

**PROCEEDINGS OF A SPECIAL MEETING
OF THE VILLAGE BOARD OF TRUSTEES**

Wednesday, April 21, 2021, at 4:00 PM

PRESENT:

Mayor:	Alysa Plummer Lili Lanphear Renee Stetzer Dan Keating Justin Leitgeb
Village Attorney:	Jeff Turner
Recording Secretary:	Dorothea M. Ciccarelli

CALL TO ORDER

Motion by Mayor Plummer, and seconded by Trustee Keating, to call the meeting to order.

Vote: Plummer – yes; Lanphear – yes; Keating – yes; Stetzer – yes; Leitgeb - yes. *Motion Carried.*

CONFLICTS OF INTEREST DISCLOSURE

The Trustees indicated that they do not have any conflicts of interest to disclose.

REVIEW OF NON-MUNICIPAL PERMIT GRANTED ON FEBRUARY 17, 2021

Mayor Plummer asked the Building Inspector to provide background on the situation. The Building Inspector explained that he understood the original proposal was for 212 ft. x 25 ft. garden plots totaling 600 square feet, and that classes regarding permaculture would be held to seed the plots. Further stated that technically under the code that project could have been subject to LWRP and site plan approval. What actually took place is that 24,000 square feet of land was cleared. To lawfully clear that amount of land would have required several reviews and approvals for Stormwater analysis, SEQRA, LWRP and site plan review. The Building Inspector explained that what took place was way beyond the scope of what was originally discussed and approved. Further explained that all of the aforementioned approvals should have been in place originally before the Board approved the project, but at this point, all of those approvals are needed before anything further can occur in the area.

Mayor Plummer asked the Village Attorney to provide his opinion on the matter. The Village Attorney agreed with the Building Inspector that the necessary Stormwater, SEQRA, Site Plan and other approvals should be in place before going any further. Explained that the Village should create a total plan for this parcel and what will be used to achieve it. The Village Attorney admitted that he misunderstood the nature of the project when it was originally approved as he did not realize that plantings would actually be seeded. Further stated that he is unsure as to whether or not the Board would want to apply zoning to the process and provided the example of the Rec center where it was not applied but probably should have been. Explained that whether or not zoning should apply is a decision of the Board, but SEQRA will apply regardless.

The Building Inspector added that the code has two separate references to “one quarter acre, or 11,160 square feet”, and that because the area that was affected is over 24,000 square feet, the Village is well beyond the threshold and those requirements are applicable.

The Village Attorney added that this project is an unlisted action under SEQRA but because it is occurring adjacent to a historic resource it is considered as a type one action under the Village code.

Mayor Plummer asked if the Building Inspector or the Village Attorney could outline any timeframes that must be observed per the code. Also asked if the Building Inspector or Village Attorney could outline what a type one SEQRA action entails as well as explain some of the other reviews that should have taken place.

**PROCEEDINGS OF A SPECIAL MEETING
OF THE VILLAGE BOARD OF TRUSTEES**

Wednesday, April 21, 2021, at 4:00 PM

The Village Attorney explained that if the Board were to apply zoning to the project that there a public hearing would be needed and there are publication timeframes that must be adhered to in regard to that. Also explained that with SEQRA, there is a 30-day window to send out notices. The Building Inspector added that he understands that if the Village were to reach out to other agencies for their input that a 60-day window would apply. The Village Attorney stated that the standard timeframe was 30 days.

The Building Inspector explained that for all of the other reviews and approvals a complete site plan and landscape plan will be needed.

Mayor Plummer asked members of the Board if they had any other questions regarding the project. Trustee Keating stated that he wanted to underline the fact that no one on the Board is against the project, that everyone simple desires to do things by the book. Trustee Keating asked if there was anything that must be done in the meantime to prevent erosion in the area as work was started and has since been stopped.

The Building Inspector explained that he referred to the Village engineer Scott Harter for advice on what needs to be done to stabilize the area. The DPW Superintendent has put up fencing and straw bales to help combat the erosion. The steps that are being taken to prevent erosion and stabilize the area are in accordance with the Stormwater rules and regulations. He explained that stabilization cannot happen all at once, but as long as the site is actively being worked on every seven days until stabilization is achieved that the crew is operating within the regulations.

The DPW Superintendent also added that he had installed 4,000 linear feet of silt fence and 40 straw bales around the perimeter of the area and that in the areas where there is no fencing, perms were built up to correct the area. He explained that the issue is well contained at this point.

Trustee Leitgeb wished to echo Trustee Keating's statement that this is a project that Board members believe is beneficial for the Village. Further explained that it aligns with the goals of the Village in terms of the Comprehensive Plan as well as the goals of the open space district. With the various legal and technical issues that have come up with the project, Trustee Leitgeb stated that he was surprised with the Board's approach as compared to their prior actions. Trustee Leitgeb referred to Harladay Hots as an example of a situation where the Board utilized an outdated section of code to allow them to operate. Also referred to the Schoen Place Pavilion as an example of a situation where the Board changed code to accommodate the project. Trustee Leitgeb expressed that in light of those aforementioned circumstances that it seems that obstacles have been put in the way of this project's success.

Trustee Leitgeb stated that he believes there are two topics at hand that are being combined as one. The first is the 24,000 square feet of land that was cleared, and the second is the approval for the 600 square foot gardens in that area. Stated that he understood the desire of the Board not to segment the area and make it seem like it is being broken up into smaller projects but is unsure why the two are being tied together. He asked why the Board is thinking that because there was a clearing that was not authorized by the Board, that the installation of the permaculture gardens cannot go forward. Trustee Leitgeb also asked if the point of the clearing was to remove invasive species, and the installation of native plants would help facilitate that, why it would not Board Members want that to go forward.

The Village Attorney answered that Trustee Leitgeb is correct that the issue is segmentation. He explained that event the 600 square foot garden plots would require a minor site plan review under a strict interpretation of the code as they are landscaping for a non-residential use. The Village Attorney further explained that as both projects would have required SEQRA, that is why it cannot be segmented, and that the best way to go forward is to have a plan for the parcel as a whole.

Mayor Plummer wished to speak to the comparison of the project to Harladay Hots and the Schoen Place Pavilion and stated that Harladay Hots is different than what is being addressed here. The land is designated for public use

**PROCEEDINGS OF A SPECIAL MEETING
OF THE VILLAGE BOARD OF TRUSTEES**

Wednesday, April 21, 2021, at 4:00 PM

and residents should be involved in the creation of a comprehensive plan prior to moving forward. Further explained that it is her understanding that the variances and amendments to code that allowed for the pavilion at Schoen Place were necessary anyway as that part of Schoen Place had previously been left out of the tavern overlay district. Mayor Plummer stated that she supports the goals of the project and just wants to make sure that it is done in the right way. Finds that the scope of this project is much larger than Harladay Hots or the Schoen Place pavilion and because of its size, residents should be engaged, and a plan should be pursued in a manner which complies with the code.

Trustee Keating stated that at this time, the Board knows what they would like to do with a little piece of the land, and even though a plan for the entirety of the space has not been determined, he asked if it would be possible to proceed with the plan that they have for the small piece and then work on the rest later. Further commented that it would be a shame to see the plans that are in place with the plantings delayed due to uncertainty about the parcel as a whole.

The Village Attorney answered that the plan that is necessary is not particularly about where trees and shrubs will be planted, but more about knowing that the plan for the property will be in total and given that plan, what the SEQRA considerations will be. In regard to Harladay Hots and the Schoen Place pavilion, those matters were handled in the same legal manner, the Board and applicants “jumped through all the hoops” in order to get the code established in a way that would allow the Board to pass those projects, also that happened over a much longer period of time.

Mayor Plummer asked if the Village Attorney would explain the purpose of a non-municipal use permit as it was her understanding that typically they are granted for “ephemeral” events, but in this instance, a non-municipal use permit was granted for an event that would be installed on Village land, owned by the Village, and would involve being cared for by Village staff.

The Village Attorney explained that a non-municipal use permit is intended for use of Village property, it does not grant permission to make modifications or alterations to municipal land.

Mayor Plummer asked what is needed instead of the non-municipal use permit. The Village Attorney answered that the project would need minor site plan approval if the Board decided to apply zoning to the project. If the Board decides not to apply zoning to the project, as it is a municipal project, then at the least it would need SEQRA review and approval because the project is an unlisted action occurring next to a historic resource.

Trustee Leitgeb stated that he agreed with the comments made by Trustee Keating and believes that the lack of a plan for the larger parcel overall should not stall the plan for the gardens that was already approved. Further stated that to create a plan for the parcel in its entirety could require a lot of time and money. Considering that the project promotes values that the Board all agree are important to the Village, and that the work being done in the area is reversible, it is Trustee Leitgeb’s opinion that the risk associated with this action is not large. Regarding the timeframe, he understands that the biggest item standing in the way of the 5/23 permaculture events is the SEQRA review and considering that the remedy for not following SEQRA is to discontinue the project, Trustee Leitgeb asked the Village Attorney what the risk would be to discontinue the project at this time.

The Village Attorney responded that SEQRA review and approval is really supposed to be completed before the project begins.

Trustee Stetzer asked if SEQRA only applied if the area in question is more than a quarter acre. In order to move forward with the 600 sq. ft. gardens SEQRA would not be necessary. Further stated that this goes back to the segmentation issue. Trustee Stetzer asked if nothing had been disturbed in the area prior to the 5/23 event, would it still have been able to continue. Also asked if only LWRP would have been needed in order to go forward with the demonstration of the 600 sq. ft. garden.

**PROCEEDINGS OF A SPECIAL MEETING
OF THE VILLAGE BOARD OF TRUSTEES**

Wednesday, April 21, 2021, at 4:00 PM

Mayor Plummer clarified that the event is not just a demonstration, and that something permanent will be left behind that will need to be maintained, and a plan must be in place for that care as well and that is her understanding of the difference.

The Village Attorney responded that SEQRA is not only something required by Village Code, but it is a requirement in and of itself.

Trustee Stetzer asked again if SEQRA only applied to areas that are a quarter of an acre or more.

The Village Attorney responded that the Building Inspector had stated that there is a quarter acre threshold in our code that is separate and apart from SEQRA regulations, but that the acreage is irrelevant regarding whether or not the project is an unlisted action. An unlisted action is a project type under SEQRA and therefore subject to review and approval. This project is upgraded to a Type 1 action because of its proximity to a historic resource. The Village Attorney stated that he sees this happen all the time because so much of the Village has been designated as historic.

Trustee Leitgeb stated that it is his understanding of SEQRA that if a project that is subject to those regulations goes on without approval, the repercussion is that the project will likely be discontinued. He asked if there is any other liability that the Board might be exposed to if they were to allow this project to occur.

Trustee Keating responded that his greatest concern about the repercussions was the fines, and the possibility of incurring significant fines had previously been discussed.

Mayor Plummer asked if the Building Inspector could outline what the fines were. The Building Inspector explained that the fines were the biggest issue to avoid here and that when the unauthorized clearing occurred, he spoke with the Head of the Stormwater Coalition of Monroe County and hoped that the DEC would not become involved as it is their tendency to charge fines first and ask questions later. The Building Inspector stated that he believes that if the original two 12 x 25 sq. ft. plots had been installed, that the DEC likely would not have had a problem with it. The reality of the situation is that the scope of the project was for 600 sq. ft., but the amount of land altered for the project ended up being 24,000 sq. and asked how the work that was done there could be separated from what was approved.

The Building Inspector stated that the tentative fines from the DEC could be approximately \$10,000.

Trustee Lanphear commented that it might be best to determine what positive measures can be taken, and though it may not end up being exactly what the Frog House had intended, to figure out a way to alter the project so that it fits the criteria laid out in the non-municipal use permit, which would then not trigger SEQRA. Trustee Lanphear stated that she also is seeing the conflagration of two separate issues; the first issue being that a non-municipal use permit was approved for a project where, upon closer examination, the issuance of a non-municipal use permit was improper, and the second issue being that actions in the designated project area took place that were not necessarily part of the approval for the project. Further stated that the improper clearing of the land is an issue is the issue involving SEQRA, LWRP, etc., and should be put aside for the Board to deal with at another time. The issue that should be looked at first is the project request that was received and how the Board can make that work. Trustee Lanphear stated that her question to the Board is how can they accommodate these applicants and allow their project to go forward as the Board has done for applicants with beneficial projects in the past.

Mayor Plummer stated that she wished to bring up the milkweed seeding project, which was not a part of the original non-municipal use permit application, but considering that there is already signage along the canal path that discusses saving the monarchs, maybe it would be a good idea to encourage A Frog House to work with the Canal Corporation to allow the milkweed seeding along the canal path as a continuation of a similar initiative that was previously allowed in the area.

**PROCEEDINGS OF A SPECIAL MEETING
OF THE VILLAGE BOARD OF TRUSTEES**

Wednesday, April 21, 2021, at 4:00 PM

Mayor Plummer asked if any other members of the Board had thoughts on how to proceed.

Trustee Lanphear suggested that it might be possible to alter the wording of the non-municipal use permit in order to allow the project to go ahead. Trustee Keating agreed and suggested that the Board approach A Frog House and see if they have other ideas of content for their event rather than installing plantings and then they can amend their application to cite those activities.

Mayor Plummer offered a point of clarification that the agenda item and the discussion is not about rescinding the permit, but instead about how to work towards a positive solution that fits within the purview of the non-municipal use permit.

Margot Fass, A Frog House - "First of all, I want to thank you all so much for the time, energy, thoughtfulness, and consideration that you're putting into this. I think it is really awesome, and I love the Village of Pittsford, and I love the Trustees and the Mayor, and, and Zach. I love all of you for everything that you do...I just would like to say that it is my understanding that they were completed to conform to public, or private best forest managers, silviculture practices on less than 10 acres of land, as defined by the SEQRA laws 617.5 is therefore deemed a Type Two action. Under New York SEQRA, Type Two actions have been determined not to have a significant impact on the environment or otherwise precluded from the environmental review under environmental conservation law, article eight. The action is defined, identified, in subdivision C. Apply to all agencies, the "all agencies" reference refers to all governmental agencies in New York State, including the Village of Pittsford. In the work completed in the Arboretum, no changes were made to grading, drainage flow, removal of topsoil, or impacts to native plants or wildlife. The work completed is correctly classified as a Type Two action, requiring no further review to allow work to continue. The seeding needs to proceed. So, I am not exactly addressing the question asked, and I will address it in just a second. But one thing, the milkweed project, right now, I have too many things on my plate to talk to the canal authorities, but I love working with the Village and the Village Board. But the milkweed could it be seeded right away, would help to attract the butterflies up in that area and it would also preclude more spread of the invasives. One of the Color Pittsford Green persons, and a number of them are keeping a close watch on what the Village is doing because they care about native wildlife and trees and flora and fauna, but said that this ... is coming in, in droves. And it is very hard to get rid of. But the best...like the Japanese knotweed was plowed out, the best thing to do is to plant in some native plants right away. So, whether you go forward with the arboretum, forest in a nutshell project or not, I do appreciate the Village wanting to save that land and not, just let it all go to invasive plants, and then, eventually, be cemented over for Condos or something like that. So, that you do that, I really, really appreciate it. Now for my own ideas, if you don't want it, or I guess you want it, but if it doesn't seem possible given the legal parts that...That said we could, right down at the northern corner of the place where the frog pond trail cuts off from the Auburn trail, there's a trail that goes up the hill to the left, if you're coming in from those storage areas, goes up the hill to the left, and right before it goes up the hill, that area has not been disturbed at all. It could be cleared, and pretty easily, they are just fallen trees and some curvy trees there, and the forest in a nutshell, could be put there in the seedling beds that you put there. So that is another alternative. Another alternative is, just as I think Dan or Justin suggested is, we put it in and if we were fined, which, I do not think that we are breaking any laws, then A Frog House will raise the money to pay your fine, or we will remove it. So again, with much, much appreciation to Steve and Jeff, Justin and Renee and Zach and Lili, Dorothea and Dan, and you Mayor Plummer, really, really appreciate your help and also my friends and companions in native wildlife who we're on this meeting."

The Village Attorney responded that in the subsection of SEQRA to which Dr. Fass was referring being that the area is less than 109 acres of land, this section would have applied, however, the action of clearing land for reasons not directly related to forest management means that the area in question can no longer be considered as a Type two.

Mayor Plummer asked the Village Attorney if his explanation meant that the project area under question was considered as a Type one action in that light. The Village Attorney confirmed that was the case.

**PROCEEDINGS OF A SPECIAL MEETING
OF THE VILLAGE BOARD OF TRUSTEES**

Wednesday, April 21, 2021, at 4:00 PM

Trustee Lanphear requested again that the issues be separated and stated that what is specifically being discussed is how to allow the project to be completed under the non-municipal use permit. Further mentioned that the suggestions made by Dr. Fass, and Mayor Plummer should not trigger a Type two SEQRA action.

The Village Attorney answered that a residential garden of that size being installed would not trigger SEQRA, however, because this installation is not residential, technically SEQRA must be completed as the action is not included on the list of Type two actions. The Village Attorney also explained that the Board could ignore SEQRA on this project, but it may not be a good idea procedurally and may set a precedent that in certain situations the Board will ignore SEQRA. Further explained that the decision is up to the Board and he and the Building Inspector simply serve to provide their interpretations of the law and code.

The Building Inspector asked if the SEQRA was triggered by the clearing of the land. The Village Attorney answered no, and that the conversation is focusing on what was approved in the special permit. He explained that he had originally interpreted the proposal as a demonstration, not a gardening project. It would have been classified as a type two action if it were listed, but because it is an unlisted action, it becomes a Type one action.

The Building Inspector asked if there was a “maintenance” provision that would allow them to proceed with seeding new plants as long as nothing is being removed.

Trustee Leitgeb commented that he believes that there is room for interpretation with the requirement. He also stated that as he understands it, stormwater coalition approval is different from SEQRA approval. The project would not require stormwater approval as it is not a construction activity and there is no point source of water. The project area is also far from designated wetlands in the Village. Trustee Leitgeb suggested that it may be possible to put the gardens on another part of the 10-acre parcel. He also commented that if the Board were to ignore SEQRA, someone would have to sue the Village on Article 78 charges and the repercussion would be that the gardens could no longer be maintained. In terms of liability, it is his belief that the risk is low.

Mayor Plummer asked the Village Attorney if he could outline the potential liability to the Village if the gardens were to go on without SEQRA approval. The Village Attorney confirmed that the statements by Trustee Leitgeb regarding the repercussions of circumventing SEQRA as true. Should SEQRA be ignored, and the Board chooses to proceed with the garden project then the repercussions would be to stop the project if the DEC orders it. In order to follow the other course of action that Trustee Leitgeb suggested, firstly, the Board would need to deem the plantings as maintenance. What qualifies as maintenance is an interpretation of the code enforcement officer. The same code enforcement officer would have to determine that the project does not require a minor site plan approval. Then the Trustees would need to deem the project as a Type two action so that LWRP is not implicated.

Mayor Plummer asked if there is a way to allow the event to go ahead without disturbing the gardens and then complete SEQRA as required to have them installed at a later date. Possibly breaking the event up into ‘Part 1 and Part 2’. Further stated that while it is important to promote projects that encourage sustainability and are beneficial to the environment, it is also just as important to obey the regulations that have been established by SEQRA that are also in place to do the same.

Trustee Keating relayed a suggestion from a Villager to do the planting for the event above ground until SEQRA is completed and then planting them. In response to Trustee Leitgeb’s comment about LWRP not being invoked if the project is away from the water, Trustee Keating stated that Board members are not qualified to determine that, and it must be done by a professional assessor.

The Building Inspector stated that the distance from water sources does not matter as the entire parcel is subject to LWRP. Also stated that the threshold for requirement of a SWIP is one quarter acre.

**PROCEEDINGS OF A SPECIAL MEETING
OF THE VILLAGE BOARD OF TRUSTEES**

Wednesday, April 21, 2021, at 4:00 PM

Trustee Lanphear asked to bring the conversation back to what the Board is able to do in regard to the non-municipal use permit. Dr. Fass suggested another area for the demonstration, the Building Inspector has stated that the two plots that were proposed will not trigger SEQRA.

The Village Attorney explained that a non-municipal use permit typically applies to use. What is being proposed in the project could be considered as improvement. Holding a demonstration usually does not leave behind any elements that must be further maintained. The Village Attorney stated that his question is do the plantings qualify as maintenance and it is his belief that if they do not qualify as maintenance, then project is subject to minor site plan review and SEQRA.

Trustee Leitgeb commented that he agreed with Trustee Lanphear about separating the issues. Further commented that he believes there would be a lot of value in allowing the Planning Board to review the project and to have an LWRP consistency review done at their May 17th meeting. Also suggested that the Board could approve the project by means of resolution rather than a non-municipal use permit to allow it to go ahead.

The Village Attorney responded that a minor site plan review by the Planning Board requires a public hearing and there is not enough time to properly advertise one. Also stated that if the project is not permitted by code, then a variance would be needed prior to the minor site plan review.

Trustee Stetzer stated that Dr. Fass mentioned an area near the Auburn Trail and asked if the Board would run into the same problems if the event was held there. The Village Attorney responded that the maintenance classification would need to be determined and provided that there are no stormwater issues, the project could go forward. Segmentation would not be a problem.

The Building Inspector confirmed that the 2 12 x 25 plots would not meet the threshold for Stormwater review. He explained that he would have to review the new tentative location for the project and then determine if the project would qualify as maintenance or not.

Trustee Lanphear relayed the suggestion of a Villager to call the plots “Demonstration Gardens” which would fall under the category of maintenance as being impermanent nursery gardens that will be used to maintain a larger nature preserve.

The Building Inspector also stated that he does not want any members of the public to enter into the area that was previously cleared as the Village may be liable if anyone were injured on the land in its current state. Mayor Plummer asked if the area has been blocked off, The Building Inspector and DPW Superintendent confirmed.

The Village Attorney clarified that for a project to qualify as a Type two action there must be maintenance of existing landscaping or natural growth.

Mayor Plummer identified the action items as the Building Inspector getting together with Dr. Fass to review the area and determine if it is appropriate for the project. Trustee Stetzer offered support of the Board as the Building Inspector had commented that this would be a lot on his plate.

David Ferris, 27 Monroe Ave.: “Here is a quick question raised in the chat but haven’t heard it answered. If it were approved as a demonstration gardens, what other approvals would be required? Would that allow it to be approved today, or with a proper clarification of what was applied for?”

The Village Attorney stated that he does not understand the term “demonstration garden” but if the Building Inspector does it would be left up to him. The Building Inspector interjected that no matter what it is called, he must review the proposed area first and there must be a set of plans created.

**PROCEEDINGS OF A SPECIAL MEETING
OF THE VILLAGE BOARD OF TRUSTEES**

Wednesday, April 21, 2021, at 4:00 PM

David Ferris, 27 Monroe Ave.: “I agree with citing it...and I think this goes back to what the Mayor was sort of proposing earlier, is if we did create a demonstration garden, non-permanent, that does not require a higher level of approvals. Perhaps it could be taken out afterwards. Then we have the time, subsequently, to go through a process to say, “yes we are going to approve this on a permanent basis going forward, but we would take the necessary steps that will allow this garden to take shape, at least temporarily, as a demonstration. And I agree with Steve, the site has to be nailed down specifically, where it is. I think that is a way to expedite it and still have the checks and balances. It’s not going to stay there unless it meets the rest of the other requirements.”

Mayor Plummer corrected Mr. Ferris, that she was not suggesting to temporarily plant a garden, her suggestion was to split the event into two parts, with part one being an educational session and part two actually being a planting session. It is her understanding that any action which would disturb the land will trigger SEQRA and site plan review.

The Village Attorney identified a Type two SEQRA action which allows minor temporary uses of land having no negligible or permanent impact on the environment, though it is beyond his purview to determine if planting a garden is considered minor or temporary.

Margot Fass, A Frog House – “I apologize, I’m not used to laws and rules, but anyway, thank you everybody again. And Steve, I will meet with you anytime and I would welcome all of you to come along because I am just so excited by this project. And you know, I do not really have a vested interest in whether it happens in the Village or not. I love the Village. I would like to see it there because I think it would be a small step for A Frog House and a huge step for the Village. Tomorrow, and I’m available whenever you want.”

ONE DAY SPECIAL EVENTS – PITTSFORD PANTHERS

The Village Clerk explained that this event does not have a formal application and that previously their event was approved through the Planning and Zoning Board for a temporary use permit, but due to issues with that procedure and the upcoming change in local laws, it must be discussed by the Board of Trustees.

The Village Attorney further explained that the public hearing for the Panthers event is on the next meeting’s agenda along with the Temporary Retail Business law. The Temporary Retail Business law was created to replace the prior Transient Merchant permit, which was approved by the Village Clerk, which should not be within her discretionary authority. The Village Attorney stated that a non-municipal use permit may not be proper for this event as it is being held at the Dairy.

Trustee Keating asked for clarification as to what the event was. The Village Attorney responded that it is a fundraising event for the Pittsford Panthers in which they will be selling Sticky Lips barbeque.

Trustee Lanphear asked if the event falls under the new business law, will there be a fee for the Panthers to hold the event. The Village Attorney confirmed that there would be a fee.

Trustee Lanphear asked if it would be appropriate to waive the fee. The Village Clerk responded that the fee would need to be charged as the public hearing for the event must be publicized and the fee will help to cover the cost of legal postings.

The Village Attorney explained that there have been discussions between himself, the Building Inspector, and the Village Clerk about approving certain events administratively through code enforcement in order to avoid the public hearing.

Mayor Plummer explained that adding language into the upcoming retail business law regarding one day events will allow for the Panthers to hold their event, then the Board can look back and review one day events more closely and

**PROCEEDINGS OF A SPECIAL MEETING
OF THE VILLAGE BOARD OF TRUSTEES**

Wednesday, April 21, 2021, at 4:00 PM

determine what is more appropriate. The Village Attorney agreed stating that he understood that as the intent as well.

Justin Vlietstra, 19 Boughton Avenue – “The ZBA has always dealt with them under temporary permits. So, you have got, we already have a temporary permits law that all these entities could apply under. That already exists for the ZBA. And I do not know why you are creating a second temporary permit law that is proposed. I know there is some loopholes in our temporary permits law, but you have already delegated this to the ZBA, and then you are delegating it back to yourself too. So, you are creating two entities, I think, to handle temporary permits, which does not make any sense to me. But, so again, I have made this suggestion before, how about we just fix our loopholes in our temporary permits code? And the law that you have proposed, I had not heard weather this is a zoning law or not. So, it sounds like it is a zoning law. I had not seen a SEQRA notice for it yet. If you are talking about having it next week...so I am not sure what you are doing with that law, but it seems like some administrative steps are being, might be being skipped.”

The Village Attorney responded that the reason that the Board of Trustees is attempting to amend the law regarding temporary permits is because the Planning Board felt as though this event, among others, did not fit the criteria for a temporary permit. Further explained that the law that the Board is seeking to amend does not fall within the zoning law and that the Board of Trustees will be completing SEQRA for the event.

Mr. Vlietstra asked what the event was as well. Mayor Plummer answered that it is a fundraiser that is held at the Dairy every year. Mr. Vlietstra went on to say that the event has been approved by temporary use permit through the ZBA in years past and that he has concerns regarding sections of the code that do not allow for outdoor dining, provided the example of how the code needed to be amended to allow Harladay Hots.

Mayor Plummer explained that the event is being held on the Dairy’s property and that she is unsure what this discussion is regarding. Mr. Vlietstra stated that he believes there is no reason to adopt a new law to handle the approval for the Panthers as there is already a temporary permit system in place to do that.

Trustee Leitgeb stated that he has hesitations about deferring the Panthers application and making it contingent on the passing of another law, which may or may not happen. Further stated that he does not see a date in the packet or anything that could be approved, so he would prefer, if it fits into the schedule, to allow the ZBA to handle the approval.

The Village Attorney stated that if the ZBA feels comfortable issuing a temporary permit for the event then it can be done in that way. It is his understanding that the point of the discussion was because the ZBA did not feel comfortable granting that type of permit for this event.

Mr. Vlietstra commented that if the Board were to make a code change that fixed the regulation of outdoor dining areas then the Harladay Hots event, and this one, would fit the criteria for a temporary permit.

Trustee Stetzer asked Mr. Vlietstra if the ZBA would feel comfortable reviewing this event if there is any action that must be taken by the Trustees.

Justin Vlietstra, 19 Boughton Avenue – “If you’re asking me, first of all, I don’t, I haven’t looked at this particular one. I think, my recollection, and again, I have not looked at any of this in well over a year because we have not had any recent discussions with the Trustees or Building Inspector about this, but there’s just a couple sentences of code that were giving us an issue regarding Harladay Hots. And I don’t recall ever having an issue with the Pittsford Panthers, but since I haven’t looked at it, I can’t comment definitively one way or the other, and that would be technically Steve’s interpretation, so, as to Steve’s decision, to make as to whether it’s eligible for one, and if that’s the process...if it comes to us and we feel it doesn’t meet the criteria for approving it, then that becomes an obstacle. So, again, I would appreciate having an opportunity to, I think, talk about some of these issues with the Trustees so

**PROCEEDINGS OF A SPECIAL MEETING
OF THE VILLAGE BOARD OF TRUSTEES**

Wednesday, April 21, 2021, at 4:00 PM

we can actually sort out a proper solution. And, you know, as far as Harladay Hots goes, I am not sure why you need to do any...I am not sure how you want to handle that, but if you just tell Steve, look some code changes are coming. We are going to change it. Change the laws to allow this, and then while the machinations of drafting those laws are in progress you just direct Steve, 'Hey don't pursue any enforcement actions, allow Harladay Hots to pursue this'. I mean, I do not, that seems to me, to be a plausible thing you could do rather than adopting a law, just withhold enforcement. And you know, this would be something that Steve or Jeff could better speak to, but it just seems like we should fix the problem rather than coming up with a band-aid...actually do a more thorough discussion of it is all I'm saying."

Mayor Plummer suggested that the issue be further discussed in a workshop session or offline in order to nail down what is needed in the code to alleviate the outdoor dining caveats.

MARIJUANA LEGALIZATION – Phased in Impact for the Village

The Village Clerk explained that NYCOM recently held a conference discussing the changes that would be coming along with the statewide legalization of marijuana. Further explained that several areas would need to be examined in terms of HR/employee matters, zoning codes, sales, etc. in order to prepare for the coming changes. The Village Clerk suggested that the Board create a committee to begin dealing with the phase in of needed changes.

The Village Attorney added that the most immediate decision will be whether or not the Village wishes to opt out of the retail aspect. Further explained that the deadline to opt out is December 31, 2021, and if it is missed the Village cannot opt out in the future. The Village Attorney stated that depending on how it is structured, the Board may opt out by means of local law, which is subject to a permissive referendum and has a 45-day window. If the Board were to pursue that option it would have a quick turn-around. Explained that another option would be to do a mandatory referendum with the public, and then it becomes a policy decision for the Board.

Mayor Plummer asked if there were costs associated with the opt outs, The Village Attorney confirmed that there would be costs associated with either option.

The Village Clerk stated that to hold a referendum it would have to be setup in the same manner as an election with voting machines and inspectors present, but the timeframe would not allow the completion of the referendum before the opt out deadline.

Trustee Lanphear asked if the NYCOM conference that the Village Clerk had attended was only for municipalities or if it would be published on the Village website for the public to view. The Village Clerk stated that she was unsure but that she would follow up to find out.

Mayor Plummer stated that she believes that it is important to hold a public forum as the changes will affect the entire Village. Further stated that she had spoken to Bill Smith from the Town, and they were also looking at these same issues so it may also be prudent to have a joint session with the Town and the Village so that both Boards are on the same page.

Trustee Lanphear suggested that the Board let the Town take the lead on the changes and then the Village follow suit on a smaller scale.

Mayor Plummer agreed and stated that the retail areas of the town are much more discrete than the retail areas in the Village which are highly intertwined and that the Board may have to look at the retail portion much more closely than the Town might.

The Village Clerk stated that she will follow up with NYCOM and determine if the conference can be made available to the public.

**PROCEEDINGS OF A SPECIAL MEETING
OF THE VILLAGE BOARD OF TRUSTEES**

Wednesday, April 21, 2021, at 4:00 PM

The Village Attorney provided a quick update regarding the Village wide 20 MPH speed limit legislation. He stated that it seems unlikely that he will be able to have legislation passed lowering the speed limit to 20 MPH, but 25 MPH is doable. Further stated that he is preparing the 25 MPH speed limit legislation for the Board to review.

Trustee Stetzer also added that the Village wide 25 MPH speed limit is the path of least resistance right now, and that the intention to lower the speed limit to 20 MPH requires a change to NYS Traffic Law at the State level.

2021-2022 BUDGET REVIEW

Trustee Keating suggested that the Board address the action items on the budget firstly. Mayor Plummer and other Board members agreed.

Trustee Leitgeb began by explaining that he was tasked with reviewing the overall budget and contemplate a possible increase. Cited that some of the parts of the budget going up include salaries, retirement benefits, labor costs, vendor costs, etc. Further explained that it would seem that in past years, it was raised too much, and that the Board is really giving a cut while other costs are increasing.

Trustee Leitgeb shared and reviewed an analysis of the budget with the Board. He expressed concern that the Village is at the bottom of recommended fund balance range suggest by the NYS Comptrollers and allowed by the Village's Fund Balance Policy. Trustee Leitgeb increasing the tax rate by 2.5% (\$33.37 for the average Village household) to gradually bring the general fund balance to the middle of the range of the Fund Balance Policy.

Mayor Plummer asked if the monies that would be collected from the incremental increase would go exclusively into the reserve fund balance and not be used to pay off any outstanding debt. Trustee Leitgeb confirmed that was his understanding of the increase.

The Village Treasurer explained that the fund balance must fall within a very specific range a to not be penalized by the NYS Comptroller's office. Further explained that the estimates that she has provided to the Board is her best guess, notwithstanding any unforeseen costs that come about during the fiscal year.

Trustee Stetzer asked if the Federal funding that the Village is expecting to receive will alter anything. The Village Treasurer stated that she does not know what those funds will be, but when they are received the Board can make an amendment to the budget.

Mayor Plummer commented that the only useful information that she had to report about the federal funding was that she spoke with Town Supervisor Bill Smith and the Town was notified that they were likely to receive approximately \$3.2 million. Further explained that it is her understanding that the funding was based on percentage or population for the Village.

The Village Treasurer stated that when the funding does arrive, it be used to fund certain projects and she must determine what Village projects fall within the criteria.

Mayor Plummer asked if Trustee Keating could share an analysis that he had prepared of Village tax increases over the last 14 years. The Village Treasurer stated that Trustee Keating's analysis may not take into account the litigation fees of the previous years or the increase in health care costs and further stated that there is a combination of reasons as to why the analysis inaccurately reflects the realities of the previous budgets.

**PROCEEDINGS OF A SPECIAL MEETING
OF THE VILLAGE BOARD OF TRUSTEES**

Wednesday, April 21, 2021, at 4:00 PM

Trustee Keating asked if the fund balance was in better shape than it was in the previous 5 years. The Village Treasurer stated that it is in the worst shape ever and that in an effort to keep taxes at a 0% or low increase over the past several years that it did hurt the general fund balance.

The DPW Superintendent added that the Village has not been able to fund a real road project besides Village Grove in over three years and that there are some large main roads in the Village that are in desperate need of full-on reconstruction and paving. Explained that if the Village continues to put off these projects, other road work projects get pushed as well. Also mentioned that the sewer system seems to be failing almost all at once and the Village is not prepared monetarily prepared to address that.

The Village Treasurer added that certain equipment was purchased through CHIPS because the budget would not allow it to be purchased. The DPW Superintendent agreed and added that the “wish list” that he presents every year typically is reduced down to what is absolutely necessary and the fact of the matter is that the entirety of the list is necessary.

Trustee Keating commented that part of the issue is that the Board does not have most of the data that is needed at the time when the budget is being created and every year they must go off of their best estimate.

Trustee Lanphear asked what the timeframe was if Board members were going to consider making a change. The Village Treasurer answered that the deadline to file the final budget with the State is May 1st.

Trustee Lanphear stated that the Board has spent the last few years trying to “play catch up” due to not keeping up with the changes in cost of living. Agreed with the proposal by Trustee Leitgeb.

Trustee Keating stated that the sentiment that the Board is not keeping up with the cost of living is incorrect. Stated that just because taxes are not being raised does not mean that they are not keeping up with cost-of-living increases. Further Explained that money is allocated in this budget to accommodate cost of living and the issue is the legal fees and the pandemic have created a situation where the Board must cut funding in other places.

Mayor Plummer reviewed estimated figures that were provided by the attorneys and explained how those costs factor into the constrained budget issues. Also explained the nature of the fees regarding the PCP appeal and the appeal’s current status.

The Village Treasurer reviewed newsletter related line items in the budget.

Trustee Keating stated for the record that he does not agree with a raise in taxes at this time. Commented that last year there was an 18% increase which had to be done due to cuts in sales tax revenue, and that there is a lot of supporting information to explain as to why that was the correct decision, however, he explained that with government funding coming down and cost of living accounted for in all categories of the budget that he does not wish to sign off on a tax raise.

The Village Clerk suggested in regard to newsletters to have hard copies available in Village Hall, at the library and at Town Hall for members of the community who cannot or prefer not to access the newsletter online.

The Village Treasurer reviewed revenue related line items in the budget.

Motion by Mayor Plummer, and seconded by Trustee Stetzer, to adjourn the meeting.

Vote: Plummer – yes; Lanphear – yes; Stetzer – yes; Leitgeb - yes. *Motion Carried.*

**PROCEEDINGS OF A SPECIAL MEETING
OF THE VILLAGE BOARD OF TRUSTEES**

Wednesday, April 21, 2021, at 4:00 PM

Dorothea M. Ciccarelli, Recording Secretary