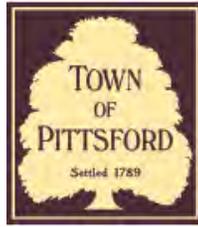


SUPERVISOR
William A. Smith, Jr.



COUNCIL MEMBERS
Kate Bohne Munzinger, Deputy
Supervisor
Kevin Beckford
Cathy Koshykar
Stephanie Townsend

TOWN BOARD AGENDA

Tuesday, March 2, 2021 – 6:00 pm
Meeting by Online Video with Public Access
Page 1 of 2

Call to Order

Pledge of Allegiance

Public Hearing: Proposed Local Law #1 of 2021 – Demolition Review
Consideration of Adoption of Local Law #1 –Demolition Review

- SEQRA Resolution
- Adoption Resolution

Minutes

Approval of Minutes of Meeting of February 16, 2021

Legal Matters

Public Comment
Discussion of Questions and Proposals from Councilmember Koshykar

1. Changes to Rules of Procedure – further discussion
2. Social Media use by Elected Officials

Financial Matters

Public Comment
Surplus

Personnel Matters

Public Comment
Hiring Resolution

Other Business

Public Comment

Adjournment

Instructions for online viewing and offering comments on attached page 2

How to view the meeting:

1. Zoom

- In your web browser, go to

<https://townofpittsford.zoom.us/j/83151581504?pwd=anozQllraCsybENSc01XejlBS3VMQT09>

You will be connected to the meeting.

2. Telephone

- You can access the meeting by phone. Use any of the numbers below, then enter the meeting ID. The Meeting ID is 831 5158 1504. No password is necessary.

(929) 205-6099	(312) 626-6799
(253) 215-8782	(301) 715-8592
(346) 248-7799	(669) 900-6833

3. Comments

Comments are open to Pittsford residents, owners of property in the Town who pay Town taxes, owners of a businesses in the Town, attorneys or agents designated by a resident to speak on the resident's behalf.

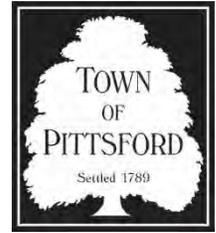
By E-Mail

- Commenters can submit a comment for the meeting by emailing it to comments@townofpittsford.org any time before 2:30pm on the date of the meeting.
- Please begin any comment with your name and street address. Comments by e-mail will be read aloud by the Town Clerk.
- To comment by email on anything that takes place at the meeting, use the email address shown prior to 2:30pm on the next meeting date. The Clerk will read such comments from residents aloud at that meeting.

Using Zoom

- For commenting during the meeting, please begin with your name and street address.
- At the points where the Supervisor asks if there are public comments, if you are a resident, property owner, business owner or attorney or agent, as described above, and wish to comment, click "Raise Hand" in the control panel. (Telephone attendees press *9).
- Your comment will be taken in the order received. When you receive a message to "Unmute Now" please do so and make your comment. All comments must begin with the name and street address of the commenter.
- Alternatively, if you don't have a microphone or prefer or need to submit a comment in writing, you can do so by clicking "Chat" in the controls at the bottom of your Zoom window.
- When called upon, please begin with your name and street address and type your message into the chat window, then press "Enter" to send. The Town Clerk will read your message aloud.

MEMORANDUM



To: Town Board Members

From: Robert B. Koegel

Date: February 26, 2021

Regarding: Local Law No. 1 of 2021: Amending Town Code for Demolition Review

For Meeting On: March 2, 2021

Ladies and Gentlemen:

The Town Board has previously received proposed Local Law #1 of 2021, which would amend the Town Code to require the Design Review and Historic Preservation Board to review applications to demolish certain structures within the Town. A Public Hearing on the proposed Local Law is being held on March 2, 2021.

Prior to adopting the proposed Local Law, the Board will need to adopt a SEQRA Negative Declaration Resolution.

Attached to this Memo is a copy of the proposed Local Law, together with the proposed Adoption Resolution. Also attached is the proposed SEQRA Resolution.

Recommendation is hereby made that the Town Board adopt the SEQRA Negative Declaration and adopt the proposed Local Law.

SEQRA RESOLUTION

I move that a Negative Declaration of Environmental Significance be made, as set forth in the proposed written SEQRA Resolution.

ADOPTION RESOLUTION

I move the adoption of Local Law #1 of 2021, amending Article VIII "Demolition Permits" of Chapter 64 "Building Construction and Maintenance" of the Town Code, to require demolition review of certain structures within the Town, as set forth in the proposed written Adoption Resolution.

At a Regular Meeting of the Town Board of the Town of Pittsford, New York, held by electronic conference as permitted by law, on the 2nd day of March, 2021.

PRESENT: William A. Smith, Jr., Supervisor
Katherine Bohne Munzinger, Deputy Supervisor
Kevin S. Beckford, Councilmember
Cathleen A. Koshykar, Councilmember
Stephanie M. Townsend, Councilmember

ABSENT: None

In the Matter

of

THE ADOPTION OF PROPOSED LOCAL LAW NO. 1 OF 2021:
AMENDING ARTICLE VIII "DEMOLITION PERMITS" OF CHAPTER 64
"BUILDING CONSTRUCTION AND MAINTENANCE" OF THE
TOWN OF PITTSFORD MUNICIPAL CODE

SEQRA RESOLUTION

WHEREAS, the Town Board has identified the need to amend a portion of the Town Code, requiring the Design Review and Historic Preservation Board to review applications to demolish certain structures within the Town; and

WHEREAS, after giving due consideration to the proposed amendment, it was the considered opinion of all members of the Town Board who were present that a public hearing should be held on the 2nd day of March, 2021, by electronic conference as permitted by law, to consider the proposed amendment; and

WHEREAS, a single agency review of the SEQRA issues for the proposed amendment by the Town Board was conducted; and

WHEREAS, a public hearing was held on the 2nd day of March, 2021, at which time all interested parties wishing to speak on the proposed amendment were heard; and

WHEREAS, a Short Environmental Assessment Form (EAF) has been prepared

and carefully reviewed by the Town Board and attached hereto; and

WHEREAS, the completed Short EAF failed to identify any significant adverse environmental impacts associated with the proposed amendment;

NOW, THEREFORE, be it

RESOLVED, that the Pittsford Town Board, upon consideration of all written and oral submissions, public comment, comment from appropriate agencies, as well as the completed Short EAF, and upon having given this matter due deliberation and consideration, finds that the proposed amendment to Article VIII of Chapter 64 of the Town of Pittsford Municipal Code will have no significant adverse impact on the environment; and be it further

RESOLVED, that the Town Board issues a Negative Declaration for the adoption of proposed Local Law No. 1 of 2021.

Said matter having been put to a vote, the following votes were recorded:

William A. Smith, Jr.	VOTING
Katherine Bohne Munzinger	VOTING
Kevin S. Beckford	VOTING
Cathleen A. Koshykar	VOTING
Stephanie M. Townsend	VOTING

The resolution was thereupon declared duly adopted.

DATED: March 2, 2021

Linda M. Dillon, Town Clerk

I, LINDA M. DILLON, Clerk of the Town Board of the Town of Pittsford, New York, DO HEREBY CERTIFY that I have compared a copy of the resolution as herein specified with the original in the minutes of the meeting of the Town Board of the Town of Pittsford and that the same is a correct transcript thereof and the whole of the said original.

IN WITNESS WHEREOF, I have hereunto set my hand this ___ day of March, 2021.

Linda M. Dillon, Town Clerk

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Local Law No. 1 of 2021: Amending Art. VIII "Demolition Permits" of Ch. 64 "Building Construction and Maintenance" of Pittsford Town Code			
Name of Action or Project: Townwide			
Project Location (describe, and attach a location map):			
Brief Description of Proposed Action: Amend Town Code to require Town Design Review and Historic Preservation Board to review and approve applications to demolish certain non-exempt structures within the Town prior to any demolition. Review is of the historic and architectural significance of the structure and the effect of demolishing the structure and rebuilding any replacement structure is expected to have on the character of the neighborhood and community. This serves as the narrative description called for in question 1 below.			
Name of Applicant or Sponsor: Town Board of the Town of Pittsford		Telephone: 585-248-6220	
Address: 11 South Main Street		E-Mail: wsmith@townofpittsford.org (Supervisor)	
City/PO: Pittsford		State: New York	Zip Code: 14534
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ acres			
b. Total acreage to be physically disturbed? _____ acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: <u>Town Board of the Town of Pittsford by William A. Smith, Jr.</u> Date: <u>January 28, 2021</u>		
Signature: _____ Title: <u>Town Supervisor</u>		

PRINT FORM

Project:

Date:

**Short Environmental Assessment Form
Part 2 - Impact Assessment**

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Project:	
Date:	

Short Environmental Assessment Form Part 3 Determination of Significance

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	
<input checked="" type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.	
Town Board of the Town of Pittsford <hr/> Name of Lead Agency	March 2, 2021 <hr/> Date
William A Smith, Jr. <hr/> Print or Type Name of Responsible Officer in Lead Agency	Town Supervisor <hr/> Title of Responsible Officer
<hr/> Signature of Responsible Officer in Lead Agency	<hr/> Signature of Preparer (if different from Responsible Officer)

At a Regular Meeting of the Town Board of the Town of Pittsford, New York, held by electronic conference as permitted by law, on the 2nd day of March, 2021.

PRESENT: William A. Smith, Jr., Supervisor
Katherine Bohne Munzinger, Deputy Supervisor
Kevin S. Beckford, Councilmember
Cathleen A. Koshykar, Councilmember
Stephanie M Townsend, Councilmember

ABSENT: None

In the Matter

of

THE ADOPTION OF PROPOSED LOCAL LAW NO. 1 OF 2021:
AMENDING ARTICLE VIII "DEMOLITION PERMITS" OF CHAPTER 64
"BUILDING CONSTRUCTION AND MAINTENANCE" OF THE
TOWN OF PITTSFORD MUNICIPAL CODE

Adoption Resolution

WHEREAS, true and correct copies of proposed Local Law No. 1 of 2021: Amending Article VIII "Demolition Permits" of Chapter 64 "Building Construction and Maintenance" of The Town of Pittsford Municipal Code, were placed upon the desks of all members of the Town Board of the Town Board, New York, more than seven (7) calendar days, exclusive of Sunday, prior to the 2nd day of March, 2021; and

WHEREAS, there was duly published in a newspaper previously designated as an official newspaper for publication of public notices, and posted upon the bulletin board maintained by the Town Clerk pursuant to § 40(6) of the Town Law, a notice of public hearing to the effect that the Town Board would hold a public hearing on the 2nd day of March, 2021, at 6:00 P.M., Local Time, by electronic conference as permitted by law, on said Local Law No. 1 of 2021; and

WHEREAS, the said public hearing was duly held on the 2nd day of March, 2021, at 6:00 P.M., Local Time, by electronic conference as permitted by law, and all persons present were given an opportunity to be heard, whether speaking in favor of or against the adoption of said Local Law

No. 1 of 2021; and

WHEREAS, subsequent to the closing of said public hearing, and after all persons interested had been heard, the Town Board considered the adoption of said Local Law No. 1 of 2021; and

WHEREAS, it was the decision of the Town Board that said Local Law No. 1 of 2021 should be adopted.

NOW, on a motion duly made and seconded, it was

RESOLVED, that Local Law No. 1 of 2021: Amending Article VIII "Demolition Permits" of Chapter 64 "Building Construction and Maintenance" of The Town of Pittsford Municipal Code, be adopted by the Town Board of the Town of Pittsford, New York, to read as annexed hereto; and it was further

RESOLVED, that within twenty (20) days subsequent to the 2nd day of March, 2021, there shall be filed with the Secretary of State one certified copy of said Local Law No. 1 of 2021.

Said matter having been put to a vote, the following votes were recorded:

William A. Smith, Jr.	VOTING
Katherine Bohne Munzinger	VOTING
Kevin S. Beckford	VOTING
Cathleen A. Koshykar	VOTING
Stephanie M. Townsend	VOTING

The resolution was thereupon declared duly adopted.

DATED: March 2, 2021

Linda M. Dillon, Town Clerk

I, LINDA M. DILLON, Clerk of the Town Board of the Town of Pittsford, New York, DO HEREBY CERTIFY that I have compared a copy of the resolution as herein specified with the original in the minutes of the meeting of the Town Board of the Town of Pittsford and that the same is a correct transcript thereof and the whole of the said original.

IN WITNESS WHEREOF, I have hereunto set my hand this ___ day of March, 2021.

Linda M. Dillon, Town Clerk

BE IT ENACTED BY THE
TOWN BOARD OF THE
TOWN OF PITTSFORD
AS FOLLOWS:
LOCAL LAW NO. 1 OF 2021:
THE ADOPTION OF PROPOSED LOCAL LAW NO. 1 OF 2021:
**AMENDING “ARTICLE VIII. DEMOLITION PERMITS” OF “CHAPTER
64. BUILDING CONSTRUCTION AND MAINTENANCE” OF THE
TOWN OF PITTSFORD MUNICIPAL CODE**

Sec. 1 Title

This Local Law shall be known as Local Law No. 1 of 2021: **Amending “Article VIII. Demolition Permits” of “Chapter 64. Building Construction and Maintenance” of the Town of Pittsford Municipal Code.**

Sec. 2 Amendment to Existing Law

The Pittsford Town Code, Article VIII of Chapter 64, shall be amended to read as follows:

Chapter 64 – Building Construction and Maintenance

Article VIII – Demolition of Structures; Board Review and Permit Required

[§ 64-41. Purpose.](#)

The Town of Pittsford contains structures of historic and/or architectural merit, or which otherwise contribute beneficially to the character of the Town and the neighborhood in which such buildings stand. These structures are or may be threatened by development pressures. The purpose of this Article is to provide for public notice and board review before any such structures are demolished.

[§ 64-42. Demolition permit required; Board review and permit required; Board review exemptions.](#)

- A. Demolition permit required. No person may partially or substantially demolish any structure within the Town of Pittsford which requires a building permit to construct without the issuance of a demolition permit by a Code Enforcement Officer. For purposes of this article, **the term “substantially demolish” means the demolition of 50% or more of the exterior of an affected structure’s existing footprint, including porches and garages, as determined by a Code Enforcement Officer.**
- B. Board review and permit required. No person may substantially demolish any non-exempt structure within the Town of Pittsford without the review and approval of a demolition permit application by the Design Review and Historic Preservation Board, and the issuance of a demolition permit by a Code Enforcement Officer authorizing such demolition work.
- C. Board review exemptions.
1. Dilapidated structures. Structures which, in the sole discretion of a Code Enforcement Officer, are seriously damaged by fire, storm, or other calamity, or are in such poor condition so as to constitute a

threat to health, safety, or general welfare, or both, are exempt from board review for a demolition permit.

2. Minor structures. The following structures are exempt from Board review for a demolition permit: temporary structures; appurtenant structures, including but not limited to, buildings which are less than 180 square feet in size, tree houses, decks, and patios; recreational equipment or pools of any size; and fences; provided, however, that where applicable, all such minor structures remain subject to review for a certificate of appropriateness under Article XXX of Chapter 185 herein.
3. Non-historic Structures included in a Planning Board application. Structures that are not inventoried or designated as historic under Article XXX of Chapter 185 herein, but which are included as part of a Planning Board application that requires a public hearing, are exempt from board review for a demolition permit.
4. Discretionary Exemption by the Design Review and Historic Preservation Board. Upon review of available information pertaining to the structure proposed for demolition, including its address, age, architect if available, photographs, square footage, height, and the proposed size and lot location of any proposed replacement structure, the Design Review and Historic Preservation Board shall promptly determine, at a public meeting, whether to exempt from hearing any application for demolition of a structure which, in its sole discretion, does not contribute to the existing character of the neighborhood, Historic District, potential Historic District, or the Town, by virtue of the **structure's architecture or** historic resources. Any application so exempted will be promptly referred to a Code Enforcement Officer for the processing of a demolition permit.

[§ 64-43. Procedure.](#)

A. Hearing application.

1. Form. Any person seeking Town permission to substantially demolish any non-exempt structure within the Town of Pittsford shall complete and furnish to the Code Enforcement Official an application on a form created by the Town Building Department and providing such information so as to allow the Design Review and Historic Preservation Board to evaluate the negative impacts of the proposed demolition to the neighborhood, Historic District, potential Historic District, or the Town.
2. Minimum requirements. **At a minimum, all applications must include the existing structure's age, square footage, height, style, and other available information, such as the structure's architect or historical interest, parcel map or aerial photographs, and color photographs of the existing structure's exterior elevations.** If any replacement structure or addition is proposed, drawings or plans must be presented **showing both the existing and proposed structure's elevations and clearly identifying all new construction and labeling all materials as new or existing.** The application must also identify zoning variances required for any proposed replacement structure or addition. If no replacement structure or addition is proposed, site restoration plans must be presented.
3. Additional information and inspection. Additional information may be required by the Town Building Department or the Design Review and Historic Preservation Board as deemed necessary to determine

conformity with Town regulations and with the spirit and intent of this Article prior to a decision on the application. Such information may include, but is not limited to, interior photographs that represent the current condition of the structure. An inspection of the site, including the inside of the structure, by at least one member of the Design Review and Historic Preservation Board and a Code Enforcement Officer, may also be required. If a new addition or structure is proposed, further requirements may include floor plans, site plans, grading plans, landscaping plans, and demolition/development procedures.

B. Notice and Hearing. Within thirty (30) days from receipt of a complete application, the Design Review and Historic Preservation Board shall hold a public hearing on the application. Notice of the hearing shall be given by Town Hall bulletin board posting and newspaper publication no less than five (5) days prior to the hearing in accordance with law. Additional notice by Town website posting, site sign posting, and mail to neighboring properties will conform to informal Town policy.

C. Standards and Decision. Within forty five (45) days of the commencement of a public hearing on the application, the Design Review and Historic Preservation Board shall decide in writing to approve, with or without conditions, or to disapprove the demolition application, upon express consideration of the following standards and information:

- 1) The need or reasons for the proposed demolition;
- 2) The description of the replacement structure or restoration plan for the site;
- 3) The historic and architectural significance of the structure, and the effect of demolishing the structure and rebuilding any replacement structure is expected to have on the character of the neighborhood and community, including a Historic District if the building stands within such a District and including any potential Historic District **as identified in the Town's most** recent Historic Resource Survey Update; and
- 4) Information derived from the public hearing that supports the preceding subdivision above.

D. Application approval; failure to act upon. Any approval of an application, with or without express conditions, shall be conditioned on compliance with Town and State code provisions regulating demolition activities. Upon approval of an application and compliance with Town and State code provisions regulating demolition activities, a Code Enforcement Officer shall promptly issue the demolition permit. If a decision on an application is not reached within 45 days of the commencement of the public hearing, the application will be deemed denied, unless a time extension is granted at the request of the applicant.

E. Appeals. Consistent with the provisions of Article IX of this chapter, an appeal of any decision of the Design Review and Historic Preservation Board regarding a demolition application may be made to the Town Zoning Board of Appeals.

Sec. 3 Severability

If any clause, sentence, phrase, paragraph or any part of this Local Law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation and effect to the clause, sentence, phrase,

paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this Local Law would have been adopted had any such provision been excluded.

Sec. 4 Effective Date

This Local Law shall take effect immediately upon its enactment and filing with the Secretary of State.

Minutes of the Town Board for February 16, 2021

DRAFT TOWN OF PITTSFORD TOWN BOARD FEBRUARY 16, 2021

Proceedings of a regular meeting of the Pittsford Town Board held on Tuesday, February 16, 2021 at 6:00 P.M. local time via Zoom.

PRESENT: Supervisor William A. Smith, Jr.; Councilmembers Kevin S. Beckford, Cathy Koshykar, Katherine B. Munzinger and Stephanie M. Townsend.

ABSENT: None.

ALSO PRESENT: Staff Members: Kelly Cline, Fire Marshal, Amanda Madigan, Library Director; Shelley O'Brien, Communications Director; Jessie Hollenbeck, Recreation Director; Cheryl Fleming, Personnel Director; Paul J. Schenkel, Commissioner of Public Works; Brian Luke, Finance Director; Robert B. Koegel, Town Attorney; Linda M. Dillon, Town Clerk, and Spencer Bernard, Chief of Staff.

ATTENDANCE: There were seventy-eight (78) members of the public in attendance, as well as an interpreter.

Supervisor Smith called the Town Board meeting to order at 6:00 P.M. The Town Clerk noted all board members present and Supervisor Smith lead in the Pledge to Flag.

The Supervisor noted that the Board will be considering the agenda items regarding Financial Matters out of order, hearing them now, as the first agenda item(s).

FINANCIAL MATTERS PUBLIC COMMENTS

No comments were offered regarding Financial Matters.

LIBRARY FURNITURE PROJECT APPROVED

Library Director, Amanda Madigan, gave a brief history and explanation for the proposed library furniture replacement project. Thereafter, upon the recommendation of the Finance Director, a Resolution for approval to proceed with the Library Furniture Project was offered by Councilmember Townsend, seconded by Councilmember Beckford, and voted on by members as follows: Ayes: Beckford, Koshykar, Munzinger, Townsend and Smith. Nays: none.

The Resolution was declared carried as follows:

RESOLVED, that the Director of Finance is authorized to make the transfer and budget amendment necessary to proceed with the Library Furniture Project.

BUDGET TRANSFERS AND AMENDMENT APPROVED

Finance Director Brian Luke confirmed and explained the two (2) proposed Budget Transfers. Thereafter a Resolution to approve the Budget Transfers and Amendment was offered by Deputy Supervisor Munzinger, seconded by Supervisor Smith, and voted on by members as follows: Ayes: Beckford, Koshykar, Munzinger, Townsend and Smith. Nays: none.

The following Resolution was declared carried as follows:

RESOLVED, that the following budget transfers and amendment are approved:

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- That \$21,000.00 be transferred from 1.9950.9000.1.1 (WT – Transfer for Capital Improvement) to the Library Fund 3.35031 (Library – Interfund Revenue) and that these funds then be expended from 3.7410.2002.1.3 (Library – Office Equipment).
- That \$9,000.00 be transferred from 1.9950.9000.1.1 (WT – Transfer for Capital Improvement) to the Turf Maintenance Capital Reserve Fund per the contract agreement with Pittsford Central School District.

FEBRUARY VOUCHERS APPROVED

Following clarification given to Councilmember Koshykar regarding a few items on the list of vouchers, a Resolution to approve the proposed vouchers was offered by Supervisor Smith, seconded by Deputy Supervisor Munzinger, and voted on by members as follows: Ayes: Beckford, Koshykar, Munzinger, Townsend and Smith. Nays: none.

The Resolution was declared carried as follows:

RESOLVED, that the February 2021 vouchers No. 150042 through 150374 in the amount of \$3,618,989.97 are approved for payment.

SURPLUS INVENTORY APPROVED

A Resolution to approve the proposed inventory for the Town Board to declare surplus and to be removed from the Town's inventory was offered by Councilmember Townsend, seconded by Supervisor Smith, and voted on by members as follows: Ayes: Beckford, Koshykar, Munzinger, Townsend and Smith. Nays: none.

The Resolution was declared carried as follows:

RESOLVED, that the following equipment items be declared surplus/junk and be removed from the Town's inventory.

<u>Asset #</u>	<u>Year</u>	<u>Description</u>	<u>Department</u>	<u>Cost</u>	<u>Disposition</u>
13788	1999	Pressure washer	Sewer	\$2,799.00	Auction
15986	2009	Scout locator	Sewer	\$1,161.69	Auction
15987	2009	See snake w/monitor	Sewer	\$8,845.00	Auction
14056	2003	Pipe Locator	Sewer	\$2,205.00	Auction
17253	2013	12" Chain saw	Sewer	\$286.59	Auction
13593	1994	FLYGT pump	Sewer	\$299.00	Auction
13729	1998	4" Multiquip pump	Sewer	\$2,665.00	Auction
13821	2000	10" Contractor saw	Sewer	\$862.00	Trf to Maint.
14220	2005	Grease gun	Sewer	\$199.00	Auction
15941	2007	Backpack blower	Parks	\$344.00	Junk
14217	2005	Field marker	Parks	\$4,435.00	Junk
17261	2013	Push mower	Parks	\$499.00	Junk
12892	2002	Chair	Parks	\$194.00	Junk
12897	2002	Chair	Parks	\$194.00	Junk
12904	2002	Chair	Parks	\$194.00	Junk
12902	2002	Chair	Parks	\$194.00	Junk
12893	2002	Chair	Parks	\$194.00	Junk
12901	2002	Chair	Parks	\$194.00	Junk
12903	2002	Chair	Parks	\$194.00	Junk

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LEGAL MATTERS

PUBLIC COMMENTS

The following people commented: Sadie Szrama, Tharaha Thavakumar, Annalise Johnson-Smith, David Ferris, Natalie Maley, Catherine Doyle, Ron Bajorek, Jeff Luellen, Pearl Brunt, Ginger Sacco, Mary Moore, Carolyn Gauvin and Colleen Deuel.

DISCUSSION OF QUESTIONS AND PROPOSALS FROM COUNCILMEMBER KOSHYKAR

As this discussion had significant detail, the Town Clerk included a summary of the discussion within these Minutes, as written below:

The Supervisor noted that Councilmember Koshykar had presented to the Board a memorandum requesting changes to the Board's Rules of Procedure and requested public Board discussion about it. He invited Councilmember Koshykar to address the Board regarding her requested changes.

Councilmember Koshykar proposed, as an alternative to a public Board discussion, creating a committee to study the issue and advise the Board, and offered a motion to that effect that then was seconded by Councilman Beckford. The Supervisor noted that to be considered at this meeting the proposed resolution would have had to be submitted for consideration by the Friday before this meeting. Councilmember Koshykar expressed concern about the length of public Board discussion that would take place about her proposals. Councilmember Townsend stated that she would like to have open discussion on these topics, noting that such discussion would be helpful, and would be helpful if, following Board consideration, it was found necessary to use a committee. After further discussion the Supervisor asked Councilmember Koshykar whether, since her memorandum was on the Agenda for public discussion at her repeated request, she wished to proceed with that discussion. She agreed to move forward with discussion.

1. Formalization of Rules. It was agreed to post the Rules of Procedure on the Town's website, accessible from the Town Board page.

2. Requiring Non-Resident Comments

Councilmember Koshykar requested that non-residents of Pittsford should be able to comment at Pittsford Town Board meetings at opportunities for "Public Comment" and referred to her memorandum's summary of the law on this subject. Town Attorney Koegel noted that the Town Board is fully compliant with applicable law in determining those permitted to comment at Board meetings. He continued that these include, as defined by opinions of the State Attorney General and the State Committee on Open Government:

- Residents of Pittsford;
- Owners of property in the Town who pay Town taxes;
- Owners of businesses in the Town
- An attorney or agent designated by a resident to speak on the resident's behalf

The Town Attorney noted that people in all of these categories are permitted to offer public comments at Pittsford Town Board meetings. He advised the Supervisor to state this clearly at each meeting and the Supervisor agreed. The Town Attorney also noted that Town staff members have always been able to speak at Board meetings, without time limit.

Councilmember Beckford stated that we should allow non-residents to comment who have a "vested interest." Deputy Supervisor Munzinger strongly believes that the comment time should be for residents and Town of Pittsford taxpayers and business owners only. Councilmember Townsend believes the definition of our community encompasses many people, because Town lines do not correspond with mailing addresses, nor do they correspond with School District lines. She suggested that, if the Board allowed comments from those outside the permitted categories, it will be important to continue to ask each commenter for their name and address, to weigh their comment in light of the matter being discussed. Supervisor Smith noted the State Committee on Open Government has defined those having a "vested interest" for purposes of being able to comment by the points just summarized by the Town Attorney, that he agrees with its definition and that this is the standard we use in Pittsford. He noted that people who live in other Towns, even if within the Pittsford School District, have their own Town Boards, and that the duty of Pittsford elected officials is to the people of Pittsford.

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3. Board Members' use of Cellphones and Devices during meetings

Councilmember Koshykar stated that that Open Meetings Law considerations that prevent Board members from accessing cellphones during Board meetings should also apply to other devices capable of internet connectivity. She also asked about applying the ban on cell phone use to the Town's various volunteer boards.

Town Attorney Koegel responded that cellphone use during meetings had only been an issue at the Town Board, not on any of the volunteer boards subject to the Open Meetings Law applies. Councilmember Townsend indicated that laptops should be permitted, because of the amount of paper used if all Board members were limited to printed material. Supervisor Smith and Deputy Supervisor Munzinger both agreed that cell phones should not be visible to town Board members during meetings, but laptops should not be prohibited. Councilmember Beckford agreed that cell phone should not be visible to Town Board members during Board meetings, but laptops and iPads should be permitted.

4. Application of Rules

Councilmember Koshykar stated that the Supervisor does not apply the Rules uniformly, particularly regarding people speaking at meetings. Town Attorney Koegel disagreed. He noted that the Presiding Officer at Board meetings has authority to liberally interpret the rules to facilitate the conducting of business. Supervisor Smith noted that he tries to not "stand on ceremony" and tries to allow people leeway to speak when possible, without regard to their point of view or political affiliation, citing an example of allowing a vocal opponent of the Town Administration to speak for 15 minutes instead of 2. He noted that Staff members are not subject to time limits or other limits in speaking at Town Board meetings, nor should they be. Councilmember Townsend said that they all, as Board members, should try to make sure the consistency is present. She added, in particular, that board members should refrain from questioning or engaging in dialogue with public commenters after they have spoken. The Board member could follow-up separately with the commenter after the meeting. Councilmember Townsend noted that the rules state that board discussion of a resolution should follow a resolution being moved and seconded, rather than the other way around, as often occurs; that to be as consistent as possible might require some simplification of the existing rules.

5. Calling Special Meetings

Councilmember Koshykar noted that the Rules authorize the Supervisor to call special meetings of the Board and asked that a majority of the Board be given this power as well. The Town Attorney noted that the Board already has the power by majority vote to call a special meeting, pursuant to State law, and that this is referenced in the Town's rule on Special Meetings. Councilmember Townsend suggested that it should be stated in our own rule, instead of just referring to the State law.

6. Format of Board Discussion

The Rules call for the Presiding Officer to recognize Board members in an alternating pattern between those who oppose a resolution and those who support it. This has never been followed. All Board members agreed to remove this rule.

7. Placing Items on Agenda for Town Board meetings

Councilmember Koshykar noted that authority to list items on the Agenda for Board meetings is held by the Supervisor. She asked for a rule requiring that any Agenda item requested by any Board member must be placed on the agenda. She stated that the current ability of all Board members to bring up any subject under the "Other Matters" portion of the Agenda is not sufficient, because it does not give advance notice of what will be discussed. Town Attorney Koegel explained the importance of the need to review matters prior to placing an item on the agenda, including the work and input that is given to matters from staff that may have extensive knowledge regarding such matters. He said that to do otherwise would not allow time for study and review, could mislead the public into thinking that something could be done that might be pre-empted by State law or by cost or by practical considerations, and would be conducive to creating chaos. Supervisor Smith confirmed and agreed with the Town Attorney's analysis. Councilmember Townsend observed that she was not firmly resolved on this matter and would like more time to think about it, its different levels and the consequences of changing the current Rule. Deputy Supervisor Munzinger agreed with the Town Attorney, noting that does not seem to be a Board consensus on this item at this point. Councilmember Beckford expressed support for Councilmember Koshykar's proposal. He noted his frustration in trying to get on the agenda a 30-minute presentation by Annelise Johnson-Smith on the use of pronouns.

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Further discussion ensued regarding the purpose of a Town Board meeting and the role of Town Board as a legislative body, rather than a college seminar, book club or discussion group. Councilmember Townsend suggested that Town Board meetings are not the appropriate venue for educational presentations, but that these may be offered by their presenters in a separate public presentation. Deputy Supervisor Munzinger agreed, Supervisor Smith reminded members that the purpose of Town Board meetings is to consider in an orderly and reasonable manner issues that are germane to municipal government and to providing services to the residents of Pittsford, which he said is why the Town Board exists.

8. Two Year Cycle

The rule restricting introducing of a resolution, other than for routine operational matters, more than once in any two year cycle, was discussed. It was explained that this does not limit introduction of a resolution to once every two years, but rather to once in each "cycle," where a "cycle" consists of each even-numbered calendar year and the next odd-numbered calendar year.

9. Pronouns in the Rules

Councilmember Koshykar objected to the use of the language "his or her" in two places in the Rules. No Board member objected to changing these references.

Noting the hour, the Board agreed to defer until the next meeting discussion requested by Councilmember Koshykar in her memorandum about social media use by elected officials.

MINUTES OF THE FEBRUARY 2, 2021 MEETING APPROVED AS AMENDED

Following a proposed amendment/addition – inserting the name of "Impact Earth" on Page 7, where indicated, a Resolution to approve the Minutes of the February 2, 2021 meeting as amended was offered by Deputy Supervisor Munzinger, seconded by Supervisor Smith, and voted on by members as follows: Ayes: Beckford, Koshykar, Munzinger, Townsend and Smith. Nays: None.

The Resolution was declared carried as follows:

RESOLVED, that the Meeting Minutes of the February 2, 2021 meeting are approved as amended.

OPERATIONAL MATTERS

PUBLIC COMMENTS

No comments were offered.

AMENDMENT OF RESOLUTION CREATING EQUITY ADVISORY COMMITTEE APPROVED

An Amendment to the Resolution of January 19 Creating the Equity Advisory Committee was offered by Councilmember Townsend, seconded by Supervisor Smith, and voted on by members as follows: Ayes: Beckford, Koshykar, Munzinger, Townsend and Smith. Nays: none.

The Resolution was declared carried as follows:

RESOLVED, that the resolution of the Town Board to create an Equity Advisory Committee, as memorialized in the approved minutes for the meeting of January 19, 2021, be and hereby is amended to read in its entirety as follows:

RESOLVED, that there is hereby created an Equity Advisory Committee. The Committee will be comprised of nine (9) members, each of whom will be approved by a majority vote of the Town Board. Applications will be publicly solicited. Applicants will be interviewed in the manner of candidates for Town volunteer boards. Two (2) Committee members will be Town Board members, 1 Democrat and 1 Republican. Three (3) members will be Town staff employees. Four (4) members will be Town non-employee residents. The Committee will have a duration of six (6) months, measured from the date it is first fully-constituted. The purpose of the Committee will be to do as follows:

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- 1) Identify multiple options for a long-term structure that advises the Board on matters related to equity, diversity and inclusion;
- 2) assess the potential advantages and disadvantages of each option;
- 3) rate the potential effectiveness and applicability of each option for our community;
- 4) recommend considerations for membership on such structure; and
- 5) report the Committee's conclusions to the Town Board in writing and by presentation.

PERSONNEL MATTERS

PUBLIC COMMENTS

No public comments were offered regarding Personnel Matters.

HIRING RESOLUTION APPROVED

A Resolution to approve the proposed recommendations for a new hire, based on the recommendation of the Functional Coordinator for the Recreation Director, was offered by Councilmember Townsend, seconded by Deputy Supervisor Munzinger, and voted on by members as follows: Ayes: Beckford, Koshykar, Munzinger, Townsend and Smith. Nays: none.

The Resolution was declared carried as follows:

RESOLVED, that the following personnel be and hereby is approved for the date of hire as recommended.

Name	Dept	Position	Salary	Effective Date
Sierra Welker	Rec	Rec Assistant III – PT	\$14.15/hr	02/22/2021

OTHER BUSINESS

Supervisor Smith reminded the Board that the Town will be conducting interviews for open positions on the Volunteer Boards. The Supervisor noted that all volunteer board members whose term of office is expiring have been contacted and have all indicated a desire to remain on their respective boards. The Supervisor requested that all members respond to his inquiry regarding the candidates for these volunteer board positions.

No other business was discussed.

PUBLIC COMMENT

Tharaha Thavakumar offered a comment.

Having no further business to discuss, the Supervisor adjourned the meeting at 9:20 p.m.

Respectfully submitted,

Linda M. Dillon
Town Clerk

MEMORANDUM

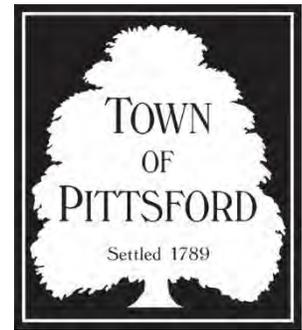
To: Pittsford Town Board

CC:

From: Robert B. Koegel

Date: February 12, 2021

Regarding: Questions and Proposals from Councilmember Koshykar



At the Town Board meeting of November 4, 2020, Councilmember Koshykar distributed a memorandum of even date to the Board and me. The memo addresses two general topics – the Rules of Procedure for Meetings of the Pittsford Town Board and social media use by elected officials. I will address first the Rules of Procedure.

Town Board Meeting Rules of Procedure

The Koshykar memorandum raises nine subjects in this topic.

“Formalization” of Rules of Procedures

Ms. Koshykar asks if the Supervisor will post the Rules of Procedure on the Town website in a “version-controlled” format, presumably a PDF document. If these are not already posted in this fashion, I recommend that they be posted and accessible through the Town Board page on the Town’s website.

Public Comments

Ms. Koshykar refers to opinions from the New York State Committee on Open Government which she claims require the Town Board to allow non-residents of Pittsford to make comments at Pittsford Town Board meetings.

Her characterization of the law is misleading.

Current procedures at Town Board meetings regarding public comments are fully consistent with Opinions of the Committee on Open Government (“COG”), including the opinions to which she refers. Commenters at our Town Board meetings can include:

- Residents of the Town
- Owners of property in the Town who pay Town taxes;
- Owners of businesses in the Town; and
- Although it has not come up in my experience, an attorney or agent designated by a resident to speak on the resident’s behalf.

As Chair of the Meetings and under our Rules, the Supervisor has authority to interpret the Rules to promote the “...orderly and civil conduct of public business.” Consequently, although our Rules say “residents of the Town” in reference to those who may comment, the Supervisor does not exclude

anyone in the categories described above from offering a comment at Board meetings. My advice to him is to recount all of these categories in each Board meeting when he discusses how public comments may be offered.

Applicable law provides that no public commenting is required at all at Town Board meetings. *School Transparency Organization for Parents v. Harpursville Cent. School Dist.*, 50 Misc.3d 478, 485 (Sup. Ct. 2015); *DeSantis v. City of Jamestown*, 193 Misc.2d 197, 199 (Sup. Ct. 2002). If it is permitted, rules governing it must be “reasonable,” as defined by the Committee on Open Government. *E.g.*, OML-AO-5607; OML-AO-05210; OML-AO-5296; OML-AO-4810; OML-AO-4141.

Specifically, the COG has opined that:

1. A public body may limit the time a public commenter may speak. OML-AO-4141.
2. A public body may limit the content of comments to agenda items only. OML-AO-4024.
3. The presiding officer may limit remarks from the public that are “repetitive” or “offensive.” OML-AO-5296.
4. A public body may ask for a commenter’s name and address. OML-AO-5607.
5. The COG describes a “substantial interest” in commenting as belonging to (a) a resident of the Town; or (b) a non-resident who owns property or conducts business in the Town and thus pays taxes to the Town, and these persons must be permitted to speak, if comments are allowed at all. OML-AO-05210; OML-AO-3364; OML-AO-3295; OML-AO-4141.

Such reasonable restrictions are permitted in order to avoid “. . . allowing a relatively small group of citizens to delay significantly the Council’s consideration of its legislative agenda.” 2004 N.Y. Op. Atty. Gen. No. 9, 2004 WL 2254045.

Therefore, the reality is that public comments at Pittsford Town Board meetings are and have been routinely accommodated far more liberally than the COG-approved restrictions would permit. Comments are not limited to agenda items only. As presiding officer, the Supervisor has never limited comments that are repetitive or offensive; indeed, the preponderance of comments offered at our Board meetings are repetitive, either as to content or as to the same person repeating substantially the same message time after time. The Supervisor allows them all.

It may well be that in the era of daily access at every moment by members of the public to the Supervisor, Board members and the Town Administration, by email and other means, public comment at Board meetings could be regarded as a superfluous and archaic holdover from a pre-technological age. Members of the public are in constant communication with the Supervisor and Town administration every day.

Synthesizing these rules, my advice is that the current practice regarding comments, especially in light of its liberality as compared with the COG-approved restrictions, strikes the right balance in preventing the harm of allowing a relatively few citizens to disrupt the legislative function by turning a Board meeting into a partisan campaign rally. Because we have seen increasing evidence of precisely that over the past year, my advice to the Supervisor is to limit comments to agenda items and to not permit comments that are repetitive or offensive. At minimum, public comment should continue to be

for Town residents, their attorneys or duly-authorized agents, and non-residents who pay taxes to the Town.

If the Rules were amended as Councilmember Koshykar suggests, specifically, to revise them “ ... *in a manner consistent with the opinions of the Committee on Open Government* ... ” and if the Supervisor, as Chair of the Meetings, were to agree, the effect would be to make public commenting at Town Board meetings much more restrictive than it is now.

Use of Devices During Meetings

I have advised Town Board members that they should not use their cell phones to communicate with people outside the purview of the public observing the meeting, about matters which are the subject of the meeting, and I have advised that Town Board members should not have their phones visible to them during meetings. I have said that such cell phone use would undermine the legislative purpose of the Open Meetings Law, which is to allow the public to “observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy.” Public Officers Law § 100.

The easiest way to prevent Town Board members from using their cellphones in violation of the Open Meetings Law is to prohibit members from bringing those devices to meetings. Some courts, for example, require all cellphones to be left in the lobby. But that would be an imposition on those members who are concerned that they might need to be reached in exigent circumstances. So I advised that Board members may bring their cell phones to meetings, but keep them out of view so that they cannot be used surreptitiously.

Ms. Koshykar has reacted negatively to this restriction. She suggests instead a rule prohibiting the use of internet-enabled devices by Board members during meetings unless the member announces the reason for using the device. This would completely circumvent the purpose of keeping the device out of sight because of the Open Meetings Law; it would do nothing more than pay lip service to the concept while allowing free use of cell phones during meetings. I strongly advise against any such change.

Members can keep their phones out of sight, on, with ringer on, during meetings, in case there is a family or other emergency that urgently requires them. Everyone would understand if a phone rings for that.

Ms. Koshykar suggests that the ban on phones at meetings be extended to other internet-enabled devices such as laptop computers. One can imagine that this is suggested in order to make enforcement of the rule as difficult and inconvenient as possible for other Board members, at least one of whom uses a laptop to track the agenda and supporting materials during meetings, thereby causing them to want to scrap the rule altogether. However, it raises the same issue as cell phones, and I recommend that Board members use paper Agendas and supporting materials instead of laptops at Board meetings, once in-person meetings resume. As long as meetings are conducted by Zoom, Board members have no choice but to use computers connected to the internet if there are to be Board meetings at all.

Ms. Koshykar also asks me if my advice concerning use of devices during Town Board meetings applies to our volunteer boards or any other “subdivision or agency” of the Town. All “public bodies” are subject to the Open Meetings Law. *Perez v. City Univ. of New York*, 5 NY3d 522, 528 (2005). A public body is defined as any entity requiring a quorum to conduct public business and performing a

governmental function for the state or an agency thereof. Public Officers Law § 102. The Town Planning Board is a public body subject to the Open Meetings Law. OML-AO-3048. So is the Town Zoning Board of Appeals. OML-AO-2982. By the same logic, the Town Design Review and Historic Preservation Board is also subject to the Open Meetings Law. On the other hand, where an entity's function is limited to rendering advice, it is not deemed to be performing a governmental function and not subject to the OML. *Bonacker Property, LLC v. Vil. of E. Hampton Bd. of Trustees*, 168 AD3d 928 (2d Dept. 2019) (village planning and zoning committee not subject to OML). Accordingly, I suspect that the Town's other volunteer boards are not subject to the Open Meetings Law. I am not aware of any other Town "subdivision or agency" which could be deemed to be performing a governmental function, making that entity subject to the Open Meetings Law.

Having said all of that, I see no reason for me to extend my cell phone use advice to Town volunteer board members because I have regularly attended the non-advisory board meetings and not seen, nor heard concerns about, cell phone use during meetings. This is in contrast to Town Board meetings where at least one member appeared to spend considerable time texting during meetings, before I advised against it.

Application of Rules

Rules must be applied consistently by the Presiding Officer of the Town Board meetings. I am unaware of any instance at a Town Board meeting where the Supervisor or anyone else has applied rules inconsistently in any manner, and certainly not with regard to the perceived positions or political views of any person. Ms. Koshykar's suggestion is a solution in search of a problem.

Special Meetings

Ms. Koshykar wants a majority of Town Board members to be able to call a special meeting for "good and urgent cause." State law already allows a majority of the Town Board to do so. The existing provision in the Board's Rules of Procedures references State law in this regard.

Discussion and Debate

(i) Councilmember Koshykar proposes to remove the provision of the Rules requiring the Presiding Officer to recognize Board members in an alternating pattern between those who support an action and those who oppose it.

Ms. Koshykar is wrong in stating that this requires discussion among Board members prior to the public meeting. It would require nothing more than the Presiding Officer asking, alternately, for "Speakers in favor" and "Speakers against" in the public meeting.

This, however, is academic, since in keeping with his authority to interpret the Rules liberally, the Supervisor has never required this, and asks Board members to speak as they wish.

(ii) Ms. Koshykar proposes to remove the limit on speaking time for members of the Board to 5 minutes on any matter. Again, this is academic. In reliance on his authority to interpret the Rules liberally, the Supervisor has never enforced this restriction, a practice made abundantly clear in nearly every Town Board meeting.

Agenda

Under Article IV (“Resolutions”), Section 1 (“Submission”) of the Town Board Rules of Procedure, a Town Board member “may” offer a resolution for consideration by the Town Board if it is filed with the Supervisor’s office by noon on Friday before the next regular Town Board meeting. Ms. Koshykar would like to amend this section to provide that where a resolution “or a matter” is timely filed, the Supervisor **must** put the resolution “or matter” on the agenda of the next regularly scheduled meeting. She says this will allow the public to “attend or tune into the meeting if the item interests them.”

For the most part, proposed resolutions are carefully vetted by me for legality. Of course, routine resolutions covering historical matters which generally repeat themselves do not require the same depth of review as those presenting novel questions. But there is no way that I can drop what I am doing to prepare resolutions, local laws, and other matters in proper form for a Town Board meeting every two weeks, to accommodate a day’s review of a brand new matter I know nothing about, and put that in proper form for the next meeting. The suggestion itself demonstrates a complete lack of understanding as to what goes into preparing formal papers for Town Board legislative consideration.

The idea of putting “matters” on the agenda to pique the interest of the public is even worse, because it gives the public the false sense that the “matter” is ready to be seriously considered or even acted upon, before it has had any legal review, let alone policy review. Suppose a Board member would like to put on the agenda a resolution or matter on a particular subject. Before residents become excited about it in one way or another, wouldn’t it be good to know if state and/or federal law pre-empts the matter from any such local regulation? The Town would look foolish proceeding so rashly.

Indeed, Ms. Koshykar’s memorandum proves my point. If her memorandum were a “matter” submitted on a Friday before the following Tuesday Town Board meeting, her memorandum would have to go on the agenda for public review and discussion before any meaningful legal or policy review. As for Ms. Koshykar’s concern that the Supervisor is routinely pushing off matters of her interest, I can say that I have spent numerous hours on the legal review and response to her memorandum. Governing takes time and hard work. Patience is required.

In particular, when Ms. Koshykar presented her memorandum, the Supervisor noted that we were about to go through a number of items requested for consideration by Councilmember Townsend, including the Equity Advisory Committee, and that this would be done over successive meetings, during a period in which the Board also had to move forward with adoption of the Active Transportation Plan. He stated that the Board would take up Ms. Koshykar’s memorandum once the Board had completed those tasks. Those tasks are now substantially completed insofar as requiring time at Board meetings and now the Board is taking up Ms. Koshykar’s memo.

Beyond any of this, however, Ms. Koshykar’s proposal, if legally permissible in light of the Supervisor’s authority under State Law as Chair of the Town Board meetings, would likely reduce the meetings to chaos and substantially impede the Board carrying out its legislative function. Everything and anything could be placed on the agenda on the whim of one Board member, perhaps merely using that authority as a conduit for any person or interest, however fringe or unrepresentative of the public, to effectively seize control of the Town Board’s agenda.

I strongly advise against this proposal.

Two-Year Cycle

Ms. Koshykar misunderstands or mischaracterizes the Rule regarding the two-Year cycle as it relates to the introduction of matters for Board consideration. The Rule provides in pertinent part, “*No resolution may be considered if it is substantially the same as a resolution then pending before the Town Board, or previously submitted within the same two-year cycle, except for recurrent operational matters.*” Rules of Procedure, Art. IV, Sec. 2. The Rules then define the “two-year cycle:”

“For purposes of considering matters introduced at previous meetings of the Town Board, all meetings held during each two-year period consisting of an even-numbered calendar year and the consecutive odd-numbered calendar year following each regular biennial Town general election, shall be deemed to be part of a single two-year cycle.” Rules of Procedure, Art. IV, Sec. 3.

The purpose of the rule and definition is to prevent repetitive consideration of the same matter by a Board that already has decided it (other than recurring operational matters). It does so by recognizing that the composition of the Board can change following each Town election. Regular Town elections occur every two years. Therefore, a Board comprised of Members A, B, C, D and E decide a matter by vote. Barring some exigency that requires suspending the rule, the Board has made its decision. At the next election, Board Members A and B are replaced by new members X and Y. The new Board may wish to revisit the matter and under the Rules they may, since a new two-year cycle has begun. Thus, a Town Board that resolves an issue in December of an election (odd-numbered) year, could reconsider it the very next month, in January of the succeeding year, even if there have been no changes in the personnel of the Board from December to January.

Pronouns

I am aware of two places in the Rules where gendered pronouns appear; specifically, the terms “his or her.” If this is not deemed sufficiently gender-neutral, the Board of course can make the requested changes.

Social Media Use

(i) On or before October 28, 2020, the Town Supervisor contacted me about social media accounts of elected officials. He reported to me that he had just “unblocked” a commenter on his Facebook page, and that now no one was blocked. Having done that, he asked me for guidance on the law regarding this subject as it relates to elected officials. I researched the matter the same day and immediately found the *Knight* ruling that Ms. Koshykar has cited, as well as additional precedent upon further research. Thereafter, I advised the Supervisor that elected officials should not block commenters and that he had therefore done the right thing in undoing any blocking.

I reiterate that Ms. Koshykar dated and distributed her memorandum on November 4, 2020, fully one week or more after the Supervisor had made the changes described and I had rendered advice on the subject to him. Had Ms. Koshykar contacted the Supervisor or me about this issue before she publicized it by her memorandum, she would have learned that his innocent mistake had been corrected and there would be no good reason to discuss it in her memorandum, unless, of course, she had an ulterior motive, such as seeking to embarrass the Supervisor for partisan political purposes.

(ii) Ms. Koshykar in her memorandum has asked me to advise the Board publicly about Board members' use of social media and about "*restrictions and best practices*" concerning this subject. But for this request I would have rendered much of the following to her and the Board confidentially.

The Town has a Social Networking Policy that covers all employees. Shortly before she took office as a councilmember, on or about December 19, 2019 Ms. Koshykar acknowledged in writing that she would abide by the Town's workplace policies, which include the Social Networking Policy. The form contains notice that the sanctions for violating the policy include job termination. That policy requires, among other things, that all staff must uphold "*the Town's value of respect for the individual and avoid making defamatory statements*" about the Town and its employees. The Town's Personnel Director informed me that she witnessed Ms. Koshykar's written acknowledgment, and at that time advised Ms. Koshykar that the Social Networking Policy meant that no Town employee could disparage or defame another Town employee on social media.

On or about July 1, 2020, Ms. Koshykar published a post on her Facebook page alleging that in 2019, Supervisor Smith created a new Constituent Services Coordinator position, that the person who was awarded the position did not meet the minimum job requirements, and that the Town Board did not approve the creation of the position and its compensation. From the employee who holds that position and the Town's Personnel Office I received evidence that all of these statements are false and damaged the employee's reputation. Ms. Koshykar has not refuted the accuracy of the rebuttal of her social media posting. It remains on the Facebook page on which she posted it. As it stands, Ms. Koshykar appears to have violated the Social Network Policy by disparaging and defaming her fellow employee on social media. Unlike the Supervisor, who made an innocent mistake and promptly corrected it, Ms. Koshykar appears to have knowingly or recklessly violated the Social Network Policy for political purposes.

Again, had Ms. Koshykar contacted the Personnel Director, or the Supervisor, or me about this matter before she made her Facebook posting, she would have learned the facts and therefore could have avoided violating the Social Networking Policy, if she had wanted to. Together with the matter discussed under point (i) above, it raises at least a question of a pattern of conduct whereby a Board member deliberately avoids learning facts about a matter in order to make freewheeling defamatory and inflammatory social media postings or other writings for partisan political purposes.

To summarize the answer to Ms. Koshykar's question of what Board members can and cannot do on social media, they can use such platforms for informational purposes, inform their constituents honestly, but they cannot lie or falsely disparage their co-employees, pursuant to the Town's Social Networking Policy.

MEMORANDUM



TO: Pittsford Town Board
CC: Robert Koegel
FR: Cathy Koshykar
DA: 11/4/20
RE: Open Government

I think we all agree that the public should have access to town proceedings and the town-held information necessary for the public to participate in those proceedings in a meaningful way.

At the beginning of our last regular meeting, our Town Attorney admonished the members of the Board to refrain from using mobile phones during Board meetings. I want to begin this memorandum by thanking him for raising this issue.

This conversation is timely and vital to the principles of open government, and it should not be limited to how we use our mobile phones. **For this reason, I ask the board to consider the following issues concerning open government and transparency for discussion at our next regularly scheduled meeting on November 17, 2020.**

With the distribution of this memorandum, I also hereby ask our Supervisor, Bill Smith, to place the following items on the agenda for the November 17th meeting in the order he determines is appropriate.

1. Social Media Use

- A. **I ask the Town Attorney to advise the Board during our November 17th meeting concerning restrictions and best practices around the Board members' use of Facebook and other social media sites.** We could all use a reminder from time to time about what we can and cannot do as elected officials.

I raise this issue because three residents have informed me that our Supervisor has blocked them on his "Bill Smith Pittsford Town Supervisor" Facebook page.

As we know,¹ there is a growing body of case law which says that a government actor cannot block users from interacting with and/or viewing a social media account where (i) the social media account is used for communicating and interacting with the public about government work or soliciting input on policy issues, and/or (ii) the government actor associates the account with the trappings of their office. Blocking people in this context is unconstitutional viewpoint discrimination.

¹ Indeed, our Supervisor is an attorney with decades of experience in municipal service.

If you'd like to look at some case law on your own, I suggest starting with *Knight Institute v. Trump*, which is a case involving President Trump's use of a personal Twitter page for governmental purposes and his administration's past practice of blocking users who criticize him or disagree with his policies.

2. "Rules of Procedure for Meetings of the Pittsford Town Board"

A. Formalization of Rules of Procedure

The rules of procedure for our Board meetings are contained in an undated, editable Word document titled "Rules of Procedure for Meetings of the Pittsford Town Board" (the "Rules").² We need to formalize these rules and publish them so they can be viewed by the public.

I ask our Supervisor to formalize the Rules into a plainly worded, version-controlled policy document and post it on the Town Board subpage of the Town of Pittsford's website.

As a general rule, the Town's policies and procedures should be formalized in this way. This is best practice for all entities, whether private or governmental.

B. Public Comments

A long string of opinions of the NY Committee on Open Government unequivocally advise the following:

- A public body is not required to include comments from the public in any meeting, but the public body may choose to include comments.
- Where a public body chooses to include comments, the public body can impose only reasonable restrictions on commenters.
- It is not a reasonable restriction to require a commenter to be a resident of a certain municipality.
- It is not a reasonable restriction to require a commenter to announce their address.

Please take some time to read through the opinions, which are found here: https://www.dos.ny.gov/coog/oml_listing/oindex.html.

Also, as we know, the rules of procedure for Board meetings were set by our Supervisor. His rules allow comments but restrict comments to just town residents who announce their residential address before commenting. The residency requirement to comment is strictly applied by our Supervisor and

² This statement is based on information provided to me by Bill Smith in January 2020.

excludes those who are stakeholders in other ways (e.g. member of the PCSD PTSA, an agent speaking on behalf of residents who are unable to otherwise participate in meetings). The Committee on Open Government has deemed these rules to be unreasonable and not permitted. **I propose revising Article VI of the Rules in a manner consistent with the opinions of the Committee on Open Government, as outlined above.**

C. Use of Devices During Meetings

Our Town Attorney advised that a Board member's use of a mobile phone during Town Board meetings may be a breach of the NY Open Meetings Law because it gives the impression that the Board member might be engaging in a sidebar communication with one or more unknown third parties. My review of the opinions of the NY Committee on Open Government confirm this interpretation.

I note that the use of laptops and other internet-enabled devices give the same impression.

Following the lead of our Town Attorney, I propose revising the Rules to prohibit using internet enabled devices during Town Board meetings unless the Board Member audibly announces during the meeting that the Board member is using the device and the nature of the use.

In addition, I hereby request that our Town Attorney advise during our meeting on November 17th whether these rules apply to our volunteer boards and any other subdivision or agency of the Town.

D. Application of the Rules

I propose revising the Rules to add a provision stating that the Supervisor shall apply the Rules consistently regardless of the policy or political views of the affected person(s). Of course, fairness dictates that the Rules apply equally to all participating in a Board meeting. Failure to do so has a chilling effect on the ability and willingness of participants to participate in the business of the Town in a meaningful way.

E. Special Meetings

Article II, Section 2 of the Rules say that only the Supervisor may call a special meeting of the Board. **I propose revising this section to add that a majority of the Board members may call a special meeting of the Board for good and urgent cause.** We should encourage the business of the Town to be conducted in public. One individual, in this case the Supervisor, should not be able to prevent a public discussion of an urgent matter.

F. Discussion and Debate

I propose removing the requirement in Article III, Section 3(a) of the Rules for the Presiding Officer to recognize Board members in an alternating pattern between those who oppose an action and those in support. This provision assumes that the positions of a Board member have been discussed in advance of the meeting and is therefore in conflict with the spirit of the Open Meetings Law.

Article IV, Section 1 - if submitted on time and not profane or obscene, Supervisor shall put the submission on the agenda.

I propose also revising Article III, Section 3(c) to remove the limit on speaking time for members of the Board. The elected officials should be given sufficient time to advocate, discuss, and inform.

G. Agenda

I propose revising Article IV, Section 1(a) to say that, where a member of the Board submits a resolution or a matter for discussion on or before the deadline for submission, the Supervisor SHALL put the resolution or matter on the agenda of the next regularly scheduled meeting of the Board. By refusing to put duly submitted matters on the agenda, the Supervisor would effectively and routinely push substantive matters to the "other matters" portion of the meeting. Putting the item on the agenda gives the public notice of the discussion, thereby allowing the public to attend or tune into the meeting if the item interests them. In addition, expanding this language to apply to "matters" in addition to "resolutions", it allows the Board to schedule conversations around policy that are not yet ready to be written into a Resolution.

As a practical matter, I also propose revising the deadline for submissions in Article IV, Section 1(a) to an appropriate day and time. Currently, the meeting packet is distributed around midday on Friday, thereby making it effectively impossible to add all duly submitted matters to the agenda.

H. Two-Year Cycle Limitation

Article IV prohibits a member of the Board from bringing the same issue to the Board more than one time in a 2-year period. **I propose revising the language throughout this provision to remove this requirement or, in the alternative, change the 2-year limitation to 6 months.** Preventing a discussion of an issue for TWO YEARS is excessively restrictive and will prevent the public from being included in discussions around the Town's business.

I. Pronouns

I propose revising the Rules to remove gendered pronouns. The purpose of this revision is to be inclusive of all members of our community.

I appreciate your consideration of my proposals, above. Pursuant to Article VI, Section 3 of the Rules, a majority of the Board has the power to make these proposed revisions and I look forward to discussing them.

MEMORANDUM

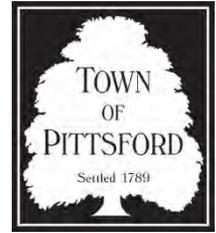
To: Pittsford Town Board

From: Brian Luke, Director of Finance

Date: February 25, 2021

Regarding: Surplus Inventory

For Meeting On: March 2, 2021

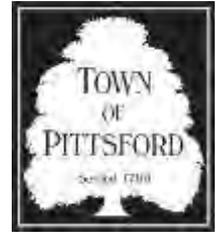


Attached is a list of surplus inventory for the Town Board to declare surplus in order for it to be removed from the Town's inventory.

Be it resolved, that the attached list of equipment be declared surplus and be removed from the Town's inventory.

<u>Asset #</u>	<u>Year</u>	<u>Description</u>	<u>Department</u>	<u>Cost</u>	<u>Disposition</u>
013284	2005	Table	Library	735.00	Junked
013285	2005	Table	Library	735.00	Junked
013289	2005	Table	Library	735.00	Junked
013291	2005	Table	Library	735.00	Junked
013292	2005	Table	Library	735.00	Junked
013293	2005	Table	Library	735.00	Junked
013295	2005	Table	Library	735.00	Junked

MEMORANDUM



To: Pittsford Town Board

From: Cheryl Fleming, Personnel Director

Date: February 25, 2021

Regarding: Recommendations for Hiring/Personnel Adjustments

For Meeting On: March 2, 2021

1. The following employee(s) are recommended as a new hire based on the recommendation of the Functional Coordinator(s) for these areas:

Name	Dept	Position	Rate	Date of Hire
Jessica Cheng	Library	Library Aide – PT	\$15.24/hr	03/08/2021

All the proper reviews and background checks have been completed for these candidate(s) and have received appropriate sign off by the Town Board representative.

Name	Dept	Position	Rate	Date of Hire
Jessica Cheng	Library	Library Aide – PT	\$15.24/hr	03/08/2021

In the event the Town Board determines that the proposed action should be taken, I move that the subject employee(s) be approved for the date of status change as indicated.