Town Board Work Session Agenda  
March 27, 2013  
7:00 PM

I. Call to Order

II. Approval of Minutes  
March 13, 2013

III. Monthly Reports - None

IV. Public Hearing – None

V. Guests –  
1. Javier Perez – 5k Race  
3. Jeff Reddish – Discussion of Outdoor Dining Hours at Jeremiah’s  
4. Danny Daniele - Southpoint Marina Expansion Discussion

VI. ACTION ITEMS

Law and Finance - None

Public Works  
1. Release/Modification of Storm Easement, 2906 Atlantic Ave. – DiFrancesco  
2. Blue Ridge Road Proposed Roadway Dedication – Benway  
3. Sherwood Forest Pump Station Evaluation - DiFrancesco

Public Safety - None

Community Services - None

VII. INFORMATIONAL ITEMS

Law and Finance - None

Public Works  
1. Special Improvement District Guidelines – Benway

Public Safety - None

Community Services - None

VIII. HELD ITEMS  
1. Pond Ownership – Staff

IX. Old Business - None

X. New Business - None

XI. Executive Session – Real Estate, Litigation and Human Resource Matters

XII. Adjournment
I. **Call to Order**

Present:
Supervisor LaFountain
Councilwoman Kohl
Councilwoman Metzler
Councilman Moore
Councilman Quinn

Also Present:
Geoff Benway
Jim Costello
Mark DiFrancesco
Lisa Grosser

II. **Approval of Minutes** – 3/13/13
CM Quinn moved for the approval of the Minutes of March 13, 2013, CW Kohl seconded the motion.

III. **Monthly Reports** - None

IV. **Public Hearing** - None

V. **Guests**
1. Javier Perez - 5k Race
Javier Perez, is a student at McQuaid, a member of St. Joseph’s Church and a member of Boy Scout Troop 260. Mr. Perez is working on his Eagle Scout project and organizing a 5k race. The race will be held on June 1st and will benefit St. Joseph’s School. Mr. Perez is requesting permission to close Gebhardt Road, Cobble Drive, Liberty Street, Highland Drive. The sidewalk on the west side of Five Mile Line Road will also be used for the race. The roads will need to be closed from 9:15 AM to 10:45 AM.

Supervisor LaFountain asked if Mr. Perez had spoken to local agencies.

Perez said Penfield Ambulance will provide a first aid stop and the Sheriff’s Department requested he confirms two (2) months in advance.

LaFountain stated that he had spoken with Zone A Commander, Captain Clar and advised that a race was being planned.

Councilman Quinn asked Perez if he had spoken to the School District?
Perez said yes, he had received permission from Cobbles Elementary School.

Quinn asked Perez if he had reached out to the residents of the area?

Perez asked what he should say to the residents.

Jim Costello said he had been working with Perez for several months and will be creating postcards to hand out to the residents one (1) month prior to the race. The postcards will include a Town contact for questions.

Councilwoman Kohl asked if Perez had received approval from St. Joseph’s Church?

Perez stated yes, he has received permission from St. Joseph’s Church.

Councilwoman Metzler suggested Perez contact Chris Bilow, Recreation Director; he may have some suggestions for organizing a race.

LaFountain said Costello will write a letter to Perez summarizing the details discussed this evening.

Metzler suggested Perez attend an upcoming Town Board Legislative Session and promote the upcoming race.

Supervisor LaFountain stated that he will also mention the race in an upcoming column.

Supervisor LaFountain stated that the applicant has withdrawn this evening, and will be a guest at the next Work Session on April 10, 2013.

3. Jeff Reddish – Discussion of Outdoor Dining Hours at Jeremiah’s Restaurant
Jim Costello reviewed that on February 20th the Board approved the Site Plan and Subdivision Approval subject to modifications in the Resolution. Mr. Reddish is here this evening to speak to item number 7, regarding outdoor dining hours which were amended to end at 10:00 PM nightly. Mr. Reddish is interested in discussing the hours again and having a Public Hearing on this matter.

Jeff Reddish stated the original proposal included outdoor dining until 1:00 AM on weekends and Midnight on weeknights. This site was selected because there were not a lot of homes in close proximity. Reddish continued to say the other Jeremiah’s Restaurants have no restrictions on outdoor dining, and close at 2:00 AM. The existing homes are not close to the project area.
The reduced hours are not advantageous to the business and the cost of the project including the land and the building is expensive. Reddish said Jeremiah’s has not had any problems in the past, and he doesn’t feel they should be disciplined for things that haven’t happened. He has met with Monica Gorlick and is willing to work on suggestions to buffer noise from the outdoor patio to the residents. The neighbors are his customers and he wants to keep them happy.

Costello asked what kind of entertainment will be outside?

Reddish said only light acoustical music outside, Jimmy Buffet style. Anything band oriented would be inside.

Councilwoman Metzler stated that this location needs to be distinguished from the other Jeremiah’s locations. She stated she gives great deference to the residents that came and spoke. She is not a fan of changing a Resolution after there has been so much deliberation on it. She doesn’t think we should have the residents come back for another Public Hearing. Everyone has to give, including the applicant.

Supervisor LaFountein stated that after the business has been established, the applicant could come back before the Board to have additional hours approved.

Councilwoman Kohl stated the outdoor dining wouldn’t be open until next year. She reiterated that the applicant could try the approved hours this year and come back before the Board next year for extended hours.

Reddish said we need to make a certain amount of money to make back what we are putting in. He would not have agreed to closing the outdoor dining at 10:00 PM. Reddish again stated he is willing to modify the outdoor dining area to alleviate noise coming from the area.

Kohl said it is stated in the Resolution that you would buffer the outdoor noise. The amended Resolution was a compromise. The people dining outside could move inside at 10:00 PM.

Reddish said we have a very short window for outdoor dining in Rochester. This is an expensive patio. He said he wouldn’t build it if he didn’t think it would be a great draw.

Councilman Quinn stated he does not have a problem holding another Public Hearing. The Resolution was amended based on residents concerns. Having another Public Hearing will give you an opportunity to state your concerns, but the residents will also have that opportunity. I don’t think this will solve the situation.

Supervisor LaFountain said the outcome of the Public Hearing could be three (3) things, the end result could be the same,
there could be more restrictions or you may be allowed to extend the hours.

Councilman Moore asked if we had another Public Hearing, could the applicant present design changes to the project?

LaFountain said if we re-hear this, it would be only on item number 7 the hour component. He would have to verify this with Town Attorney Horwitz.

Moore asked if the patio were shifted, and the building became a buffer for the outdoor noise, could this be presented at that Public Hearing?

LaFountain said we would look at hours only. The applicant’s team would have to show us how they would address it by buffering or moving the patio.

Kohl said she is willing to re-hear the Public Hearing. We didn’t realize the applicant’s concerns. We can bring up the subject matter again.

Moore said you could reach a compromise with the proposal and address the residents concerns. This would give you an opportunity to look at changes to the outdoor dining area to satisfy the residents concerns. A compromise may result in a better project.

Costello verified Moore is suggesting the applicant meet with additional neighbors and revise his proposal.

LaFountain said the Board heard from a number of residents and took their comments seriously. Changes to the Resolution were based on those comments. If comments are still consistent with little or no change, the final result may be the same. He would strongly encourage the applicant follow Councilman Moore’s suggestion to meet with additional neighbors. To go through this process we would have a Resolution for next week, advertise for the Public Hearing and then it would be a couple more weeks before the Board would reach a decision. We could have a Public Hearing on May 1st. He will verify with Town Attorney Horwitz.

The Board agreed to proceed with a Public Hearing on item number 7, outdoor dining hours.

LaFountain also stated that we will broaden our notification two (2) times and Costello will prepare a Resolution scheduling a Public Hearing on May 1st.

4. Danny Daniele – Southpoint Marina Expansion Discussion
Anthony Daniele and John Caruso, Passero Associates gave copies of documents that had been submitted to the Department of Environmental Conservation, the Army Corps of Engineers and the Department of the State. They are interested in expanding
Southpoint Marina. They have added 1,000 sq. ft. commercial area to the top level of the proposed outdoor clubhouse area.

Caruso explained that demand for docking has increased while availability has decreased. He reviewed the Irondequoit Bay Harbor Management Plan which identifies increased docking needs. He reviewed by area where boat slips could be added, two (2) marinas that had been previously identified for expansion have been purchased and are now private. Fourteen sites were evaluated against selection criteria based on the IBHMP, LaSalle’s Landing Development Plan and the LWRP.

Caruso continued to say based on the criteria Southpoint Marina is an ideal location. They have selected floating docks as they have the least amount of impact. Buoys will be added to create a channel for boat traffic near the docks. The additional planned housing development allows for an expansion in parking which will accommodate the boating traffic.

Caruso also said they had met with the DEC regarding the eagle. The buffer requirements are 660 feet before June 1st and 330 feet after June 1st. They do not intent to start construction until after June 1st, when the breeding season will be over and there will be leaves on the trees. Some of the boat slips will be within the 660 foot range. We will test the eagle to determine if using these slips is bothersome prior to renting them out.

Costello said the applicant has met with OGS and they are supportive. The Board has a letter from the DEC and they are waiting for the Town to move forward on the Lead Agency status. Costello advised the applicant when he comes before the Board the request for an additional 225 docks will need to be justified. Access will also have to be provided for the public to get into the cove area.

Daniele stated that we will review comments and suggestions from both the Army Corps of Engineers and the DEC. Initial comments have been very positive. What we are trying to achieve is the next stage of development for the LaSalle’s Landing area. The public access part of this is critical.

Supervisor LaFountain asked what are the next steps?

Caruso stated that we have responded back to the DEC and the Army Corps of Engineers. We are waiting for the LWRP to go through its process.

Costello asked if the Board is comfortable with accepting the application. We are currently in the 60 day comment period.

The Board agreed they are ready to accept the application.
Costello said there are 32 days remaining for the County to make comments. The Public Hearing won’t be set until after the comment period is closed.

VI. ACTION ITEMS

Law and Finance - None

Public Works

1. Release/Modification of Storm Easement, 2906 Atlantic Avenue - DiFrancesco

Mark DiFrancesco stated that he has received a request to modify a portion of a storm sewer easement. Several years ago an easement was put in up to the property line, because the homeowner would not allow the easement on his property. Material was added to create a swale for drainage, which has worked very well. The owner at 2906 Atlantic Avenue now wants to put a shed at the end of his driveway where the current easement is. We could modify the easement and redefine it to go around the catch basin, and re-file it.

Geoff Benway said the overland flow is going to the existing catch basin. The swale is not in the easement.

DiFrancesco said we typically don’t take easements over sediment swales. He continued to say the resident wants to place the shed at the end of his driveway, and he feels he can preserve the original flow of the water for drainage.

Councilwoman Kohl asked if we can release the easement and state that the shed cannot be allowed in the swale?

Benway said yes, that would be the condition.

Supervisor LaFountain suggested moving the shed and keeping the easement or modifying the easement. He stated we can file an amended easement and still have the ability to clean it and make sure everything is working right.

Benway said the rule of thumb is to have no more than three (3) lots drain into a catch basin. We attempted to accommodate each of the residents and Mr. Webster chose not to participate.

DiFrancesco said the original easement was granted to extend the storm sewer. It was not extended, so we added the swale.

Benway said we could have a hold harmless agreement to occupy a portion of the easement.

LaFountain asked if a catch basin should be added.

Benway said drainage has not been a problem.
Councilwoman Kohl said we should table this and speak to the new neighbor. If the new neighbor allows the easement to continue into his property we can add the catch basin.

DiFrancesco said we can request that the resident place the shed outside of the swale.

LaFountain said that is the only way he would consider releasing the easement.

This item will be held and reviewed again at the next Work Session on April 10, 2013.

2. Blue Ridge Road Proposed Roadway Dedication – Benway
Bob Keiffer and Paul Berardicurti, President of the Beacon Hills Homeowners Association, reviewed they are proposing an equivalent standard to the Town Specifications and requesting dedication of Blue Ridge Road. There are no driveways directly on Blue Ridge Road. All residents will still benefit by having driveways maintained and plowed by the Homeowners Association. The Town requirements go beyond strength, and include drainage, geometry, cross slope, gutters, and swales. This is the only street in the Association that comes close to meeting those requirements.

Supervisor LaFountain asked when the project was originally built; why was Blue Ridge Road not offered for dedication?

Keiffer believes the developer did not want to meet the front setback requirements, and wanted higher density.

LaFountain asked if they are willing to test more spots.

Keiffer said one (1) area was defined by taking six (6) cores. If we take more cores and found more substandard material, this would become cost prohibitive and we would not be requesting dedication.

LaFountain asked if cores were taken from Blue Ridge Road between Scribner Road and Beacon Hills Drive at the main entrance.

Keiffer said yes, the actual cores were 11 ¼” and 15”.

Councilwoman Metzler said if you are seeking a Public Hearing, a Petition would need to be submitted first.

Keiffer said a letter was received from the Town stating that dedication would only be accepted if the Town Standards of 12, 3 and 1 could be met. He wants to know if the Town will accept dedication of an equivalent standard road before submitting a Petition.

Councilman Quinn suggests Mr. Berardicurti obtain a Petition from the homeowners before requesting the Board to deviate from the Town Standards.
Keiffer said if the Town will not accept an equivalent standard we will not proceed. The Board of Directors has the authority to Petition the Town without having all of the residents sign a Petition.

LaFountain asked Keiffer to explain the extra inch on top and how that will meet the gutter. There is a concern that this would be a trip hazard.

Keiffer said we would mill the pavement and it will be flush to the gutters edge. Ruts develop in the lanes, not at the gutter. Several other Towns have specifications that call for the top to be higher than the gutter; this is not a trip hazard.

LaFountain asked about the setback of a private road versus a dedicated road.

Geoff Benway said 40 feet versus the normal 60 feet.

LaFountain asked would the homeowners have to go before the ZBA for a variance?

Costello said yes, and we have granted package variances in the past.

Metzler asked why would we have Town Standards if we can accept an equivalent standard?

Keiffer said there are a host of alternatives that are equivalent.

Quinn stated he has serious reservations if we deviated from Town Standards. What is the advantage for the Town to move forward?

Benway said by adding asphalt you are adding strength. We could have maintenance issues with the road because you would have to maintain that strength to keep up the road.

Metzler asked if there is such a thing as a provisional dedication; if the road doesn’t stand up it can be given back?

Costello said we have conditional dedications where the Town is held harmless during that time and we don’t take final dedication until the road is completed with gutters and we have the deed. Once we have the deed we can’t transfer it back.

LaFountain asked Berardicurti what is the HOA Board’s interest in getting this road dedicated.

Berardicurti stated as a cost savings to save on repair and plowing.
Metzler said she is concerned about setting a precedent. The equivalent strength is not the only determination. Does the Town want another road; we need the Highway Department to weigh in on this.

LaFountain said we don’t want to have the Homeowner’s Association continue this process if the Town won’t accept dedication.

Quinn said he is not in favor he is concerned about accepting a deviation from the standard. He feels waving the standard requirements may open the Town up to more requests for all types of deviations from the standards.

LaFountain asked Benway to review the Design Criteria.

Benway said originally the requirement was 12, 2 and 1. About 15 years ago it was changed to 12, 3 and 1 to increase strength and make the roads last longer.

LaFountain asked Benway to explain what was done with Jomanda Way.

Benway said we built up the base and added a 3” binder and 1” top. A drain was also put under the road.

Metzler said the residents of Jomanda Way went through considerable expense to bring the road up to Town Standards.

Kohl asked Benway for his opinion.

Benway said studies show that extra asphalt adds strength. This may open the door for additional private roads to request dedication.

Metzler asked what is the benefit to the Town to set aside the Town Standards?

Benway said none, just added cost to plow and maintain the road.

LaFountain said the Board is willing to take dedication if the road is brought to the Town Standard.

The Board agrees they are not interested in taking dedication of this road if it does not meet Town Standards. They will not accept alternative designs.


Mark DiFrancesco said we received the report at the end of February. The report states that the emergency storage volume/time is insufficient. The requirement is two (2) hours and we have less than one (1) hour. The pipes and the pump are sufficient. We are not at capacity and could add a few more homes.
DiFrancesco continued to say that we need to set up offset emergency storage. We can look at above ground alternatives such as an electrical generator in the future. A letter was sent to Casciani confirming this. The easement is off the table at this point as neither Casciani, nor the Town could obtain it. The Sewer District will undertake the improvements and Casciani can resubmit his application to reinstate the approval of Heron Landing Subdivision for 12 units.

LaFountain continued to say there is no need to pursue improving the pump station at this time. DiFrancesco will make an evaluation and address improvements when it is appropriate. The improvement will be based on the development. Casciani will be allowed to build what was originally approved.

Public Safety  - None

Community Services  - None

VII. INFORMATIONAL ITEMS

Law and Finance  - None

Public Works

1. Special Improvement District Guidelines - Benway

Mark DiFrancesco showed the Board a suggested proposal to accommodate amenities in new developments. These amenities are not covered under basic levels of Town Service. The developer would form the Special Improvement District and the residents would then have to petition for services.

DiFrancesco then reviewed items covered under basic levels of Town Maintenance. The Town will continue to provide these services as part of basic Town services. The proposal is to create a Special Improvement District to fund enhanced levels of Town service that may be requested by a group of residents. This is a way to charge back for enhancements in a development that are above and beyond the basic level of service. The developer would form the district with a zero budget and it would sit until needed. The Special Improvement District is a way of charging back for those enhancements. Following Town Law 202B, it would be done through a Petition and 51% of the residents would have to support it.

Councilwoman Metzler asked what if residents want additional items not listed when the district is originally formed?

Jim Costello said for anything additional, a Public Hearing would have to be held to see if all of the residents in the development are supportive.

Councilman Moore stated he feels residents will see this as an additional tax. He thinks it would be better if a Homeowner’s Association was formed and the Town was left out of it.
Costello said many of the improvements the residents want are to Town owned lands, such as ponds.

DiFrancesco said a formal Homeowner’s Association must be started at the onset of the development. A Homeowner’s Association has no taxing authority over their residents.

Costello said he doesn’t feel we would see much coming from existing homeowners. This would be more for new developments that are putting in high end amenities. Most new developments have ponds, isn’t a Special Improvement District a better way to take care of this instead of spending drainage dollars.

Councilman Quinn said he is okay with this for new developments only. The Town needs to control Town owned property.

Geoff Benway said there would be limits. This has been done with Intensified Lighting Districts and we are trying to expand on it. The ponds have always been an issue and this is a thought on how to handle those.

Supervisor LaFountain stated this proposal needs some tweaking. In a new development the residents know what expenses to expect up front.

Benway said through this exercise of reviewing Special Improvement Districts, we’ve realized managing the districts is a larger piece and a lot more work than anticipated.

Moore said he has concerns. If there is a Homeowner’s Association you have an idea up front of what the costs will be and what is covered. He feels residents will see this as an extra tax that will cause more problems.

Costello asked the Board if they are more comfortable with just a Drainage District for a pond?

LaFountain said amenities like subdivision signage are not going to be taken care of by the Town.

Costello said the sign can be the responsibility of the neighborhood. If it is in disrepair, the Town will not repair it.

LaFountain said he is sensitive about the ponds as they are a fact of life for the Town.

DiFrancesco said the Drainage District is currently used to cover annual pond maintenance needs.

LaFountain said we need to take a step back and rework this proposal. This will be a held item to be combined with Pond Ownership.
Public Safety - None

Community Services - None

VIII. HELD ITEMS
I. Pond Ownership - Staff

IX. Old Business - None

X. New Business
Supervisor LaFountain stated that he had been contacted by the Southeast Bible Baptist Church regarding a 5k race that will go through Sweets Corners Road, Dublin Road and back to the church. They have requested a letter from the Town allowing them to run on the sidewalk and edge of Fairport Nine Mile Point Road.

LaFountain will send a letter to the State and include the conditions with contact information for fire and police. This will not require any road closures.

XI. Executive Session - Real Estate, Litigation and Human Resource Matters - No Session tonight.

XII. Adjournment - Supervisor LaFountain adjourned the Work Session at 9:52 PM.