SPECIAL
TOWN BOARD LEGISLATIVE AGENDA
Monday, November 20, 2017, 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 1, 2017
VI. Petitions
VII. Resolutions by Function

Law and Finance
17T-211 Bond Resolution of the Town Board of the Town of Penfield, Monroe County, New York (The "Town"), Authorizing the Town to Undertake the Acquisition of an Approximately 6 Acre Parcel of Land Located at 1960 Clark Road within the Town; Stating the Maximum Estimated Cost Thereof is $260,000; Appropriating Said Amount Therefor; and Authorizing the Issuance of up to $260,000 in Serial Bonds of the Town to Finance Said Appropriation

17T-212 Bond Resolution of the Town Board of the Town of Penfield, Monroe County, New York (The "Town"), Authorizing the Town to Undertake the Acquisition of Three Parcels of Land Containing in the Aggregate Approximately 206 Acres Located at 745 Whalen Road, 2701 Atlantic Avenue, and 1950 Clark Road, within the Town; Stating the Maximum Estimated Cost Thereof is $3,390,000; Appropriating Said Amount Therefor; and Authorizing the Issuance of up to $3,390,000 in Serial Bonds of the Town to Finance said Appropriation

Public Works – None

Public Safety – None

Community Services -None

VIII. Old Business
IX. New Business
X. Public Participation
XI. Executive Session
XII. Next Meeting: December 6, 2017
XIII. Adjournment

This meeting will be video recorded and broadcast live via the town’s website www.penfield.org and the Town’s Government Access Cable channel 12, digital 5.12. Question regarding video coverage contact Penfield TV at (585) 340-8661.
Penfield Town Board, November 20, 2017

The Special Legislative meeting of the Penfield Town Board was held on Monday, November 20, 2017 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 – Pledge of Allegiance

Communications and Announcements

1. This evening Town Clerk Amy M. Steklof, RMC/CMC received a voicemail message from residents Mary and Cork Russell, 8 Dundas Drive stating they support the Town Board in their decision to purchase the Shadow Pines Property.

2. Councilman Quinn read today's Supervisor Column:

I am using this week’s column to provide an update on the Town’s efforts to purchase the Shadow Pines property, as there have been many moving parts and very compressed timelines for this proposed transaction. If you are following this topic, you will recall that on September 29, 2017 the Town of Penfield signed a Letter of Intent for Purchase and Sale of Real Property Shadow Pines Golf Course with Dolomite Products Company, Inc. Since then, the Town and Dolomite have been working to complete a Purchase Agreement based on the terms in the Letter of Intent. In addition, the Town also completed a SEQR environmental review for acquisition and is pursuing financing for the purchase.

That leads us to tonight, November 20, when the Town Board will hold a special legislative session at 7:00 PM to vote on bond resolutions to finance the purchase of the Shadow Pines property for $3,650,000 from Dolomite. The property will be used for governmental and/or public uses as determined by the Town Board in the future.

The Town Board’s original intent was to conduct a Public Referendum—a straight up or down vote by residents—on the purchase of the Shadow Pines property. However, in the current draft of the Purchase Agreement, Dolomite requires a closing date of no later than January 31, 2018, and Dolomite’s legal counsel has informed the Town that Dolomite will not consider an extension of the closing date beyond January 31. Dolomite’s position does not allow the Town sufficient time to conduct a Public Referendum which can take 60 to 75 days. With the Public Referendum option taken away, the Town Board chose an alternative path forward with bond resolutions tonight that, according to New York State law, are subject to a Permissive Referendum.

A Permissive Referendum is a legislative tool in which a board’s decision stands unless it is challenged by citizen petition for a Public Referendum, in which case the board is obligated to conduct a Public Referendum.

With respect to the purchase of the Shadow Pines property, if the bond resolutions should pass tonight, Penfield residents who prefer a formal Public Referendum on the purchase may petition and obligate the Town Board to hold a Public Referendum. Residents who support the bond resolution alternative have no formal action to take as the resolutions being proposed by the Town Board work towards that outcome.

For those residents who prefer that the Town Board hold a Public Referendum, New York State has specific rules and procedures for this process.
Residents who want to pursue a petition for a Public Referendum are required by law to engage in a process that requires five percent of Penfield voters who voted in the 2014 gubernatorial election to sign a petition calling for a Public Referendum. The numbers for that are five percent of 13,683 voters, which would require a minimum of 685 qualified signatures. Petitions must follow a specific format and be submitted to the Town Clerk within 30 days following the adoption of the resolutions. (See the law at New York Consolidated Laws, Town Law - TWN § 91. Referendum on petition.)

Should the purchase of the Shadow Pines property occur, the financing of the purchase will cost the average household valued at $190,000 approximately an additional $14 a year in Town taxes over 30 years. Additional ownership costs would depend on future use and maintenance requirements.

In 2016, the majority of the Moratorium Committee recommended that the Town of Penfield purchase the Shadow Pines property. The Penfield Town Board considered the recommendation and felt strongly that the Shadow Pines property was worth bringing into Town ownership for municipal uses rather than allowing it to be developed under its current residential zoning.

To learn more about The Shadows please go to the project page at http://www.penfield.org/index.php?pr=Golf_The_Shadows

Tonight’s meeting will be streamed live at www.penfield.org. As always, there will be two opportunities for public comments on the agenda.

Until next week, I wish you all a Happy Thanksgiving with family and friends.

Tony

Public Participation

Neal Madden, 10 Park Place, stated he has been a resident of the Town of Penfield for 33 years and was a member of the Shadow Pines Moratorium Committee. He stated he is concerned that the Town is not following the Open Meetings Law as well as they should be. He stated he is also concerned with the Purchase Agreement that the Town has with Dolomite Products, Company, Inc. He does not like that Dolomite will not extend the closing date of January 31, 2018 and feels it does not give the Town enough time to conduct a Public Referendum. Mr. Madden stated he does not feel that the Town should accept these conditions and that it is not befitting of a Town of “Planned Progress.” He stated the Town Board has the authority under section 94 of Town Law to say a referendum vote will be held and that there is enough time to do so. He asked the Town Board to keep faith with the voters and to provide a referendum that does not require the voters to pass a petition.

Sam Ogie, 1924 Clark Road, thanked the Town Board for putting a moratorium in place and providing the opportunity for residents to be heard on this topic. He stated he supports the Town Board in the purchase of Shadow Pines and said he feels the Town has been very open in keeping the Town residents informed on the progress of the Shadow Pines purchase. He would like everyone to remember there has been significant Public Participation on this topic. Mr. Ogie also stated that if the Town does not purchase the property there will most likely be a school district impact that would increase school district taxes in excess of $1 million per year as opposed to the $3.3 million purchase price of the property. He stated the Town has been clear in that they would prefer to purchase the property and keep it for municipal use.
Dave Woodward, 1530 Harris Road, stated he agrees with Mr. Ogie and that the property is a good, long term investment for the Town. He feels it is a fair purchase price.

Tim Murphy, 48 Corral Drive, stated he supports the Town’s actions in moving forward to purchase the property. He stated he has read the Supervisor’s letter. He stated he is concerned about the quarry in relation to the Shadow Pines property and feels there has not been enough conversation on the topic and would like the Town Board to consider the quarry during this initiative.

Supervisor LaFountain stated it will be part of the Comprehensive Plan.

Mr. Murphy asked several questions pertaining to Supervisor LaFountain’s letter and the acquisition of Shadow Pines.

Supervisor LaFountain stated he will continue to update the Town’s website to keep everyone informed of the continued progress.

Kate McArdle, 15 Hillside Road, thanked the Supervisor and the Town Board for all of their work on this effort. She said she supports the decision to keep this land undeveloped. Ms. McArdle stated she is concerned with the already significant crowding within the Penfield School District and recognizes what possible development would do to the School District. She also stated that she feels the Town residents are not receiving communications in a timely manner. She hopes the Town will be more transparent in the future.

Jeff Burns, 39 Scarborough Park stated he supports the Town Board’s decision to purchase the property. He stated that he understands that the Town has purchased development rights to various properties in the Town and the average cost per acre has been $20,000 to $25,000. He stated that he has calculated that the Shadow Pines parcel would cost over $4 million, and that the $3.6 million cost to own the property is an excellent value. He listed a number of reasons that support the purchase of the property. Mr. Burns also mentioned that a bond was used for Open Space back in the early 2000’s and that is almost paid off. He went on to say once the bond is paid off, the Town’s expenditures will be greatly reduced and the cost to the taxpayer will be lower within a few years.

Mr. Burns also said that once the quarry reaches its end of life it can become a wonderful asset to the Town.

Bob Peterson, 1931 Clark Road, stated he is in favor of the Town Board approving the bond resolutions. Mr. Peterson inquired about the Clark House/barn on the property and whether it could be used for other purposes.

Supervisor LaFountain stated that is something the Town Board has spoken of in the past and will look to see what some of the options would be for those buildings.

Mike Touhey, 60 Canyon Trail, thanked the Town Board and the committee members for their work on this endeavor and expressed his support.

Neal Madden stated he would like the residents of the Town of Penfield to get a chance to vote on this matter. He said that is what was promised and what has happened in the past.
Bill Sullivan, 1899 Clark Road, stated that if the property becomes heavily populated it will be very dangerous. He does not believe it is the best thing to have a referendum vote on this property since very few understand how dangerous it would be if a housing development were to go up in that area. He went on to say that the golf course was there to buffer the quarry. He said the Department of Environmental Conservation has said there needs to be a buffer between development and the quarry’s blasting zone. Mr. Sullivan supports the Town Board.

Councilman Quinn stated that Supervisor LaFountain has mentioned that this property is for general governmental municipal use. He went on to say there is no intent of the Town Board to do anything other than have this in Town holdings.

He also clarified that he would not be opposed to having a Public Referendum if they had the ability to do so. The January 31st deadline is a closing date which means the money needs to be available. It would be risky if a referendum was held and the Town is unable to close. The Town continues to negotiate but this is the option available at this time in order to secure the financing necessary to purchase this land.

Bob Peterson stated he had the understanding from the work they did on the Moratorium Committee that the Town was buying the property for general purpose use and not committing it to park land.

Supervisor LaFountain stated that is correct.

Additions and Deletions to Agenda - None

Approval of Minutes

Councilwoman Kohl moved to approve the Minutes of November 1, 2017, Councilman Quinn seconded and all voted “Aye.”

Petitions - None

Resolutions by Function

Law and Finance

#17T-211 Bond Resolution of the Town Board of the Town of Penfield, Monroe County, New York (The “Town”), Authorizing the Town to Undertake the Acquisition of an Approximately 6 Acre Parcel of Land Located at 1960 Clark Road within the Town; Stating the Maximum Estimated Cost Thereof is $260,000; Appropriating Said Amount Therefor; and Authorizing the Issuance of up to $260,000 in Serial Bonds of the Town to Finance Said Appropriation by Moore

WHEREAS, the Town Board (the “Town Board”) of the Town of Penfield, Monroe County, New York (the “Issuer” or the “Town”) proposes to authorize the issuance of up to $260,000 in serial bonds of the Town to finance the acquisition of an approximately 6 acre parcel of land and the buildings and improvements situated thereon (including, without limitation, the Alpheus Clark House) located at 1960 Clark Road within the Town (TMID No. 124.13-1-3), constituting a portion of the site of the former Shadow Pines Golf Club (collectively, the “Project”), at an estimated maximum cost of $260,000; and
WHEREAS, by resolutions dated October 11, 2017 and November 15, 2017, the Town Board (i) determined that the actions to be undertaken that include the Project (collectively, the “Action”) constitute a “Type I” action pursuant to the provisions of the New York State Environmental Quality Review Act and the regulations promulgated thereunder (6 NYCRR Part 617) (collectively, “SEQRA”), (ii) the Town Board assumed lead agency status for purposes of conducting a review of the Action for purposes of SEQRA, (iii) the Town Board determined that the Action will not result in any significant adverse environmental impacts, adopted a “Negative Declaration” pursuant to SEQRA with respect thereto, and directed that a notice of Negative Declaration be filed and published, to the extent required under SEQRA; and (iv) that the requirements of SEQRA with respect to the Action have been satisfied; and

WHEREAS, the Town Board now wishes to appropriate funds for the Project and to authorize the issuance of the Town’s serial bonds and bond anticipation notes to be issued to finance the aforementioned specific object or purpose.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town (by the favorable vote of not less than two-thirds of all the members of such body), as follows:

SECTION 1. The Town is hereby authorized to undertake the acquisition of an approximately 6 acre parcel of land and the buildings and improvements situated thereon (including, without limitation, the Alpheus Clark House) located at 1960 Clark Road within the Town (TMID No. 124.13-1-3), constituting a portion of the site of the former Shadow Pines Golf Club, for such future governmental and/or public use or uses as shall hereinafter be determined by the Town Board from time to time. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose, including all preliminary, ancillary, and related costs thereto and the financing thereof, is $260,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of (i) the issuance of the $260,000 in serial bonds of the Town authorized to be issued pursuant to this resolution or bond anticipation notes issued in anticipation of such bonds, and (ii) unless paid from other sources, the levy and collection of taxes on all taxable real property of the Town to pay the principal of such bonds or notes and the interest thereon as the same become due and payable.

SECTION 2. Serial bonds of the Town (including, without limitation, statutory installment bonds) in the principal amount of $260,000 are hereby authorized to be issued pursuant to provisions of Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the “Law”) to finance the aforementioned object or purpose.

SECTION 3. It is hereby determined that the period of probable usefulness of the aforementioned specific class of object or purpose is fifteen (15) years, pursuant to subdivisions 12(c)., 21(a). and 91. of paragraph a. of Section 11.00 of the Law.

SECTION 4. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Law, for the capital purposes described in this resolution. The Town shall reimburse such expenditures with the proceeds of the bonds or bond anticipation notes authorized by this resolution. This resolution shall constitute a declaration of official intent to reimburse the expenditures authorized herein with the proceeds of the bonds and bond anticipation notes authorized herein, as required by United States Treasury Regulations Section 1.150-2.
SECTION 5. The final maturity of the bonds herein authorized to be issued shall be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued pursuant to this resolution.

SECTION 6. Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any bond anticipation notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town subject to applicable statutory limits, if any. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal and interest on said serial bonds and bond anticipation notes and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

SECTION 7. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of serial bonds and bond anticipation notes or the renewals of said obligations and of Sections 21.00, 50.00, 54.90, 56.00 through 60.00, 62.10 and 63.00 of the Law, the powers and duties of the Town Board relative to authorizing serial bonds and bond anticipation notes and prescribing terms, form and contents as to the sale and issuance of bonds herein authorized, including without limitation the determination of whether to issue bonds having substantially level or declining debt service and all matters related thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town (the “Town Supervisor”). Such notes shall be of such terms, form and contents as may be prescribed by said Town Supervisor consistent with the provisions of the Law. Further, pursuant to paragraph b. of Section 11.00 of the Law, in the event that bonds to be issued for any of the class of objects or purposes authorized by this resolution are combined for sale, pursuant to paragraph c. of Section 57.00 of the Law, with bonds to be issued for one or more objects or purposes authorized by other resolutions of the Town Board, then the power of the Town Board to determine the “weighted average period of probable usefulness” (within the meaning of paragraph a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town.

SECTION 8. The Town Supervisor is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) and to designate the bonds authorized by this resolution and any notes issued in anticipation thereof, if applicable, as “qualified tax-exempt bonds” in accordance with Section 265(b)(3)(B)(1) of the Code.

SECTION 9. The Town Supervisor is further authorized to enter into a continuing disclosure undertaking with or for the benefit of the initial purchasers of the bonds or notes in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.
SECTION 10. The intent of this resolution is to give the Town Supervisor sufficient authority to execute those applications, agreements and instruments, or to do any similar acts necessary to affect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of the Town Board.

SECTION 11. Pursuant to subdivision b. of Section 35.00 of the Law, this resolution is subject to a Permissive Referendum in the manner prescribed by Article Seven of the Town Law of the State of New York (the "Town Law"). The Town Clerk is hereby authorized and directed, within ten (10) days after the date of adoption of this resolution, to post and publish a notice satisfying the requirements of Section 90 of the Town Law, which shall set forth the date of adoption of this resolution, shall contain an abstract hereof, and shall specify that this resolution was adopted subject to a Permissive Referendum. Such notice shall be published in the official newspaper(s) of the Town for such purpose.

SECTION 12. This resolution shall take effect thirty (30) days after the date of its adoption or, if within such thirty (30) day period there is filed with the Town Clerk a petition subscribed and acknowledged by the number of qualified electors of the Town required by Section 91 of the Town Law and in the manner specified in such Section, until approved by the affirmative vote of a majority of such qualified electors voting on a proposition for its approval.

SECTION 13. The validity of the bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of said bonds may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or

(b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

(c) such obligations are authorized in violation of the provisions of the constitution.

SECTION 14. Upon this resolution becoming effective, the Town Clerk is hereby authorized and directed to cause a copy of this resolution, or a summary thereof, to be published, together with a notice attached in substantially the form as prescribed in Section 81.00 of the Law, in the official newspaper(s) of the Town for such purpose, together with a notice of the Town Clerk substantially the form provided in Section 81.00 of the Law.

Moved: Moore
Seconded: Kohl

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

Adopted
WHEREAS, the Town Board (the "Town Board") of the Town of Penfield, Monroe County, New York (the "Issuer" or the "Town") proposes to authorize the issuance of up to $3,390,000 in serial bonds of the Town to finance the acquisition of three parcels of land containing in the aggregate approximately 206 acres located at 745 Whalen Road (TMID No. 124.13-1-4), 2701 Atlantic Avenue (TMID No. 124.09-1-1), and 1950 Clark Road (TMID No. 124.13-2-1) within the Town, constituting a portion of the site of the former Shadow Pines Golf Club (collectively, the “Project”), at an estimated maximum cost of $3,390,000; and

WHEREAS, by resolutions dated October 11, 2017 and November 15, 2017, the Town Board (i) determined that the actions and the actions to be undertaken that include the Project (collectively, the “Action”) constitute a “Type I” action pursuant to the provisions of the New York State Environmental Quality Review Act and the regulations promulgated thereunder (6 NYCRR Part 617) (collectively, “SEQRA”), (ii) the Town Board assumed lead agency status for purposes of conducting a review of the Action for purposes of SEQRA, (iii) the Town Board determined that the Action will not result in any significant adverse environmental impacts, adopted a “Negative Declaration” pursuant to SEQRA with respect thereto, and directed that a notice of Negative Declaration be filed and published, to the extent required under SEQRA; and (iv) that the requirements of SEQRA with respect to the Action have been satisfied; and

WHEREAS, the Town Board now wishes to appropriate funds for the Project and to authorize the issuance of the Town’s serial bonds and bond anticipation notes to be issued to finance the aforementioned specific object or purpose.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town (by the favorable vote of not less than two-thirds of all the members of such body), as follows:

SECTION 1. The Town is hereby authorized to undertake the acquisition of three parcels of land containing in the aggregate approximately 206 acres located at 745 Whalen Road (TMID No. 124.13-1-4), 2701 Atlantic Avenue (TMID No. 124.09-1-1), and 1950 Clark Road (TMID No. 124.13-2-1) within the Town, constituting a portion of the site of the former Shadow Pines Golf Club for such future governmental and/or public use or uses as shall hereinafter be determined by the Town Board from time to time. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose, including all preliminary, ancillary and related costs thereto, and the financing thereof, is $3,390,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of (i) the issuance of the $3,390,000 in serial bonds of the Town authorized to be issued pursuant to this resolution or bond anticipation notes issued in anticipation of such bonds, and (ii) unless paid from other sources, the levy and collection of taxes on all taxable real property of the Town to pay the principal of such bonds or notes and the interest thereon as the same become due and payable.

SECTION 2. Serial bonds of the Town (including, without limitation, statutory installment bonds) in the principal amount of $3,390,000 are hereby authorized to be issued pursuant to provisions of Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the "Law") to finance the aforementioned object or purpose.
SECTION 3. It is hereby determined that the period of probable usefulness of the aforementioned specific class of object or purpose is thirty (30) years, pursuant to subdivision 21(a) of paragraph a. of Section 11.00 of the Law.

SECTION 4. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Law, for the capital purposes described in this resolution. The Town shall reimburse such expenditures with the proceeds of the bonds or bond anticipation notes authorized by this resolution. This resolution shall constitute a declaration of official intent to reimburse the expenditures authorized herein with the proceeds of the bonds and bond anticipation notes authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 5. The final maturity of the bonds herein authorized to be issued shall be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued pursuant to this resolution.

SECTION 6. Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any bond anticipation notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town subject to applicable statutory limits, if any. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal and interest on said serial bonds and bond anticipation notes and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

SECTION 7. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of serial bonds and bond anticipation notes or the renewals of said obligations and of Sections 21.00, 50.00, 54.90, 56.00 through 60.00, 62.10 and 63.00 of the Law, the powers and duties of the Town Board relative to authorizing serial bonds and bond anticipation notes and prescribing terms, form and contents as to the sale and issuance of bonds herein authorized, including without limitation the determination of whether to issue bonds having substantially level or declining debt service and all matters related thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town (the "Town Supervisor"). Such notes shall be of such terms, form and contents as may be prescribed by said Town Supervisor consistent with the provisions of the Law. Further, pursuant to paragraph b. of Section 11.00 of the Law, in the event that bonds to be issued for any of the class of objects or purposes authorized by this resolution are combined for sale, pursuant to paragraph c. of Section 57.00 of the Law, with bonds to be issued for one or more objects or purposes authorized by other resolutions of the Town Board, then the power of the Town Board to determine the "weighted average period of probable usefulness" (within the meaning of paragraph a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town.
SECTION 8. The Town Supervisor is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) and to designate the bonds authorized by this resolution and any notes issued in anticipation thereof, if applicable, as “qualified tax-exempt bonds” in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 9. The Town Supervisor is further authorized to enter into a continuing disclosure undertaking with or for the benefit of the initial purchasers of the bonds or notes in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 10. The intent of this resolution is to give the Town Supervisor sufficient authority to execute those applications, agreements and instruments, or to do any similar acts necessary to affect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of the Town Board.

SECTION 11. Pursuant to subdivision b. of Section 35.00 of the Law, this resolution is subject to a Permissive Referendum in the manner prescribed by Article Seven of the Town Law of the State of New York (the “Town Law”). The Town Clerk is hereby authorized and directed, within ten (10) days after the date of adoption of this resolution, to post and publish a notice satisfying the requirements of Section 90 of the Town Law, which shall set forth the date of adoption of this resolution, shall contain an abstract hereof, and shall specify that this resolution was adopted subject to a Permissive Referendum. Such notice shall be published in the official newspaper(s) of the Town for such purpose.

SECTION 12. This resolution shall take effect thirty (30) days after the date of its adoption or, if within such thirty (30) day period there is filed with the Town Clerk a petition subscribed and acknowledged by the number of qualified electors of the Town required by Section 91 of the Town Law and in the manner specified in such Section, until approved by the affirmative vote of a majority of such qualified electors voting on a proposition for its approval.

SECTION 13. The validity of the bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of said bonds may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or

(b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

(c) such obligations are authorized in violation of the provisions of the constitution.

SECTION 14. Upon this resolution becoming effective, the Town Clerk is hereby authorized and directed to cause a copy of this resolution, or a summary thereof, to be published, together with a notice attached in substantially the form as prescribed in Section 81.00 of the Law, in the official newspaper(s) of the Town for such purpose, together with a notice of the Town Clerk substantially the form provided in Section 81.00 of the Law.
Penfield Town Board, November 20, 2017

(Resolution #17T-211 – Continued)

Moved: Moore
Seconded: Quinn

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

Adopted

Public Works - None

Public Safety - None

Community Services - None

Old Business - None

New Business - None

Public Participation

Mr. Peterson stated the Moratorium Committee submitted the final report in September 2016. He asked if any formal action was taken by the Town Board to accept the report.

Supervisor LaFountain stated that the Town Board did take formal action acknowledging receipt of the report and that the Town Board indicated they would be looking at all the report’s comments, thoughts and recommendations.

Mr. Madden stated he is disappointed that the Town Board would not make an amendment to the resolutions allowing the Town to proceed with a referendum vote. He went on to say that almost two (2) years have passed since the Moratorium Committee met. He feels a complete SEQRA review could have taken place during that time. He also said that one of his frustrations, while participating in the Moratorium Committee, was that there was no input from developers. He also stated that he would like the Town to be more open and transparent with the public.

Mr. Madden inquired whether the Town will be adopting a resolution in the future that authorizes the execution of a final Purchase Agreement and when that would be.

Supervisor LaFountain stated that they are in active negotiations and as soon as there is something the Town Board can act on, they will then look to bring it to a resolution vote authorizing the Supervisor to sign an agreement provided the Town Board is comfortable with the conditions of the agreement.

Mr. Madden ended by saying if the Town Board promised the public that there would be a referendum vote, then the Town Board should follow through with that.

Sam Ogie asked the Town Board to remind him of when they promised there would be a referendum vote.

Councilwoman Metzler stated that they did not promise that.

Mr. Ogie stated that he understood that there was an intent that there would be an opportunity for Town residents to speak at multiple meetings and were given the opportunity to answer surveys online over a two (2) year period. He feels that the implications made have been unfair towards the Town Board and their lacking in transparency is far from the truth.

Mr. Ogie stated that if the Town does not buy the land then the Town will end up with 250 to 300 homes on that property. He is happy the Town plans to purchase the property.
(Public Participation - Continued)

Supervisor LaFountain read a comment sent in from a resident residing at 4 Woodside Drive that stated appreciation for the work the Town Board has done and hopes future considerations will include wildlife and leaving parts of the property as meadows, no trails and some grooming.

Supervisor LaFountain read another comment from a resident at 26 Thorntree Circle that stated there is no reason to purchase the property and instead would like the property developed. The resident had expected to vote against this without going through a petition process.

Executive Session - None

Next Meeting - December 6, 2017

Adjournment

Supervisor LaFountain wished everyone and their families a wonderful and safe Thanksgiving holiday and moved to adjourn the meeting at 8:23 PM.

Amy Steklof, RMC/CMC
Town Clerk