PENFIELD TOWN BOARD AGENDA

Wednesday, December 16, 2015 7:00 PM

Supervisor R. Anthony LaFountain, presiding

I Call to Order - Pledge of Allegiance - Roll Call

II Communications and Announcements

III Public Participation

IV Additions and Deletions to Agenda

V Approval of Minutes – November 18, 2015

VI Petitions

VII Resolutions by Function

   Law and Finance

   15T-210 To Adopt the State Environmental Quality Review Act
   Determination of Non-Significance for the Town Code Update

   15T-211 To Enact Local Law No. 3 of 2015, a Local Law to provide for
   the Codification of the Local Laws, Ordinances and Certain Resolutions of
   the Town of Penfield into a Municipal Code to be designated the “Code of
   the Town Of Penfield”

   15T-212 Granting a Conditional Use Permit to Allow an AT&T Store at
   2150 Fairport Nine Mile Point Road

   15T-213 Granting a Conditional Use Permit to Allow a Hair Zoo at 2150
   Fairport Nine Mile Point Road

   15T-214 Granting a Conditional Use Permit to Allow a Moe’s Southwest
   Grill at 2150 Fairport Nine Mile Point Road

   15T-215 2015 Budget Transfers – Year End Reconciliation

   15T-216 Authorization for Workers Compensation Coverage 2016

   15T-217 2015 Transfer of Funds from Assigned Fund Balance to
   Equipment Reserve
Public Works
15T- 218 Purchase one 2017 Six Wheel Dump Truck with Snow Plow, Sander Box and Controls

15T- 219 Authorization to Sign Beaver Trapping Agreement

Public Safety
15T-220 Advertise for Bids to Maintain, Clean-up and Secure Properties as required under Article IV-4-28 and Article XII 12-21 of Chapter 29 of the Town Code

Community Services
15T-221 Authorization for Supervisor to Sign Recreation Contracts

15T-222 Awarding Contract for Printing Town of Penfield Calendar

VIII Old Business
IX New Business
X Public Participation
XI Adjournment
The Regular meeting of the Penfield Town Board was held on Wednesday, December 16, 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:  
  Amy Steklof Town Clerk  
  Richard Horwitz Town Attorney  

Supervisor LaFountain called the meeting to order - The Pledge of Allegiance was led by Eagle Scout Mitchell Krenzer from Boy Scout Troop 312.

Eagle Scout Mitchell Krenzer donated a wreath on behalf of Boy Scout Troop 312 and stated that every year as a thank you to the Town Board for continuously supporting their troop they donate a wreath to the Town. He also stated that the Troop 312 Christmas Tree sale is still going on if anyone is still in the market for a tree.

Councilwoman Metzler thanked her nephew for attending the Town Board meeting and for donating the wreath.

Supervisor LaFountain thanked Mitchell for presenting the wreath to the Town on behalf of Troop 312 and said that the wreath will be a nice addition to the Town Hall.

Communications and Announcements

1. The 2016 Town and County Tax Bill will be mailed the first week of January. If you will not be in town to receive the bill, please contact the Tax Office at 340-8625. Please do not rely on the U.S. Postal Service for forwarding your tax bill.

2. The Town of Penfield’s Annual Holiday Blood Drive with the American Red Cross will be held on Wednesday, December 23, 2015 from 12:00 PM to 6:00 PM, at the Penfield Community Center, 1985 Baird Road. To schedule an appointment visit www.redcrossblood.org or call 1-800-REDCROSS. To save time at your next blood donation use Rapid Pass to complete your pre-donation reading and health history questionnaire online. To get started visit www.redcrossblood.org/rapidpass.

3. Joe Brennan, who passed away earlier this year, was an active member of the Penfield Trails Committee and Penfield Boy Scouts. A bench was built by members of Boy Scout Troop 310 of which Joe was a leader, and dedicated on December 6, 2015. The bench is located at the intersection of the orange and red trails at Harris Whalen Park.

4. The Town Offices and Penfield Library will be closed on Thursday, December 24, 2015 and Friday, December 25, 2015 in observance of the Christmas Holiday and will also be closed on January 1, 2016 for New Year's Day.

5. Supervisor LaFountain received a note from Troop #312 thanking the Town for allowing them to place their Pancake Breakfast signs outside the Town Hall and The Penfield Community Center. Over 700 breakfasts were served.

6. Supervisor LaFountain received a letter from Jerry Gage, Valley Stream Road that recognized Town Staff from the Department of Public Works for the recent drainage project that was successfully completed on Valley Stream Road, Valley Brook Road and part of Baird Road. He was grateful for a job well done.
7. The First Baptist Church located at 1862 Penfield Road will be holding a Flap Jack Community Fundraiser this Saturday, December 19, 2015 from 8:00 AM to 10:00 AM. All proceeds will go to supporting the Salvation Army.

8. The Penfield Trails Committee will be sponsoring a free guided hike at Ellison Park on Saturday, January 9, 2015 from 10:00 AM to Noon. Participants are encouraged to pre-register by contacting the Penfield Recreation Department at 340-8655.

9. The Winter/Spring 2016 Penfield Recreation Brochure was recently delivered to all Penfield homes and is now available online at www.penfieldrecreation.org. Registration begins Monday, January 4, 2016.

10. Councilwoman Kohl’s Community Chat will be held on Tuesday, January 19, 2016 from 5:30 PM to 7:00 PM at the Penfield Library, 1985 Baird Road.

Public Participation

Town Clerk, Amy Steklof received an email from a resident regarding an issue pertaining to a neighbor with five (5) dogs that bark non-stop when outdoors. The resident would like the Town Board to consider passing an Ordinance limiting the number of dogs allowed per household in the Town of Penfield. Town Clerk Steklof will forward the email to the Town Board and the Town Attorney.

Kevin Gallagher, 1973 Dublin Road asked the Town Board to update him on the progress of topics he had brought before the Town Board at a past Town Board meeting.

He inquired whether anyone has contacted the New York State Department of Transportation to inform them that the stop lines at the Four Corners in Penfield are not striped properly.

Supervisor LaFountain stated he has reached out to the NYS DOT and that he is waiting for a response.

Mr. Gallagher also mentioned that some storm grates on NYS RTE 250 are recessed too low causing a risk to bicyclists. He would like the storm grate issue rectified.

Mr. Gallagher asked if Councilman Moore had a chance to take a look at the photographs he had e-mailed of damaged grates.

Councilman Moore stated he had received the e-mail, however, he did not recognize the e-mail address and since his virus protector had popped up he did not open the e-mail. He would like Mr. Gallagher to give the Town Clerk his e-mail address so when he sends the e-mail again, Councilman Moore will recognize it.

Mr. Gallagher asked whether the damaged wetlands outlet had been repaired.

Supervisor LaFountain said it had not, but he has spoken with Town Engineer, Mark Valentine and that it has been placed on the priority list.

Mr. Gallagher said he is disappointed that it had not been taken care of yet.

Supervisor LaFountain stated he relies on the team to balance priorities and that presently there are approximately 30-40 items on the list that continuously get reviewed.

Mr. Gallagher asked for an update on the status of the sidewalk at 1886 Penfield Road near Peach Tree Road which had been poorly replaced.
Supervisor LaFountain stated that he thought that it had been on the list of projects to be completed this past fall.

Mr. Gallagher stated he had checked the sidewalk yesterday, but nothing had been done to rectify the issue. He had noticed only that some bushes had been removed for visibility.

Mr. Gallagher also asked if anyone had come up with any new ideas for clearing fire hydrants and snow piles.

Supervisor LaFountain stated that the Town continues to educate the community by use of the Town’s website and the Supervisor’s column. He went on to say it is in everyone’s best interest to help the Fire Department with removal of fire hydrant obstructions. He also mentioned that Councilman Quinn highlights that information several times a year.

Mr. Gallagher asked if the Town Board knew how many residents are reached through the Town’s communications?

Supervisor LaFountain stated it is difficult to get a handle on that type of information and that is why they try multiple medias.

Councilwoman Metzler stated it is difficult to estimate the number of people reached however, the Town Board members and other Town Staff share the information on their web pages to help reach as many residents as possible.

Mr. Gallagher inquired whether the Town has a list of residents that are active in the community that might like to get involved.

Supervisor LaFountain stated the Town does not have a specific list for separate issues. He would be interested to hear some of Mr. Gallagher’s ideas.

Mr. Gallagher suggested the Town put together a list of topics and pull together a small Town group to talk about Town issues that affect them. He also suggested creating polls.

Mr. Gallagher stated he had shared his Traffic Calming Plan with the Town Board and asked if anyone had a chance to review it.

Councilman Quinn stated he has the information and has started reviewing the document. He has not had a chance to discuss the plan with the other Town Board members. He will get Mr. Gallagher’s e-mail from the Town Clerk and follow up with him.

Calvin Frelier, 15 Old Westfall Drive stated he has a number of utilities running across his yard including gas. He stated that a large manhole is scheduled to be placed in the middle of the utilities. He believes that a couple of days ago workers struck a gas line and the smell was so strong they could not go outside. The issue resulted in his child becoming sick from breathing the fumes. He was also concerned that an explosion would occur. Mr. Frelier asked if the workers have adequate insurance coverage in case a major event occurs.

Supervisor LaFountain stated that whenever there is a Town project, the Town Board makes sure there is adequate insurance coverage. Supervisor LaFountain went on to say that from time to time a utility will get struck or damaged, but no digging occurs without the appropriate stakeouts. He stated that he will touch base with Eric Tait from the Town’s Engineering Department to have him follow-up with Mr. Frelier.

Supervisor LaFountain stated he had not heard that a gas line had been struck.

Mr. Frelier stated that the issue occurred at Woodhaven Drive and Old Westfall Road. He said that he had spoken with Mr. Tait and had suggested they do not cross over the utilities but to find another option.
Additions and Deletions to Agenda - None

Approval of Minutes

Councilwoman Kohl moved to approve the Minutes of November 18, 2015
Councilman Quinn seconded and all voted “Aye.”

Petitions - None

Resolutions by Function

Law and Finance

#15T-210  To Adopt the State Environmental Quality Review Act Determination of Non-Significance for the Town Code Update by Moore

WHEREAS, the Town of Penfield proposed to adopt an update to the Town Code; and

WHEREAS, the Town of Penfield solicited the help of the General Code to help facilitate this update; and

WHEREAS, a Public Hearing was held the 30th day of September, 2015 by the Town Board of the Town of Penfield, notice of which was given as required by the Municipal Home Rule Law, the Open Meetings Law and the Town Law of the State of New York;

BE IT RESOLVED, that the Town Board, acting as lead agency pursuant to the State Environmental Quality Review Law and has classified this proposal as a Unlisted action. Furthermore, the Town Board has determined that this proposal will not have significant effect on the environment. Therefore, the submission of a draft Environmental Impact Statement will not be required.

Moved: Moore
Seconded: Kohl

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

Adopted

#15T-211  To Enact Local Law No. 3 of 2015, a Local Law to provide for the Codification of the Local Laws, Ordinances and Certain Resolutions of the Town of Penfield into a Municipal Code to be designated the “Code of the Town of Penfield” by Moore

WHEREAS, a Public Hearing was held the 30th day of September, 2015 by the Town Board of the Town of Penfield, notice of which was given as required by the Municipal Home Rule Law, the Open Meetings Law and the Town Law of the State of New York;

WHEREAS, at said Public Hearing the Town Board considered the enactment of proposed Local Law No. 3 of 2015, entitled A LOCAL LAW TO PROVIDE FOR THE CODIFICATION OF THE LOCAL LAWS, ORDINANCES AND CERTAIN RESOLUTIONS OF THE TOWN OF PENFIELD INTO A MUNICIPAL CODE TO BE DESIGNATED THE “CODE OF THE TOWN OF PENFIELD”; and

WHEREAS, all interested persons were given an opportunity to be heard with respect to the enactment of said Local Law;

NOW, THEREFORE, BE IT RESOLVED, that Local Law No. 3 of 2015 be enacted as follows:

Moved: Moore
Seconded: Quinn
#15T-211 - Continued

**Resolution #15T-211 – Continued**

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

Adopted

#15T-212  Granting a Conditional Use Permit to Allow an AT&T Store at 2150 Fairport Nine Mile Point Road 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 the application for a Conditional Use Permit under Article X-10-4-E of the Code to allow an 1,800 +/- square foot AT&T Store on .82 acres in the Business Non-Retail (BN-R) zoning district at 2150 Fairport-Nine Mile Point Road; and

WHEREAS, the Town Board of the said Town of Penfield held a Public Hearing at the Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on December 2, 2015, at 7:00 PM on said date, to consider the application and hear all persons interested on the question of the issuance of a Conditional Use Permit to allow a 1,800 +/- square foot AT&T Store on .82 acres in the Business Non-Retail (BN-R) zoning district at 2150 Fairport-Nine Mile Point Road; and

BE IT RESOLVED, that the Penfield Town Board acted as “lead agency” within the meaning of the State Environmental Quality Review Act (SEQRA) and did designate itself as “lead agency” pursuant to SEQRA during the Incentive Zoning approval which was granted by the Town Board at which time. The requirements for SEQRA for the overall development thresholds for the site were met and satisfied in a Findings Statement adopted in Resolution No. 159 dated June 21, 2006; and

AND BE IT FURTHER RESOLVED, that the applicant’s request for a CONDITIONAL USE PERMIT to allow a 1,800 +/- square foot AT&T Store on .82 acres in the Business Non-Retail (BN-R) zoning district at 2150 Fairport-Nine Mile Point Road is hereby GRANTED subject to the following conditions:

1. The applicant shall obtain a CONDITIONAL USE PERMIT from the Town Clerk and pay the appropriate fee. The CONDITIONAL USE PERMIT is non-transferable. Any subsequent owner or operator shall be required to apply for and obtain a CONDITIONAL USE PERMIT from the Town Board to operate any business at this location.

2. The applicant is permitted to operate a 1,800 +/- square foot AT&T Store within the Business Non-Retail zoning district, based on the Incentive Zoning proposal previously approved and mutually agreed upon by the Town Board and the owner of the subject property.

3. The applicant proposes to operate between the hours of 9:00 AM and 8:00 PM Monday through Saturday and from 11:00 AM to 6:00 PM on Sunday.

4. The applicant has proposed that no more than five (5) employees will work from the site at any time. Any proposed increase shall be reviewed by the Board to ensure that there is adequate parking to accommodate said increase.

5. Any proposed tractor trailer deliveries to the site shall only be permitted to occur no earlier than 7:00 AM and no later than 7:00 PM. All other deliveries shall be permitted during the proposed hours of operation. No such deliveries shall occur on Saturdays or Sundays at any time.
6. All dumpsters shall be enclosed and properly maintained at all times. The applicant’s refuse removal company may pick up refuse from the site no earlier than 7:00 AM and no later than 7:00 PM. No such refuse pickup shall occur on Saturdays or Sundays at any time.

7. The applicant shall comply with the overall occupancy requirements that have been established by the Penfield Fire Marshal in accordance with the New York State Building Code.

8. The site is served by thirty one (31) parking spaces, however this complex was developed with shared parking requirements of ninety-two (92) parking spaces. Although each business within the complex is required to share parking and cross access, the applicant, as with all other businesses in the complex, is responsible for ensuring that its business does not adversely impact the existing and future businesses that are or will be operating from this complex, particularly relating to traffic movements and parking facilities. The applicant must ensure that it has adequate parking to serve its clientele at all times without monopolizing others spaces during its hours of operation.

9. The applicant shall submit a final sign package for the site for the Board’s review and approval. Said sign package shall address all components for signage on this site addressed by the Board and property owner at the Board’s December 9, 2015 Work Session. In addition, the use of banners, pennants or flags placed to the exterior of the business for advertising purposes is prohibited without approval from the Authorized Official.

10. This operation shall comply with all Federal, State, County and Town Codes.

11. Failure to comply with the conditions set forth hereinabove may result in the revocation of this Conditional Use Permit pursuant to the requirements of Article X-10-4 of the Zoning Ordinance.

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

1. The Board has granted site plan approval for the development of a 6,000 square foot building, suitable for three tenant spaces. The applicant made his intentions known to the Board during the site plan review process that an AT&T Store would occupy one of the three tenant spaces.

2. The proposed use is a compatible use with the other proposed tenants, those being Moe’s Southwestern Grill and Hair Zoo.

3. The Business Non-Retail district permits hours of operation between 7:00 AM and 9:00 PM. The applicant, as part of the Incentive Zoning proposal, has requested that this business be permitted to open at 9:00 AM and close at 8:00 PM. Monday through Saturday and be open from 11:00 AM to 6:00 PM on Sundays. The Board has granted this request as the proposed hours of operation are consistent with, and in many cases, are less than other similar businesses fronting on Fairport Nine Mile Point Road and Penfield Road in this area.

4. The applicant has assured the Board that it will minimize potential noise impacts to area residents particularly relating to refuse pick-up and tractor trailer deliveries being restricted to no earlier than 7:00 AM and no later than 7:00 PM with no such deliveries or refuse pickup permitted on Saturdays or Sundays.
Penfield Town Board, December 16, 2015

(Resolution #15T-212 – Continued)

The Board has reviewed this application as it relates to Article X of the Penfield Town Code, Conditional Use Permits. The Board finds that the standards contained within Article X have been met to allow the issuance of a Conditional Use permit.

Moved: Moore
Seconded: Metzler

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

Adopted

#15T-213 Granting a Conditional Use Permit to Allow a Hair Zoo at 2150 Fairport Nine Mile Point Road 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 the application for a Conditional Use Permit under Article X-10-4-E of the Code to allow a 1,300 +/- square foot Hair Zoo Salon on .82 acres in the Business Non-Retail (BN-R) zoning district at 2150 Fairport Nine Mile Point Road; and

WHEREAS, the Town Board of the said Town of Penfield held a Public Hearing at the Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on December 2, 2015, at 7:00 PM on said date, to consider the application and hear all persons interested on the question of the issuance of a Conditional Use Permit to allow a 1,300 +/- square foot Hair Zoo Salon on .82 acres in the Business Non-Retail (BN-R) zoning district at 2150 Fairport Nine Mile Point Road, and the Public Hearing was closed and decision was reserved.

BE IT RESOLVED, that the Penfield Town Board acted as “lead agency” within the meaning of the State Environmental Quality Review Act (SEQRA) and did designate itself as “lead agency” pursuant to SEQRA during the Incentive Zoning approval which was granted by the Town Board at which time. The requirements for SEQRA for the overall development thresholds for the site were met and satisfied in a Findings Statement adopted in Resolution No. 159 dated June 21, 2006; and

AND BE IT FURTHER RESOLVED, that the applicant’s request for a CONDITIONAL USE PERMIT to allow a 1,300 +/- square foot Hair Zoo Salon on .82 acres in the Business Non-Retail (BN-R) zoning district at 2150 Fairport Nine Mile Point Road is hereby GRANTED subject to the following conditions:

1. The applicant shall obtain a CONDITIONAL USE PERMIT from the Town Clerk and pay the appropriate fee. The CONDITIONAL USE PERMIT is non-transferable. Any subsequent owner or operator shall be required to apply for and obtain a CONDITIONAL USE PERMIT from the Town Board to operate any business at this location.

2. The applicant is permitted to operate a 1,300 +/- square foot Hair Zoo Salon within the Business Non-Retail zoning district, based on the Incentive Zoning proposal previously approved and mutually agreed upon by the Town Board and the owner of the subject property.

3. The applicant proposes to operate between the hours of 9:00 AM and 9:00 PM Monday through Friday, 8:00 AM to 6:00 PM on Saturdays and from 10:00 AM to 5:00 PM on Sundays.
4. The applicant has proposed to have ten (10) chairs on site but no more than six (6) employees will work from the site at any time. Any proposed increase shall be reviewed by the Board to ensure that there is adequate parking to accommodate said increase.

5. Any proposed tractor trailer deliveries to the site shall only be permitted to occur no earlier than 7:00 AM and no later than 7:00 PM. All other deliveries shall be permitted during the proposed hours of operation. At no time shall such deliveries occur on Saturdays or Sundays.

6. All dumpsters shall be enclosed and properly maintained at all times. The applicant’s refuse removal company may pick up refuse from the site no earlier than 7:00 AM and no later than 7:00 PM. At no time shall such refuse pickup occur on Saturdays or Sundays.

7. The applicant shall comply with the overall occupancy requirements that are to be established by the Penfield Fire Marshal in accordance with the New York State Building Code.

8. The site is served by thirty one (31) parking spaces, however this complex was developed with shared parking requirements of ninety-two (92) parking spaces. Although each business within the complex is required to share parking and cross access, the applicant, as with all other businesses in the complex, is responsible for ensuring that its business does not adversely impact the existing and future businesses that are or will be operating from this complex, particularly relating to traffic movements and parking facilities. The applicant must ensure that it has adequate parking to serve its clientele at all times without monopolizing others spaces during its hours of operation.

9. The applicant shall submit a final sign package for the site for the Board’s review and approval. Said sign package shall address all components for signage on this site addressed by the Board and property owner at the Board’s December 9, 2015 Work Session. In addition, the use of banners, pennants or flags placed to the exterior of the business for advertising purposes is prohibited without approval from the Authorized Official.

10. This operation shall comply with all Federal, State, County and Town Codes.

11. Failure to comply with the conditions set forth hereinabove may result in the revocation of this Conditional Use Permit pursuant to the requirements of Article X-10-4 of the Zoning Ordinance.

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

1. The Board has granted site plan approval for the development of a 6,000 square foot building, suitable for three tenant spaces. The applicant made his intentions known to the Board during the site plan review process that a Hair Zoo Salon would occupy one of the three tenant spaces.

2. The proposed use is a compatible use with the other proposed tenants, those being Moe’s Southwestern Grill and an AT&T Store.
(Resolution #15T-213 - Continued)

3. The Business Non-Retail district permits hours of operation between 7:00 AM and 9:00 PM. The applicant, as part of the Incentive Zoning proposal, has requested that this business be permitted to open at 9:00 AM and close at 9:00 PM Monday through Friday and 8:00 AM to 6:00 PM on Saturdays and from 10:00 AM to 5:00 PM on Sundays. The Board has granted this request as the proposed hours of operation are consistent with, and in many cases, are less than other similar businesses fronting on Fairport Nine Mile Point Road and Penfield Road in this area.

4. The applicant has assured the Board that it will minimize potential noise impacts to area residents particularly relating to refuse pick-up and tractor trailer deliveries being restricted to no earlier than 7:00 AM and no later than 7:00 PM and no such deliveries and refuse pickup occurring on Saturdays and Sundays.

5. The Board has reviewed this application as it relates to Article X of the Penfield Town Code, Conditional Use Permits. The Board finds that the standards contained within Article X have been met to allow the issuance of a Conditional Use permit.

Moved: Moore
Seconded: Metzler

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

Adopted

#15T-214 Granting a Conditional Use Permit to Allow a Moe’s Southwest Grill at 2150 Fairport Nine Mile Point Road 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 the application for a Conditional Use Permit under Article X-10-4-E of the Code to allow a 2,200 +/- square foot Moe’s Southwest Grill on .82 acres in the Business Non-Retail (BN-R) zoning district at 2150 Fairport-Nine Mile Point Road; and

WHEREAS, the Town Board of the said Town of Penfield held a Public Hearing at the Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on December 2, 2015, at 7:00 PM on said date, to consider the application and hear all persons interested on the question of the issuance of a Conditional Use Permit to allow a 2,200 +/- square foot Moe’s Southwest Grill on .82 acres in the Business Non-Retail (BN-R) zoning district at 2150 Fairport-Nine Mile Point Road, and the Public Hearing was closed and decision was reserved.

BE IT RESOLVED, that the Penfield Town Board acted as “lead agency” within the meaning of the State Environmental Quality Review Act (SEQRA) and did designate itself as “lead agency” pursuant to SEQRA during the Incentive Zoning approval which was granted by the Town Board at which time. The requirements for SEQRA for the overall development thresholds for the site were met and satisfied in a Findings Statement adopted in Resolution No. 159 dated June 21, 2006; and

AND BE IT FURTHER RESOLVED, that the applicant’s request for a CONDITIONAL USE PERMIT to allow a 2,200 +/- square foot Southwest Grill on .82 acres in the Business Non-Retail (BN-R) zoning district at 2150 Fairport-Nine Mile Point Road is hereby GRANTED subject to the following conditions:
1. The applicant shall obtain a CONDITIONAL USE PERMIT from the Town Clerk and pay the appropriate fee. The CONDITIONAL USE PERMIT is non-transferable. Any subsequent owner or operator shall be required to apply for and obtain a CONDITIONAL USE PERMIT from the Town Board to operate any business at this location.

2. The applicant is permitted to operate a 2,200 +/- square foot Southwest Grill within the Business Non-Retail zoning district, based on the Incentive Zoning proposal previously approved and mutually agreed upon by the Town Board and the owner of the subject property.

3. The applicant proposes to operate between the hours of 11:00 AM and 10:00 PM Monday through Sunday.

4. The applicant has proposed to have indoor seating for ninety-two (92) patrons and outdoor dining for ten (10) employees working from the site at any time. Any proposed increase in seating capacity and/or staffing shall be reviewed by the Board to ensure that there is adequate parking to accommodate any proposed increase.

5. The applicant has requested that the outdoor dining area be served by one speaker to provide background music. The request has been granted by the Board, however, no music is permitted to be audible beyond the limits of the subject property at any time and the music shall only be audible by those in the outdoor dining area.

6. Any proposed tractor trailer deliveries to the site shall only be permitted to occur no earlier than 7:00 AM and no later than 7:00 PM. All other deliveries shall be permitted during the proposed hours of operation. At no time shall tractor trailers deliver to this business on Saturdays or Sundays.

7. All dumpsters shall be enclosed and properly maintained at all times. The applicant’s refuse removal company shall pick up refuse from the site no earlier than 7:00 AM and no later than 7:00 PM. At no time shall refuse pick-up take place on Saturdays or Sundays.

8. The applicant shall comply with the overall occupancy requirements that have been established by the Penfield Fire Marshal in accordance with the New York State Building Code.

9. The site is served by thirty one (31) parking spaces, however this complex was developed with shared parking requirements of ninety-two (92) parking spaces. Although each business within the complex is required to share parking and cross access, the applicant, as with all other businesses in the complex, is responsible for ensuring that its business does not adversely impact the existing and future businesses that are or will be operating from this complex, particularly relating to traffic movements and parking facilities. The applicant must ensure that it has adequate parking to serve its clientele at all times without monopolizing others spaces during its hours of operation.

10. The applicant shall submit a final sign package for the site for the Board’s review and approval. Said sign package shall address all components for signage on this site addressed by the Board and property owner at the Board’s December 9, 2015 Work Session. In addition, the use of banners, pennants or flags placed to the exterior of the business for advertising purposes is prohibited without approval from the Authorized Official.
11. This operation shall comply with all Federal, State, County and Town Codes.

12. Failure to comply with the conditions set forth hereinabove may result in the revocation of this Conditional Use Permit pursuant to the requirements of Article X-10-4 of the Zoning Ordinance.

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

1. The Board has granted site plan approval for the development of a 6,000 square foot building, suitable for three tenant spaces. The applicant made his intentions known to the Board during the site plan review process that a Mexican style sit-down restaurant would occupy one of the three tenant spaces.

2. The proposed use is a compatible use with the other proposed tenants, those being a Hair Zoo Salon and an AT&T Store.

3. The business has thirty-one (31) on-site parking spaces and adequate shared parking facilities to service it.

4. The Business Non-Retail district permits hours of operation between 7:00 AM and 9:00 PM. The applicant, as part of the Incentive Zoning proposal, has requested that this business be permitted to open at 11:00 AM and close at 10:00 PM Monday through Sunday. The Board has granted this request as the proposed hours of operation are consistent with, and in many cases, are less than other similar businesses fronting on Fairport Nine Mile Point Road and Penfield Road in this area.

5. The applicant has assured the Board that it will minimize potential noise impacts to area residents particularly relating to refuse pick-up and tractor trailer deliveries being restricted to no earlier than 7:00 AM and no later than 7:00 PM and that no such deliveries or refuse pickup occur on Saturdays or Sundays to minimize noise impacts to area residents.

6. The Board has reviewed this application as it relates to Article X of the Penfield Town Code, Conditional Use Permits. The Board finds that the standards contained within Article X have been met to allow the issuance of a Conditional Use permit.

Moved: Moore
Seconded: Metzler

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

Adopted

#15T-215 2015 Budget Transfers - Year End Reconciliation by Moore

WHEREAS, transfers of funds are necessary for reconciliation as the year end approaches, and,

WHEREAS, the Town Board desires to have an up to date budget in relation to current income and expenditures,

NOW, BE IT RESOLVED that the attached budget transfers be approved.

Moved: Moore
Seconded: Kohl
Penfield Town Board, December 16, 2015

(Resolution #15T-215 - Continued)

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

Adopted

#15T-216 Authorization for Workers Compensation Coverage 2016 by Moore

WHEREAS, the Town Board requested workers compensation insurance proposals be obtained so that selection could be made for coverage for January 1, 2016 to December 31, 2016, and,

WHEREAS, First Niagara Risk Management, acting as consultant to the Town solicited quotes from thirteen insurance companies, and with the assistance of Commercial Insurance Consultants, evaluated the four proposals received for the 2016 insurance year, and,

WHEREAS, Public Employer Risk Management Association, Inc. (PERMA), Applied Underwriters, NYS WC Alliance and Safety National submitted proposals and,

WHEREAS the proposal received from PERMA met all specifications,

BE IT RESOLVED THAT the insurance quote of $361,191 received from PERMA is approved for the Town of Penfield’s workers compensation coverage for the 2016 insurance year.

Moved: Moore
Seconded: Quinn

Adopted

#15T-217 2015 Transfer of Funds from Assigned Fund Balance to Equipment Reserve by Moore

WHEREAS, equipment sold at auction, netted the Town of Penfield $27,321, and

WHEREAS, these funds are to be restricted into the Highway Fund Equipment Reserve,

NOW BE IT RESOLVED, THAT the following 2015 transfer be approved:

From                               To
Highway Fund Balance              Highway Fund Restricted Fund
DA0-0000-0000-0909  $27,321        DA0-0000-0000-0871  $27,321

Moved: Moore
Seconded: Metzler

Adopted
Public Works

#15T-218 Purchase one 2017 Six Wheel Dump Truck with Snow Plow, Sander Box and Controls by Metzler

WHEREAS, the Director of Public Works desires to purchase, a 2017 Dump Trucks, MACK GU712 six wheeler for a contract price of approximately $227,785.84 from contract #7823, Onondaga County Heavy Truck Class 8, Contract and,

WHEREAS, the installation of Dump body, Sander, Sander controls and plow equipment are included in the price of the truck and will be the responsibility of TANCO Equipment Company to install per specifications and

WHEREAS, the funds for said purchase are included in the 2016 adopted Highway Equipment Fund for a total price of approximately $227,785.84 and,

NOW, THEREFORE BE IT RESOLVED, the Director of Public Works be and hereby is authorized to purchase said vehicle and attachments.

Moved: Metzler
Seconded: Moore

Vote: Kohl Aye LaFountain Aye
      Metzler Aye Moore Aye
      Quinn No

Adopted

#15T-219 Authorization to Sign Beaver Trapping Agreement by Metzler

WHEREAS, from time to time, positive drainage is affected by dams built by beavers that cause flooding and property damage and,

WHEREAS, the Town of Penfield desires to eliminate flooding and property damage by removal said dams and beavers from drainage ways and,

WHEREAS, Donald C. Newcomb, 532 Kirk Road, Rochester, NY 14612 is licensed by the NYS DEC to handle Wildlife Nuisances and

NOW, THEREFORE BE IT RESOLVED, THAT the Town Supervisor, be and hereby is authorized to execute a one year agreement acceptable to the Town Attorney beginning January 1, 2016 through December 31, 2016 with Donald C. Newcomb to trap and remove beavers as directed by the Penfield Department of Public Works and,

NOW, THEREFORE BE IT FURTHER RESOLVED, THAT Donald C. Newcomb will be responsible to obtain any permits required from the NYS DEC for the trapping and removal of said beavers and supply a copy of his NYS DEC license and copy of any required permits to the Town of Penfield with an invoice for services rendered.

Moved: Metzler
Seconded: Kohl

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

Adopted
Public Safety  
#15T-220 Advertise for Bids to Maintain, Clean-up and Secure Properties as required under Article IV-4-28 and Article XII-12-21 of Chapter 29 of the Town Code by Quinn

WHEREAS, the purpose of Article IV-4-28 and Article XII-12-21 of Chapter 29 of the Town Code is to prevent the gradual encroachment of blight, deterioration, unsightliness and property devaluation and to assure the safety, health protection and general welfare of persons and property in the Town of Penfield; and

WHEREAS, the Building and Zoning Office has the need to maintain or secure properties failing to comply with the minimum requirement of Article IV-4-28 and Article XII-12-21 of Chapter 29 of the Town Code;

NOW, THEREFORE, BE IT RESOLVED, that the Building & Zoning Administrator be, and hereby is, authorized to advertise, in a manner prescribed by Law, for sealed proposals for the maintenance, clean-up and securing of properties that have failed to be maintained in accordance with the Town Code requirements; and

BE IT FURTHER RESOLVED, that the services covered by such proposals shall be in accordance with the specifications prepared by the Building and Zoning Administrator. Sealed proposals are to be received in the office of the Town Clerk until 11:00 AM local time Friday, January 15, 2016 and there and then are to be opened by the Town Clerk.

Moved: Quinn  
Seconded: Metzler

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

Adopted

Community Services

#15T-221 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:

Rosemary Irwin, 10 Blossom Circle West, Rochester, NY guest speaker for Jane Austen Tea Fundraiser on 12/6/15 for a fee of $50. Voucher to be submitted 12/18/15.

Moved: Kohl  
Seconded: Quinn

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

Adopted

#15T-222 Awarding Contract for Printing Town of Penfield Calendar by Kohl

WHEREAS, The Town of Penfield secured three quotes to print and deliver 10,000 copies of the 2016 Town of Penfield calendar.

Quote #1: Selby Marketing Associates  
10,000 copies: $8,249.20

Quote #2: Penny Lane Printing  
10,000 copies: $8,280.75
(Resolution #15T-222 - Continued)

Quote #3: KB Graphics
10,000 copies: $10,200.00

NOW, THEREFORE BE IT RESOLVED, that the Selby Marketing Associates quote met or exceeded all specs established and the printing contract be awarded to Selby Marketing Associates Inc., in the amount of $8,249.20, funds for the awarded contract are in the 2016 Town of Penfield budget.

Moved: Kohl
Seconded: Metzler

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

Adopted

Old Business - None

New Business - None

Public Participation - None

Adjournment

Supervisor LaFountain ended by saying “On behalf of the Town Board, Merry Christmas, Happy Holidays and Happy New Year.” The meeting was adjourned at 7:50 PM.

Amy Steklof, RMC/CMC
Town Clerk
CODE ADOPTION LOCAL LAW

for the

CODE OF THE TOWN OF PENFIELD, NEW YORK

December 16, 2015

GENERAL CODE
781 Elmgrove Road
Rochester, New York 14624

(585) 328-1810 or 800 836-8834
FAX (585) 328-8189

ARTICLE I
Adoption of Code

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Penfield, as codified by General Code, and consisting of Chapters 1 through 255, together with an Appendix, shall be known collectively as the “Code of the Town of Penfield,” hereafter termed the “Code.” Wherever reference is made in any of the local laws, ordinances and resolutions contained in the Code of the Town of Penfield to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Town Board of the Town of Penfield, and it is the intention of said Town Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

§ 1-3. Repealer.

A. Repeal of inconsistent enactments. Except as provided in § 1-4, Enactments saved from repeal; matters not affected, below, all local laws and ordinances, or parts of such local laws or ordinances, inconsistent with the provisions contained in the Code adopted by this local law are hereby repealed as of the adoption and filing of this local law as set forth in § 1-13; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Town of Penfield which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

B. Repeal of specific enactments. The Town Board of the Town of Penfield has determined that the following local laws and/or ordinances are no longer in effect and hereby specifically repeals the following legislation:

(1) Local Law No. 1-1965, adopted February 1, 1965, regarding procedures for the adoption of local laws.


(3) Local Law No. 1-1987, regarding the licensing of plumbers.

§ 1-4. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Penfield prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.

B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Penfield or any penalty, punishment or forfeiture which may result therefrom.

C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Town of Penfield.

D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Penfield.

E. Any local law or ordinance of the Town of Penfield providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Penfield or any portion thereof.

F. Any local law or ordinance of the Town of Penfield appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of Penfield or other instruments or evidence of the Town’s indebtedness.

G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract, agreement or obligation.

H. The levy or imposition of special assessments or charges.

I. The annexation or dedication of property.

J. Any local law or ordinance relating to salaries and compensation.

K. Any local law or ordinance amending the Official Zoning Map.

L. Any local law or ordinance relating to or establishing a pension plan or pension fund for Town employees.

M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the Town.

N. Any local law or ordinance adopted subsequent to November 4, 2015.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.


A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of Penfield and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Town Clerk of the Town of Penfield by impressing thereon the Seal of the Town of Penfield, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the
availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be
due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and
resolutions known collectively as the “Code of the Town of Penfield” or any new local laws, ordinances or
resolutions, when enacted or adopted in such form as to indicate the intention of the Town to be a part
thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood
and intended to include such additions, deletions, amendments or supplements. Whenever such additions,
deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be
incorporated into said Code as amendments and supplements thereto. Nothing contained in this local law
shall affect the status of any local law, ordinance or resolution contained herein, and such local laws,
ordinances or resolutions may be amended, deleted or changed from time to time as the Town Board deems
desirable.

§ 1-8. Code to be kept up-to-date.

It shall be the duty of the Town Clerk to keep up-to-date the copy of the Code of the Town of Penfield
required to be filed in the office of the Town Clerk for use by the public. All changes in said Code and all
local laws, ordinances and resolutions adopted by the Town Board subsequent to the enactment of this local
law in such form as to indicate the intention of said Town Board to be a part of said Code shall, when
finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local
laws, ordinances or resolutions until such changes, local laws, ordinances or resolutions are included as
supplements to said Code, at which time such supplements shall be inserted therein.


Copies of the Code, or any chapter or portion of it, may be purchased from the Town Clerk, or an
authorized agent of the Clerk, upon the payment of a fee to be set by resolution of the Town Board. The
Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-10. Penalties for tampering with Code.

Any person who alters or tampers with the Code of the Town of Penfield in any manner whatsoever which
will cause the legislation of the Town of Penfield to be misrepresented thereby, or who violates any other
 provision of this local law, shall be guilty of an offense and shall, upon conviction thereof, be subject to a
fine of not more than $250 or imprisonment for a term of not more than 15 days, or both.


A. In compiling and preparing the local laws, ordinances and resolutions for publication as the
Code of the Town of Penfield, no changes in the meaning or intent of such local laws,
ordinances and resolutions have been made, except as provided for in Subsection B hereof.
In addition, certain grammatical changes and other minor nonsubstantive changes were
made in one or more of said pieces of legislation. It is the intention of the Town Board that
all such changes be adopted as part of the Code as if the local laws, ordinances and
resolutions had been previously formally amended to read as such.

B. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and
made a part hereof are made herewith, to become effective upon the effective date of this
local law. (Chapter and section number references are to the local laws, ordinances and
resolutions as they have been renumbered and appear in the Code.)

§ 1-12. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Town of Penfield,
such local law to be entitled “General Provisions, Article I, Adoption of Code,” and the sections of this
local law shall be numbered §§ 1-1 to 1-13, inclusive.
§ 1-13. When effective.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

*The complete Local Law #3 of 2015 is on file in the Town Clerk’s Office
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**Total General Fund:** $58,712.85

**Total General Fund:** $10,712.85