANCE:

Thirteen members of the public were in attendance.

Supervisor Carpenter called the meeting to order at 7:00 P.M., invited everyone to stand for the Pledge of Allegiance, and then welcomed the Boy Scouts in the audience to the meeting.

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARING CONTINUED: OAK HILL COUNTRY CLUB REZONING APPLICATION

Bill LaForte, Esq. of Harter Secrest and Emery; along with Eric Rule, General Manager of Oak Hill Country Club; Ron Pluta, Vice President at Oak Hill; and Steve Shultz from MRB Engineers were present to answer questions. Supervisor Carpenter noted that the Planning Board did not have time to complete its review of the application and did not make recommendations at this time. Supervisor Carpenter then opened the public hearing and the following person spoke:

- Tom Grout, 98 French Road

Note: Written comments received from David W. Smith, 121 French Road, and Jerry Goldman, special counsel for Irondequoit Country Club, were entered into record.

There being no further comments, Supervisor Carpenter closed the public hearing without taking action at this time.

SUPERVISOR'S COMMENTS

There were no Supervisor's comments.

MINUTES OF JUNE 7, 2011 APPROVED

A Resolution to approve the draft minutes from the June 7, 2011 meeting was offered by Councilman Lusk, and seconded by Councilwoman Zutes, and voted on by the members as follows: Ayes: Zutes, Higgins, Green, Lusk and Carpenter. Nays: none.

The Resolution was declared carried as follows:

RESOLVED, that the minutes of June 7, 2011 Town Board meeting are approved as written.

EASEMENT ENCROACHMENT AND HOLD HARMLESS AGREEMENT APPROVED FOR 9 DUXBURY WAY

A Resolution to authorize an Easement Encroachment Agreement for 9 Duxbury Way was moved by Councilman Lusk, and seconded by Supervisor Carpenter, and voted on by the members as follows: Ayes: Zutes, Higgins, Green, Lusk and Carpenter. Nays: none.

The Resolution was declared carried as follows:

RESOLVED, that the Town Board of the Town of Pittsford approves the proposed "Easement Encroachment and Hold Harmless Agreement" involving the placement of a swimming pool within the Sewer Easement located along the rear boundary of the property located at 9 Duxbury Way and authorizes the Town Supervisor to execute the Agreement.

JULY 5 2011 TOWN BOARD MEETING CANCELED

A Resolution to cancel the July 5 2011 Town Board meeting was moved by Councilwoman Zutes, and seconded by Councilwoman Green, and voted on by the members as follows: Ayes: Zutes, Higgins, Green, Lusk and Carpenter. Nays: none.

The Resolution was declared carried as follows:

RESOLVED, that the Town Board meeting scheduled for July 5 2011 is canceled.

PUBLIC HEARING SET: PROPOSED LOCAL LAW #6 OF 2011 – EXTENSION OF TEMPORARY MORATORIUM ON THE SUBDIVISION OF REAL PROPERTY

A written Resolution to approve extending the moratorium on the subdivision of property consisting of less than ten acres was offered by Councilwoman Zutes, and seconded by Councilwoman Green, and voted on by the members as follows: Ayes: Zutes, Higgins, Green, Lusk and Carpenter. Nays: none.

The Resolution was declared carried as follows:

RESOLVED, that a public hearing be held on the 19th day of July, 2011, at 7:00 P.M., Local Time, at the Town Hall, 11 South Main Street, Pittsford, New York, on the question of the adoption of said proposed Local Law No. 6 of 2011; and be it further

RESOLVED, that a Notice of Hearing and a copy of said proposed Local Law No. 6 of 2011, or a summary thereof, be published in a newspaper previously designated as an official newspaper for publication of public notices, not less than five (5) days prior to said hearing; and be it further

RESOLVED, that the Town Clerk shall post certified copies of both this resolution and said proposed Local Law No. 6 of 2011, or a summary thereof, on the bulletin board, maintained by the Town Clerk pursuant to § 40(6) of the Town Law, for a period of not less than five (5) days prior to said public hearing.

Note: the change to Town Code resulting from Local Law No. 6 of 2011 is as follows:

LOCAL LAW NO. 6 OF 2011: EXTENSION OF TEMPORARY MORATORIUM ON THE SUBDIVISION OF REAL PROPERTY CONSISTING OF LESS THAN TEN (10) ACRES

Sec. 1 Title

This law shall be known as "Local Law No. 6 of 2011: Extension of Temporary Moratorium on the Subdivision of Real Property Consisting of Less Than Ten (10) Acres."

Sec. 2 Findings

The Town Board finds as follows:

- (a) As a result of continuous real estate development of the Town of Pittsford, as well as the protection of significant open space through the Town's purchase of development rights, the Town is approaching a "build out" state, bringing with it an increase in the desire for "infill" development of smaller parcels.
- (b) The recently adopted update to the Town's Comprehensive Plan has identified "infill" development as a circumstance that places pressure on existing neighborhoods and on the character of the community.
- (c) Careful planning and potential amendments to the Town's Zoning Code have been identified as important measures to guard against inappropriate and negative effects associated with development of small parcels. Such potential negative effects include, but are not limited to, overcrowding; inappropriate locations of new development with respect to existing development; structure setback and orientation concerns; and architectural compatibility.
- (d) The completion of the update to the Comprehensive Plan provides the Town Board with the framework to analyze and enact appropriate modifications to the Town's Zoning Code, to address the identified concerns and more appropriately regulate future development of small parcels.
- (e) The previously enacted Temporary Moratorium on the subdivision of small parcels, consisting of less than ten (10) acres, pursuant to Local Law #3 of 2009, and as extended by Local Law #9 of 2009, Local Law #2 of 2010, and Local Law #1 of 2011, is set to expire on July 27, 2011.
- (f) An extension of the aforesaid Temporary Moratorium on the subdivision of small parcels, consisting of less than ten (10) acres, is necessary in order for the Town to consider and adopt appropriate amendments to the Town's Zoning Code, thereby avoiding the potential negative effects identified above.

Sec. 3 Purpose and Intent

- (a) It is the purpose of this law to avoid the negative effects identified above for a reasonable period of time in order to effectuate solutions and in order to resolve and lessen such identified negative effects on the health, safety and welfare of the citizens of the Town of Pittsford.
- (b) It is the further purpose of this law to enable the Town of Pittsford to stop the subdivision of a limited number of parcels within the Town; namely those under ten (10) acres in size, and for a reasonable time pending the adoption of laws necessary to effectuate revisions to the Zoning Code of the Town, as well as other laws of the Town, and pending the necessary SEQRA process to evaluate each of the above actions.
- (c) It is the further purpose of this law to fulfill the Town's constitutional, statutory and legal obligations to protect and preserve the public health, welfare, and safety of the citizens of the Town, and, in particular, to protect the value, use and enjoyment of property in the Town, to prohibit the filing of certain new applications for the subdivision of real property and thus defer official governmental action permitting the subdivision of certain real property until the Town Board has instituted and completed proceedings on possible recommendations for adoption of amendments to the text of the Zoning Code of the Town and other laws of the Town.
- (d) It is the further purpose of this law to supersede those provisions of §276 of New York Town Law and of the Town Code relating to period of time in which the Planning Board must render a decision on an application for subdivision approval for the period of this temporary moratorium, or any extension thereto.
- (e) It is the further purpose of this law to supersede those provisions of §267 of New York Town Law, and of the Town Code relating to the procedures for the hearing of variance requests from this Extension of Temporary Moratorium Law. As stated below, it is the intent of the Town Board to hear requests for variance from this Extension of Temporary Moratorium Law, rather than the Town's Zoning Board of Appeals.

Sec. 4 Imposition of Moratorium

- (a) For a period of ninety (90) days from and after the adoption date of this law, no application for the subdivision of real property consisting of less than ten (10) acres may be filed, accepted or processed with respect to any parcel of real property located within the Town of Pittsford, except as provided in paragraph (b) below and Section 5 of this law. For the purpose of this law, an application for the subdivision of real property shall be deemed to mean any request for official action by the Town Board or Planning Board which request and approval would in any way commence or continue the process whereby land is or may be subdivided.
- (b) The imposition of this law shall not affect the processing of applications for the subdivision of real property for which concept, preliminary or final subdivision approval has been granted by the Planning Board prior to the effective date of this law.

Sec. 5 Alleviation of Hardship

- (a) The Town Board may authorize exceptions to the moratorium imposed by this law when it finds, based upon evidence presented to it, that deferral of action on an application for the subdivision of real property and the deferral of approval of the application for the duration of the moratorium would impose an extraordinary hardship on a landowner or developer.
- (b) A request for an exception based upon extraordinary hardship shall be filed with the Town Supervisor or his designee, including a fee of fifty dollars (\$50.00) to cover processing and advertising costs, by the landowner, or the developer with the consent of the landowner. Such request shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship, and shall contain such other information as the Town Supervisor or his designee shall prescribe as necessary for the Town Board to be fully informed with respect to the application.
- (c) A public hearing on any request for an exception for extraordinary hardship shall be held by the Town Board at the first regular meeting of the Town Board that occurs after the expiration of the period for publication of notice of the request for exception.
- (d) In reviewing an application for an exception based upon a claim of extraordinary hardship, the Town Board shall consider the following criteria:
 - (1) The extent to which the applicant has prior to the effective date of this law received any permits or approvals for the proposed subdivision.
 - (2) The extent to which the proposed subdivision would cause significant environmental degradation, adversely impact adjacent areas, or adversely impact the land uses appropriate to the property as an important transitional area.
 - (3) Whether the applicant, prior to the effective date of this law, has incurred financial obligations to a lending institution, which, despite a thorough review of alternative solutions, the applicant cannot meet unless the subdivision proceeds.
 - (4) Whether the moratorium will expose the applicant to substantial monetary liability to third persons; or would leave the applicant completely unable, after a thorough review of alternative solutions, to earn a reasonable return on the property.
 - (5) The extent to which actions of the applicant were undertaken in good faith belief that the proposed subdivision would not lead to significant environmental degradation, undue adverse impacts on adjacent areas, or adversely impact the land uses appropriate to the property as an important transitional zone.

- (e) At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Town Board shall act upon the request to approve, deny or approve in part and deny in part the request made by the applicant.

Sec. 6 Validity

If any section, sentence, clause or phrase of this law is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this law.

Sec. 7 Effective Date

This Local Law shall become effective upon its adoption and upon its filing with the New York Secretary of State.

DISCUSSION: PROPOSED MATZ PLANNED UNIT DEVELOPMENT (PUD) ZONING, LAND USE AND DEVELOPMENT REGULATIONS

Supervisor Carpenter began the discussion by reviewing the original intent of the current MATZ zoning which protected residential properties along the south side Monroe Avenue from the Village line to French Road from development pressures.

Supervisor Carpenter indicated that the proposed MATZ PUD regulations would allow more specific uses for the parcels on the north side of Monroe Avenue in the Light Industrial and Business & Office zones. The Town Board commented on the proposed regulations, the general standards for the parcels and the specific uses to be allowed on each parcel.

There was no action taken at this meeting and it is expected that there will be further discussion regarding these regulations at the July 19th Town Board meeting.

SEMINAR ATTENDANCE AUTHORIZED

A Resolution to authorize employee seminar attendance was moved by Councilwoman Green, and seconded by Councilwoman Zutes, and voted on by the members as follows: Ayes: Zutes, Higgins, Green, Lusk and Carpenter. Nays: none.

The Resolution was declared carried as follows:

RESOLVED, that the following individual(s) is/are approved for the following seminar attendance:

- Finance Director Greg Duane to the NYS GFOA 2011 Western Region Summer Seminar in Batavia on July 14th at a cost of \$75.00
- Personnel Director Julie House to the NYS GFOA 2011 Western Region Summer Seminar in Batavia on July 14th at a cost of \$75.00
- Assessor Stephen Robson to the NYS Assessor's Association Seminar in Buffalo on September 11 to 14 at a cost of \$175.00 plus expenses.

JUNE 2011 VOUCHERS APPROVED

A Resolution to approve June 2011 vouchers was moved by Councilwoman Zutes, and seconded by Councilman Lusk, and voted on by the members as follows: Ayes: Zutes, Higgins, Green, Lusk and Carpenter. Nays: none.

The Resolution was declared carried as follows:

RESOLVED, that June 2011 vouchers No. 98861 through No. 99351 in the amount of \$943,858.43 are approved for payment.

JUNE 2011 BUDGET AMENDMENT APPROVED

A Resolution to approve June 2011 budget amendment was moved by Councilwoman Zutes, and seconded by Councilman Lusk, and voted on by the members as follows: Ayes: Zutes, Higgins, Green, Lusk and Carpenter. Nays: none.

The Resolution was declared carried as follows:

RESOLVED, that the following June 2011 Budget Amendment is approved:

- Line item 005-5110-4145.55.4 (Highway – Rehabilitation) is increased by \$150,000.00. The source of these funds will be a transfer from the Highway Improvement Capital Reserve. It is **FURTHER RESOLVED** that this transfer is subject to permissive referendum and that the Director of Finance is authorized to make the appropriate budget entries.

EXECUTIVE SESSION CALLED

A Resolution to enter into Executive Session was moved by Supervisor Carpenter, and seconded by Councilman Lusk, and voted on by the members as follows: Ayes: Zutes, Higgins, Green, Lusk and Carpenter. Nays: none.

The Resolution was declared carried as follows:

RESOLVED, that the Town Board will go into Executive Session to discuss a personnel issue.

As there was no further business, the Supervisor adjourned the meeting at 7:45 P.M.

Respectfully submitted,

Patricia E. Chuhta
Town Clerk

OFFICIAL BOARD MINUTES ARE ON FILE IN THE OFFICE OF THE TOWN CLERK