

## Village of Lansing

MINUTES of a meeting of the Board of Trustees of the Village of Lansing held on Monday, March 19, 2007, in the Village Office.

Present: Mayor Hartill; Trustees, Larry Fresinski, Lynn Leopold and Frank Moore; Clerk/Treasurer Jodi Dake; Attorney David Dubow; Planning Board Chairman Ned Hickey; Village Engineer Dave Putnam.

Mayor Hartill called the meeting to order at 7:38 P.M. and opened the public comment period. There were many students present from Lansing School. The Mayor expressed his hope that the meeting would be an educational experience for the students.

### Motion-To Close the Public Comment Period

Trustee Fresinski moved to close the public comment period. Trustee Leopold seconded the motion. A vote was taken:

|                           |                          |               |
|---------------------------|--------------------------|---------------|
| Mayor Donald Hartill -Aye | Trustee Frank Moore- Aye | Trustee Larry |
| Fresinski Aye             | Trustee Lynn Leopold-Aye |               |

Dave Putnam gave the engineers report. He stated that the biggest issue is the Annual Storm Water Report and the local law that will need to be adopted. This will need to be enacted by January 2008. Lynn indicated that in our last annual report we stated that we would have the required local law in place by 2007. The Board discussed adopting the State Sample Law or doing something more stringent. Lynn stated that the Village's Stormwater Law should address two phases, construction and post construction. Ned informed the Trustees that a gap analysis comparing the Village's existing stormwater regulations with the new requirements had been previously done and the results were provided to the Village. The analysis found that 65-90 changes would be needed. It was discussed as to whether it would be simpler to adopt the State Sample Stormwater Law. Dubow feels that some internal work will need to be done by the Planning Board and Lynn to identify how to integrate the State Law with the Village's existing regulations as set forth in the Zoning and Subdivision sections of the Village Code. It was further explained that the Sample State Law is a model law where some provisions are mandatory and in other cases decisions can be made as to the inclusion or exclusion of certain provisions. Dubow went on to say that the Village Code already includes many of the required regulations, but does not address all the issues this new stormwater law requires. Ned stated that the Planning Board would put this on their agenda for their scheduled meeting next Monday. Mayor Hartill suggested dividing this project into sections between members and work on it that way. He indicated that the Village doesn't want to invest any more time than we have to for this unfunded mandate. Ned will contact Dave Putnam about coming to the Planning Board meeting when this is discussed.

Lynn stated that next week there is an IDE training session. John Courtney will be attending. While on the issue of training, Don indicated that he has spoken with Walter Lynn, Mayor of Cayuga Heights, and Mayor Lynn has offered to arrange to have someone come in to do a training session for both of their Planning Boards. Ned stated that he is trying to arrange a meeting with Kathryn Wolf to come in and give a presentation on porous surfaces for driveways. We may want to invite the Village of Cayuga Heights Planning Board to attend if this is something they would be interested in. Ned would like to have a training session and guest speakers once a month for a portion of their meeting.

Don asked Dave Putnam how we were coming with Northwood Road. Dave stated that the documentation for the proposed dedication and construction project it is almost done. The map is acceptable and a dedication map should be to the Board of Trustees next month. Dave Putnam, John Courtney and Mayor Hartill will need to get together to further discuss Dart Drive.

Next on the agenda was the approval of minutes from March 5, 2007.

Motion - To Approve the Minutes from March 5, 2007

Trustee Moore moved that the draft meeting notes, as reviewed and revised by the Clerk/Treasurer and the Board, are hereby adopted as the official minutes. Trustee Leopold seconded the motion. A vote was taken:

Mayor Donald Hartill-Abstain                      Trustee Larry Fresinski –Aye                      Trustee Frank  
Moore- Aye                      Trustee Lynn Leopold-Aye

David Dubow introduced the proposed Encroachment Agreement regarding the private right-of-way affecting the Triphammer Development/ Triphammer Mall and Ithaca Suites/Homewood Suite properties. He explained that this has to do with the special permit approval granted by the Planning Board for the Homewood Suites project and a condition of that approval related to the continued use of the private right-of-way connecting the Triphammer Mall property with Cinema Drive. David explained that he has been working with Dick Thaler (on behalf of Triphammer Development Co., Inc.) and Frank Appicelli (the attorney for Ithaca Suites, LLC) in an effort to best protect the Village's interests with respect to the special permit approval conditions and this specific Encroachment Agreement that is now being proposed for execution. The Agreement is the product of several rounds of negotiations and revisions. The Village's participation in this matter is to insure that the special permit conditions are complied with and to specifically make sure that the Village's interest in maintaining the public use of the right-of-way in question is protected as much as possible.

David further advised the Board that when Homewood Suites came to the Planning Board they provided a site plan reflecting the continued access between the two properties, which access area was reduced from its original 60-foot width. That reduced width resulting from the location of portions of the new Homewood Suites improvements (to be considered permitted encroachments) was approved as part of the special permit. The remaining useable right-of-way has been diminished to 24 feet of paved roadway and approximately 10 feet of grassy area to the north. Pursuant to the proposed Encroachment Agreement, if the hotel were to be destroyed, or under other designated circumstances, the right-of-way would revert back to the full 60-foot width. The Village has a vested interest in keeping the traffic flowing in this area. Largely this is an effort to create assurance for the Village that this private right-of-way will continue to provide access for the public. David explained that the Agreement specifically provides that the Village is a third party beneficiary with stated rights to enforce certain provisions of the Agreement. Frank questioned whether this would ever become a Village road. The current minimum road ROW is 50 feet. Ned Hickey stated that if Triphammer Mall ever came in to improve their parking lot the Planning Board would have them do blocking with inlets and islands much like they did with Pyramid Mall.

Resolution #5310-Authorizing the Mayor to Sign the Following  
Encroachment Agreement

THIS ENCROACHMENT AGREEMENT, made the 19 day of March, 2007 (this "Agreement"), by and between TRIPHAMMER DEVELOPMENT CO., INC., a New York Corporation having its principal offices at 309 North Tioga Street, Ithaca, New York 14850 ("Triphammer"), and ITHACA SUITES, LLC, a Delaware Limited Liability Company having its principal offices at 914 Hartford Turnpike, P.O. Box 715, Waterford, Connecticut 06385 ("Ithaca Suites").

**RECITALS**

WHEREAS, Triphammer has conveyed a parcel of real estate to Ithaca Suites, which premises are shown as Parcel A on a "Subdivision Map for Triphammer Development, Co., Cinema Drive, Village of Lansing, Tompkins County, New York" dated October 12, 2005, made by T.G. Miller, P.C., Engineers and Surveyors, Allen T. Fulkerson, Licensed Surveyor No. 049269, a copy of which is recorded in the Tompkins County Clerk's Office as Instrument No. 483752 (the "Ithaca Suites Premises");

WHEREAS, as more particularly described in a certain deed dated November 7, 1968 from Northeast Co., a co-partnership of Otto B. Schoenfeld, Louis K. Thaler, Manley H. Thaler and Richard B. Thaler as co-partners, to Triphammer and recorded in the Tompkins County Clerk's Office in Liber 478 of Deeds at page 678, a private right-of-way (the "Right-of-Way") sixty (60) feet in width exists along the northerly boundary of the Ithaca Suites Premises for

the benefit of Triphammer and the Premises which Triphammer owns adjacent to Ithaca Suites parcel on the west (the "Triphammer Premises").

WHEREAS, in connection with the construction, replacement and operation of present and future improvements on the Ithaca Suites Premises and the Triphammer Premises, the parties hereto are desirous of entering into this Agreement regarding the Right-of-Way.

NOW, THEREFORE, for and in consideration of the mutual covenants herein expressed and other lawful and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Triphammer, for itself and its successors and assigns, hereby consents and agrees to the development, construction, installation, repair, replacement and maintenance by Ithaca Suites and its successors and assigns of improvements within the Right-of-Way, including, without limitation, any parking spaces, sidewalks, islands, curbing, fencing, signage, lighting, flagpoles, landscaping, porte-cocheres, canopies, awnings, and overhangs, provided, however, that during the term of this Agreement, the Right-of-Way shall be maintained by Ithaca Suites at all times for the benefit of Triphammer and the Triphammer Premises such that (i) the northerly portion thereof (approximately ten (10) feet in width) south of the northerly boundary which is marked generally by a fence line separating such northerly boundary from the southerly right-of-way line of NYS Route 13) be maintained by Ithaca Suites at all times as a grassy, unimproved and unpaved area, and (ii) an area of no less than twenty-four (24) feet in width immediately to the south of and adjoining the aforesaid grassy area be maintained by Ithaca Suites at all times as an open and unobstructed paved right-of-way to accommodate vehicular traffic, the initial paving and regular maintenance thereof to be the sole responsibility of Ithaca Suites and to be consistent with standards and specifications applicable to the level of vehicular traffic thereon. Triphammer shall retain and have the continued use of all rights in and to the Right-of-Way for purposes of pedestrian traffic and subsurface utilities.
2. In the event that (i) the Ithaca Suites Premises is no longer used for hotel, lodging or hospitality purposes or (ii) the buildings and other improvements approved by the Village of Lansing ("Village") under the Special Permit No. 2071 adopted on November 14, 2005 for the Ithaca Suites Premises are demolished or removed from the Ithaca Suites Premises (other than in connection with a casualty or similar event where such buildings or improvements are to be rebuilt), then any new improvements within the original sixty (60) foot Right-of-Way shall be subject to the prior approval of Triphammer, not to be unreasonably withheld. It is understood and acknowledged by Ithaca Suites that upon the occurrence of any of the events described above in clauses (i) or (ii), of paragraph 2 above, nothing herein shall relieve Ithaca Suites of any of its obligations under applicable laws, regulations and ordinances to obtain any requisite permits, consents and approvals from the Village with respect to the Ithaca Suites Premises and the sixty (60) foot Right-of-Way
3. Notwithstanding anything herein to the contrary, Ithaca Suites hereby agrees that no encroachments into the Right-of-Way permitted hereunder shall encroach or extend into the no less than twenty-four (24) foot paved area and approximately ten (10) foot adjoining area to the north to be maintained by Ithaca Suites as provided for in paragraph 1 above.
4. Except as set forth herein, all other terms and conditions of the Right-of-Way as established by the above-described deed shall remain in force and effect.
5. This Agreement shall remain in force and effect while the encroachments permitted hereunder encroach into the sixty (60) foot Right-of-Way, and the provisions contained herein shall run with the lands of both Triphammer and Ithaca Suites, and shall inure to the benefit of and be binding upon the parties hereto, their respective grantees, representatives, successors and assigns. An executed copy of this Agreement and any amendment thereto shall be recorded in the Tompkins County Clerk's Office and indexed to each of the Ithaca Suites Premises and Triphammer Premises.
6. To the extent that the parties hereto and their respective grantees, representatives, successors and assigns are obligated hereunder (and further obligated pursuant to Village of Lansing ("Village"))

Special Permit No. 2071 referred to in paragraph 2 above) to provide and maintain the foregoing open and unobstructed right-of-way of no less than twenty-four (24) feet in width and the adjoining grassy area to the north, and to the further extent that the Village is otherwise entitled to certain rights as a matter of law to insure and protect the health, safety and welfare of those within its boundaries, the Village shall thereby be considered a third party beneficiary under this Agreement, and for such limited purposes shall have the right, but not the obligation, upon the failure of the parties hereto to do so, to take any and all actions and measures reasonably necessary to enforce the terms and provisions of this Agreement and the conditions of such Special Permit No. 2071 so as to thereby insure the continued public use of the Right-of-Way rights connecting the Triphammer Premises with Cinema Drive. By its signature below, the Village hereby acknowledges that it is a third party beneficiary under this Agreement as aforesaid and that it has reviewed and approved the terms of this Agreement.

Trustee Moore moved this resolution. Trustee Leopold seconded the motion. A vote was taken:

|                          |                             |                       |
|--------------------------|-----------------------------|-----------------------|
| Mayor Donald Hartill-Aye | Trustee Larry Fresinski-Aye | Trustee Lynn Leopold- |
| Aye                      | Trustee Frank Moore- Aye    |                       |

The next item on the agenda was to start the budget discussions. Don stated that everyone should have received an updated budget that includes the proposed changes discussed at the last Monday night meeting. Everyone has had two weeks to reflect on the proposed budget.

Don recapped that we are purchasing equipment for the highway department and also receiving some revenue from the sale of equipment. The monies in this year's budget for the proposed Northwood project will be encumbered. We plan to do something with Dart Drive which will need concurrence with residents. Dart Drive will not get any wider. We will have to do drainage much like what we did on Bush Lane. Most likely it will be done on the North side. Ned thinks the placement of drainage and the sidewalks should be an engineering decision. Ned asked if street sweeping is included in the budget. Don stated that it is part of the maintenance budget. Ned also suggested we buy some trash cans to place on our landings along N. Triphammer Rd. Don stated that they would need to be secured some way so that they didn't disappear. Lynn added that another problem is people dumping their household trash in these cans. Under this proposed budget, the tax rate for next year will go from \$1.59 to \$1.40 per \$1000 of assessed value. The Mayor explained that the main reason for this is to get back on track from the Triphammer Road reconstruction bubble. The Village may be able to reduce the tax rate further next year after we have had a year to come to equilibrium. The General Fund includes monies for redoing Dart Drive, a new pickup and a new skid steer along with the usual road maintenance. The Mayor stated that the salaries are still listed at this year's amount. This will be adjusted after tonight's executive session. The water fund and the sewer fund reflect the reduction of the surcharge from 50% to 30%. Our goal is to decrease the surcharge so we end up with a zero appropriated cash surplus. In the past few years we have had significant surpluses due to an extended construction season that has paid for the North Triphammer Road Project. The tax rate may go down again next year once we are back in a stable mode and catch up with our projects.

Jodi suggested that we lower F2144 since we are collecting less money in the water and sewer funds and will therefore not have as much to earn interest on. It was lowered from \$12,000 to \$6,000. The Mayor had already adjusted the sewer fund.

Lynn stated that the Stormwater expenses that we submitted for reimbursement will be a revenue item, but it is unsure when we will ever receive that money. Frank asked Don if the appropriated fund balance equals the amount of Budgetary Provisions for Other Uses. Don explained that it is the appropriations that were not spent. The local share of N. Triphammer Road Project was less than anticipated. We did less highway construction last year. These factors along with being conservative has resulted in this situation. We will be getting back to equilibrium after the N. Triphammer Rd. Project is totally completed. Budgeting is not a perfect science.

Resolution #5311- To Set a Public Hearing on the tentative budget for April 16, 2007 at 7:35pm.

Trustee Fresinski moved to set the public hearing. Trustee Moore seconded the motion. A vote was taken:

Aye Mayor Donald Hartill-Aye Trustee Larry Fresinski-Aye Trustee Lynn Leopold-  
Trustee Frank Moore- Aye

During general discussion the Mayor asked the Board for approval to pay for a portion of the appraisal of the Crossmore property that is being subdivided. Tompkins County has agreed to pay \$2,000 of the projected \$5,000 appraisal cost.

Resolution #5312- To Authorize the Village to Pay for an Appraisal of Crossmore Property of an Amount Not To Exceed \$4,000.

Trustee Fresinski moved this resolution. Trustee Leopold seconded the motion. A vote was taken:

Aye Mayor Donald Hartill-Aye Trustee Larry Fresinski-Aye Trustee Lynn Leopold-  
Trustee Frank Moore- Aye

Frank stated that when he attended a sewer meeting at the Town of Lansing, it appeared that the Town believes that the share that the Village will be contributing will be quite a bit bigger. After Frank had reviewed the MOU he had two comments. The Town is seeking additional money. The amount stated is proportional and will be finalized later. Don will reword the document to say "remaining" local share. Frank also feels the gravity system add-on needs to be clarified. Don will be very clear when he speaks with Town Supervisor Steve Farkas. Don asked for the Board's permission to go forward with these discussions.

Motion- To Go To Executive Session to Discuss Personnel Issues

Trustee Leopold moved to go into executive session. Trustee Fresinski seconded the motion. A vote was taken:

Aye Mayor Donald Hartill-Aye Trustee Larry Fresinski-Aye Trustee Lynn Leopold-  
Trustee Frank Moore- Aye

The Board of Trustees went into executive session at 8:35pm.

Motion- To Come Out of Executive Session

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

Aye Mayor Donald Hartill-Aye Trustee Larry Fresinski-Aye Trustee Lynn Leopold-  
Trustee Frank Moore- Aye

The Board of Trustees came out of executive session at 9:30pm.

Motion- To Adjourn

Trustee Fresinski moved for adjournment. Trustee Leopold seconded the motion. A vote was taken:

Aye Mayor Donald Hartill-Aye Trustee Larry Fresinski-Aye Trustee Lynn Leopold-  
Trustee Frank Moore- Aye

The meeting adjourned at 9:31 PM.

Jodi Dake

Clerk/Treasurer

