I Call to Order - Pledge of Allegiance - Roll Call

II Budget Officer’s Message and Information Presentation on the 2015 Tentative Budget

III Public Hearing #1 – To Allow a 176 Boat Slip Expansion to the Southpoint Marina and an Accessory 3,750 Square Foot Clubhouse/Restaurant and Pool on 13.28 Acres at 1384 and 1420 Empire Blvd, Located in the LaSalle’s Landing Development (LLD) Zoning District

Public Hearing #2 – To Address the Draft Environmental Impact Statement (DEIS) Associated with the Development of 176 Boat Slip Expansion and an Accessory 3,750 Square Foot Clubhouse/Restaurant and Pool at the Southpoint Marina at 1384 and 1420 Empire Blvd.

IV Communications and Announcements

V Public Participation

VI Additions and Deletions to Agenda

VII Approval of Minutes – August 6, 2014

VIII Petitions

IX Resolutions by Function
   Law and Finance
   #14T-158 Authorization to Attend New York State Magistrate Court Clerk Conference
   #14T-159 Setting Public Hearing on 2015 Preliminary and Special District Budget
   #14T-160 Setting a Public Hearing to Consider Design Modifications to the Incentive Zoning Application and Preliminary and Final Resubdivision and Site Plan Approval at 56, 63, 67 and 71 Kings Mill Court in Windham Woods Subdivision

Public Works - None

Public Safety - None

Community Services
   #14T-161 Authorization for Supervisor to Sign Recreation Contracts

X Old Business

XI New Business

XII Public Participation

XIII Adjournment
Penfield Town Board, September 3, 2014

The Regular meeting of the Penfield Town Board was held on Wednesday, September 3, 2014 at 7:30 PM at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York.

Present:  R. Anthony LaFountain  Supervisor
        Linda Kohl  Councilwoman
        Paula Metzler  Councilwoman
        Andrew Moore  Councilman
        Robert Quinn  Councilman

Also Present:  Amy Steklof  Town Clerk
               Richard Horwitz  Town Attorney
               Bob Beedon  Town Comptroller
               Jim Costello  Director of Developmental Services

Supervisor LaFountain called the meeting to order – Pledge of Allegiance

Gary Richardson, 48 Cardogan Square announced that the annual used book sale that is hosted by the Friends of the Penfield Library will be held on September 9 – 13 at the Penfield Community Center, 1985 Baird Road. The sale will begin with a member's only presale on September 9, 2014 from 2:00 PM to 9:00 PM. Membership costs $5.00 a year and may be purchased at the Penfield Library or at the presale. For more information, call (585) 340-8720.

The Town’s Finance Director, Robert Beedon presented the 2015 Tentative Budget to the Town Board and Penfield residents. Mr. Beedon stated that the Budget at $15.9 is $278,000 lower than the 2014 Budget and that the Town Tax Rate remains flat at $2.64 per $1,000 of assessed property value.

Copies of the 2015 Tentative Budget can be viewed in the office of the Comptroller and the Town Clerk's office at 3100 Atlantic Avenue or at The Penfield Public Library, 1985 Baird Road. The Tentative Budget can also be viewed online at www.penfield.org. A Public Hearing to receive comments on the Preliminary Budget will be held on October 1, 2014. Comments will be viewed by the Town Board through October 10, 2014. If you would like to contact Mr. Beedon, his phone number is 585-340-8621.

Supervisor LaFountain took the Agenda out of order and declared Public Participation to come before Communications and Announcements.

Public Participation

Bob Reid, 275 Parkview Drive, stated that he has received copies of the letters that Supervisor LaFountain sent to the Department of Environmental Conservation (DEC), the Department of Health (DOH).

Mr. Reid reviewed, with the Town Board, items that were listed on the Petition that was previously delivered to the Town Board. He stated that the petitioners are looking for support from the Town Board pertaining to the odors emanating from the Baker Commodities rendering plant that have been recurring and increasing since 2005.

Mr. Reid questioned the Town Board on each of the seven (7) items listed on the Petition as to what action the Town Board plans to take.

Supervisor LaFountain stated that the Town Board recognizes that there has been an odor problem and are looking to address the issue and will continue to work with DEC, The Health Department and Baker Commodities to rectify the problem.

Steve Healey, 231 Parkview Drive, thanked the Town Board for sharing the correspondence that was sent to the DEC and DOH and thanked them for requesting a Public Information Meeting of all the stakeholders.
Mr. Healey stated he was disappointed with the letter from DEC which stated that Baker Commodities is in compliance with their permit. Mr. Healy would like an explanation from the DEC as to what criteria was used to make their determination.

The Town Board agreed with Mr. Healey’s characterization of the issue and also expressed their disappointment with the DEC’s response. They would like a more detailed report which would include the data that was collected and the criteria used to make their determination.

Supervisor LaFountain stated he will be participating with the DEC in an inspection of the plant this Friday, September 5, 2014 and at that time will ask a number of questions pertaining to the odor issues.

Mr. Healey asked Councilwoman Metzler to speak about the municipalities’ ability to regulate rendering plants.

Councilwoman Metzler stated that there is no Penfield Town Law that gives the Town Board the ability to regulate the plant. She further stated that the Town could change the code by enacting legislation to regulate rendering plants, however, there is a process to be followed and it would be a huge undertaking.

Councilwoman Metzler believes it would not be the right course of action.

Public Hearing #1 -  To Allow a 176 Boat Slip Expansion to the Southpoint Marina and an Accessory 3,750 Square Foot Clubhouse/Restaurant and Pool on 13.28 Acres at 1384 and 1420 Empire Boulevard, located in the LaSalle’s Landing Development (LLD) Zoning District

The Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on August 21, 2014 and was posted on the Town Website and Town Clerk Bulletin Board. Six postcards were mailed and three (3) Homeowners Associations were notified.

Jess Sudol, Project Engineer from Passero Associates along with Danny Daniele, project owner, John Caruso, President of Passero Associates and Dr. James Haynes, Biologist who participated in the Environmental Impact Study gave an overview on the project and offered data associated with the project. He stated that the proposed project is located behind the Basil’s Restaurant in the LaSalle’s Landing District (LLD) and that an integral part of the project involves pulling the public into the project through construction of commercial property and public access to the Bay. Also included in the project is the construction of an additional parking lot to service the new development.

Mr. Sudol also updated the Town Board on the status of the proposed center turn lane and traffic improvements on Empire Boulevard stating that construction will begin next week on the two-way left turn lane as part of the apartment complex project which is separate from their proposal.

Dr. Haynes stated that he was part of a team that surveyed all of Irondequoit Bay in 2002 for the same type of things that are being looked at for the Southpoint Cove project.

Dr. Haynes summarized the findings of his most recent study and concluded that there is no reproduction of sea life where the proposed boat docks will be located. He stated that, in his professional opinion, the project will have no aquatics biological impact to Irondequoit Bay.
(Public Hearing #1 - Continued)

Mr. Sudol displayed a rendering of the proposed clubhouse and pointed out different architectural elements of the building. He also stated that his team will be taking notes and writing down all comments made as part of the process and will provide answers to all questions asked in the Final Environmental Impact Statement.

Councilman Quinn asked if everything pertaining to the clubhouse/restaurant is the same as it was originally presented.

Mr. Sudol stated yes, and that the Environmental Impact Statement, that is on file, accounts for everything.

Councilwoman Kohl asked if the restaurant has a proposed operator.

Mr. Sudol stated they are speaking with several potential operators.

Councilwoman Kohl asked what the potential occupancy will be for the dining areas.

Mr. Sudol stated that seating will be for approximately 100 patrons.

Supervisor LaFountain inquired about the hours of operation for the clubhouse and restaurant.

Mr. Sudol stated that the hours of operation would be compliant with Town code, but they have not formally decided on the actual hours yet. He assumes the hours will be similar to Bazil’s Restaurant hours.

Danny Daniele stated the hours of operation for Bazil’s Restaurant are seven days a week with dinners from 4:00 PM to 10:00 PM and Sunday Brunch from 10:30 AM to 4:00 PM. Sunday dinner is served until 9:00 PM.

Mr. Sudol also stated that there are no plans for outdoor music, but there may be music piped out through small speakers. Mr. Sudol also stated that the plan is to have a common sign that will include signage for the Marina, the proposed restaurant and Bazil’s Restaurant.

Councilwoman Metzler asked for information pertaining to the drainage plan.

Mr. Sudol stated that due to the proximity to Irondequoit Bay, they do not have the typical downstream flowing concerns. Also, due to the sandy soil in the area, stormwater from the parking lot will infiltrate into the ground. There are also storm sewers on the site that will help overflow to be piped down to the Irondequoit Bay shoreline.

Supervisor LaFountain asked Mr. Sudol to touch upon the separation of the Southpoint Marina project’s two (2) properties.

Mr. Sudol stated that the Southpoint Apartment project is made up of former parcels 1420 and 1440 Empire Boulevard. This project’s address is 1384 Empire Boulevard and 1420 Empire Boulevard. The property line that was recently filed with the County Clerk’s office separates the two (2) projects. He went on to say that the property line had been modified a few months ago due to the project becoming less dense. The apartment project changed from 10 buildings to 9 buildings and therefore, not as much land was needed.

Danny Daniele spoke about the clubhouse portion of the project and that the clubhouse will be made available to members only during the boating season between April 15 and October 15. The pool will also be made available for members only. The maximum number of members will be based on the number of boat slips. If approved, the total number of boat slips will be 382. Pool hours will be approximately from 10:00 AM to 6:00 PM with 24 hour access to the bathrooms for boaters.
Councilwoman Kohl asked how member access to the clubhouse will be controlled.
(Public Hearing #1 - Continued)

Danny Danielle stated that a gate with a keypad will be installed.

Mr. Sudol stated that the proposed apartment complex lighting will be the same that is currently being used by Bazil’s Restaurant.

Rick McAninch, 28 Thomlinson Circle stated he supports the application and feels it is an asset to the community.

Dr. Alice Sokolow, 34 Avonmore Way spoke about her concerns pertaining to the proposal and stated that she does not feel the project enhances access or recreational opportunities to the Bay. She also stated that she does not believe the project complies with the Town’s Comprehensive Development plan. Dr. Sokolow’s full comments can be viewed in the project life file.

Paul Lewis, 1421 Empire Boulevard, owner of Birds Unlimited, stated there have been an increased number of vehicle accidents and near misses since construction began.

Councilman Quinn asked for a construction schedule pertaining to road improvements.

Mr. Sudol stated that the majority of improvements will occur within the next six (6) weeks.

Councilman Quinn suggested that there be public announcements made that will inform the public of the construction schedule.

Hearing closed.

Public Hearing #2 - To Address the Draft Environmental Impact Statement (DEIS) Associated with the Development of 176 Boat Slip Expansion and an Accessory 3,750 Square Foot Clubhouse/Restaurant and Pool at the Southpoint Marina at 1384 and 1420 Empire Boulevard

The Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on August 21, 2014 and was posted on the Town Website and Town Clerk Bulletin Board. 6 postcards were mailed and three (3) Homeowners Associations were notified.

Mr. Jess Sudol stated that all the information from the previous Public Hearing is the same for this Public Hearing. He informed the Town Board they will continue to receive comments for the Draft Environmental Impact Statement (DEIS) through September 19, 2014.

He also stated that they have looked at plans from other development in the LaSalle’s Landing District area. He mentioned that the Daniele’s have agreed to reserve boat slips for other local development and believes this will discourage other developments from requesting approval to allow them to putting install in their own boat slips.

Supervisor LaFountain inquired about general traffic impacts in the area.

Mr. Sudol stated by surveying surrounding areas of Penfield, Irondequoit and Webster and viewing previous surveys of the area they concluded that with the addition of the center left turn lane and reduction of the number of apartment units and boat slips, the existing infrastructure will be more than adequate to handle the traffic even during peak hours.

Supervisor LaFountain asked Mr. Sudol to speak about water quality issues and the impact of potential oil and gas spills.
(Public Hearing #2 - Continued)

Mr. Sudol stated that their proposed drainage system will prevent the discharge from migrating back into the Bay.

Mr. Sudol stated that there will be no fueling station at the marina and that it is prohibited in the lease.

Supervisor LaFountain inquired about erosion concerns along the shoreline.

Mr. Sudol stated that there is a no wake policy. He also stated that there is dense vegetation along the shoreline which helps dissipate wave action and alleviate potential shore line erosion.

Supervisor LaFountain inquired about storage of watercraft and trailers that could potentially clutter the area during peak season.

Mr. Sudol responded by saying it will not be an issue since most of the boats will already have been launched and therefore there will be no need to park trailers.

Supervisor LaFountain inquired about how the eagle habitat will be protected.

Mr. Sudol stated that they have reduced the number of docks in the eagle’s nest’s 600-foot radius and no large boats will be allowed in that area.

Councilman Moore asked Dr. Haynes to clarify his previous statements concerning the macrophytes in the cove.

Dr. Haynes stated that there were no macrophytes found in the cove during the study and none were found during the 2002 study so he believes there will be no biological impact. He stated that it is not a good area for terrestrial or semi aquatic animals.

Dr. Alice Sokolow, 34 Avonmore Way went over a list of her concerns. A complete list can be viewed in the project file.

Jim Costello, Director of Developmental Services stated that comments may be submitted to the Town of Penfield by 5:00 PM, September 19, 2014 through the Town’s website or by email to planning.org. The Town will also accept comments by fax or US mail service.

Additional copies of DEIS can be found in Mr. Costello’s office. Please contact him at 340-8642. A copy of the DEIS may also be found at the Penfield Library, 1985 Baird Road.

Hearing closed.

Communications and Announcements

1. Mobile DMV that is held in the Penfield Town Hall Auditorium, is cancelled for Tuesday, September 9, 2014 due to the Primary Elections. The Elections will run from Noon until 9:00 PM. Mobile DMV in the Town of Penfield will resume on Tuesday, September 16, 2014.

2. If you have not received your 2014-2015 Penfield and Webster School District tax bill, please contact the Tax Department at 340-8626. Tax bills can also be printed off the Monroe County website at www.monroecounty.gov.

3. The next Passport Night in Penfield will be held on Tuesday, September 23, 2014 from 5:30 PM to 7:30 PM in the Penfield Town Hall Auditorium. For more details, contact the Town Clerk’s office at (585) 340-8629.
4. The Town’s annual “Tastin’ the Blues” event will be held on Saturday, September 13, 2014 from Noon to 4:00 PM behind the Town Hall in the area of the Amphitheater. For more information visit www.penfieldrec.org.

5. Councilman Rob Quinn and Councilwoman Paula Metzler have started conducting mobile office hours. They were recently seen in the Watson Road area visiting residents at their homes. If you would like them to make a visit in your neighborhood, please contact them at quinn@penfield.org and metzler@penfield.org.

6. Please use caution and follow the Laws when driving in School zones. For safety tips please visit www.nsc.org.

7. The Penfield Recreation and Penfield History Room will hold a “Historic Penfield Road Rally” as a “funraiser” for the DEAR program at the Penfield Community Center. To register and for more information visit www.penfieldrec.org.

8. The Penfield-Perinton Kiwanis Club will host an Electronics Recycling Event to benefit Golisano Children’s Hospital from 9:00 AM to Noon on Saturday September 27, 2014. Also, the Town will host a one (1) day Recycling Event on Saturday, October 4, 2014 from 9:00 AM to 3:00 PM. Both events will be held at the Public Works Complex, 1607 Jackson Road. For more information visit www.penfield.org.

9. A Free Environmental Discussion series sponsored by the Town’s Energy and Environmental Advisory Committee will be held in the Penfield Town Hall Auditorium beginning on September 22, 2014. More information can be found in the Penfield Recreation Brochure or by visiting www.penfieldrec.org.

10. A Free Public Hike will be held on Saturday, September 13, 2014 in Channing Philbrick Park beginning at 9:00 AM. Town Historian, Kathy Kanauer and the Penfield Trails Committee will lead the hike and will talk about the life and accomplishments of Town Founder Daniel Penfield. To register in advance call 340-8655.

Additions and Deletions to Agenda

Councilman Moore moved to add Resolution #14T-162 to the agenda, and Councilwoman Kohl seconded.

Approval of Minutes

Councilwoman Kohl moved to approve the Minutes of August 6, 2014 Councilman Quinn seconded and all voted “Aye.”

Petitions - None

Resolutions by Function

Law and Finance

#14T-158 Authorization to Attend New York State Magistrate Court Clerk Conference by Moore

WHEREAS, the New York State Magistrates Court Clerk Annual Fall Conference has been scheduled at the Hilton Hotel in Albany, New York, September 28 through October 1, 2014; and

WHEREAS, this conference is designed to keep court clerks updated on changes in laws and procedures and provides educational opportunities for court clerks; and
NOW, THEREFORE, BE IT RESOLVED, that the Penfield Court Clerks Kerry Egerton and Betsy Wager are hereby authorized to attend the 2014 New York State Magistrates Court Clerks Annual Fall Conference in Albany, New York. The funds to attend this conference are included in the 2014 Budget and will not exceed $1,550.00.

Moved: Moore
Seconded: Kohl

Vote: Kohl Aye LaFountain Aye
      Metzler Aye Moore Aye
      Quinn Aye

Adopted

#14T-159 Setting Public Hearing on 2015 Preliminary and Special District Budget by Moore

BE IT RESOLVED, that a Public Hearing on the proposed Town of Penfield 2015 Preliminary Budget and the 2015 Special Districts Budget be held on Wednesday, October 1st 2014 at 7:30 PM at the Penfield Town Hall, and that all persons wishing to be heard be given an opportunity at that time, and

BE IT FURTHER RESOLVED, that the Town Clerk cause a notice of the Public Hearing to be published in the official newspaper at least ten days prior to the Hearing, and

BE IT FURTHER RESOLVED that the Legal Notice shall also list a summary of the 2015 Budget as required by Law, and contain a statement that a copy of the Preliminary Budget is available at the office of the Town Clerk, where any interested person may inspect it during office hours on or after September 18th 2014. A copy of the 2015 Preliminary Budget is also available in the Finance Department at the Town Hall located at 3100 Atlantic Avenue and the Public Library at 1985 Baird Road as well as on line at www.penfield.org.

Moved: Moore
Seconded: Quinn

Vote: Kohl Aye LaFountain Aye
      Metzler Aye Moore Aye
      Quinn Aye

Adopted

#14T-160 Setting a Public Hearing to Consider Design Modifications to the Incentive Zoning Application and Preliminary and Final Resubdivision and Site Plan Approval at 56, 63, 67 and 71 Kings Mill Court in Windham Woods Subdivision by Moore

WHEREAS, an application has been received by the Penfield Town Board, under Local Law No. 2 of 2003, known as the Town of Penfield Incentive Zoning Law, to consider Preliminary and Final Resubdivision and Site Plan Approval to allow the resubdivision of lots 213, 214, 215 and 216 within the Windham Woods subdivision to create one (1) additional lot to the approved 56 lot subdivision granted by the Town Board in Resolution 11T-092 on February 16, 2011; and

WHEREAS, the Penfield Town Board is best suited to act as “lead agency” within the meaning of the State Environmental Quality Review Act (SEQRA) and thus does hereby designate itself as “lead agency” pursuant to SEQRA; and
WHEREAS, the subject application is determined to be an Unlisted action pursuant to the requirements of the State Environmental Quality Review Act (SEQRA);

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 October 1, 2014 at 7:30 PM on said date, to consider said application and to hear all persons on the question of consideration of said application, 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: Moore
Seconded: Metzler

Vote: Kohl Aye LaFountain Aye
       Metzler Aye Moore Aye
       Quinn Aye

Adopted

Public Works - None
Public Safety - None
Community Services

#14T-161 Authorization for Supervisor to Sign Recreation Contracts
By Kohl

BE IT RESOLVED, that the Town Board authorizes the Town Supervisor to sign the following Recreation Contracts:

Dorothy Brenneis, 28 Woodside Dr., Penfield, NY 14526, Instructor for A Harvest of Healthy Fun at the Children’s Garden, 9/12/14 – 10/17/14, for the fee of 70% of total program revenues. Voucher to be submitted 10/15/14.

Mark Vogt, 3217 Pine View Dr., Walworth, NY 14568, Co-Instructor for Sports ABCs for Tots, 10/4/14 – 10/25/14, for a fee of 35% of total revenue. Voucher to be submitted on 11/5/14.

Ed Porto, 97 Keyel Dr., Rochester, NY 14625, Co-Instructor for Sports ABCs for Tots, 10/4/14 – 10/25/14, for a fee of 35% of total revenue. Voucher to be submitted on 11/5/14.

Cathy Downs, 2120 Clover St., Rochester, NY 14618, Instructor for Sporty Sprouts, 9/20/14 – 10/25/14, and 11/1/14 - 12/13/14 for a fee of 70% of program revenue per session. Vouchers to be submitted on 10/15/14 and 12/17/14.

Grossmans Garden & Home, 1801 Fairport Nine Mile Point Road, Penfield, NY 14526, Instructor for Fall Gardening, 9/6/14 – 12/13/14, for a fee of 70% of total program revenue. Vouchers to be submitted 10/1/14, 11/5/14, and 12/17/14.

Moved: Kohl
Seconded: Quinn
Penfield Town Board, September 3, 2014

(Resolution #14T-161 - Continued)

Vote: Kohl Aye Metzler Aye Quinn Aye LaFountain Aye Moore Aye Quinn Aye

Adopted

Old Business - None

New Business

#14T-162 Authorizing the Issuance Pursuant to Section 90.10 of the Local Finance Law of Refunding Bonds of the Town of Penfield, New York, to be Designated Substantially as “Refunding (Serial) Bonds” and Providing for Other Matters in Relation Thereto and the Payment of the Bonds to be Refunded Thereby

WHEREAS, the Town of Penfield, New York (the "Town") has heretofore duly issued $6,025,000 aggregate principal amount of Public Improvement (Serial) Bonds 2005, such bonds being dated August 1, 2005 and maturing in annual installments in each of the years 2006 to 2022, both inclusive (the “Refunded Bonds”), as more fully described therein; and

WHEREAS, the Refunded Bonds were authorized pursuant to bond resolutions dated February 20, 2002 and January 5, 2005, to finance capital improvements consisting of acquisition of land and rights in land and sewer system improvements; and

WHEREAS, it would be in the public interest to refund all, or one or more, or a portion of one or more, of the $3,125,000 outstanding principal balance of the Refunded Bonds (such outstanding principal balance being stated as of the date hereof), by the issuance of refunding bonds pursuant to Section 90.10 of the Local Finance Law.

WHEREAS, such refunding will result in present value savings in debt service as required by Section 90.10 of the Local Finance Law.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF PENFIELD, NEW YORK AS FOLLOWS:

Section 1. For the object or purpose of refunding all or a portion of the $3,125,000 outstanding aggregate principal amount of the Refunded Bonds, including providing moneys which, together with the interest earned from the investment of certain of the proceeds of the refunding bonds herein authorized shall be sufficient to pay; (i) the principal amount of the Refunded Bonds; (ii) the aggregate amount of unmatured interest payable on the Refunded Bonds to and including the maturity dates thereof or the date on which the Refunded Bonds which are callable are to be redeemed prior to their respective maturities in accordance with the Refunding Financial Plan, as hereinafter defined; (iii) the costs and expenses incidental to the issuance of refunding bonds herein authorized, if any that are not to be paid from current funds available therefore, including, without limitation, the development of the Refunding Financial Plan, compensation to the Underwriter, as hereinafter defined, costs and expenses of executing and performing the terms and conditions of the Escrow Contract, as hereinafter defined, and fees and charges of the Escrow Holder, as hereinafter mentioned; (iv) the redemption premium, if any, to be paid on the Refunded Bonds which are to be called prior to their respective maturities, if any; and (v) the premium or premiums for a policy or policies of municipal bond insurance or cost or costs of other credit enhancement facility or facilities for the refunding bonds herein authorized, or any portion thereof, there are hereby authorized to be issued not exceeding $3,330,000 par amount of refunding serial bonds of the Town pursuant to the provisions of Section 90.10 of the Local Finance Law (the "Refunding
Bonds”), plus an amount of original issue premium sufficient to effectuate the refunding financial plan, it being anticipated that the par amount of Refunding Bonds actually to be issued will be approximately $3,090,000, with a net premium amount of $237,238.75, as provided in Section 4 hereof. The Refunding Bonds described herein are hereby authorized to be consolidated for purposes of sale in one or more refunding serial bond issues. The Refunding Bonds shall each be designated substantially “PUBLIC IMPROVEMENT REFUNDING (SERIAL) BOND” together with such series designation and year as is appropriate on the date of sale thereof, shall be of the denomination of $5,000 or any integral multiple thereof (except for any odd denominations, if necessary) not exceeding the principal amount of each respective maturity, shall be dated on such dates, and shall mature annually on such dates in such years, bearing interest semi-annually on such dates, as the rate or rates of interest per annum, as may be necessary to sell the same, all as shall be determined by the Town Supervisor pursuant to Section 4 hereof. It is hereby further determined that (a) such Refunding Bonds may be issued in series, (b) such Refunding Bonds may be sold at a discount in the manner authorized by paragraph a of Section 57.00 of the Local Finance Law pursuant to subdivision 2 of paragraph (f) of Section 90.10 of the Local Finance Law, and (c) such Refunding Bonds may be issued as a single consolidated issue. It is hereby further determined that such Refunding Bonds may be issued to refund all, or any portion of, the Refunded Bonds, subject to the limitation hereinafter described in Section 10 hereof relating to approval by the State Comptroller.

Section 2. The Refunding Bonds may be subject to redemption prior to maturity upon such terms as the Town Supervisor shall prescribe, which terms shall be in compliance with the requirements of Section 53.00 (b) of the Local Finance Law. If less than all of the Refunding Bonds of any maturity are to be redeemed, the particular refunding bonds of such maturity to be redeemed shall be selected by the Town by lot in any customary manner of selection as determined by the Town Supervisor. Notice of such call for redemption shall be given by mailing such notice to the registered owners not less than thirty (30) days prior to such date and as otherwise provided in Securities and Exchange Commission Release No. 34-23856, as the same may be amended from time to time. Notice of redemption having been given as aforesaid, the bonds so called for redemption shall, on the date for redemption set forth in such call for redemption, become due and payable, together with interest to such redemption date, and interest shall cease to be paid thereon after such redemption date.

The Refunding Bonds shall be issued in registered form and shall not be registrable to bearer or convertible into bearer coupon form. In the event said Refunding Bonds are issued in non-certificated form, such bonds, when issued, shall be initially issued in registered form in denominations such that one bond shall be issued for each maturity of bonds and shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“DTC”), which will act as securities depository for the bonds in accordance with the book-entry-only system of DTC. In the event that either DTC shall discontinue the book-entry-only system, or the Town shall terminate its participation in such book-entry-only system, such bonds shall thereafter be issued in certificated form of the denomination of $5,000 each or any integral multiple thereof (except for any odd denominations, if necessary) not exceeding the principal amount of each respective maturity. In the case of non-certificated Refunding Bonds, principal of and interest on the bonds shall be payable by check or draft mailed by the Fiscal Agent (as hereinafter defined) to the Depository Trust Company, New York, New York, or to its nominee, Cede & Co., while the bonds are registered in the name of Cede & Co. in accordance with such book-entry-only system. Principal shall only be payable upon surrender of the bonds at the principal corporate trust office of such Fiscal Agent (or at the office of the Town Clerk as Fiscal Agent as hereinafter provided).
In the event said Refunding Bonds are issued in certificated form, principal of and interest on the Refunding Bonds shall be payable by check or draft mailed by the Fiscal Agent (as hereinafter defined) to the registered owners of the Refunding Bonds as shown on the registration books of the Town maintained by the Fiscal Agent (as hereinafter defined), as of the close of business on the fifteenth day of the calendar month or last business day of the calendar month preceding each interest payment date as appropriate and as provided in a certificate of the Town Supervisor providing for the details of the Refunding Bonds. Principal shall only be payable upon surrender of bonds at the principal corporate trust office of a bank or trust company or banks or trust companies located or authorized to do business in the State of New York, as shall hereafter be designated by the Town Supervisor as fiscal agent of the Town for the Refunding Bonds (collectively, the "Fiscal Agent"). Refunding Bonds in certificated form may be transferred or exchanged at any time prior to maturity at the principal corporate trust office of the Fiscal Agent for bonds of the same maturity of any authorized denomination or denominations in the same aggregate principal amount. Principal and interest on the Refunding Bonds will be payable in lawful money of the United States of America.

The Supervisor, as Chief Fiscal Officer of the Town, is hereby authorized and directed to enter into an agreement or agreements containing such terms and conditions as he shall deem proper with the Fiscal Agent, for the purpose of having such bank or trust company or banks or trust companies act in connection with the Refunding Bonds as the Fiscal Agent for said Town, to perform the services described in Section 70.00 of the Local Finance Law, and to execute such agreement or agreements on behalf of the Town, regardless of whether the Refunding Bonds are initially issued in certificated or non-certificated form; provided, however, that the Town Supervisor is also hereby authorized to name the Town Clerk as the Fiscal Agent in connection with the Refunding Bonds if said Refunding Bonds are issued in non-certificated form.

The Town Supervisor is hereby further delegated all powers of this Town Board with respect to agreements for credit enhancement, derived from and pursuant to Section 168.00 of the Local Finance Law, for said Refunding Bonds, including, but not limited to the determination of the provider of such credit enhancement facility or facilities and the terms and contents of any agreement or agreements related thereto.

The Refunding Bonds shall be executed in the name of the Town by the manual or facsimile signature of the Town Supervisor, and a facsimile of its corporate seal shall be imprinted thereon. In the event of facsimile signature, the Refunding Bonds shall be authenticated by the manual signature of an authorized officer or employee of the Fiscal Agent. The Refunding Bonds shall contain the recital required by subdivision 4 of paragraph (j) of Section 90.10 of the Local Finance Law and the recital of validity clause provided for in Section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Town Supervisor shall determine. It is hereby determined that it is to the financial advantage of the Town not to impose and collect from registered owners of the Refunding Bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the Fiscal Agent, and, accordingly, pursuant to paragraph e of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the Fiscal Agent.

Section 3. It is hereby determined that: (a) the maximum amount of the Refunding Bonds authorized to be issued pursuant to this Resolution does not exceed the limitation imposed by subdivision 1 of paragraph b of Section 90.10 of the Local Finance Law; (b) the maximum period of probable usefulness permitted by Law at the time of the
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issuance of the Refunded Bonds for the object or purpose for which the Refunded Bonds were issued is (i) 30 years for the land acquisition,

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pursuant to Subdivision 21 of paragraph a. of Section 11.00 of the Local Finance Law, and (ii) 40 years for the sewer system improvements, pursuant to Subdivision 4 of paragraph a. of Section 11.00 of the Local Finance Law, computed from the date of the first obligations issued therefor; and (c) the estimated present value of the total debt service savings anticipated as a result of the issuance of the Refunding Bonds, computed in accordance with the provisions of subdivision 2 of paragraph b of Section 90.10 of the Local Finance Law, with regard to each of the Refunded Bonds subject to such requirements, if any, is as shown in the Refunding Financial Plan described in Section 4 hereof.

Section 4. The financial plan for the refunding authorized by this Resolution (the “Refunding Financial Plan”), showing the sources and amounts of all moneys required to accomplish such refunding, and, to the extent required by the Local Finance Law, the estimated present value of the total debt service savings, and the basis for the computation of the aforesaid estimated present value of total debt service savings, are set forth in the Exhibit attached hereto and made a part of this Resolution. The Refunding Financial Plan has been prepared based upon the assumption that the Refunding Bonds will be issued in a single series to refund all of the Refunded Bonds and that the Refunding Bonds will mature, be of such terms, and bear interest as set forth in said Refunding Financial Plan. This Town Board recognizes that the Refunding Bonds may be issued in series, and for only one (1) or more of the Refunded Bonds, or portions thereof, that the amount of the Refunding Bonds, maturities, terms, interest rate or rates borne by the Refunding Bonds and provisions for redemption thereof prior to maturity, if applicable, will most probably be different from such assumptions and that the Refunding Financial Plan will also most probably be different from that attached hereto. The Town Supervisor is hereby authorized and directed to determine which of the Refunded Bonds will be refunded and at what time, the amount of the Refunding Bonds to be issued, the maturities and terms thereof, the provisions relating to the redemption of Refunding Bonds prior to maturity, if any, whether the Refunding Bonds will be insured by a policy or policies of municipal bond insurance or otherwise enhanced by a credit enhancement facility or facilities, whether the Refunding Bonds shall be sold at a discount in the manner authorized by paragraph c of Section 57.00 of the Local Finance Law, and the rate or rates of interest to be borne thereby, whether the Refunding Bonds shall be issued having substantially level or declining annual debt service and all matters related thereto, and to prepare, or cause to be provided, a final Refunding Financial Plan and, in accordance herewith, all powers in connection therewith are hereby delegated to the Town Supervisor, provided that the terms of the Refunding Bonds to be issued, including the rate or rates of interest borne thereby, shall comply with the requirements of Section 90.10 of the Local Finance Law. The Town Supervisor shall file a copy of his or her certificate determining the details of the Refunding Bonds and the final Refunding Financial Plan with the Town Clerk within ten (10) days after the delivery of the Refunding Bonds, as herein provided.

Section 5. The Town Supervisor is hereby authorized and directed to enter into an escrow contract or contracts (collectively, the “Escrow Contract”) with a bank or trust company or banks or trust companies located and authorized to do business in this State as he or she shall designate (collectively, the “Escrow Holder”) for the purpose of having the Escrow Holder act, in connection with the Refunding Bonds, as the escrow holder to perform the services described in section 90.10 of the Local Finance Law.

Section 6. The faith and credit of said Town of Penfield, New York, are hereby irrevocably pledged to the payment of the principal of and interest on the Refunding Bonds as the same respectively become due and payable. An annual appropriation shall be made in each year.
sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. There shall be annually levied

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on all the taxable real property within said Town a tax sufficient to pay the principal of and interest on such Refunding Bonds as the same become due and payable.

Section 7. All of the proceeds from the sale of the Refunding Bonds, including the premium, if any, but excluding accrued interest thereon, shall immediately upon receipt thereof be placed in escrow with the Escrow Holder. Accrued interest on the Bonds shall be paid to the Town to be expended to pay interest on the Refunding Bonds. Such proceeds as are deposited in the escrow deposit fund to be created and established pursuant to the Escrow Contract, whether in the form of cash or investments, or both, inclusive of any interest earned from the investment thereof, shall be irrevocably committed and pledged to the payment of the principal of and interest on the Refunded Bonds in accordance with Section 90.10 of the Local Finance Law, and the holders from time to time of the Refunded Bonds shall have a lien upon such moneys held by the Escrow Holder. Such pledge and lien shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder in the escrow deposit fund shall immediately be subject thereto without any further act. Such pledge and lien shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Town irrespective of whether such parties have notice thereof.

Section 8. Notwithstanding any other provision of this Resolution, so long as any of the Refunding Bonds shall be outstanding, the Town shall not use, or permit the use of, any proceeds from the sale of the Refunding Bonds in any manner which would cause the Refunding Bonds to be an “arbitrage bond” as defined in Section 148 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated by the United States Treasury Department thereunder, as then in effect.

Section 9. Subject only to the issuance of the Refunding Bonds as herein authorized, the Town hereby elects to redeem all of the Refunded Bonds to be refunded maturing on and after the date of issuance of the Refunding Bonds that are callable at a present value savings, if any. Upon the issuance of the Refunding Bonds, the election to redeem such callable Refunded Bonds shall become irrevocable. The Escrow Agent for the Refunding Bonds is hereby authorized and directed to cause notice of such call for redemption to be given in the name of the Town in the manner and within the time provided in the respective Refunded Bonds. Such notice shall be in substantially the same form attached to the Escrow Contract. Upon the issuance of the Refunding Bonds, the election to call in and redeem the callable Refunded Bonds and the direction to the Escrow Agent to cause notice thereof to be given as provided in this paragraph shall become irrevocable, provided that this paragraph may be amended from time to time as may be necessary in order to comply with the publication requirements of paragraph a of Section 53.00 of the Local Finance Law, or any successor Law thereto.

Section 10. The Refunding Bonds shall be sold at private sale to the underwriter or underwriters duly determined by the Town Supervisor (collectively, the “Underwriter”) for purchase prices to be determined by the Town Supervisor, plus accrued interest from the date or dates of the Refunding Bonds to the date or dates of delivery of a payment for the Refunding Bonds. Subject to the approval of the terms and conditions of such private sale by the State Comptroller as required by subdivision 2 of paragraph f of Section 90.10 of the Local Finance Law, the Town Supervisor is hereby authorized to execute and deliver a purchase contract for the Refunding Bonds in the name and on behalf of the Town providing the terms and conditions for the sale and delivery of the Refunding Bonds to the Underwriter. After the Refunding Bonds have been duly executed, they shall be delivered by the Town Supervisor to the Underwriter in accordance with said purchase contract upon the
receipt by the Town of said purchase price, including accrued interest. The Town Supervisor is additionally authorized (but not required) to execute and deliver a financing agreement with the Dormitory Authority

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of the State of New York and any other agreements and documents necessary to accomplish a refinancing, all as may be determined in the discretion of the Town Supervisor.

Section 11. The Town Supervisor and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this Resolution or any document or agreement approved hereby.

Section 12. All other matters pertaining to the terms, issuance and sale of the Refunding Bonds, consistent with the provisions of Section 90.10 of the Local Finance Law, including without limitation, the determination to issue Refunding Bonds with substantially level or declining annual debt service, shall be determined by the Town Supervisor and all powers in connection therewith not otherwise heretofore delegated thereto are hereby delegated to the Town Supervisor.

Section 13. The validity of the Refunding Bonds may be contested only if:

1. Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or

2. The provisions of Law which should be complied with at the date of publication of this Resolution (or a summary hereof) are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

3. Such obligations are authorized in violation of the provisions of the Constitution.

Section 14. This Resolution, which takes effect immediately, or a summary hereof, shall be published in full in each official newspaper of said Town, together with a Notice in substantially the form provided in Section 81.00 of the Local Finance Law.

Moved: Moore
Seconded: Kohl

Vote:   Kohl  Aye  LaFountain  Aye
        Metzler  Aye  Moore  Aye
        Quinn  Aye

Adopted

Public Participation - None

Adjournment

Supervisor LaFountain moved to adjourn the meeting at 10:23 PM.

Amy Steklof, RMC/CMC
Town Clerk