



TOWN OF PENFIELD

3100 Atlantic Avenue, Penfield, NY 14526-9798

PENFIELD TOWN BOARD MEETING AGENDA

Wednesday, August 1, 2012

Supervisor R. Anthony LaFountain, presiding

I Call to Order – Pledge of Allegiance – Roll Call

II Communications and Announcements

III Public Participation

IV Additions and Deletions to Agenda

V Approval of Minutes – June 20, 2012

VI Petitions

VII Resolutions by Function

Law and Finance

12T-167 Town of Penfield Fund Balance Policy

12T-168 Town of Penfield Investment Policy

12T-169 Establishment of Extension No. 55 to the Penfield Consolidated Sanitary Sewer District – Ashlyn Rise Subdivision

12T-170 Approval of Issuance of a Special Permit to Allow a Sit-down Restaurant with Outdoor Dining at 1785 Penfield Road – The Humphrey House

12T-171 Setting a Public Hearing to Consider an Amendment to the Zoning Ordinance and Zoning Map to Allow 9.83 Acres of R-1-12 Zoned Property at 1994-B and 6.61 Acres of Multiple Residence Zoned Property at 1994-C Empire Blvd. to be rezoned to General Business

12T-172 Authorize the Town Supervisor to Sign a Contract with the University of Rochester Medical Center School of Nursing

12T-173 Setting a Public Hearing for the Matter of Establishment of Ashlyn Rise Subdivision sidewalk District #16

12T-174 Authorization to Remove Fence Erected within Bounds of Town Highway of Aspen Drive

Public Works - None

Public Safety - None

Community Services

12T-175 Authorization for Supervisor to Sign Recreation Contracts

VIII Old Business

IX New Business

X Public Participation

XI Adjournment

PENFIELD TOWN BOARD RESOLUTION NO. _____ DATE: August 1, 2012

BY: Andy Moore _____ Law and Finance _____ COMMITTEE

NAME: Authorize the Town Supervisor to sign a contract with the University of Rochester Medical Center School of Nursing

Whereas, the Town of Penfield desires to offer a flu vaccination clinic to area residents; and

Whereas, The University of Rochester Medical Center School of Nursing offers a flu vaccination clinic, (URMC Flu Initiative), and

Be it Resolved, that the Town Supervisor is hereby authorized to sign a contact with the University Of Rochester Medical Center School of Nursing to provide said flu vaccination clinic for the Town of Penfield.

Contract is on file in the Town Clerk's Office.

MOVED: _____

SECONDED: _____

VOTE:	Kohl	_____
	LaFountain	_____
	Metzler	_____
	Moore	_____
	Quinn	_____

PENFIELD TOWN BOARD RESOLUTION NO. _____ DATE August 1, 2012

BY: Andy Moore _____ Law and Finance _____ COMMITTEE

NAME: Town of Penfield Investment Policy

WHEREAS, the Town of Penfield Investment Policy had not been reviewed since 2006, and

WHEREAS, during 2012, the Bonadio & Co., LLP (auditors) recommended that the Town of Penfield amend the current investment policy to review the authorized financial institutions that are specified in the policy to be sure that they are still relevant, and

WHEREAS, the auditors have reviewed such revised policy and are in agreement with its contents, and

NOW BE IT RESOLVED, that the attached Investment Policy be approved.

Vote:	Kohl	_____
	LaFountain	_____
	Metzler	_____
	Moore	_____
	Quinn	_____

**TOWN OF PENFIELD
DEPOSIT AND INVESTMENT POLICY**

Adopted: 5/5/93
Amended: 10/29/97
4/19/06
8/01/12

Policy Scope

The following Deposit and Investment Policy according to General Municipal Law Section #39 shall apply to all financial resources available to the Town of Penfield for deposit and/or investment for the benefit of the Town or other individuals or entities.

Policy Objectives:

The Policy objectives of the Town of Penfield's deposit and investment activities are (in the order of their importance):

- to conform to all applicable Federal, State, and Local government requirements
- to adequately protect the principal amount of all deposits and investments
- to plan for and provide sufficient liquidity for such deposits and investments in order to provide for payment of all operating and capital budget requirements in a timely manner
- to obtain a reasonable rate of return, dependent on market conditions, on such deposits and investments

Delegation of Authority

Responsibility for oversight of the Town's deposits and investments is vested in the Supervisor, as Chief Fiscal Officer of the Town (Town Law Sec 29). The Supervisor delegates daily responsibility for the administration of all deposits and investments to the Town Comptroller, who shall establish procedures for daily program operations that are consistent with this Policy. All subsequent references regarding powers given to the Town Comptroller shall be assumed to also extend to the Supervisor.

Prudence and Care

The Supervisor, Town Comptroller, their designees, and all other Town employees (if any) involved in the deposit and/or investment process shall at all times act responsibly and with a great degree of care in that such financial resources are held in the public trust. They shall avoid any financial transaction that could, or might be construed to be, a conflict of interest or in violation of the public trust.

Diversification

It shall be the policy of the Town of Penfield to diversify its deposits. Diversification of the Town's deposits will increase the liquidity of those deposits sometimes resulting in decreased interest earnings. It shall be the policy of the Town of Penfield to reasonably balance the need for high yield and liquidity.

Internal Controls

The Town Comptroller shall be responsible for establishing and maintaining an internal control structure to assure reasonable, but not absolute, assurance that such deposits and investments are properly safeguarded, executed, and recorded, and that all transactions are made and managed in compliance with applicable laws and regulations.

Reports

The Town Comptroller shall provide written reports to the Supervisor and the Town Board on a monthly basis in accordance with General Municipal Law Section 10, concerning the amount of investments, the financial institutions, the interest rates, and the number of days that the investments have been invested.

Deposits

Designation of Depositaries

As detailed in General Municipal Law Section 10 and this Policy, the Town Comptroller may deposit funds in accordance with the statute and this Policy. In accordance with the depository guidelines, the following commercial banks and/or Trust Companies are authorized for the deposit of funds for Certificate of Deposits or Premium Money Markets for the Town of Penfield.

Bank

JP Morgan/Chase Bank

First Niagara

M&T Bank

Collateralizing of Deposits

In accordance with the provisions of General Municipal Law Section 10, all deposits of the Town of Penfield, including Certificates of Deposits, in excess of amounts insured under the provisions of the Federal Deposit Insurance Act, shall, at all times, be secured (collateralized):

- by a pledge of "eligible securities" with an aggregate market value equal to or greater than the aggregate amount of deposits. Such "eligible securities" permitted to secure Town of Penfield deposits are indicated in Appendix A to this policy. Specific types of securities qualifying as "eligible securities" are further identified in the State

Comptroller “Financial Management Guide for Local Government”, in the Cash Management and Investment Policies and Procedures Section, Sub-section 2.1130. The Town Comptroller shall have discretionary authority to reject the pledge of specific eligible securities if he/she believes the securities to be inappropriate for use as collateral.

-and/or by an eligible surety bond payable to the Town of Penfield for an amount at least equal to the aggregate amount of deposits together with agreed upon interest, to be secured in this manner. Such surety bond must be issued by an insurance company authorized to do business in New York, and whose claims paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

Safekeeping of Collateral Pursuant to Written Agreement

Eligible Securities used for collateralizing deposits shall be held by the depository bank or a third party custodial agent, at the discretion of the Town of Penfield, and subject to written security and custodial agreements.

The legally required written security agreement shall provide that eligible securities are being pledged to secure deposits of the Town, together with agreed upon interest (if any), and any costs or expenses arising out of the collection of such deposits upon default. The agreement shall also provide any conditions under which securities may be sold, presented for payment, substituted, or released, as well as the events which would enable the Town to exercise its rights against the pledged securities should such become necessary.

The legally required written custodial agreement shall provide that securities held by the depository bank or a third party custodial agent will be kept separate from the general assets of the depository bank or custodial agent. The agreement shall also provide that the depository bank or custodial agent shall confirm, in writing, any receipt, substitution, or release of securities. The agreement must also provide for the frequency of valuation of the pledged securities, which shall be no less frequently than monthly and any provision needed to ensure the Town's perfected interest in the securities.

Investments

Permitted Investments

As detailed in General Municipal Law Section 11 and this Policy, the Town Comptroller, or their designee, may invest monies not immediately needed for expenditure in the following types of legally permitted investments:

- Interest-bearing Savings Accounts
- Certificates of Deposit
- Obligations of the United States of America

- Obligations guaranteed by Agencies of the United States, for which the payment of principal and interest on the obligations are guaranteed by the United States of America
- Obligations of the State of New York
- Obligations issued pursuant to Local Finance Law Section 24 or 25 (with the approval of the State Comptroller) by any municipality, school district, or district corporation other than the Town of Penfield
- Obligations of Public Authorities, Public Housing Authorities, and Urban Renewal Agencies where the State statutes governing such entities or whose specific enabling legislation authorize such investments

All investment obligations shall be payable or redeemable, at the option of the Town of Penfield, within such time as the proceeds of the investment(s) will be needed to meet expenditures for purposes for which the monies were provided. In addition, investment obligations purchased with the proceeds of bonds or notes shall be payable or redeemable at the option of the Town of Penfield within two years of the date of purchase.

Authorized Financial Institutions and Security Dealers

The Town of Penfield authorizes the following list of financial institutions and security dealers as approved for investment purposes and establishes the maximum dollar limits of investments which may be made with each. All financial institutions with which the Town of Penfield conducts business must be credit worthy. Security dealers not affiliated with an authorized depository bank must be classified as a reporting dealer and affiliated with the New York Federal Reserve Bank as a primary dealer.

<u>Bank/Security Dealer</u>	<u>Maximum Amount</u>
JP Morgan/ Chase Bank	\$16,000,000
First Niagara	\$16,000,000
M&T Bank	\$16,000,000

The Town Comptroller, with the assistance of higher levels of government (principally the State), is responsible for evaluating the financial condition of the authorized financial institutions and security dealers. The list of financial institutions and security dealers shall be validated by the Town Comptroller annually.

Purchase of Investments

The Town Comptroller is authorized to make investments:

- directly, through an authorized financial institution or securities dealer
- by participation in a cooperative investment program with another authorized governmental entity(s) pursuant to Article 5G of the General Municipal Law, when such program meets all the requirements set forth on the Opinion #88-46 of the State Comptroller's Office

-through a repurchase agreement (REPO). All REPO's shall be subject to terms of a required Master Repurchase Agreement. For REPO's, trading partners are limited to those authorized banks and security dealers identified above. Obligations purchased through a REPO shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States

All purchased obligations, unless registered in the name of the Town of Penfield, shall be purchased through, delivered to, and held in the custody of a custodial bank. All purchased obligations shall be held separately from the general assets of the custodial bank or securities dealer. Such obligations shall be purchased, sold, or redeemed in accordance with prior authorization of the Town Comptroller. All transactions shall be confirmed in writing by the custodial bank or securities dealer. All obligations shall be held pursuant to a written custodial agreement as described in General Municipal Law Section 10. Such agreement shall include all provisions necessary to provide the Town of Penfield a perfected interest in the obligation(s) purchased.

Courier Service

The Town Comptroller, or their designee, may, subject to the approval of the Town Board by resolution, enter into a contract with a courier service for the purpose of causing the deposit of public funds with a bank or trust company. The courier service shall be required to obtain a surety bond for the full amount entrusted to the courier, payable to the Town of Penfield and executed by an insurance company authorized to do business in the State of New York, with a claims-paying ability that is rated in the highest rating category by at least two nationally recognized statistical rating organizations, to insure against any loss of public deposits entrusted to the courier service for deposit or failure to deposit the full amount entrusted to the courier service.

The Town of Penfield may agree with the depository bank or trust company that the bank or trust company will reimburse all or part of, but not more than, the actual cost incurred by the Town of Penfield in transporting items for deposit through a courier service. Any such reimbursement agreement shall apply only to a specified deposit transaction, and may be subject to such terms, conditions, and limitations as the bank or trust company deems necessary to ensure sound banking practices, including, but not limited to, any terms, conditions, or limitations that may be required by the banking department or other Federal or State authority.

Review and Amendment of Policy

This Policy shall be reviewed on no less than an annual basis, and modified by formal action of the Town Board as necessary.

APPENDIX A

Schedule of Eligible Securities

- (1) Obligations issued by the United States of America, an agency thereof, or a United States government sponsored corporation or obligations fully insured or guaranteed as to the payment of principal and interest by the United States of America, an agency thereof, or a United States government sponsored corporation
- (2) Obligations issued or fully insured or guaranteed by this state, obligations issued by a municipal corporation, school district, or district corporation of this state, or obligations of any public benefit corporation which under a specific state statute may be accepted as security for deposit of public monies
- (3) Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the African Development Bank
- (4) Obligations partially insured or guaranteed by any agency of the United States of America, at a proportion of the market value of the obligation that represents the amount of the insurance or guarantee

PENFIELD TOWN BOARD RESOLUTION NO. _____ DATE August 1, 2012

BY: Andy Moore _____ Law and Finance _____ COMMITTEE

NAME: Town of Penfield Fund Balance Policy

WHEREAS, the Government Accounting Standards Board Statement 54 requires that the Town disclose their fund balance classification policies and procedures, and

WHEREAS, during 2012, the Bonadio & Co., LLP (auditors) recommended that the Town of Penfield amend the current policy to include a definition of committed fund balance and establish a flow of funds hierarchy, and

WHEREAS, the auditors have reviewed the revised policy and are in agreement with the changes, and

NOW BE IT RESOLVED, that the attached Fund Balance Policy be approved.

Vote:	Kohl	_____
	LaFountain	_____
	Metzler	_____
	Moore	_____
	Quinn	_____

TOWN OF PENFIELD FUND BALANCE POLICY

PURPOSE

The purpose of the Fund Balance Policy is to establish a policy to address the needs of the Town of Penfield and to help establish financial planning procedures to ensure that there will be adequate liquid resources to serve as a financial cushion to assist in assessing unusual events such as natural disasters or significant unfunded mandates pushed down to the community by other taxing jurisdictions.

POLICY STATEMENT

The Town of Penfield finances will be managed so as to maintain balances of the various funds at levels sufficient to mitigate current and future risks, such as revenue shortfalls and unanticipated expenditures, ensure stable tax rates and user fees, and protect the Town of Penfield's creditworthiness. To assure the appropriate level, in the general fund, the Town of Penfield will maintain a minimum unrestricted fund balance of 10%-12% of the total general fund appropriations which is approximately 2-3 months of expenditures. This is consistent with the investment community who established the Town's credit rating.

RESTORATION OF MINIMUM FUND BALANCE

Should the General Fund balance fall below the target level, the Town Comptroller will prepare a plan for restoration of the balance to the target level and achieve the target level as soon as practicable within the next fiscal year. The plan will be presented to the Law and Finance Committee for review and approval for implementation.

DEFINITIONS

Cash balance: The sum of cash and investment of an accounting fund.

Unrestricted Fund Balance: The total of the assigned and unassigned fund balance.

Fund Balance: The difference between the assets and liabilities reported in a governmental fund. Fund balance is not the cash balance of the Town of Penfield. The fund balance consist of other assets such as money due from the state, county, and federal governments, sales tax due for the fourth quarter, and other accounts receivables. Fund balances are classified into various components depending on the limitations placed on the use of the funds. The hierarchy indicates the extent to which a government is bound to observe spending constraints that govern how it can use amounts reported in the governmental funds balance sheet. GASB statement 54 established the following classifications depicting how specific amounts can be spent:

Non-spendable- consist of assets that are inherently nonspendable in the current period either because of their form or because they must be maintained intact, including prepaid items, inventories, long-term portions of loans receivable, financial assets held for resale, and principal of endowments.

Restricted-consist of amounts that can be spent only for the specific purpose stipulated by external resources providers (for example grant providers, constitutionally, or Laws, (general municipal, local finance) and regulations of other governments: or through constitutional provisions or enabling legislation. Generally the Town's reserve funds will be considered restricted as the state regulates the establishment, funding, and use of reserves.

Committed-consists of amounts that are subject to a purpose constraint imposed by a formal action of the Town Board before the end of the fiscal year, and that requires the same level of formal action to remove the constraint. Examples of committed fund balance:

- Amounts set aside based on self-imposed limitations established and set in place prior to year-end, but can be calculated after year end.
- Limitation imposed at highest level and requires same action to remove or modify.
- Ordinance that laps at year end.

Assigned-consists of amounts that are subject to a purpose constraint that represents an intended use established by the Board or by the Town Supervisor. The purpose of the assignment must be narrower than the purpose of the general fund, and in funds other than the general fund, assigned fund balance represents the residual amounts of fund balance. Examples of assigned fund balance:

- Encumbrances made by the departments through the normal year end procedures
- Appropriated fund balances by the Town Board or through the budgetary process
- Residual amounts of fund balance that do not meet the nonspendable, restricted, or assigned definitions in funds other than the general fund

Unassigned-fund balance is the residual classification for the general fund and includes all amounts not contained in the other classifications. (i.e., surplus) Unassigned amounts are technically available for any purpose.

Prioritization of Fund Balance Use-when an expenditure is incurred for purposes for which both restricted and unrestricted (committed, assigned, or unassigned) amounts are available, it shall be the policy of the Town for the Supervisor or designee to determine the order of the expenditure of funds, on an annual basis.

February 27, 2012
Revised August 1, 2012

PENFIELD TOWN BOARD RESOLUTION NO. _____

DATE August 1, 2012

BY Councilman Moore

Law & Finance COMMITTEE

NAME Setting a Public Hearing to Consider an Amendment to the Zoning Ordinance and Zoning Map to Allow 9.83 Acres of R-1-12 Zoned Property at 1994-B and 6.61 Acres of Multiple Residence Zoned Property at 1994-C Empire Blvd. to be Rezoned to General Business – SBL#’s 093.02-1-24.997 and 092.01-1-25.1 – DiMarco Brandt Point LLC

WHEREAS, an application has been received pursuant to Article XIV-14-3 of the Penfield Zoning Ordinance requesting an amendment to the Penfield Zoning Ordinance and Zoning Map to allow the rezoning of a portion of the property at 1994-B consisting of 9.83 acres and 6.61 acres at 1994-C to be rezoned from R-1-12 and Multiple Residence respectively to General Business; and

WHEREAS, the Planning Board, acting as lead agency pursuant the requirements of Part 617.6 of the State Environmental Quality Review Act, has required the preparation of Draft and Final Environmental Impact Statements and has prepared a Negative Declaration regarding the proposed action; and

WHEREAS, it is the Town Board’s intent to seek public input on and evaluate the request for an amendment to the Zoning Ordinance and Zoning Map to allow 9.83 of 20.1 acres of 1994-B Empire Blvd. and 6.61 acres at 1994-C Empire Blvd to be rezoned from R-1-12 and Multiple Residence respectively, to General Business;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Penfield will hold a Public Hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York 14526 on August 22, 2012, at 7:30 PM on said date, to consider said proposal and to hear all persons on the question of amending the Zoning Ordinance and Zoning Map of the Town of Penfield to allow a 9.83 acre portion of the 20.1 acre R-1-12 zoning at 1994-B Empire Blvd. and 6.61 acres at 1994-C Empire Blvd. zoned Multiple Residence to be rezoned to General Business, and more particularly described in Schedule “A” attached hereto and made a part hereof; and

BE IT FURTHER RESOLVED, that a copy of this Resolution, certified by the Town Clerk, shall be published at least once in the official newspaper of the Town, the first publication thereof not to be less than ten (10) nor more than twenty (20) days before the date set for said Hearing as aforesaid. A copy of this Resolution shall be posted on the official signboard of the Town as prescribed by law.

Moved: _____

Seconded: _____

Vote: Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____

PENFIELD TOWN BOARD RESOLUTION No. _____

DATE August 1, 2012

BY : Councilman Moore

Law & Finance COMMITTEE

NAME: Setting a Public Hearing for the matter of Establishment of Ashlyn Rise Subdivision Sidewalk District (#16).

WHEREAS; a written Petition has been presented to the Penfield Town Board, duly dated and verified to contain the required signatures and having been filed with the Town Clerk of the Town of Penfield, Monroe County, New York, for the Establishment of Ashlyn Rise Subdivision Sidewalk District (#16), and

WHEREAS; the boundaries of said Sidewalk District are described in Schedule A, attached hereto and made a part hereof and as shown on Exhibit 1, incorporated herein by reference, and

WHEREAS; the proposed improvements consist of concrete sidewalks in compliance with the approved subdivision plans and the construction specifications of the Town of Penfield, and

WHEREAS; the entire cost of the sidewalk improvements to be constructed within said Sidewalk District shall be borne by the developer of the Ashlyn Rise Subdivision, and

NOW, THEREFORE, BE IT RESOLVED; that the Town Board of the Town of Penfield shall hold a Public Hearing at the Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on the 5th, day of September 2012 at 7:30 p.m. on said date, to consider the said Petition and to hear all persons interested in the subject thereof and concerning the same, and for such other action on the part of the Town Board with relation to said Petition as may be required by Law, and

BE IT FURTHER RESOLVED; that a copy of this resolution, certified by the Town Clerk, shall be published at least once in the official newspaper of the Town, the first publication thereof to be not less than ten (10) nor more than twenty (20) days before the date of the aforesaid Public Hearing, and that a copy of this resolution shall be posted on the official sign board of the Town as prescribed by Law.

Moved: _____

Seconded: _____

Vote: Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____

SCHEDULE "A"

Baytowne

Area to be Re-zoned from Multiple Residence (MR)
to General Business (GB) District

All that tract or parcel of land situate in part of Town Lot 66, Township 13, Range 4, Phelps & Gorham Purchase, Town of Penfield, County of Monroe, State of New York, and being more particularly described as follows:

Commencing at the point of intersection between the easterly right of way line of Empire Blvd. (State Highway No. 99 - variable width) and the southerly right of way line of Brandt Point Drive (60' wide); thence, North 88°50'44" East, on the said southerly right of way line of Brandt Point Drive, a distance of 619.59 feet to a point of curvature on the northwesterly corner of Lot 3 (Liber 10613 of Deeds Page 513) of the Rodney Farms Re-subdivision of Lots 4, 5, 6 & 7 as filed in the Monroe County Clerk's Office at Liber 279 of Maps Page 64 and the Point of Beginning. Thence, the following four courses on the said southerly right of way line of Brandt Point Drive:

Northeasterly on a curve to left, having a radius of 180.00 feet, an arc length of 94.25 feet and a central angle of 30°00'00" to a point of tangency; thence

North 58°50'44" East, a distance of 150.00 feet to a point of curvature; thence,

Easterly on a curve to right, having a radius of 170.00 feet, an arc length of 89.01 feet and a central angle of 30°00'00" to a point of tangency; thence,

North 88°50'44" East, a distance of 214.06 feet to a point on the division line between Lot R-4 on the east and said Lot 3 on the west, as shown on said Rodney Farms Re-subdivision Map; thence, the following six courses on said division line:

South 01°09'16" East, a distance of 121.89 feet to a point; thence,

South 09°44'46" East, a distance of 30.42 feet to a point; thence,

South 06°05'17" East, a distance of 90.25 feet to a point; thence,

South 15°22'11" East, a distance of 206.32 feet to a point; thence,

South 05°16'52" East, a distance of 60.36 feet to a point; thence,

South 01°49'41" East, a distance of 27.09 feet to a point on the division line between said Lot 3 on the north and Lot 1 on the south, as shown on said Rodney Farms Re-subdivision Map; thence,

South 88°38'46" West, on said division line, a distance of 671.31 feet to a point on the westerly line of said Lot 3; thence,

North 10°31'52" East, on the said westerly line of Lot 3, a distance of 418.30 feet to the Point of Beginning.

Parcel of land to be rezoned having an area of 6.610 acres, more or less.

Baytowne

Area to be Re-zoned from Single Family Residential Use (R-1-12) District to General Business (GB) District

All that tract or parcel of land situate in part of Town Lot 66, Township 13, Range 4, Phelps & Gorham Purchase, Town of Penfield, County of Monroe, State of New York, and being more particularly described as follows:

Commencing at the point of intersection between the easterly right of way line of Empire Blvd. (State Highway No. 99 - variable width) and the southerly right of way line of Brandt Point Drive (60' wide); thence, the following five courses on the said southerly right of way line of Brandt Point Drive: North 88°50'44" East, a distance of 619.59 feet to a point of curvature; thence, Northeasterly on a curve to left, having a radius of 180.00 feet, an arc length of 94.25 feet and a central angle of 30°00'00" to a point of tangency; thence, North 58°50'44" East, a distance of 150.00 feet to a point of curvature; thence, Easterly on a curve to right, having a radius of 170.00 feet, an arc length of 89.01 feet and a central angle of 30°00'00" to a point of tangency; thence, North 88°50'44" East, a distance of 214.06 feet to a point on the division line between Lot R-4 on the east and Lot 3 (Liber 10613 of Deeds Page 513) on the west of the Rodney Farms Re-subdivision of Lots 4, 5, 6 & 7 as filed in the Monroe County Clerk's Office at Liber 279 of Maps Page 64, thence, South 01°09'16" East, on said division line, a distance of 40.38 feet to the Point of Beginning. Thence, the following eight courses through said Lot R-4:

North 88°50'44" East, a distance of 52.38 feet to a point; thence,
South 60°23'07" East, a distance of 38.80 feet to a point; thence,
North 88°35'19" East, a distance of 201.92 feet to a point; thence,
South 67°02'39" East, a distance of 56.11 feet to a point; thence,
South 88°38'22" East, a distance of 143.27 feet to a point; thence,
South 16°51'22" East, a distance of 178.50 feet to a point; thence,
South 01°28'17" East, a distance of 709.67 feet to a point; thence,

South 88°52'08" West, a distance of 451.76 feet to a point on the division line between said Lot R-4 on the east and Lot 1 on the west, as shown on said Rodney Farms Re-subdivision Map; thence, the following eight courses on said division line and on the said division line between Lot R-4 on the east and Lot 3 on the west:

North 01°27'16" West, a distance of 223.99 feet to a point; thence,
South 88°38'46" West, a distance of 11.10 feet to a point; thence,
North 01°49'41" West, a distance of 243.82 feet to a point; thence,
North 05°16'52" West, a distance of 60.36 feet to a point; thence,
North 15°22'11" West, a distance of 206.32 feet to a point; thence,

North 06°05'17" West, a distance of 90.25 feet to a point; thence,

North 09°44'46" West, a distance of 30.42 feet to a point; thence,

North 01°09'16" West, a distance of 81.51 feet to the Point of Beginning.

Parcel of land to be rezoned having an area of 9.831 acres, more or less.

PENFIELD TOWN BOARD RESOLUTION NO. _____

DATE August 1, 2012

BY Councilman Moore

Law & Finance Committee

NAME Approval of Issuance of a Special Permit to Allow a Sit-down Restaurant With
Outdoor Dining at 1785 Penfield Road – SBL# 139.09-1-16.1 – Chef’s Recipe 0703 LLC

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Special Permit, pursuant to Article III-3-97 of the Code to allow a sit-down restaurant with outdoor dining at 1785 Penfield Road, located in the Four Corners (FC) zoning district; and

WHEREAS, the Town Board of the said Town of Penfield held a public hearing at the Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on July 18, 2012 at 7:30 PM on said date, to consider the application and hear all persons interested on the question of the issuance of a Special Permit to allow a sit-down restaurant with outdoor dining at 1785 Penfield Road, in the Four Corners (FC) zoning district and the public hearing was closed and decision was reserved.

NOW, THEREFORE, BE IT

RESOLVED, that the applicant’s request for a SPECIAL PERMIT to allow a sit-down restaurant with outdoor dining at 1785 Penfield Road is hereby GRANTED subject to the following conditions:

1. The applicant shall obtain a SPECIAL PERMIT from the Town Clerk and pay the appropriate fee. The SPECIAL PERMIT is non-transferable. Any subsequent owner or operator shall be required to apply for and obtain a SPECIAL PERMIT from the Town Board to operate a restaurant at this location.
2. The applicant shall be permitted to operate the proposed business between the hours of 11:00 a.m. and 12:00 a.m. on a daily basis consistent with the permitted hours of operation for the Four Corners zoning district as set forth in Article III-3-102 of the Zoning Ordinance. The restaurant shall be closed to the public at midnight on a nightly basis.
3. The applicant shall comply with the occupancy requirements that have been established by the Penfield Fire Marshal in accordance with the New York State Building Code and obtain any/all necessary permits from the Building Department.

4. Adequate on-site and off-site parking shall be available at all times to accommodate the applicant's business. At no time shall adjacent property owners or the right of way of Motts Lane be adversely impacted by those patronizing this business.
5. The applicant shall obtain a Liquor License from the New York State Liquor Authority prior to serving alcohol at this location; furthermore, the applicant shall ensure that the primary use of the property remains as a sit-down restaurant and that the sale of alcohol is secondary and incidental to the sale of food.
6. The applicant has requested outdoor dining for 32 patrons to be placed on the east side of the restaurant. The applicant shall be required to comply with the requirements of the Penfield Fire Marshal and the New York State Liquor Authority regarding the outdoor dining area. Further, the applicant shall be allowed no more than 32 patrons in the outdoor dining area (8 tables with 4 seats at each table). All tables and chairs shall be removed from the outdoor dining area at the end of the season and stored internally on or off the site. The outdoor dining area shall consist of a paver base and shall be properly fenced to prevent access to the area for other than handicapped and emergency response.
7. The applicant shall not be permitted to have any type of entertainment to the exterior of the restaurant. The applicant shall be permitted to have entertainment within the restaurant incidental and complimentary to dining; however said entertainment shall not be audible to the exterior of the restaurant. The applicant shall not be permitted to have any type of live entertainment within the restaurant or on the deck. The applicant shall only be permitted to have "piped" background music within the restaurant and on the deck. In no case shall the music exceed the boundaries of the property.
8. The applicant shall be responsible for the continuous maintenance of the hood and exhaust system and at no time shall odors emanate from the site that may cause a nuisance to area property owners.
9. The applicant will be responsible for constructing a dumpster enclosure on the property that is properly sized to enclose the dumpster, cardboard container and grease container. The location, design and size of said enclosure shall be approved by the Director of Developmental Services.
10. The applicant shall be permitted to utilize the exiting sign on the premises to identify the proposed restaurant, as it will have the same name as the previous restaurant, The Humphrey House. Any proposed change in the sign will require a review and approval by the Town Board.
11. This operation shall comply with all Federal, State, County and Town Codes.

12. Failure to comply with the conditions set forth hereinabove may result in the revocation of this Special Permit pursuant to the requirements of the Zoning Ordinance.

AND BE IT FURTHER

RESOLVED, that the applicant's proposal is classified as a Type II action pursuant to the requirements of the State Environmental Quality Review Act (SEQRA) and no additional environmental review regarding this proposal is necessary.

The Town Board, in granting the Special Permit, does so based on its following findings:

1. The applicant proposes to occupy the site at 1785 Penfield Road, which was formerly occupied by a restaurant known as the Humphrey House.
2. The applicant proposes to retain the name of the Humphrey House for the proposed restaurant and will have the same occupancy as the Humphrey House, that being 148 persons, with an additional 32 persons permitted in a proposed outdoor dining area on the east side of the restaurant.
3. There are adequate parking facilities on site to accommodate this business, as demonstrated by the previous two operators of the Humphrey House which operated from this site for approximately the last 40+ years. Any increase in intensity of scope or occupancy (such as increase in seating) shall be reviewed and approved by the Town Board to ensure that the site can properly accommodate any proposed increase in scope.
4. The applicant stated that it will comply with all applicable codes and regulations pertaining to the operation of a sit-down restaurant and sale of alcohol in the Town of Penfield.
5. The applicant's proposal is consistent with and furthers the goals and objectives of the Four Corners zoning district in that her business results in the continuation of a business that was a mainstay of the Four Corners for the last 40+ years.
6. The applicant proposes to end dining service at 10:00 p.m. and to close the business by midnight on a nightly basis. This proposal complies with the permitted hours of operation in the Four Corners zoning district and will ensure that this business will not create and adverse impacts to area residents.
7. The applicant does not propose to have any live entertainment on the premises at any time and the Board has required that no live music be permitted on site without it granting a Special Permit for such entertainment. The applicant proposes the use of "piped" background music both within the restaurant and in the outdoor dining area.

The Board bases its findings to APPROVE this application on the following:

1. An application form dated May 24, 2012.
2. A letter of intent dated May 24, 2012.
3. A patio concept plan for the proposed outdoor dining area dated May 24, 2012.
4. Submissions and oral testimony of the applicant at the public hearing on July 18, 2012.

Moved: _____

Seconded: _____

Vote: Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____

PENFIELD TOWN BOARD RESOLUTION NO. _____

DATE August 1, 2012

BY Councilman Moore

Law and Finance Committee

NAME Authorization to Remove Fence Erected within Bounds of Town Highway of Aspen Drive.

WHEREAS, Section 319 of the New York State Highway Law prohibits the construction or placement of obstructions within the bounds of a highway; and

WHEREAS, on or about June 27, 2012, the property owner of 87 Aspen Drive in the Town of Penfield constructed, or allowed to be constructed, a wood fence within the bounds of the highway adjacent to the property; and

WHEREAS, the town staff has continually requested the property owner remove the fence obstruction within the bounds of the highway at this location with no result:

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Penfield hereby authorizes the Director of Public Works to have the fence removed from the bounds of the highway; and

BE IT FURTHER RESOLVED, that the Town Board further authorizes that the cost of said removal also be charged to the 2013 property tax bill for the subject property.

Moved: _____

Seconded: _____

Vote: Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____

NEW BUSINESS

PENFIELD TOWN BOARD RESOLUTION NO. 12T-176 DATE August 1, 2012
BY Councilman Moore Law and Finance Committee

NAME Authorization for Animal Control Officer to attend Peace Officer Training Academy

WHEREAS, on January 1, 2011 Local Law #1 of the year 2010 known as Dog Licensing and Animal Control Law went into effect; and

WHEREAS, section 4, Definitions and Word Usage states that an Animal/Dog Control Officer is an individual appointed by the Town Board to assist in the enforcement of the Animal Control Law, and for the purposes of this law, such officer shall be deemed a Peace Officer; and

WHEREAS, Steven E. Schicker is the Town's full time Animal Control Officer; and

WHEREAS, the Peace Officer Training Academy at 1110 Lyell Avenue, Rochester New York offers continuing education to keep officer's skills sharp, stay abreast of the latest techniques and technologies and improve the value of the Officer to the Department; and

WHEREAS, the cost of the course is \$990.00.

NOW, THEREFORE BE IT

RESOLVED, that Steven E. Schicker is hereby authorized to attend a course at the Peace Officer Training Academy to begin August 20, 2012 for the duration of 99 mandatory hours. The cost will be allocated from the _____ budget line.

Moved: _____

Seconded: _____

Vote:	Kohl	_____
	LaFountain	_____
	Metzler	_____
	Moore	_____
	Quinn	_____

PENFIELD TOWN BOARD RESOLUTION NO. _____ DATE 8/1/2012

BY LINDA KOHL COMMUNITY SERVICES COMMITTEE

NAME AUTHORIZATION FOR SUPERVISOR TO SIGN RECREATION CONTRACTS

BE IT RESOLVED, that the Town Board authorizes the Town Supervisor to sign the following recreation contracts:

Mandy Elliot, 2272 Penfield Road, Penfield, NY, Instructor for Music Train and Ukulele 9/20/12 – 12/20/2012 for a fee of 70% of program revenues. Vouchers to be submitted on 9/19/12 and 11/7/12.

Reinhold M. Spath, SRA, 27 Cottage Grove Circle, North Chili, NY 14514-1257, Women's Fall Soccer League, 9/8-11/3/12, for a fee of \$4.00 per game. Voucher to be submitted 9/5/12.

The following persons to provide service as Girls Basketball Camp Instructors, 07/16/12 – 07/20/12, for the fee of \$22.50 per day: Voucher to be submitted 08/01/12.

Margaret Fitzpatrick, 12 Chatworth Cir. N, Fairport, NY 14450
Kasey Kelleher, 12 Saybrooke Drive, Penfield, NY 14526
Katie Kayes, 13 Surrey Place, Penfield, NY 14526
Alicia Flanagan, 1720 Penfield Rd. Penfield, NY 14526
Jessica Landuyt, 2118 Baird Rd Penfield, NY 14526

Mark Vogt, 3217 Pine View Drive, Walworth, NY 14568, Director of Penfield Recreation Girls Basketball Camp, 7/16/12 - 7/20/12, for the fee of \$380.00, plus \$1.00 per participant (\$2.00 per participant for camps with enrollment exceeding 59 participants). Voucher to be submitted on 8/1/12.

Meghan Malloy, 100 Timber Brook Lane, Penfield, NY 14526, Assistant Director, Penfield Recreation Girls Basketball Camp, 7/16/12 – 7/20/12, for the fee of \$150.00. Voucher to be submitted 8/1/12.

The following persons to provide service as Girls Lacrosse Camp Instructors, 07/16/12 – 07/20/12, for the fee of \$22.50 per day: Voucher to be submitted 08/01/12.

Ann Mary Baker, 221 Devonshire Drive, Rochester, NY 14625
Maddie Loewenguth, 30 Random Knolls Drive, Penfield, NY 14526

Mackenzie Jordan, 36 F Brook Hill Lane, Rochester, NY 14625, Assistant Director, Penfield Recreation Lacrosse Basketball Camp, 7/16/12 – 7/20/12, for the fee of \$180.00. Voucher to be submitted 8/1/12.

Leslie Howlett, 799 Somerset Drive, Webster, NY, 14580, Girls Field Hockey Camp Director, 7/30/11 – 8/3/12, for the fee of \$215.00, plus \$1.00 per registered participant. Voucher to be submitted 8/15/12.

Jeff Rogers, 14 Helmsford Way, Penfield, NY 14526, Boys Basketball Camp Director, 7/30/11 – 8/3/12, for the fee of \$350.00, plus \$1.00 per participant (\$2.00 per participant for camps with enrollment exceeding 59 participants). Voucher to be submitted 8/15/12.

JJ Schembri, 18 Winterset Drive, Rochester, NY 14625, Director of Boys Lacrosse Camp, 7/23/12 – 7/26/12, for the fee of \$300.00 plus \$1.00 per participant (\$2.00 per participant for camps with enrollment exceeding 59 participants). Voucher to be submitted 8/1/12.

Moved: _____

Seconded: _____

Vote:

Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____