

Village of Lansing

MINUTES of a meeting of the Board of Trustees of the Village of Lansing held on Wednesday June 14, 2006, in the Village Office.

PRESENT: Mayor Donald Hartill; Trustees Lynn Leopold, Frank Moore, John O'Neill; Superintendent of Public Works John Courtney; Motor Equipment Operator, Richard Beckwith; Code & Zoning Officer, Benjamin Curtis; Clerk/Treasurer Jodi Dake; Clerk, part-time Carol Willard; Laborer, Chris Bishop; Attorney David Dubow.

Lynn Leopold called the meeting to order at 11:40P.M. Lynn Leopold, John O'Neill, Frank Moore, Benjamin Curtis and David Dubow were present at the start of the meeting since they anticipated an executive session.

Motion- To Go Into Executive Session to Discuss Pending Litigation

Trustee O'Neill moved to go into executive session. Trustee Moore seconded the motion. A vote was taken:

Trustee Lynn Leopold-Aye Trustee Frank Moore-Aye
Trustee John O'Neill-Aye

The Board went into executive session at 11:40am.

Motion- To Come Out of Executive Session

Trustee O'Neill moved to come out of executive session. Trustee Moore seconded the motion. A vote was taken:

Trustee Lynn Leopold-Aye Trustee Frank Moore-Aye
Trustee John O'Neill-Aye

The Board came out of executive session and proposed the following resolution.

Resolution #5256- AUTHORIZING THE SETTLEMENT OF THE SOUTHERN CAYUGA INTERMUNICIPAL WATER COMMISSION -- ETHEL WILKINSON LAWSUIT; AUTHORIZING IMPLEMENTATION OF SUCH SETTLEMENT BY THE CONSTRUCTION OF BOLTON ROAD OR THE PAYMENT OF MONEYS IN LIEU THEREOF; AND GUARANTEEING THE PERFORMANCE OF THE OBLIGATIONS OF THE SOUTHERN CAYUGA LAKE INTERMUNICIPAL WATER COMMISSION CONTAINED IN SUCH SETTLEMENT AGREEMENT

WHEREAS, the Village of Lansing, in conjunction with the Towns of Dryden, Ithaca, and Lansing and the Village of Cayuga Heights (collectively the "Member Municipalities"), executed an amended and restated Agreement of Intermunicipal Cooperation in 1979 pursuant to Article 5-G of the General Municipal Law of the State of New York (the "Intermunicipal Agreement"), pursuant to which the Southern Cayuga Lake Intermunicipal Water Commission ("SCLIWC" or the "Commission") was created and a water treatment plant and related transmission facilities were constructed; and

WHEREAS, a provision of the Intermunicipal Agreement required the Member Municipalities acting through the Commission to construct a road from Route 34-B to the shore of Cayuga Lake at the Commission's water intake plant, all pursuant to an Agreement between the Town of Lansing and Lucie G. Bolton dated June 28, 1967; and

WHEREAS, the Town of Lansing's obligations to build said road were assumed by the Member Municipalities by the provisions of the Intermunicipal Agreement; and

WHEREAS, said road has not yet been constructed; and

WHEREAS, a lawsuit was instituted on behalf of the successors to Lucie Bolton against the Commission and all of the Member Municipalities including the Village of Lansing, seeking an order directing construction of said road or, in the alternative, damages for failing to build said road (the "Bolton Road Lawsuit"); and

WHEREAS, it has been estimated by both the plaintiffs engineers and the Commission's engineers that the cost to construct the road at this time to current standards could be as much as \$3,000,000; and

WHEREAS, there may be partial or complete defenses to the Bolton Road Lawsuit which defenses have been asserted by motions, some of which have been denied by the trial court, which denial has been appealed to the Appellate Division of the Supreme Court, Third Department, and which appeal is pending, and other defenses are awaiting decision by the Trial Court; and

WHEREAS, there have been ongoing negotiations resulting in a tentative agreement (the "Settlement Agreement") settling the Bolton Road Lawsuit by the construction of an alternate road (the "Loop Road") at a cost estimated by the Commission's Engineers of approximately \$600,000, or, under certain circumstances, alternatively by the payment of a sum of \$600,000 in lieu of constructing any road; and

WHEREAS, a copy of the Settlement Agreement has been submitted to and reviewed by this Board; and

WHEREAS, the Commission has a surplus of well in excess of said \$600,000 amount to pay for said Loop Road and/or to make the alternative settlement payment; and

WHEREAS, the Commission and its attorneys are of the opinion that the proposed settlement is reasonable under all of the circumstances now pertaining and recommend that the Member Municipalities approve such settlement as provided in the Settlement Agreement, the implementation of the responsibilities of the Commission and Member Municipalities under the Settlement Agreement including construction of the Loop Road and/or payment of \$600,000 in lieu of such construction; and

WHEREAS, the Commission and the Member Municipalities, including the Village of Lansing, will derive benefits from said settlement including (a) the construction of a hard surface road for approximately half of the distance from East Shore Drive to the Commission's water intake facility on the shore of Cayuga Lake, and (b) a final resolution of a long-standing dispute at a not unreasonable cost to the Commission and its Member Municipalities in a manner which avoids the significant cost of each Member Municipality having to continue to defend the Bolton Road Lawsuit and the possibility of being required to construct a more expensive road at a cost of up to \$3,000,000; and

WHEREAS, the amount proposed to be expended for the construction of said Loop Road (excluding engineering, legal, and other fees that may be incurred in the course of designing and contracting for the construction and completion of said Loop Road) is \$600,000; and

WHEREAS, it is anticipated that the Commission will pay for the costs of construction and all related costs out of the Commission's current surplus; and

WHEREAS, there has been submitted a Short Environmental Assessment Form under the State Environmental Conservation Law and the regulations related thereto (collectively "SEQR") related to the Settlement Agreement recommending that there be a finding of a Negative Declaration of Environmental Significance of the proposed action; and

WHEREAS, it is now desired to determine the environmental significance of the proposed action under SEQR and authorize settlement of the said Bolton Road Lawsuit and the implementation of such settlement by the construction of the Loop Road and/or payment of moneys in lieu thereof;

NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village of Lansing as follows:

Section 1. The Village of Lansing hereby determines that the approval of the Settlement Agreement is an Unlisted Action pursuant to SEQR, and is therefore subject to uncoordinated review; and

Section 2. The Village of Lansing has considered the Short Environmental Assessment Form submitted to this meeting, and the recommendation contained therein that the approval of the Settlement Agreement and implementation of the elements of the Separation Agreement as proposed will not result in any significant adverse environmental effects; and

Section 3 The Village Board of the Village of Lansing hereby determines that the approval of the Settlement Agreement and the implementation of its terms will not result in any significant adverse environmental effects for the reasons set forth by the reviewer of the Short Environmental Assessment Form, it being understood that the determination made herein relates solely to the approval of the Settlement Agreement and the implementation of same, and is not intended to prejudice any determination the Village of Lansing Planning Board may make under SEQR relating to its approval of the Loop Road, or its approval of any subdivision for which the Loop Road may be constructed or any other approval that may be required in connection with any such Loop Road and such subdivision; and

Section 4. The Village of Lansing hereby approves the proposed settlement of said Bolton Road Lawsuit and further approves and authorizes the Commission to construct the Loop Road as provided in the Settlement Agreement or pay the plaintiffs in said Bolton Road Lawsuit the sum of \$600,000 in lieu of constructing any road;

Section 5. The Village of Lansing hereby finds such settlement as provided in the Settlement Agreement to be in the best interests of the citizens of the Village and hereby delegates to SCLIWC the authority to contract for and construct said Loop Road or pay \$600,000 in lieu of such construction, and to incur such other charges such as engineering fees, and legal fees as may be reasonably necessary to implement said Agreement and agrees that the funds for such construction or payment be taken out of the current surplus funds held by SCLIWC.

Section 6. The Village of Lansing hereby requests and, to the extent appropriate, joins with the other Member Municipalities in directing SCLIWC, upon execution of the Settlement Agreement, to immediately set aside \$600,000 out of the surplus funds of SCLIWC in a separate fund dedicated to the payment of the costs of construction of said Loop Road or paying the plaintiffs if the road is not constructed.

Section 7. The Village of Lansing, in similar fashion to the other Member Municipalities, hereby guarantees the performance by SCLIWC of its obligations pursuant to the terms of the Settlement Agreement, including the building of the Loop Road as set forth in such agreement and the payment of funds in lieu of such construction, provided, however, that such guarantee shall be limited to that portion of the expense guaranteed that is equal to the proportionate liability of the Village of Lansing for liabilities generally of SCLIWC under the provisions of the Intermunicipal Agreement (i.e., the share of any member municipality of the cost of this guarantee shall be in proportion to the debt allocation for Project I under the Intermunicipal Agreement which is based upon the proportion of water generated by the Bolton Point Plant used by such municipality);

Section 8. The Mayor is hereby authorized to sign the Settlement Agreement on behalf of the Village of Lansing.

Section 9. This resolution shall be effective only if the within resolution in substantially the same form is adopted by the other Member Municipalities of SCLIWC to the extent applicable to such municipalities.

Trustee Moore moved to adopt this resolution. Trustee O'Neill seconded the motion. A vote was taken:

Trustee Lynn Leopold-Aye

Trustee Frank Moore-Aye

Trustee John O'Neill-Aye

Lynn entertained the following motion:

Resolution #5257– Abstract of Audited Vouchers

Be it RESOLVED, that Abstract of Audited Vouchers No. 1 for the General Fund, in the amount of \$34,484.97 is hereby approved for payment, and

Be it RESOLVED, that Abstract of Audited Vouchers No. 13 for the General Fund, in the amount of \$413,149.90, is hereby approved for payment, and

Be it RESOLVED, that Abstract of Audited Vouchers No. 13 for the Water Fund, in the amount of \$88,274.48, is hereby approved for payment, and

Be it RESOLVED, that Abstract of Audited Vouchers No. 13 for the Sewer Fund, in the amount of \$10,583.80, is hereby approved for payment, and

Be it RESOLVED, that Abstract of Audited Vouchers No. 13 for the Capital Projects Fund, in the amount of \$454,011.30, is hereby approved for payment.

Trustee O'Neill moved that this resolution be adopted and Trustee Moore seconded the motion.

Trustee Lynn Leopold-Aye
Trustee John O'Neill-Aye

Trustee Frank Moore-Aye

At 11:50 Lynn and David Dubow left the meeting. The meeting reconvened at 12:27 once Mayor Hartill and the rest of the staff arrived.

Ben stated that he has spent a lot of time with Ivar Jonson regarding the road issues related to the Lansing Trails II project. Don will meet with all parties this week and attempt to figure out the best way to resolve the Bomax Drive situation. Homewood Suites has construction drawings, which Ben has been reviewing. There are some sewer issues which John Courtney will hopefully be resolving on Monday. Advions has received a building permit. They are building an office at the corner of Brown Rd. and Warren Road.

The Cardiology Associates building is moving along. They had a problem with water pressure. Sprinklers are not required and Ben thinks they will probably walk away from this. Don stated that the water pressure problem should eventually be improved when we get rid of the water tank behind our office. Don will check with Paul & Jack at Bolton Point to see where we are with this. A loop and PRV pit would help in the future. Ben will also call Paul & Dave Putnam.

John Courtney stated that the training at Ithaca College June 5-7 was very informative. This month the highway department has been catching up on little stuff with the trails and lawns. They have done numerous box outs on Votapka, Catherwood and Wedgewood Dr. A hydrant was replaced at 111Burdick Hill.

On N. Triphammer Rd. the binder is down and they are currently doing temporary pavement markings. Don stated that he received an email complaint on the design of the road, which he will respond to. There have been a couple of incidents with the construction, which John has passed on to Denny, the Suite Kote Project Manager. With one of the incidents Denny had to call for assistance from local law enforcement officers. They will probably do the final topcoat in September.

John wants to extend the office parking lot. He has received a quote for a lawn mower, which is more than originally budgeted. A two-wheel steer is \$10,069 and a four-wheel steer is \$12,245. They prefer the all wheel model since it is much easier to maneuver and takes less time. The all wheel mower is a 24-horse diesel. The Board thinks that it

would be logical to get the all wheel steer. The extra cost can come from contingency. Don asked John to make sure that that model can be equipped with a snow thrower. Rick suggested we keep the other mower since the only thing that is wrong with it is cosmetic. There are 1200 hours on that mower and it works well when it's running. Don suggested we wait to make that decision in September when it comes time for the Lansing Auction.

John is having an issue with the contractor that is doing the culvert at 134 Burdick Hill Road. John believes that the contractor hasn't followed code requirements and is sending him a letter with a copy of the code attached. The contractor has threatened John with litigation. The Mayor told him that the contractor must follow code. John asked who will take ownership of the culvert. Don stated that the Village does if it is in our right-of-way.

Don stated that he has looked through the flow meter data for May & June and, even with the large rain events we've had, there is no large peak flows. John stated that they have fixed four broken manholes.

Don hopes to make progress by the end of the week on the Bomax Road issue. Based long-standing issues and the intended benefits of connecting Lansing Trails with Warren Road, Don feels the Village may want to more actively participate in and possibly contribute to the resolution of this matter. As far as the intermunicipal sewer issue, Don plans to draft an initial summary, in the form of a proposed memorandum of understanding, setting forth the terms and provisions that the Village anticipates would govern the arrangements and rules of construction between the Village and the Town of Lansing. This will enable the Town to know our position. Frank stated that there is a meeting this afternoon at 5pm at Town Hall. Don agreed to attend that meeting. Don thinks the Town is underestimating the costs of going down Cayuga Heights Road. Frank said that the Town is interested in finding out what the Village's contribution will be. According to our zoning regulations, the maximum build out for the Village is about 800 EDU's (equivalent dwelling units). If you use this number as a maximum, then at 300 gallons per unit it would come to a maximum flow of 240,000 gallons. Therefore, our share, at a maximum, would be 20% of the anticipated total flow from the Town's proposed new sewer district and the expanded Village usage, which would therefore be 20% of the cost not funded under the Bond Act. We are also still owed monies for the Kline Road bypass that we have already paid for. The more likely number for build out is 400-500. Sundowns build out with current regulations is 700 EDU, worst-case scenario. Don's guess is that it will actually be a few hundred. Oakcrest and Cayuga Heights area will only be sewerred by this. In the Village, on average we have 10-15 new units per year.

John O'Neill stated that recognizing the risk as to NYSDOT approving a plan for the sewer construction running down East Shore Drive, Lynn still prefers that route. Don stated that we must understand that the problem is that ultimately the whole Village is affected, not just that area. Unlike a Town we cannot have sewer districts. The cost of the project is borne by the whole Village. If money for this project is used from Capital Reserve monies or bonded, it will be subject to permissive referendum and a possible vote by all Village residents. Don doesn't think we can justify spending the extra money for the few it impacts. The Board must be fiscally responsible.

Carol asked if this whole project fails, are we out the money we paid for Kline Road Bypass? Don expressed his feelings that the Kline Road bypass was the best investment the Village ever made because it got rid of the sewer moratorium.

Chris Bishop stated that things were going well. Don stated that from what he is seeing, Chris is doing a good job.

John O'Neill has heard complaints from residents in the Lansing Trails development that traffic is cutting through on the temporary road to Ayla Way off of Bomax. John Courtney has told Ed Baker to stop letting them through. We can't rope off the area for fire reasons. Ben stated that no emergency access is needed until someone lives there. It was agreed that at the end of Ayla Way where the Village owns the right of way, orange barrels will be put up to stop traffic. One of the problems is that the Lansing Trails residents themselves are using this temporary road.

Trustee O'Neill informed John that 4 nice trees have died on the Greenway. Rick said he would go look at them. Also, it was discussed that round up is needed to control the weeds on the trail. John stated that they would also be laying more cinders.

Lastly, John O'Neill asked if there was any way to get another exit off Route 13 for the Homewood Suites area. It is not possible because it is too close to the other exits.

Rick asked Don if it was possible to get overtime. Don stated that it is reserved for emergencies.

Carol has been doing inspections. She recently had a problem with the Kyushu Restaurant not ringing into dispatch when an alarm was pulled. The problem was that the phone line was never connected. This issue has been resolved.

Motion- To Adjourn

Trustee O'Neill moved for adjournment. Trustee Moore seconded the motion. A vote was taken:

Mayor Donald Hartill-Aye	Trustee Frank Moore-Aye	Trustee John
O'Neill-Aye		

The meeting adjourned at 1:33 PM.

Dake

Jodi
Clerk/Treasurer