PENFIELD TOWN BOARD MEETING AGENDA
Wednesday March 4, 2015 7:00 PM
Supervisor R. Anthony LaFountain, presiding

I Call to Order - Pledge of Allegiance - Roll Call

II Public Hearing No. 1: To Consider Adopting Local Law #1 of 2015 to Further Restrict and Regulate the Movement of Convicted Sex Offenders, Consistent with State Law, Particularly in the Areas of School Grounds, Playgrounds, Parks, Town Facilities and Day Care Centers

Public Hearing No. 2: To Allow the Construction of a 528 Square Foot Office Garage Addition to the Building at 2041 Penfield Road

Public Hearing No. 3: To Consider Revisions to the Development Application Fee Schedule

III Communications and Announcements

IV Public Participation

V Additions and Deletions to Agenda

VI Approval of Minutes – February 4, 2015

VII Petitions

VIII Resolutions by Function

Law and Finance
15T-072 Setting a Public Hearing to Consider Preliminary and Final Site Plan Approval to Allow the Construction of 24 Ancillary Garages at 1000 Runabout Lane
15T-073 Setting a Public Hearing for Final Subdivision and Site Plan Approval to Allow the Construction of 32 Town Homes in Phase 4 of the Villas at Easthampton at 65 Maryview Drive
15T-074 Making a Determination of Non-significance Relating to the Adoption of the Local Waterfront Revitalization Program (LWRP) Update
15T-075 Adopting Local Law No. 1 of 2015 – Penfield Waterfront Consistency Review Law
15T-076 Adoption of the Local Waterfront Revitalization Program (LWRP) Update

Public Works
15T-077 Appointment to Energy & Environmental Advisory Committee

Public Safety - None

Community Services
15T-078 Awarding Contract for Printing Program Brochures
15T-079 Authorization to Attend APHNYS Annual Conference
15T-080 Authorization for Supervisor to Sign Recreation Contracts

IX Old Business

X New Business

XI Public Participation

XII Adjournment
The Regular meeting of the Penfield Town Board was held on Wednesday, March 4, 2015 at 7:00 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:  
Lisa Grosser  Deputy Town Clerk  
Richard Horwitz  Town Attorney  
Chris Bilow  Recreation Director  
Jim Costello  Director of Developmental Services  
Mark Valentine  Planning Department Head  

Absent:  Amy Steklof  Town Clerk  

Supervisor LaFountain called the meeting to order - Pledge of Allegiance

Public Hearing #1  
To Consider Adopting Local Law #1 of 2015 to Further Restrict and Regulate the Movement of Convicted Sex Offenders, Consistent with State Law, Particularly in Areas of School Grounds, Playgrounds, Parks, Town Facilities and Day Care Centers

The Deputy Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on February 12, 2015 and was posted on the Town Website and Town Clerk Bulletin Board. Town Attorney Horwitz confirmed that this meeting is in order.

Councilman Rob Quinn, Chairman of the Public Safety Committee stated that in late January Penfield residents were notified that a Level 3 sex offender was residing directly across the street from Veterans Memorial Park and the Town Hall campus, less than 200 feet from the nearest ball field and less than 1,000 feet from the Town Hall. This sex offender was arrested in East Rochester by U.S. Marshals in December for raping a 13 year old girl in Seattle, WA in 2004. This predator was also convicted of sexual assault of a 14 year old girl in Utah in 1998.

Councilman Quinn continued to say this is a failure at the top of our criminal justice system where a convicted sex offender can be arrested, held awaiting extradition, released in a state 3,000 miles away, and reside next to a park. This failure put Penfield residents, in particular, children at great risk. We needed to remove the immediate threat. By joining forces with law enforcement and other local agencies, the sex offender in question was re-located out of Penfield. We discovered the shortcomings of State Law and Town Law to prevent future threats. As parents and grandparents, and as the elected representatives of Penfield, we recognized it was our duty to act. In my role as Chair of Public Safety, I worked closely and quickly with the Supervisor’s office, my fellow board members and the Town Attorney to draft and introduce the Local Law for consideration this evening.

The Penfield Child Safety Act would establish Child Safety Zones throughout Penfield. It would prohibit convicted sex offenders from residing within 2,000 feet of school grounds, playgrounds, parks, Town facilities, or day-care facilities. It would impose stiff penalties on convicted sex offenders who attempt to evade the law. Most importantly, it would prevent future scenarios similar to the one we experienced beginning January 26th. The Penfield Child Safety Act was introduced on February 4th, it was Councilman Quinn’s intent to present the strongest Town Law possible: one that is consistent with State Law, and one that would remain in effect for years to come. On February 17, 2015 the New York State Court of Appeals threw a wrench into the works by ruling that Local Laws are pre-empted by State Law, thus calling into question sex offender residency restrictions in municipalities across New York, most notably our proposed Penfield Child Safety Act.
Councilman Quinn added that Rich Funke, New York State Senator introduced legislation on February 23, 2015 that would authorize localities to impose residency restrictions on convicted sex offenders. Senate Bill 3925 was passed by the Senate on February 26, 2015 ensures that the Penfield Child Safety Act is consistent with State Law and would remain in effect for years to come. As a father of two (2) young children, and one (1) on the way, Councilman Quinn urges the State Assembly to follow this Town Board and the Senate's lead to reassure our residents that their safety and their children’s safety is our number one priority.

Councilman Quinn then read the following message from Senator Rich Funke:

Good evening. Everyone here tonight is engaged in an important process to discuss and set restrictions that make sense for the Town of Penfield, its residents, and its families. That process is something that wouldn't have been possible as recently as two weeks ago, when a State court struck down a Nassau County Law similar to the one being discussed tonight.

When I first heard about that ruling, my thoughts immediately turned to Penfield. So our office reached out to Supervisor LaFountain to offer assistance and ask for his help in developing a solution. Then I followed-up with my colleagues in the Senate to try and get something done for Penfield and communities like it across the State.

Last week the Senate passed - with nearly unanimous, bipartisan support - legislation that I cosponsored allowing communities to set restrictions on where sex offenders can live. For Penfield, our Bill means the Child Safety Act can move forward without court interference. It needs the Assembly’s support and the Governor’s signature to become a Law, and I’m hopeful that happens soon.

Local communities need local control to set restrictions that make sense for their neighborhoods and families. You are all here to exercise your local right to determine what makes the most sense for the Town of Penfield. I appreciate your contributions and I thank Supervisor LaFountain and the Town Board for their leadership on the issue.

I wish you all the best of luck as you continue in this important dialogue.

Thank you, Senator Rich Funke

Public Participation

Stefanie Szwejka, Bivona Child Advocacy Center, and a Penfield resident stated that Bivona is a local resource for families and children who have experienced sexual abuse. This is an important issue and read a statement from Mary Whittier, Founding Executive Director for the Bivona Child Advocacy Center.

As an organization, created to serve children we believe it is the responsibility of adults to protect the community’s children. Education and awareness are the first steps for prevention of child’s sexual and physical abuse. Adult’s must educate themselves and their children about the dangers of child abuse, the warning signs and understand how to protect themselves and their families. Unfortunately sex offenders are everywhere in our communities, but if we are diligent in remaining informed and utilize community resources such as Bivona, the New York State sex offender registry and family watch dog websites, future abuse can be prevented from occurring.
Ms. Szwejka stated she is excited to be at this forum because child sexual abuse is not easily discussed. She appreciates the open dialogue which helps to protect the children. Bivona Child Advocacy Center offers training and education for anyone interested in taking this further.

Supervisor LaFountain said Chris Bilow, Recreation Director is in our audience. He stated he would like to see a partnership develop and asked that Chris Bilow provide his business card to Ms. Szwejka so that we can start a program to help educate our residents.

Greg Kamp, President Penfield Little League, stated that all games are played at the Town Hall Park. Mr. Kamp then read a statement from Penfield Little League:

As the representative of Penfield Little League we want to commend our Town government for having the courage and the foresight to face this topic and efforts to keep the youth of our community safe. Our league represents upwards of 1,100 youth who play baseball and softball right here at this complex. Their safety is of the upmost importance. You have our support as well as the support of Little League International in Williamsport who is well aware of this meeting and the proposed Law. It is one of the most important laws that could ever be written and it is our hope that State Law makers and Governor Cuomo move swiftly and act correctly to protect our children.

George Hebert, 108 Rosebud Trail, President Rochester District Youth Soccer League. This league covers all of Monroe County and some locations beyond that. The league consists of 9,000 players, 530 teams. Two (2) clubs are located in Penfield. Hebert stated that he strongly supports this initiative and asked if there is anything we can do to help get this done.

Councilman Quinn advised that residents are encouraged to reach out to the Assembly delegates with phone calls and letters. A copy of tonight’s approved Resolution will be sent to Senator Rich Funke.

Mr. Hebert asked if other Towns have established initiatives and has there been an effort to communicate with other towns in Monroe County.

Councilman Quinn said no other locality is in the process of enacting a Law. This Law was proposed prior to the New York State Court of Appeals decision, so we were midstream. Some Towns already had legislation on their books.

Councilwoman Metzler stated that the Town of Hamlin and the Village of East Rochester had existing laws. There has been a misperception that there is no Law that applies in Penfield, the State Law does apply. We are looking to reinforce and expand upon State Law; to further protect the children of Penfield.

Councilman Quinn referred to a Town map which highlighted the areas covered by the State Law which requires a 1,000 ft. distance from a school or daycare center. Tonight’s proposed Law which would require a 2,000 ft. distance from any park, playground or community center for any level 1 or level 2 sex offender and would increase protection.

Supervisor LaFountain stated that the Monroe County Supervisors Association meets monthly and did discuss this at our recent meeting. Other localities will review our information to see if it can be modified to meet their needs. The next step is to gain approval from the State Assembly and have the Governor sign. Penfield has taken the lead in Monroe County.

Councilman Quinn thanked everyone for this opportunity to present the Child Safety Act this evening.
Supervisor LaFountain said the next steps are as follows: There will be a 30 day period for the Board to receive comments pertaining to the Child Safety Act. Next this goes to the Assembly, and our representative is Mark Johns. Support can be directed to him and he will take that to Albany. This act will help our local communities better manage and protect our residents. Future updates will be posted in the Supervisor’s column and the Town of Penfield website. Town Board members can be reached throughout the community.

Hearing Closed

Public Hearing #2  To Allow the Construction of a 528 Square Foot Office Garage Addition to the Building at 2041 Penfield Road

The Deputy Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on February 12, 2015 and was posted on the Town Website and Town Clerk Bulletin Board. 32 postcards were mailed. Town Attorney Horwitz confirmed that this meeting is in order.

Neeaj Shah stated that his office is located at 2041 Penfield Road. The building is owned by his parents, Lalit and Surekha Shah. The original plan was approved September 12, 2013. We are interested in adding a garage to the front of the main building. Lalit Shah has a tax preparation business and has become frail and acquired a handicapped parking permit. There are two (2) existing handicapped parking spaces and the garage would eliminate the need for Mr. Shah to use a space. Mr. Shah could pull into the garage without worrying about slipping and falling during tax season. Tax season runs from January to April which is typically when icy conditions occur. Mr. Shah submitted a handout to the Board for its review. There has been much progress on the 6,000 square foot building. The annex has been completed and we stopped because of the weather. Construction should be completed late spring. We would like to complete the garage addition while the equipment is on site to minimize impact to the neighbors. The parcel is located in the PD District and will be going before the Planning Board on March 12, 2015 and the Zoning Board of Appeals on March 19, 2015.

Supervisor LaFountain reviewed that the next step will be for the Town Board to review this application at the March 25, 2015 Work Session. The Board will review the comments from the meetings with the Planning Board and Zoning Board of Appeals.

Public Participation - None

Hearing Closed

Public Hearing #3  To Consider Revisions to the Development Application Fee Schedule

The Deputy Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on February 12, 2015 and was posted on the Town Website and Town Clerk Bulletin Board. Town Attorney Horwitz confirmed that this meeting is in order.

Mark Valentine, Town Engineer and Director of Planning reviewed that a summary had been submitted to the Board for its review. The Planning Department recently reviewed our fee schedule, including the costs for the neighborhood notification process. We want to make sure the residents are not absorbing costs. We also assessed other communities’ fees and determined that Penfield’s fees were on the low end of others in Monroe County. The proposed modest increases will make sure we cover our costs in keeping with the other communities.
Supervisor LaFountain stated that the matrix that was submitted for the Board to review included fees from 23 surrounding towns and villages. The Town of Penfield was on the low end in almost every category. The new proposed fees will put Penfield in the middle of the pack. The intent is to cover our costs, not make money.

Councilwoman Metzler stated that this is a good annual exercise to evaluate if we are in the right fee range and make sure there isn't something we could be doing better.

Supervisor LaFountain stated this will be reviewed at the March 11, 2015 Work Session and if approved adopted at the March 18, 2015 Legislative Session.

Public Participation - None

Hearing Closed

Communications and Announcements

1. Penfield’s Second Annual Stop Hunger Now event will take place April 17 and 18, 2015 at the Penfield Community Center. Last year 120 volunteers packaged 33,000 meals for shipment overseas, with most of the meals consumed by elementary school children. The event has expanded this year to include Monroe County’s eastside communities and its goal is to attract 200 volunteers to package 50,000 meals. Anyone wishing to volunteer or to purchase ingredients for packaging should contact Jack Best at (585) 261-0073.

2. Winter Safety Tips to help keep residents safe:
   - Avoid frozen pipes - run water, even at a trickle, to help prevent them from freezing.
   - Don’t forget your pets - bring them indoors. If they can’t come inside, make sure they have enough shelter to keep them warm and that they can get to unfrozen water.
   - Never use a generator indoors, even in a garage, carport, basement or crawlspace. Fumes from the generator can be deadly.
   - Never use a stove or oven to heat your home. If using a space heater, place it on a level, hard surface and keep children and anything flammable at least three feet away.
   - Turn off space heaters and make sure fireplace embers are out before leaving the room or going to bed. If using a fireplace, use a glass or metal fire screen large enough to catch sparks and rolling logs.
   - If your car breaks down, do not try to walk to safety. Tie a bright cloth to the antenna. Start the car and use the heater for about 10 minutes every hour, making sure the exhaust pipe is clear. Keep one window away from the wind slightly open.
   For more safety information and tips, please visit www.nsc.org.

3. A reminder that Daylight Savings is this weekend March 8th. Please change your clocks one (1) hour forward and change your smoke detector batteries too.

4. The Penfield Heritage Association will hold a lecture on Sunday, March 22, 2015 from 2:30 PM to 4:00 PM for anyone 18 years and up. Longtime Penfield Resident and local author Teresa K. (Terry) Lehr will discuss her latest book “The Great Tonsil Massacre” which describes this public health initiative that occurred in Rochester during 1920 and 1921. Ms. Lehr, who worked in various positions in the Penfield School District and in the health community, will have copies of her book available for purchase ($15.00) and for signing. Registration for this program, co-sponsored with
The Friends of Penfield Public Library, begins on Friday, March 6, 2015. For more information, please visit www.penfieldlibrary.org.

5. The following are safety topics as it relates to snow piles, plows, sidewalks and limited sight distance.

- Drivers, please slow down and watch for pedestrians and pets making their way along roadways. Carefully approach intersections with poor sight distance. Be sure to clear your car of snow before driving, including all lights so you can see and be seen. Pedestrians, please wear reflective clothing.
- DPW Snow plows are massive and deserve respect. When loaded they weigh roughly 20 tons, and they have a plow-span of about 15 feet. They are typically operated in the worst winter conditions with poorest visibility.
- Drivers, please give plow operators plenty of room to do their job for you. Don’t try to race a plow or make quick moves to “get away.” Cars are not always visible and trucks cannot stop quickly to respond to sudden moves.
- Parents, never let your children play in snow banks along roadways. Do not join them or encourage them to play where plows work. Do not race, dodge or challenge snow plows in any way.
- Lastly, our DPW crews are clearing sidewalks in and around the Four Corners District using a combination of snow removal equipment including snow blowers, plows, and bobcats. Our goal is to get to all our traditional sidewalk plow routes as best we can. Please note, we do not salt sidewalks, so even after they are plowed there will be residual snowpack. If you are out walking, wear appropriate footwear and pay attention to conditions. Sight distance will still be limited where snowbanks remain high.

We are all looking forward to a break from this winter. Until then, please be considerate, and make sure you can see and be seen wherever you may be.

6. Congratulations to Master Kim’s Taekwando Institute of Penfield for winning News 10 NBC’s Rochester Rocs Award for best martial arts studio. Thousands of votes were cast, and Master Kim’s won the honor with 34% of votes. Master Kim’s Taekwando Institute is expanding in a few months and moving to a 7,000 square foot facility in Panorama Plaza, doubling the size of the school to offer even more great support and services to its students. This studio promises to be one of the best martial arts studios you will find anywhere.

7. The Penfield Trails Committee will hold a free guided hike, open to the public, on Saturday, March 14, 2015 at Sherwood Fields Park, 2514 Penfield Road. Meet in the parking lot and the hike will begin at 10:00 AM. The hike is free, participants are asked to please register by calling 340-8655, option 6.

8. Penfield Recreation’s newest family adventure game is finally here! Beginning March 6, 2015, all residents are encouraged to pick up a game board at www.penfieldrec.org or in person at the Penfield Community Center. It is a simple game that families can enjoy together. It will have you visiting some local businesses and unscrambling a riddle for a chance to win some awesome prizes. Also, there will be many chances to earn extra prize drawing entries; get full details and rules at www.penfieldrec.org.

9. The Penfield Rotary 2015 Spring Euchre Charity Tournament will be held on Sunday, March 22, 2015 at The Legacy, 40 Willow Pond Way. Check in time will be at 1:30 PM with a 2:00 PM start. Tickets are $20.00 per person prior to the event, or $25.00 the day of the event. Tickets are available at Family First Credit Union,
Penfield Town Board, March 4, 2015

(Communications and Announcements - Continued)

Browncroft Blvd. branch, Summit Federal Credit Union, Penfield Road branch or mail check to Penfield Rotary Club, PO Box 28, Penfield, NY 14526.

10. The Town of Penfield will host the annual Memorial Day Essay Contest for students in grades 6 - 8 who reside in Penfield, or attend a Penfield School. The top three (3) entries, as chosen by a panel of judges, will win cash prizes courtesy of a generous donation from VFW Post 820. For more information and an application, please visit www.penfieldrec.org.

11. Councilwoman Kohl’s next Community Chat will be held on Tuesday, March 17, 2015 from 5:30 PM to 7:00 PM in the New Book Area at the Penfield Library, 1985 Baird Road.

Public Participation

George Hebert inquired about NYS DOT roadwork on NYS RTE 441.

Supervisor LaFountain stated that the NYS DOT will be milling and paving from East Avenue (NYS RTE 96) to Dublin Road. They will not be working on the bridges until next year. Town staff has encouraged them to work in the evening and work will begin the end of June. As we get closer to the start more information will be available on our website.

Mr. Hebert said he is aware work will begin shortly on the Parkview/White Village Sewers; are there any remaining subdivisions that still need to be connected to sewers.

Supervisor LaFountain stated that Mark DiFrancesco has worked on this project and it has taken five (5) to six (6) years to come to fruition. The project has been awarded and work should begin in June. There are some small pockets of houses that are not connected to sewers. This is the last major subdivision in Penfield to connect.

Mr. Hebert added that he would like to complement the Department of Public Works, they have done a great job all winter on snow removal.

Mina Hatami, 17 Penshire Circle, stated that she was here this evening as a requirement for a course she is taking in Public Administration. She thanked everyone for doing what they do, and she is happy to live in Penfield.

Supervisor LaFountain advised Ms. Hatami if she needs any assistance or materials feel free to contact any of the Town Board members.

Councilwoman Metzler added that on the Town website you can view calendars for all of the Boards that meet and you are welcome to attend any of those meetings.

Additions and Deletions to Agenda - None

Approval of Minutes

Councilman Quinn moved to approve the Minutes of February 4, 2015 Councilwoman Kohl seconded and all voted “Aye.”

Petitions - None
Penfield Town Board, March 4, 2015

Resolutions by Function

Law and Finance

#15T-072  Setting a Public Hearing to Consider Preliminary and Final Site Plan Approval to Allow the Construction of 24 Ancillary Garages at 1000 Runabout Lane by Moore

WHEREAS, an application has been received by the Penfield Town Board to consider Preliminary and Final Site Plan Approval pursuant to Articles III-3-94 and IX-9-2 of the Code to allow the construction of 24 ancillary garages at 1000 Runabout Lane, located in the LaSalle’s Landing Development (LLD) zoning district:

BE IT RESOLVED, that the Town Board, acting as Lead Agency has classified this proposal as 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 April 1, 2015 at 7:00 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: Kohl

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

Adopted

#15T-073  Setting a Public Hearing for Final Subdivision and Site Plan Approval to Allow the Construction of 32 Town Homes in Phase 4 of the Villas at Easthampton at 65 Maryview Drive by Moore

WHEREAS, pursuant to Local Law No. 2 of 2003, known as the Town of Penfield Incentive Zoning Law, on June 21, 2006, The Town Board granted preliminary approval for 124 townhome residences for the Villas at Easthampton Subdivision; and

WHEREAS, the Town Board has received an application for final subdivision and site plan approval for the development of 32 townhomes in Phase 4 of the Villas at Easthampton Subdivision under Articles VIII-8-2 and XI-9-2 of the Code on 13.47 +/- acres in the Rural Residential 1 (RR-1) zoning district at 65 Maryview Drive; and

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 April 1, 2015 at 7:00 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 the requirements of the State Environmental Quality Review Act (SEQRA) have been met and satisfied in that the overall proposal was classified as a Type I Action and a Negative Declaration was prepared and adopted by the Town Board in Resolution 148 on June 7, 2006; and
Penfield Town Board, March 4, 2015

(Resolution #15T-073 – Continued)

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: Quinn

Moved: Moore
Seconded: Metzler

WHEREAS, the Town of Penfield proposes to adopt an update to its Local Waterfront Revitalization Program; and

WHEREAS, the Town Board, acting as Lead Agency pursuant to the State Environmental Quality Review Act (SEQRA), has classified this proposal as a Type I action, prepared and analyzed a Full Environmental Assessment Form and has conducted a Public Hearing on January 21, 2015 regarding said action; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby makes a determination of non-significance and adopts a Negative Declaration for this action, a copy of which, known as Schedule A, is attached hereto and made a part hereof.

Moved: Moore
Seconded: Metzler

WHEREAS, the Town Board of the Town of Penfield conducted a Public Hearing concerning the proposed Local Law which provides a framework for agencies in the Town of Penfield to consider the policies and purposes contained in the Local Waterfront Revitalization Program Update when reviewing applications for actions or direct agency actions located in the coastal area and to ensure that said actions and direct action are consistent with said policies and purposes was held on January 21, 2015 at 7:00 PM at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York 14526; and

WHEREAS, Notice of the Public Hearing was given in the manner prescribed by Law; and

WHEREAS, on January 21, 2015, the Penfield Town Board held a Public Hearing on the proposed Local Waterfront Revitalization Program Update, the Penfield Waterfront Consistency Review Law identified in Appendix A of the LWRP Update and all those who wished to be heard, either for or against the proposed Local Law were given the opportunity to be heard at the Public Hearing and subsequent to it;
NOW, THEREFORE, BE IT RESOLVED, AND HEREBY IS ENACTED, by the Town Board of the Town of Penfield, Local Law No. 1 of 2015, which is attached hereto as Schedule A and made a part hereof; and

BE IT FURTHER RESOLVED, This Local Law shall be effective upon filing with the office of the Secretary of State, and the Town Clerk is directed to immediately file a copy of this Local Law with the New York State Secretary of State as required by Law.

Moved: Moore
Seconded: Kohl

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

Adopted

See Schedule "A" at end of Minutes

#15T-076 Adoption of the Local Waterfront Revitalization Program (LWRP) Update by Moore

WHEREAS, the Town of Penfield applied for, and was awarded a grant from the New York State Department of State to update its Local Waterfront Revitalization Program which was originally adopted on July 3, 1991; and

WHEREAS, a draft update of the Local Waterfront Revitalization Program was prepared by the Town and forwarded to the Department of State for review by federal, state and local agencies pursuant to the requirements of Article 42 of the Executive Law and the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Town Board conducted a Public Hearing on January 21, 2015 to hear all those interested in the adoption of the update to the Local Waterfront Revitalization Program and has received adequate public input to consider adoption of said document;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Penfield’s update to the Local Waterfront Revitalization Program is hereby adopted and authorized for submission to the New York State Secretary of State for approval pursuant to Article 42 of the Executive Law; and

Moved: Moore
Seconded: Quinn

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

Adopted

Public Works

#15T-077 Appointment to Energy & Environmental Advisory Committee

By Metzler

BE IT RESOLVED, that the following be appointed to the Penfield Energy and Environmental Advisory Committee for term ending on December 31, 2015

   Matt Piston, Penfield Conservation Board Representative

Moved: Metzler
Seconded: Moore
WHEREAS, sealed proposals were sought and requested to furnish the Town of Penfield Recreation Department with printing the seasonal program brochure for the 2015 calendar year including the summer, fall and winter/spring issues, to meet our specifications; and

WHEREAS, on Wednesday, February 11, 2015, proposals from the following companies were received, opened and read publicly by the Town Clerk:

Kenyon Press Inc.
1 Kenyon Press Drive
PO Box 710
Sherburne, NY 13460

Penny Lane Printing
1471 Route 15
PO Box 340
Avon NY 14414

<table>
<thead>
<tr>
<th>Bid</th>
<th>Penny Lane Printing</th>
<th>Kenyon Press Inc.</th>
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<tbody>
<tr>
<td>Bid 1</td>
<td>$3,926.17</td>
<td>$5,930.00</td>
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<tr>
<td>Alternative #1</td>
<td>$95.79</td>
<td>$180.44</td>
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<tr>
<td>Alternative #2</td>
<td>$4,143.18</td>
<td>$6,341.00</td>
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<td>Alternative #3</td>
<td>$101.59</td>
<td>$186.25</td>
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<td>Alternative #4</td>
<td>$4,339.59</td>
<td>$6,477.00</td>
</tr>
<tr>
<td>Alternative #5</td>
<td>$106.94</td>
<td>$193.25</td>
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NOW, THEREFORE BE IT RESOLVED, that the contract be awarded to Penny Lane Printing, low bidder overall for Bid 1 including alternative #1, alternative #2, alternative #3, alternative #4 and alternate #5 on each respective bid.

Net delivered price (per issue) as follows:

Bid #1 | Alternative #1 | Alternative #2 | Alternative #3 | Alternative #4 | Alternative #5
-------|---------------|---------------|---------------|---------------|---------------
$3,926.17 | $95.79  | $4,143.18 | $101.59  | $4339.59 | $106.94

Moved: Kohl
Seconded: Quinn

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

Adopted
Authorization to Attend APHNYS Annual Conference by Kohl

WHEREAS, the Historian is a member of the Association of Public Historians of New York State, and

WHEREAS, the annual conference will provide professional training and networking that will benefit the Town of Penfield,

NOW, BE IT RESOLVED, That Kathy Kanauer, Penfield Town Historian, be hereby authorized to attend the APHNYS Conference, in Corning, NY, April 10-12, 2015.

BE IT FURTHER RESOLVED that funds are provided in the 2015 budget. Expenses include registration fees, meals, lodging, transportation (gas, tolls, parking), and related expenses.

Moved: Kohl
Seconded: Metzler

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Adopted

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:

Towpath Volunteers Fife and Drum Corps, PO Box 31, Macedon, NY 14502, Independence Day Parade, 7/4/15, for a fee of $800 to perform in parade (if inclement weather and parade is cancelled for a fee of $125). Voucher to be submitted 6/17/15.

Lifespan of Greater Rochester Inc., 1900 S. Clinton Ave., Rochester, NY 14618, c/o Ann Marie Cook, provide Eldersource Care Management for Town of Penfield residents in the 2015 calendar year for a fee of $700.00. Voucher to be submitted on 4/1/2015.

Moved: Kohl
Seconded: Moore

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Adopted

Old Business - None

New Business - None

Public Participation - None

Adjournment

Supervisor LaFountain moved to adjourn the meeting at 8:07 PM.

Lisa Grosser
Deputy Town Clerk
SCHEDULE "A"

SEQR

State Environmental Quality Review

NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Project Number: N/A
Date: March 4, 2015

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Penfield Town Board, as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Adoption of Update to the Town of Penfield Local Waterfront Revitalization Program

SEQR Status: ☒ Type 1
☐ Unlisted

Conditional Negative Declaration: ☐ Yes
☒ No

Description of Action: The Town Board intends to adopt an update to its Local Waterfront Revitalization Program. Upon subsequent approval by the NYS Secretary of State and with concurrence by the U.S. Office of Ocean and Coastal Resource Management (OCRM), the adopted LWRP update addresses revised boundaries of the LWRP, the Irondequoit Bay Harbor Management Plan and the Irondequoit Bay Harbor Management Law, adopted in 2003 and 2008 respectively, addresses applicable State and local policies, proposed land uses and proposed projects for the local waterfront areas of the Town of Penfield.

Location: Town of Penfield, Monroe County

Agency Jurisdiction: Penfield Town Board – Lead Agency

Date of Adoption: March 4, 2015

Facts and Conclusions to Support the Final Decision:

1. The Town of Penfield adopted its original Local Waterfront Revitalization Program on July 3, 1991 and has been in effect for 24 years. During the time, the Program has been successful in eliminating several pre-existing non-conforming uses to transform the Town’s waterfront on Irondequoit Creek and Bay to a recreation point of destination. The Town has received funding from NYSDOS to purchase lands to remediate and redevelop them for passive recreation purposes. The area has redeveloped with both water dependent and water enhanced uses that have provided the public with recreation opportunities that had not been experienced prior to its adoption.

2. The purpose of the LWRP update addresses: (1) the reduction the boundaries of the Program; (2) addresses the adoption of the Irondequoit Bay Harbor Management Plan adopted by the Towns of Irondequoit, Penfield and Webster in 2003 and subsequently, the Irondequoit Bay Harbor Management Law in 2008; and (3) addresses the expansion of pre-existing non-conforming uses within the Program boundaries where it is demonstrated that impacts to terrestrial and aquatic habitats are not adversely impacted and other components of the LWRP can be achieved, such as additional public access to the waterfront if a pre-existing non-conforming use is expanded.
3. No significant adverse environmental impacts are anticipated from the adoption of the Town of Penfield’s LWRP update. This program update has been prepared in order to encourage appropriate waterfront uses and activities that are based on accepted land use and environmental management practices. Specific proposed actions will be reviewed to determine and evaluate possible negative environmental impacts and will be subject to all applicable local, state and federal environmental protection regulations, including New York State SEQR regulations (6 NYCRR Part 617).

4. Penfield’s LWRP update has been prepared under guidelines established by the New York State Department of State. The Plan includes: (1) policies for the use, protection and development of the Town’s coastal area; (2) recommended land uses for the Town's coastal area; (3) development controls and review procedures for activities within the Town’s coastal area; and (4) an identification of Town and other governmental actions which are necessary to implement the plan and to achieve the plan’s objectives.

5. The proposed LWRP update identifies current zoning regulations based on the original LWRP policies as well as the Irondequoit Bay Harbor Management Plan and the Irondequoit Bay Harbor Management Law. These regulations continue to require comprehensive reviews of all development within the revised LWRP boundary, based on a broad spectrum of design standards and performance criteria.

6. The Town of Penfield currently has specific Environmental Protection Overlay Districts in place, which require an additional layer of review and control over development activities within these districts. The LWRP recommends that the standards and criteria relating to applications within these districts be strengthened, to further enhance the comprehensive level of review necessary to evaluate potential impacts within the LWRP area.

7. The Town of Penfield is aware of the extremely sensitive nature of its coastal area and the important role it plays in the ecosystem. Significant natural vegetation and wildlife habitat areas have been identified. These features, along with the extremely shallow depth of the south end of Irondequoit Bay have resulted in the 1991 LWRP recommending the elimination of water-dependent uses permitted within the proposed Waterfront Development District. This position is supported by Region 8 – New York State Department of Environmental Conservation. It was determined that the sensitive features of this area of Penfield's waterfront outweigh the need for water-dependent uses, and other areas of Penfield's LWRP area should be considered for water-dependent activities. Water-enhanced uses would still be appropriate for the south shore of Irondequoit Bay. The Town Board concurs with this finding with the exception of the area adjacent to the cove on the southeast side of the Bay. An Environmental Impact Statement prepared by the Penfield Town Board, including a biological study prepared by Dr. James Haynes, who prepared the 2002 Biological Study for the Irondequoit Bay Harbor Management Plan, identified water depths to support additional boat slips without the need for dredging in the foreseeable future and found that no significant adverse impacts to aquatic and terrestrial habitats would occur with the expansion of the marina. The Board has approved additional slips based on adequate water depth, adequate landside support and the property owners’ willingness to provide additional public access to Irondequoit Bay on its property which would otherwise not exist without the additional boat slips being approved for the site. The Board finds that no other waterfront property at the south end of Irondequoit Bay has adequate water depth or landside support to permit additional boat slips without the need for continuous dredging and will not consider approval of such slips in the future.

Copies of this Statement sent to:

Commissioner, Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-0001
Region 8 Office of the Department of Environmental Conservation, 6274 East Avon-Lima Road, Avon, New York 14414-9519
Amy DeGaetano, New York State Dept. of State, Suite 1010, One Commerce Place, 99 Washington Avenue, Albany, New York 12231-0001
Tom Goodwin, Director, Monroe County Department of Planning & Economic Development, 47 South Fitzhugh Street, Suite 200, Rochester, New York 14614-2299
Town Clerk, Town of Irondequoit, 1280 Titus Avenue, Rochester, NY 14617
Town Clerk, Town of Webster, 1000 Ridge Road, Webster, NY 14580
Supervisor, Town of Penfield
CERTIFICATION OF FINDINGS TO APPROVE

Having considered the Draft and Final EIS and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR 617.9, this Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have been met;

2. Consistent with social, economic, and other essential consideration, from among the reasonable alternatives thereto, the action is one which minimizes or avoids potential adverse environmental effects to the maximum extent practicable; including the effects disclosed in the environmental impact statement; and

3. Consistent with social, economic, and other essential considerations, to the maximum extent practicable, potential adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided by incorporating as conditions to the decision those mitigating measures which were identified as practicable.

Penfield Town Board
Name of Agency

R. Anthony LaFountain, Town Supervisor
Name and Title of Responsible Official

____________________________            March 4, 2015
Signature of Responsible Official           Date

3100 Atlantic Avenue, Penfield, New York 14526
Address of Agency
Schedule A
Local Law no. 1. Of 2015
TOWN OF PENFIELD
WATERFRONT CONSISTENCY REVIEW LAW

Be it enacted by the Town Board of the Town of Penfield as follows:

GENERAL PROVISIONS

I. Title.

This Local law will be known as the Town of Penfield Waterfront Consistency Review Law.

II. Authority and Purpose.

A. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).

B. The purpose of this local law is to provide a framework for agencies of the Town of Penfield to incorporate the policies and purposes contained in the Town of Penfield Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions within the Waterfront Revitalization Area Boundary; and to assure that such actions and direct actions by Town agencies are consistent with the LWRP policies and purposes.

C. It is the intention of the Town of Penfield that the preservation, enhancement and utilization of the unique waterfront area of the Town takes place in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate limited population growth and economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing loss and degradation of living waterfront resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural waterfront processes; impairment of scenic, cultural or historical resources; losses due to flooding, erosion and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.

D. The substantive provisions of this local law shall only apply when there is in existence a Town of Penfield Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

III. Definitions.

A. “Actions” include all the following, except minor actions:

(1) projects or physical activities, such as construction or any other activities that may affect natural, manmade or other resources in the waterfront area or the environment by changing the use, appearance or condition of any resource or structure, that:

(i) are directly undertaken by an agency; or

(ii) involve funding by an agency; or

(iii) require one or more new or modified approvals, permits, or review from an agency or agencies;

(2) agency planning and policymaking activities that may affect the environment and commit the agency to a definite course of future decisions;

(3) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect waterfront resources or the environment; and

(4) any combination of the above.

B. "Agency" means any board, agency, department, office, other body, or officer of the Town of Penfield.
C. "Consistent" means that the action will fully comply with the LWRP policy standards, conditions and objectives and, whenever practicable, will advance one or more of them.

D. "Direct Actions" mean actions planned and proposed for implementation by an agency, such as, but not limited to a capital project, rule making, procedure making and policy making.

E. "Environment" means all conditions, circumstances and influences surrounding and affecting the development of living organisms or other resources in the waterfront area.

F. “Environmental Assessment Form” or “EAF” is a form used in determining the environmental significance or non-significance of actions in accordance with the State Environmental Quality Review Act (SEQRA).

G. "Local Waterfront Revitalization Program” or “LWRP” means the Local Waterfront Revitalization Program of the Town of Penfield, approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Town of Penfield.

H. "Minor actions" include the following actions, which are not subject to review under this chapter:

1. maintenance or repair involving no substantial changes in an existing structure or facility;
2. replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, except for structures in areas designated by the Coastal Erosion Hazard Area (CEHA) law where structures may not be replaced, rehabilitated or reconstructed without a permit;
3. repaving or widening of existing paved highways not involving the addition of new travel lanes;
4. street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
5. maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected, or within Significant Coastal Fish and Wildlife Habitat areas;
6. granting of individual setback and lot line variances, except in relation to a regulated natural feature, a bulkhead or other shoreline defense structure;
7. minor temporary uses of land having negligible or no permanent impact on waterfront resources or the environment;
8. installation of traffic control devices on existing streets, roads and highways;
9. mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
10. information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any action;
11. official acts of a ministerial nature involving no exercise of discretion, including building where issuance is predicated solely on the applicant’s compliance or noncompliance with the relevant local building code.
12. routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
13. conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
14. collective bargaining activities;
15. investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
(16) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;

(17) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, storage of road de-icing substances, or other hazardous materials;

(18) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;

(19) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;

(20) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;

(21) adoption of a moratorium on land development or construction;

(22) interpreting an existing code, rule or regulation;

(23) designation of local landmarks or their inclusion within historic districts;

(24) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to waterfront resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part;

(25) local legislative decisions such as rezoning where the Town Board determines the action will not be approved.

I. "Waterfront Assessment Form (WAF)" means the form, a sample of which is appended to this local law, used by an agency to assist in determining the consistency of an action with the Local Waterfront Revitalization Program.

J. "Waterfront Revitalization Area Boundary" means the Waterfront Revitalization Area Boundary as delineated in the Town of Penfield Local Waterfront Revitalization Program.

IV. Management and Coordination of the LWRP

A. The Town of Penfield Planning Department shall be responsible for coordinating review of actions in the Town's waterfront revitalization area for consistency with the LWRP, and will advise, assist and make consistency recommendations to other Town agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the program.

B. The Planning Board shall coordinate with the New York State Department of State regarding consistency review of actions by Federal agencies and with State agencies regarding consistency review of their actions.

C. The Planning Department shall assist the Town Board in making applications for funding from State, Federal, or other sources to finance projects under the LWRP.

D. The Planning Department shall perform other functions regarding the waterfront area and direct such actions or projects as the Town Board may deem appropriate, to implement the LWRP.

V. Review of Actions.

A. Whenever a proposed action is located within the Town’s waterfront area, each Town agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards summarized in Section H herein. No action in the waterfront area shall be approved, funded or undertaken by that agency without such a determination.

B. Whenever a Town agency receives an application for approval or funding of an action, or as early as possible in the agency’s formulation of a direct action to be located in the waterfront area, the agency shall refer a copy of the completed WAF to the Planning Board within ten (10) days of its receipt and prior to making its determination, shall
consider the recommendation of the Planning Board with reference to the consistency of the proposed action.

C. After referral from an agency, the Planning Board (or the Town Board in the case of the LaSalle’s Landing District) shall consider whether the proposed action is consistent with the LWRP policy standards set forth in Section H herein. The Planning Board shall require the applicant to submit all completed applications, WAFs, EAFs, and any other information deemed necessary to its consistency recommendation.

The Planning Board (or the Town Board in the case of the LaSalle’s Landing District) shall render its written recommendation to the agency within thirty (30) days following referral of the WAF from the agency, unless extended by mutual agreement of the Planning Board and the applicant or in the case of a direct action, the agency. The Planning Board’s recommendation shall indicate whether the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards and shall elaborate in writing the basis for its opinion. The Planning Board (or the Town Board in the case of the LaSalle’s Landing District) shall, along with a consistency recommendation, make any suggestions to the agency concerning modification of the proposed action, including the imposition of conditions, to make it consistent with LWRP policy standards or to greater advance them.

In the event that the Planning Board’s recommendation is not forthcoming within the specified time, the agency shall make its consistency decision without the benefit of the Planning Board’s recommendation.

In the event that an action requires approval by the Planning Board or the Town Board, the consistency review shall be included in the Planning Board or Town Board’s review and a written consistency determination shall be made prior to any decision on the action before the Board having jurisdiction.

D. If an action requires approval of more than one Town agency, decision making will be coordinated between the agencies to determine which agency will conduct the final consistency review, and that agency will thereafter act as designated consistency review agency for the specific action being reviewed. Only one WAF per action will be prepared. If the agencies cannot agree, the Town Board shall designate the consistency review agency.

E. Upon receipt of the Planning Board’s recommendation, the agency shall consider whether the proposed action is consistent with the LWRP policy standards summarized in Section H herein. The agency shall consider the consistency recommendation of the Planning Board, the WAF and other relevant information in making its written determination of consistency. No approval or decision shall be rendered for an action in the waterfront area without a written determination of consistency having first been rendered by a Town agency.

The Zoning Board of Appeals is the designated agency for the determination of consistency for variance applications subject to this law. The Zoning Board of Appeals shall consider the written consistency recommendation of the Planning Board in the event and at the time it makes a decision to grant such a variance and shall impose appropriate conditions on the variance to make the activity consistent with the objectives of this law. The Town Board shall have jurisdiction of all such matters within the LaSalle’s Landing District.

F. Where an EIS is being prepared or required, the draft EIS must identify applicable LWRP policies standards in Section H and include a thorough discussion of the effects of the proposed action on such policy standards.

G. In the event the Planning Board’s recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation and state the manner and extent to which the action is consistent with the LWRP policy standards.

H. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following summary of LWRP policy standards, which are derived from and further explained and described in Section III (Policies) of the Town of Penfield LWRP, a copy of which is on file in the Town Clerk’s office and available for inspection during normal business hours. Agencies which undertake direct actions must also consult with Section IV (Proposed Uses and Projects), in making their consistency determination. The action must be consistent with the policies to:
Policy 1: Foster a pattern of development in the waterfront area that enhances the community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development.

Policy 2: Preserve historic resources of the waterfront area.

Policy 3: Enhance visual quality and protect scenic resources throughout the waterfront area.

Policy 4: Minimize loss of life, structure, and natural resources from flooding and erosion.

Policy 5: Protect and improve water quality and supply.

Policy 6: Protect and restore the quality and function of the ecosystem.

Policy 7: Protect and improve air quality in the waterfront area.

Policy 8: Minimize environmental degradation in the waterfront area from solid waste and hazardous substances and waste.

Policy 9: Provide for public access to, and recreational use of, the waterway, public lands, and public resources of the waterfront area.

Policy 10: Protect water-dependent and water-enhanced uses and promote siting of these uses in suitable locations.

Policy 11: Promote sustainable use of living aquatic resources.

Policy 12: Protect agricultural lands.

Policy 13: Promote appropriate use and development of energy and mineral resources.

I. The Town shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Planning Board. Such files shall be made available for public inspection upon request.

VI. Enforcement.

No action within the Penfield waterfront area which is subject to review under this Chapter shall proceed until a written determination has been issued from a Town agency that the action is consistent with the Town’s LWRP policy standards. In the event that an activity is being performed in violation of this law or any conditions imposed thereunder, the Building Inspector or any other authorized official of the Town shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect. The Town Attorney and Code Enforcement Officer shall be responsible for enforcing this Chapter.

VII. Violations.

A. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this Chapter shall have committed a violation, punishable by a fine not exceeding two hundred and fifty dollars ($250.00) for a conviction of a first offense and punishable by a fine of one thousand dollars ($1,000.00) for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.

B. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

VIII. Applicability.

This Article shall supersede and repeal any previous local regulations regarding Town of Penfield waterfront consistency review.

IX. Severability.

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part or provision hereof other than the provision so found to be invalid.

X. Effective Date.

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.
A. INSTRUCTIONS (Please print or type all answers)

1. Applicants, or in the case of direct actions, Town of Penfield agencies, shall complete this WAF for proposed actions which are subject to the consistency review law. This assessment is intended to supplement other information used by a Town of Penfield agency in making a determination of consistency.

2. Before answering the questions in Section C, the preparer of this form should review the policies and explanations of policy contained in the Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the Town of Penfield Clerk's office. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the coastal area.

3. If any question in Section C on this form is answered "yes", then the proposed action may affect the achievement of the LWRP policy standards contained in the consistency review law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination that it is consistent with the LWRP policy standards. If an action cannot be certified as consistent with the LWRP policy standards, it shall not be undertaken.

B. DESCRIPTION OF SITE AND PROPOSED ACTION

1. Type of agency action (check appropriate response):
   (a) Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction)
   
   (b) Financial assistance (e.g. grant, loan, subsidy)
   
   (c) Permit, approval, license, certification
   
   (d) Agency undertaking action: __________________________

2. Describe nature and extent of action: ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

3. Location of action (Street or Site Description): ____________________________________________________
   ____________________________________________________________
   ____________________________________________________________

4. Size of site: ____________________________________________________________

5. Present land use: ____________________________________________________________

6. Present zoning classification: ____________________________________________________________

7. Describe any unique or unusual land forms on the project site (i.e. steep slopes, swales, ground depressions, other geological formations):
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

8. Percentage of site which contains slopes of 15% or greater: __________________________

9. Streams, lakes, ponds or wetlands existing within or contiguous to the project area?
   (a) Name: ____________________________________________________________
   
   (b) Size (in acres): __________________________________________________

10. If an application for the proposed action has been filed with the agency, the following information shall be provided:
    (a) Name of applicant: ____________________________________________
C. WATERFRONT ASSESSMENT

(Check either "Yes" or "No" for each of the following questions)

1. Will the proposed action be located in, or contiguous to, or have a potentially adverse effect upon any of the resource areas identified on the waterfront revitalization area map?
   (a) Significant fish or wildlife habitats? YES NO
   (b) Scenic resources of local or statewide significance? YES NO
   (c) Important agricultural lands? YES NO
   (d) Natural protective features in an erosion hazard area YES NO

If the answer to any question above is yes, please explain in Section D any measures which will be undertaken to mitigate any adverse effects.

2. Will the proposed action have a significant effect upon?
   (a) Commercial or recreational use of fish and wildlife resources? YES NO
   (b) Scenic quality of the waterfront environment? YES NO
   (c) Development of future, or existing water dependent uses? YES NO
   (d) Land or water uses within the harbor area? YES NO
   (e) Stability of the shoreline? YES NO
   (f) Surface or groundwater quality? YES NO
   (g) Existing or potential public recreation opportunities? YES NO
   (h) Structures, sites or districts of historic, archeological or cultural significance to the Town of Penfield, State or nation? YES NO

3. Will the proposed action involve or result in any of the following?
   (a) Physical alteration of land along the shoreline, land under water or the designated waterfront area? YES NO
   (b) Physical alteration of two (2) acres or more of land located elsewhere in the waterfront area? YES NO
   (c) Expansion of existing public services or infrastructure in undeveloped or low density areas of the waterfront area? YES NO
   (d) Energy facility not subject to Article VII or VIII of the Public Service Law? YES NO
   (e) Mining, excavation, filling or dredging in waterways? YES NO
   (f) Reduction of existing or potential public access or along the shore? YES NO
   (g) Sale or change in use of publicly-owned lands located on the shoreline or under water? YES NO
   (h) Development within a designated flood or erosion hazard area? YES NO
   (i) Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion? YES NO
   (j) Construction or reconstruction of erosion protective structures? YES NO
   (k) Diminished surface or groundwater quality? YES NO
   (l) Removal of ground cover from the site? YES NO
4. PROJECT

(a) If a project is to be located adjacent to shore:
   (1) Will water-related recreation be provided?  
   (2) Will public access to the foreshore be provided?  
   (3) Does the project require a waterfront site?  
   (4) Will it supplant a recreational or maritime use?  
   (5) Do essential public services and facilities presently exist at or near the site?  
   (6) Is it located in a flood prone area?  
   (7) Is it located in an area of high erosion?  

(b) If the project site is publicly owned:
   (1) Will the project protect, maintain and/or increase the level and types of public access to water-related recreation resources and facilities?  
   (2) If located in the foreshore, will access to those and adjacent lands be provided?  
   (3) Will it involve the siting and construction of major energy facilities?  
   (4) Will it involve the discharge of effluents from major steam electric generating and industrial facilities into waterways?  

(c) Is the project site presently used by the community as an open space or recreation area?  

(d) Does the present site offer or include scenic views or vistas known to be important to the community?  

(e) Is the project site presently used for commercial fishing or fish processing?  

(f) Will the surface area of any waterways or wetland areas be increased or decreased by the proposal?  

(g) Does any mature forest (over 100 years old) or other locally important vegetation exist on this site which will be removed by the project?  

(h) Will the project involve any waste discharges into waterways?  

(i) Does the project involve surface or subsurface liquid waste disposal?  

(j) Does the project involve transport, storage, treatment or disposal of solid waste or hazardous materials?  

(k) Does the project involve shipment or storage of petroleum products?  

(l) Does the project involve discharge of toxics, hazardous substances or other pollutants into waterways?  

(m) Does the project involve or change existing ice management practices?  

(n) Will the project affect any area designated as a tidal or freshwater wetland?  

(o) Will the project alter drainage flow, patterns or surface water runoff on or from the site?  

(p) Will best management practices be utilized to control storm water runoff into waterways?  

(q) Will the project utilize or affect the quality or quantity of sole source or surface water supplies?  

(r) Will the project cause emissions which exceed federal or state air quality
D. REMARKS OR ADDITIONAL INFORMATION:
(Add any additional sheets to complete this form.)

_______________________________________________________________________________________
_______________________________________________________________________________________
_______________________________________________________________________________________
_______________________________________________________________________________________
_______________________________________________________________________________________
_______________________________________________________________________________________
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If assistance or further information is needed to complete this form, please contact Town of Penfield Clerk at (585) 340-8600.

Preparer's Name: _________________________________
Date: __________________                 
Title: _________________________________
Agency: _________________________________
Telephone Number: ___________________