

Village of Webster
Village Board Meeting
June 12, 2014

Webster Community Meeting Hall
29 South Avenue
Webster, NY 14580

Present: Mayor Cahill, Trustee Balcaen, Trustee Byerts, Trustee Ippolito Jr., Trustee Lancy, and Attorney Don White

Mayor Cahill announced that the Public Hearing would be held at 7:45pm and an Executive Session would be held at 8:30pm for interviews for the Position of Village Treasurer and for the purpose of discussing pending litigation regarding former Clerk/Treasurer Kathy Vendel.

Public Comments

Peter Elder- 59 Dunning Avenue- Commented to the Board and said that restricting the Public Comments Section of the Village Board Meetings from being televised would be an unwise decision.

Joyce Lehmann – 262 South Avenue- Questioned the Board and wanted to know if the Treasurer Position would be filled.

Donna Rickards – 68 Lapham Park- Commented to the Board and said that all people have a right to speak but they should speak the truth. Mrs. Rickards said moving the time of the public comments section so that it is not televised would be alright with her.

Eric Reynolds- 64 Kircher Park- Questioned the Board and said he does not agree with closing the water department before the water debt was paid back to the general fund. Mr. Reynolds continued and said that the Public Comments Section should be televised.

Village Board Business

Mayor Cahill opened the Public hearing at 7:50 p.m. on amended Incentive Zoning Application submitted by Morgan Management:

NOTICE IS HEREBY GIVEN that the Village Board of Trustees of the Village of Webster will conduct a public hearing on the Amended Incentive Zoning Application submitted by Railroad Street Webster LLC, Webster North LLC and North Pond Apartments LLC with respect to certain zoning incentives sought by the applicant in consideration for certain amenities to be provided by the applicant all as more particularly set forth in the application and amended application at the Community Meeting Hall, 29 South Avenue, Webster, New York 14580 on June 12, 2014 at 7:45 p.m., or as soon thereafter as said public hearing shall be convened, at which time all persons interested will be heard.

Rueben Ortenberg, Attorney from Woods Oviatt Gilman LLP, representing the applicant, reviewed with the Board a schematic of the site plan submitted. Attorney Ortenberg said the plan has been brought up to date and the total number of units is seventy and as all has been discussed. The former

amenities have been replaced with a cash amenity of \$175,000.00. The cash amenity will be paid one-third before the issuance of the first building permit, one-third after the fourth building permit and the final one-third shall be paid after the final permit is issued. Attorney Ortenberg said Walt Baker an Engineer is here to answer any technical questions.

Mayor Cahill said the public hearing is open to anyone who wants to speak or ask questions related to the project.

Richard Walter - 28 Elm Street - Asked Attorney Ortenberg are there any definite plans for preserving the Baggage Depot and is the green space going to remain in the site plan as discussed in other meetings? Attorney Ortenberg said the green space is a site plan issue and there are no definite plans for the baggage depot as of yet. Mayor Cahill said that Karl Laurer and Mr. Ruoff were in the process of obtaining a certificate of insurance on the baggage depot before any work can be performed.

Peter Elder – Asked if the Planning Board can change the site plan design. Attorney Ortenberg said he did not think that was possible. The Planning Board can oversee the site plan. This plan that is being proposed and approved by the Village Board is like a miniature zoning law for this property. That is what the incentive zoning law is. Attorney White said the Planning Board cannot change the footprint of the buildings but they can uphold the design criteria in that if the applicant doesn't meet the specific village design criteria then Planning Board has every right to tell them to rebuild the sidewalk if it doesn't meet the requirements. They have regular site plan approval.

Mr. Elder also asked if the TAP Grant money is not obtained what will happen to the \$175,000.00 cash amenity money. Attorney White said that particular instance is actually written in the Incentive Zoning Law. Attorney White read;

“In the event the Village of Webster does not obtain a Transportation Alternative Program grant for the North Avenue connector project, then the \$175,000 cash amenity shall be placed in a trust fund to be used by the Village Board of Trustees exclusively for specific community benefits or amenities that may be authorized by the Board of Trustees and may not be used to pay general and ordinary Village expenses.”

Mr. Elder also said there is a \$25,000.00 short fall on the match. Where is the rest of the money going to come from? Mayor Cahill said there is \$15,000.00 to \$20,000.00 in this year's budget allotted for that.

Mayor Cahill said if no one else wants to speak the time is 8:07pm and we will close the Public Hearing.

Mayor Cahill said the SEQR Resolution and some of this proposed action is an unlisted action and he began to read the 19 questions in Part 2 of Phase 4 of the Full Environmental Assessment Form that Morgan Management filled out.

The following resolution was offered by Trustee Ippolito, Jr. and Seconded by Trustee Byerts, and Opposed by Trustee Lancy; all others were in favor and moved for its adoption:

WHEREAS, the Village Board has the authority pursuant to §7-703 of the New York State Village Law to adopt and amend a zoning ordinance to provide for incentive zoning; and

WHEREAS, by Resolution of July 26, 2012, the Village of Webster Board of Trustees duly adopted Local Law No. 4 of 2012 amending the zoning ordinance to add a new article entitled “Incentive Zoning”; and

WHEREAS, by letter application dated January 16, 2013, Railroad Street Webster LLC, Webster North LLC and North Ponds Apartments LLC applied for certain incentive zoning relief in exchange for certain proposed amenities; and

WHEREAS, a public hearing on the matter was held by the Webster Village Board of Trustees on June 12, 2014 at 7:45 p.m., or as soon thereafter as was practicable; and

WHEREAS, all interested persons were heard; and

WHEREAS, a Full Environmental Assessment Form for the proposed incentive zoning action was prepared and submitted to the Village Board; and

WHEREAS, the Village Board has reviewed and discussed the Full Environmental Assessment Form; and

WHEREAS, the Village board has considered the related long term, short term and cumulative effects including simultaneous or subsequent actions which are likely to be undertaken as a result of this proposed action; and

WHEREAS, the Village Board has assessed the significance of likely consequences, whether they be material, substantial, large or important, as a result of the proposed action; and

WHEREAS, the Village Board specifically considered Part Two of the Full Environmental Assessment Form as to the project’s impacts and their magnitude on land, water, air, plants, animals, agricultural land resources, aesthetic resources, historic resources, archeological resources, open space, recreation, transportation, energy, noise, odor, public health, growth and the character of community or neighborhood; and

WHEREAS, the Village Board considered the probability of an impact occurring, the duration of the impact, the permanency of an impact, control of an impact, local needs, local gains and objections related to the impact;

NOW THEREFORE, be it resolved:

1. The proposed action is classified as an UNLISTED ACTION under the New York State Environmental Quality Review Act.
2. The Webster Village Board has conducted an uncoordinated review of the action.

3. Based upon all information available to the Board, it concludes that there is no potential large probability of an impact occurring.

4. The Village Board finds that the proposed action will not result in any significant environmental impacts on any of the following: land, existing air quality, noise levels, drainage flow or patterns or surface water run off, threatened or endangered species, particular or significant wildlife habitat, unthreatened or non-endangered species, migratory fish, shell fish or wild life species, agricultural land resources, aesthetic, historic or other natural or cultural resources, open space and recreation, transportation, the community resources of fuel or energy supply, public health and safety, character of the existing community or neighborhood, growth, subsequent development or related activities likely to be induced by the proposed actions and long term, short term, cumulative or other effects not identified by any of the above impacts.

5. The Village Board of the Village of Webster determines that the proposed action to grant incentive zoning relief with respect to the North Ponds Apartments project will not have a significant adverse environmental impact and a draft environmental impact statement will not be required to be prepared.

6. The Superintendent of Public Works of the Village of Webster is to give any and all notices that may be required by the New York State Environmental Quality Review Act for this action.

The following resolution was offered by Trustee Byerts and Seconded by Trustee Balcaen, and Opposed by Trustee Lancy, all others were in favor and moved for its adoption:

WHEREAS, the Village Board pursuant to New York Village Law §7-703 has adopted an Incentive Zoning Local Law; and

WHEREAS, by letter application dated January 16, 2013, Railroad Street Webster LLC, Webster North LLC and North Ponds Apartments LLC applied for incentive zoning relief in connection with a proposal to develop property situated on the west side of North Avenue between Railroad Street on the north and Kittelberger Park on the south for apartment units and townhouse style apartment buildings; and

WHEREAS, by letter application dated May 20, 2014, the applicant duly amended its incentive zoning application to propose a cash amenity in lieu of the originally proposed physical amenities to be given in consideration for the requested incentive zoning relief; and

WHEREAS, the project is currently configured to include 70 apartment units, 50 being located in a single three story building in the middle of the site and 20 townhouse style units in four buildings along the frontage of North Avenue and Kittelberger Park, all as more particularly set forth on a drawing by DSB Engineers & Architects, P.C., titled "Concept Plan – Phase 4 Alternate 'B'", last revised on June 11, 2014; and

WHEREAS, pursuant to Village Code §175-27.5(b), the Village Board determined that further review was warranted and accordingly the application was submitted to the Planning Board for its review and recommendation; and

WHEREAS, the Planning Board issued its written report to the Village Board of Trustees wherein it determined that the proposed incentives and amenities exchanged was in the best interest of the Village of Webster and recommended moving forward with the incentive zoning application; and

WHEREAS, by Resolution of May 22, 2014, the Village Board established a date, time and place for a public hearing to consider the subject incentive zoning application; and

WHEREAS, in accordance with the Village Board Resolution of May 22, 2014, a notice of the public hearing was published in the Webster Herald and posted on the Village bulletin board at the Village Hall, 28 West Main Street, Webster, New York; and

WHEREAS, all notices and/or referrals as required by law to be given or made had been given or made;

NOW THEREFORE, be it resolved, that:

1. All requirements of the New York State Environmental Quality Review Act have been met.
2. The incentive zoning application of Railroad Street Webster, LLC, Webster North LLC and North Ponds Apartments LLC is approved and the specific zoning incentives delineated as “Incentive Zoning Relief Requested” on the Attached Exhibit A are granted by the Village of Webster.
3. In consideration for the foregoing zoning incentives, the applicant shall make a cash payment in the amount of \$175,000 in lieu of providing any physical amenities because the sought after physical amenities include improvements to the North Avenue streetscape in the area immediately adjacent to the project and these streetscape improvements are not immediately feasible or cannot be reasonably provided inasmuch as they are part of the overall North Avenue connector project that is part of a 2014 Transportation Alternatives Program funding application by the Village of Webster to the New York State Department of Transportation and cannot be separated therefrom.
4. The \$175,000 cash amenity shall be paid according to the following schedule:
 - A. One-third or \$58,333.33 shall be paid prior to issuance of the first building permit;
 - B. One-third or \$58,333.33 shall be paid prior to issuance of the fourth building permit; and

C. The balance in the amount of \$58,333.34 shall be paid prior to the issuance of the final building permit for the North Avenue Apartment project.

5. The Board further finds that all zoning incentives, can be supported adequately by the public facilities currently available to the site including sewer, water, transportation, waste disposal and fire protection, without diminishing the availability of such services for projects permitted as a matter of course.

6. The Board finds that the cash amenity is sufficiently advantageous to the Village of Webster such that it is appropriate to grant the requested incentives and the project will enhance the long range asset base of the Village because: (a) the project will provide attractive needed multi-family housing within the Village of Webster; (b) the project is situated in an NB zoning district which contemplates residential use; (c) the improvements contemplated by the North Avenue connector project could not be realized without obtaining a Transportation Alternatives Program grant which in turn requires 25% local match funding and said local funding could not be realized without the cash amenity offered by the project sponsor; and (d) if the TAP grant is obtained the North Avenue connector project will greatly enhance the long-range asset base of the Village of Webster by providing an attractive pedestrian and bicycle friendly gateway to the central business district of the Village.

7. The cash amenity is more advantageous than any physical amenities located in the immediate area of the incentivized parcel because, when coupled with the TAP grant, needed improvements will be made to and along North Avenue that will greatly benefit the entire Village as a whole and not just the area immediately adjacent to the subject project. The cash amenity, more than any requested physical amenity, will allow the Village to redevelop North Avenue from Orchard Street to Main Street into an attractive, pedestrian friendly thoroughfare that will attract additional commercial, retail and residential development.

8. The Board finds that the use of incentive zoning for the North Avenue Apartment project is consistent with the Village comprehensive plan.

9. In the event the Village of Webster does not obtain a Transportation Alternative Program grant for the North Avenue connector project, then the \$175,000 cash amenity shall be placed in a trust fund to be used by the Village Board of Trustees exclusively for specific community benefits or amenities that may be authorized by the Board of Trustees and may not be used to pay general and ordinary Village expenses.

Village Board Business Continued

Motion Trustee Ippolito Jr. and Seconded by Trustee Lancy to hire Peter D'Amico to the position of Laborer at a rate of \$15.58 per hour, effective June 16, 2014. Pending positive pre-employment checks, all were in favor and carried.

Executive Session

Motion Trustee Lancy and Seconded by Trustee Balcaen to enter into Executive session at 8:45pm

for the purpose of discussing pending litigation regarding former Clerk/Treasurer Kathy Vendel, and to hold interviews for Village Treasurer Position, all were in favor and carried.

Motion Trustee Balcaen and Seconded by Trustee Ippolito Jr. to exit from Executive Session at 9:51 pm, all were in favor and carried.

Village Board Business - Continued

Motion Trustee Lancy and Seconded by Trustee Byerts to approve the Village Board Minutes of May 8, 2014, and Village Board Workshop Minutes of May 22, 2014, all were in favor and carried.

Motion Trustee Byerts and Seconded by Trustee Lancy to accept claims totaling: General - \$21,374.48, Water - \$654.27, Trust and Agency - \$2,121.65 and Prepaid Warrants \$16,785.42, all were in favor and carried.

Motion Trustee Lancy and Seconded by Trustee Ippolito Jr. to authorize Mayor Cahill to sign the Engagement Letter with Village auditors Freed Maxick, all were in favor and carried.

Motion Trustee Ippolito Jr. and Seconded by Trustee Byerts to designate Carol Moranz, in her capacity as Deputy Village Clerk, as the Minority Business Officer for the Village of Webster this will be temporary until we have a Treasurer, all were in favor and carried.

The following resolution was offered by Trustee Ippolito, Jr. and Seconded by Trustee Byerts, and moved for its adoption:

WHEREAS, pursuant to New York Vehicle and Traffic Law § 1640, the Village Board has the authority to adopt local laws regulating traffic upon Village highways; and

WHEREAS, by previous Resolution, the Village Board of Trustees of the Village of Webster, enacted local laws with respect to the restriction of parking upon certain village streets which are included in Chapter 156 of the Code of the Village of Webster; and

WHEREAS, included in Article III of Chapter 156 of the Code of the Village of Webster is Section 156-15 (B), which provides “Parking is prohibited on spaces and zones on the streets of the village as may be indicated by suitable signs erected by the village authorities”; and

WHEREAS, a request has been made to the Village to temporarily restrict parking along both sides of Sanford Street commencing on 12:00am on July 9th, 2014 and ending at 12:00pm on July 13th, 2014; and

WHEREAS, this request was made to aid in public safety and to preserve emergency ingress and egress to the Webster Fireman’s Field during the time of the annual fireman’s carnival; and

WHEREAS, the Village agrees that in the interest of public safety, and to promote safe ingress and egress to the carnival grounds, a temporary no parking zone shall be established along Sanford Street.

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

1. That the Village of Webster, Board of Trustee's hereby establishes a temporary no parking zone along both sides of Sanford Street for the dates and times established above.
2. That the Superintendent of public works is hereby directed to install, or allow to be installed, any signage necessary to identify and delineate the additional no parking areas.
3. That this temporary no parking zone shall have no effect upon any no parking zones previously established upon Sanford Street

Motion Trustee Byerts and Seconded by Trustee Lancy to approve the May 2014 Financial Statements, all were in favor and carried.

Motion Trustee Balcaen and Seconded by Trustee Ippolito Jr. for the promotion of Jim Scot to the position of Operator/ Laborer/ Mechanic at a rate of \$23.54 per hour, effective date of June 16, 2014, all were in favor and carried.

Motion Trustee Byerts and Seconded by Trustee Lancy to Table the resolution to change Board Policy 2-2 Meeting Dates, Times and Locations for Boards to the next workshop meeting held on July 1, 2014, all were in favor and carried.

Attorney

No report was given.

Office

Passport Services will not be available on Tuesday, June 24, 2014 and Wednesday, June 25, 2014 because the new server will be installed.

Department of Public Works

Jake Swingly Superintendent of Public Works said the Baker Street sidewalk renovation will be under way soon and asked residents to clear the front of their yards in preparation.

Call In

Eric Reynolds called in and asked why the SEQR Resolution was different tonight than it was for the water switch. Mayor Cahill said because the water switch was a Type II SEQR and this is an Unlisted Action.

Adjournment

Motion Trustee Lancy and Seconded by Trustee Ippolito Jr. to adjourn the meeting at 10:25 pm, all were in favor and carried.

Josette Amalfi, Village Clerk

John J. Cahill, Mayor