TOWN BOARD WORK SESSION AGENDA
Wednesday, May 8, 2019 7:00 PM
Supervisor R. Anthony LaFountain, presiding

I. Call to Order
II. Approval of Minutes – April 24, 2019
III. Monthly Reports
IV. Public Hearings - None
V. Guests
   a. Evan Schutt - 1068 Plank Road - Farmstead Area Modification - Valentine
VI. Action Items
   a. Pond Treatment Review - Valentine
   b. Annual Sidewalk Discussion - Valentine
   c. Private Storm Pipe Agreement, 88 Stoneledge Way - Valentine
   d. Hold Harmless Agreement - 12 Shadow Vale - Valentine
   e. 143 Farmbrook - Grade and Fill Permit Request - Valentine
   f. Conditional Use Permit and Preliminary and Final Site Plan to Allow a Restaurant with Outdoor Dining and Outdoor Music at 1300 Empire Blvd - Costello
   g. Conditional Use Permit to allow a CBD Shop at 2118 Five Mile Line Road - Costello
   h. Conditional Use Permit to Allow a CBD Shop at 2150 Fairport Nine Mile Point Road - Costello
   i. RFP's for Property Maintenance and Securing of Structures
VII. Informational Items
   a. Greenlight Fiber Underground Installation Approval Process - LaFountain/Valentine
VIII. Held Items
   a. Jomanda Way, Expanding No Shooting Petition - LaFountain
   b. Sign Ordinance Updates/Proposed Ordinance Revision - Costello/LaFountain
   c. Development of Apartment Building, 1384 Empire Blvd. - Valentine
   d. Community Choice Aggregation - Penfield CCA Resident's Committee - LaFountain
IX. Old Business – (NONE)
X. New Business
XI. Executive Session
XII. Next Meeting: May 22, 2019
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 1303. Questions regarding video coverage contact Penfield TV at (585) 340-8661.


I. Call to Order

Present:
Supervisor LaFountain
Councilwoman Kohl
Councilwoman Metzler
Councilman Quinn

Also Present:
Heidi Boehl
Jim Costello
Lisa Grosser
Mark Valentine

Absent:
Councilman Moore

II. Approval of Minutes – 4/24/19
CW Metzler moved for the approval of the Minutes of April 24, 2019, CW Kohl seconded the motion.

III. Monthly Reports – The reports have been coming in and the balance are expected by the end of the week.

IV. Public Hearing – None

V. Guests

a. Evan Schutt – 1068 Plank Road, Farmstead Area Modification – Valentine
Mark Valentine introduced Evan Schutt who is interested in making improvements to his property, and would like to re-locate the five (5) acre farmstead. The Town purchased development rights in 2005 from Schutt’s grandparents.

Evan Schutt explained that he would like to make changes to the north side of his property. The current easement area consists of good plantable soil and he would like to expand by adding new trees. Schutt is interested in adding 12,000 new trees this year and 8,000 new trees next year. He will be expanding U-Pick operations, and would like to add a stone parking lot and a U-Pick building. In the future he is interested in moving the barn to a more central location to store farm equipment and reduce the need to drive equipment across Plank Road. These improvements would make his farm operation more efficient.
Valentine explained that if the Board agrees, an amendment to the existing agreement would be made. Valentine will work with Schutt and Land Tech on the location of the farmstead and will review the amendment language with Town Attorney Horwitz.

Schutt stated these improvements are necessary for his operation to stay relevant.

Councilwoman Metzler added the original Conservation Easement was put in place to promote agriculture, and these modifications will do that.

Schutt said he will be adding educational opportunities for the public also.

Valentine stated that the original agreement is between the property owner and the Town Board. A modification to this agreement would require agreement between the two (2) parties and the maps would need to be refiled.

Schutt explained that the Conservation Easement requires the stone parking lot and the U-Pick barn be located within the five (5) acre farmstead.

Valentine said the parking lot could be approved administratively with a Grade and Fill permit if the Town Board was so inclined.

Councilwoman Metzler moved to schedule a Public Hearing to move the farmstead area, Councilman Quinn seconded and all present voted “Aye.” A resolution will be submitted at a future Legislative Session.

Supervisor LaFountain stated the Public Hearing will be scheduled in June.

Schutt explained that he would like to add the parking lot in August.

VI. ACTION ITEMS

a. Pond Treatment Review – Valentine
   Supervisor LaFountain explained that this is the 4th year for pond treatment and the Watershed Management Committee has been supportive.

Mark Valentine said A-Tip has quoted the requirements. Staff reached out to several other firms, but only received a quote from A-Tip. During discussions with the Watershed Management Committee it was suggested to add the Silverwoods Pond to the list of ponds treated. Valentine explained that we have worked with A-Tip in the past and obtained the required permits through the Department of Environmental Conservation. These products help improve the functionality of the ponds. The muckaway product dissolves organics at the bottom of the pond and extends
the life of the pond to reduce dredging. We have had no issues with the ponds from the rain. The streams have been maintained with the new excavation equipment. Valentine added the Glenbrook and Silverwoods ponds are online ponds which are fed from streams nearby that can carry sediment. The other ponds are stormwater treatment only.

LaFountain asked what is the time frame to obtain the permits from DEC?

Valentine said the paperwork is prepared and will be submitted once the Board approves. It will take another month or two (2) to obtain permits. We would like to treat the water lilies in June and July.

LaFountain asked how the costs are covered.

Valentine said this has been budgeted through the Townwide Drainage fund.

Councilman Quinn moved to continue the pond treatments with products from A-Tip, Councilwoman Kohl seconded and all present voted “Aye.” A resolution will be submitted at the next Legislative Session on May 15, 2019.

b. Annual Sidewalk Discussion – Valentine

Mark Valentine submitted a summary of sidewalk projects and expected costs and budgets to the Board for its review. The Empire Boulevard sidewalks are a carryover from 2018, we have been waiting for the NYSDOT permits. Staff wasn’t satisfied with the county bid and decided to go out for bid ourselves. Hynes Concrete was the low bidder and will be awarded the work. Valentine reviewed the Empire Blvd. project which will run from Bazil’s to LaSalle’s Landing Park and portions of Sanders Farm and Crowne Oak. The total costs for these two (2) projects are estimated to be $37,860.24, after deducting the CDBG awarded grant funds, of which we have $40,000 in the budget.

Valentine said for 2020 we would like to install sidewalks on Huntington Meadows which costs exceed the current budget by $129,125. There will have to be future discussions on how we will accommodate the cost. We complete the design of the sidewalk and will begin obtaining easements from neighbors this year.

Supervisor LaFountain said we will be optimistic that sales tax revenue comes in higher to help to offset costs.

Valentine then went over future sidewalk requests which include NYS RTE 250 near the YMCA, Parkview Drive and two (2) separate portions of Five Mile Line Road.
Valentine said we will survey Huntington Meadows this year. Once the properties are mapped we will contact neighbors to review easements and placement of sidewalks.

c. Private Storm Pipe Agreement, 88 Stoneledge Way - Valentine submitted a map of the area to the Board for its review and stated that the applicant came to a Work Session to discuss this last fall. At that time the Board wanted to wait for the construction to be completed and the grass established. There are a couple of neighbors who would like to install a private pipe at their expense and maintenance to improve the drainage in their back yards. The Town would have an agreement with the residents that the pipe is privately owned and goes with the property. The pipe would not be Town owned or maintained.

Councilman Quinn asked why this is being requested after construction, is there a problem in the area.

Valentine said the development was completed with a green infrastructure design and meets specifications.

Quinn stated he is concerned about setting a precedent. There are 86 homes in this development and it would be a burden to review requests like this individually.

Valentine said we would never allow a pool to be installed over the pipe, but if we say no the residents may install the pipe on their own. This would then become a Code Enforcement issue. This has happened in the past and we are trying to take a proactive approach.

Quinn asked if homes are still being built. Should this request be reviewed as a Special District?

Valentine said we have had requests from three (3) homeowners. The requests could be handled administratively and an agreement signed with the Supervisor. These agreements would remain with the properties by being filed at the County Clerk.

Jim Costello asked if there would be an adverse effect to the neighbors that do not add a private pipe?

Valentine said no, we would require the private pipe match the existing downstream pipe. The neighbors that want to fill in the swale would have an inlet.

Councilwoman Kohl asked if we have any agreements like this in town.

Valentine said an agreement was drawn up for a property on Millford Crossing, but did not go through.

Quinn said he likes the idea of oversight but would like to see a more comprehensive approach.
Costello said the low areas of the subdivision would have been indicated on the site plans.

Metzler asked if there is a statute of limitations, can the residents go back to the builder. We should ask the residents what they were told when the properties were purchased.

Councilman Quinn moved to table the request to gather more information, Councilwoman Metzler seconded all present voted “Aye.” Quinn would like to see how many properties in the development would like a private storm pipe so agreements can be completed all at once.

d. Hold Harmless Agreement, 12 Shadow Vale – Valentine
Mark Valentine explained that Gary Bricault’s neighbor installed a picket fence along the property line. The applicant would like to install fence to connect and close off the area. The fence would be located in an existing Utility Easement. The resident understands that if the Town needed to access the easement area it would be at his cost to replace the fence.

Councilman Quinn moved to allow the Hold Harmless Agreement, Councilwoman Kohl seconded and all present voted “Aye.” A resolution will be submitted at the next Legislative Session on May 15, 2019.

e. 143 Farm Brook Drive, Grade and Fill Permit – Valentine
Mark Valentine stated that Corey Provenzano had requested to put a berm along his property for buffer purposes in a storm sewer easement. The applicant has now decided to use a fence instead. The fence would be located in the easement and a Hold Harmless Agreement would be required. Valentine added neighbors had concerns with a berm.

Supervisor LaFountain stated that the neighbor has two (2) structures within the easement, and asked if there a Hold Harmless Agreement in place.

Valentine said no, the structures have been in existence for over 40 years.

LaFountain said the neighbors would also have to be brought into compliance. Additional information should be provided regarding the type and style of the fence.

Councilwoman Kohl moved to table the request to obtain more information, Councilman Quinn seconded and all presented voted “Aye.”
f. Conditional Use Permit and Preliminary and Final Site Plan approval to Allow a Restaurant with Outdoor Dining and Outdoor Music at 1300 Empire Blvd. - Costello
Supervisor LaFountain stated the applicant is not present this evening and this request will be held until the May 15, 2019 Work Session.

g. Conditional Use Permit to allow a CBD Shop at 2118 Five Mile Line Road - Costello
Jim Costello stated the Public Hearing was held on May 1, 2019. This property is located in the Four Corners Zoning District and requires Town Board approval. Information presented at the Public Hearing included square feet of the shop, hours of operation, number of employees, sign information, material sold and wholesale/online sales.

Councilman Quinn asked what are the colors of the sign?

William Sedor stated the sign will be green and black with gold trim.

Councilwoman Kohl stated that CBD is being legally sold at other retailers in Town. The sale is legal and has holistic medical uses.

Costello read the following condition: This operation shall comply with all Federal, State, County and Town Codes, however, as the applicant stated at the Public Hearing on May 1, 2019, in the event that New York State legalizes the use and sale of marijuana, the applicant has stated that he will not sell it from this location, and while he will sell products that can be used in vaping devices, he will not sell vaping devices at this location either. The Board is supportive of his intent not to do so. Costello added the Historic Preservation Board will also have to approve the sign.

Kohl added the FDA has not given its approval yet.

Sedor stated federal hearings are taking place now, they might limit the use of certain products.

Costello read an additional condition: The applicant will sell a variety of CBD products which are currently being prescribed by doctors for the treatment of anxiety, pain relief, MS, drug withdrawal, cancer effects and other serious maladies. The product comes in various forms including tea, coffee, candy and pet treats to calm anxiety. All such products will comply with the regulations that allow no more than .3% of THC in said products, all of which are legal and comply with all Federal and New York State guidelines.

Sedor said all products will be labeled at .3%.
Councilman Quinn moved to issue the Conditional Use Permit, Councilwoman Kohl seconded and all present voted “Aye.” A resolution will be submitted at the next Legislative Session on May 15, 2019.

h. Conditional Use Permit to allow a CBD Shop at 2150 Fairport Nine Mile Point Road – Costello

Jim Costello stated that the Public Hearing was also held on May 1, 2019 and the property is located in an Incentive Zoning area which also requires Town Board approval. The approval resolution will have the same conditions as discussed for the previous applicant.

Supervisor LaFountain reviewed at the Public Hearing the sign, hours of operation, number of employees, square footage of building, number of customers, and various line of products. The applicant will also follow the .3% THC level and Federal/State guidelines. LaFountain added a letter of support was received from a neighbor.

Councilman Quinn asked if the sign will be raised off the building.

Jodi Tunison stated the sign will match the neighboring stores.

Costello said he will get more information on the sign from the manufacturer and make sure it fits within the concept of lighting in the area.

Councilman Quinn moved to issue the Conditional Use Permit, Councilwoman Kohl seconded and all present voted “Aye.” A resolution will be submitted at the next Legislative Session on May 15, 2019.

i. RFP’s for Property Maintenance and Securing of Structures – Boehl

Heidi Boehl submitted a summary of the bids received to the Board for its review.

Supervisor LaFountain reviewed that for Securing of Structures two (2) bids were received from Paul Davis and Emergency Enclosures. Paul Davis quoted a lower labor cost in each category. It is our recommendation to award the bid for Securing of Structures to Paul Davis. This would cover the period through December 31, 2019.

LaFountain continued to say for Property Maintenance two (2) bids were received from Duran Cleaning and Emergency Enclosures. Emergency Enclosures labor fees are more consistent and we would recommend awarding the bid to Emergency Enclosures.
Councilman Quinn moved to award the bid for Securing of Structures to Paul Davis, and award the bid for Property Maintenance to Emergency Enclosures for the period through December 31, 2019, Councilwoman Kohl seconded and all present voted “Aye.” Resolutions will be submitted at the next Legislative Session on May 15, 2019.

LaFountain added the Town currently spends $6,000 to $10,000 for property maintenance and there are fewer properties that need to be secured.

Quinn asked if this just covers residential properties, what about old barns and commercial.

LaFountain said this will cover residential and possibly commercial. The barns fall under Code Enforcement.

VII. INFORMATIONAL ITEMS

a. Greenlight Fiber Underground Installation Approval Process - LaFountain/Valentine

Supervisor LaFountain stated that he and Mark Valentine met with Senior Level Management of Greenlight regarding a pilot program.

Mark Valentine explained that during the meeting Greenlight has agreed to provide additional mapping and follow a process procedure. The agreement will be used a pilot. Greenlight will call in utility stakeouts, take a day or two (2) to walk properties and assess the conditions with engineering staff, DPW and the drilling crew. If there are concerns the process will be re-evaluated.

Valentine stated he wants a planned approach. Greenlight has worked with other communities and he wants to make sure the current infrastructure is not impacted, and there is space for future fiber installation.

Councilwoman Kohl asked when they plan to start.

Valentine said they will start later this month in the Cranberry Cove neighborhood.

Councilman Quinn asked if there are changes in the field, how will that be documented?

Valentine said there will be a preliminary agreement when the mapping is submitted. If there is a field change there would be updated mapping. Greenlight is using a tracer wire with the conduit, so that it can be located. The map will also be filed with UFPO/Dig Safely.
LaFountain added some hand digging may also be required. During the walk through with Engineering, the digging contractor and Greenlight Representatives if there is an issue it will be identified and addressed immediately. LaFountain continued to say Greenlight’s business model is set to expand in an area with a certain amount of concentration. A street with six (6) or eight (8) homes may be years from getting Greenlight. They are prioritizing the work. There are more people that want the service then will be installed.

LaFountain said this will remain a held item and we will review when the work is completed and update the Board what went well, what didn’t, and what will change.

VIII. HELD ITEMS
a. Jomanda Way, Expanding No Shooting Petition - LaFountain
b. Sign Ordinance Updates/Proposed Ordinance Revision - Costello/LaFountain
c. Development of Apartment Building, 1384 Empire Blvd. - Valentine
d. Community Choice Aggregation - Penfield CCA Resident’s Committee - LaFountain

IX. Old Business - None

X. New Business - None

XI. Executive Session - Real Estate, Litigation and Human Resource Matters - The Board went into an Executive Session regarding a personnel matter.

XII. Next Meeting - May 22, 2019

XIII. Adjournment - Supervisor LaFountain adjourned the regular Work Session at 8:39 PM.

Lisa Grosser, RMC
Deputy Town Clerk