PENFIELD TOWN BOARD AGENDA
Wednesday, December 21, 2011, 7:30 PM
Supervisor R. Anthony LaFountain, presiding

I Call to Order - Pledge of Allegiance - Roll Call

II Public Hearing #1 - To Consider Establishment of Extension No. 53 to the Penfield Consolidated Sanitary Sewer District – Caroline Court Subdivision (1617 Creek Street)
Public Hearing #2 – To Consider Establishment of Sidewalk District No.15 – Caroline Court Subdivision (1617 Creek Street)

III Communications and Announcements

IV Public Participation

V Additions and Deletions to Agenda

VI Approval of Minutes –November 16, 2011

VII Petitions

VIII Resolutions by Function

Law and Finance

# 11T-272 Authorization for Supervisor to sign Contract with Business Automation Services, Inc. for the Purchase of an On-Line Dog Renewal License System
# 11T-273 Authorization to Maintain Properties and Assess the Charges to the 2013 Property Tax Bills
# 11T-274 Authorization for Supervisor to Sign Contract with Training Consultant
# 11T-275 Authorization for Supervisor to Sign Contract with Sun Life Insurance
# 11T-276 Authorization for New York State Disability Insurance Group Plan Renewal
# 11T-277 Authorization for Workers Compensation Coverage 2012

#11T-278 Granting an Amendment to the Zoning Ordinance and Map to Allow a Rezoning of 4.05+/- acres from R-1-20 to Business Non-Retail within Routes 250/441 (TF) Overlay District at 2092, 2096, 2100, 2104, 2108, 2112, 2116, 2120 and 2124 Penfield Road

#11T-279 Granting an Amendment to the Zoning Ordinance and Map to Allow a Rezoning of 6.86+/- acres from R-1-15 to Business Non-Retail within the Routes 250/441 Overlay District at 2200, 2300, 2316, 2324, 2330 and 2332 Fairport Nine Mile Point Road

#11T-280 RCC Penfield LLC Tax Certiorari Settlement
Public Works
#11T-281 Authorization to Sign a Beaver Trapping Agreement
#11T-282 Authorization to Extend 2012 Amendatory Agreement – All Seasons County/Town Work Agreement
#11T-283 Awarding a Contract for the Construction of Sanitary Sewers along Collingsworth Drive (Ext. 52 to the Consolidated Sanitary Sewer District)
#11T-284 Awarding a Contract for the Replacement of the Extension 19 Pump Station Forcemain
#11T-285 Making a Determination of Non-significance and Adopting a Negative Declaration for the Silverwoods Subdivision Pond Maintenance & Improvements
#11T-286 Authorization for Construction of Silverwoods Subdivision Pond Maintenance and Water Quality Improvement Project

Public Safety - None

Community Services
#11T-287 Advertising for Bids for Printing Program Brochures
#11T-288 Authorization for Supervisor to Sign Recreation Contracts

IX Old Business

X New Business

XI Public Participation

XII Adjournment
The Regular meeting of the Penfield Town Board was held on Wednesday, December 21, 2011 at 7:30 PM at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York.

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

Also Present:  Amy Steklof  Town Clerk
               Richard Horwitz  Town Attorney
               Jim Costello  Director of Developmental Services
               Mark DiFrancesco  Superintendent of Sewers

Supervisor LaFontain called the meeting to order – The Pledge of Allegiance was led by Penfield High School Girls Volleyball Team.

A Proclamation was presented by the Town Board to Jeanne D. Gray for her involvement and outstanding work with the Penfield Symphony Orchestra. Ms. Gray thanked the Town Board for the recognition.

The Town Board recognized the success of the Penfield High School Girl’s Volleyball Team for being the first Penfield Girls team ever to win a State Championship. The Town Board presented each player with a Certificate of Recognition.

Public Hearing #1 - To Consider Establishment of Extension No. 53 to the Penfield Consolidated Sanitary Sewer District - Caroline Court Subdivision (1617 Creek Street)

The Town Clerk read the title of the Notice of Public Hearing, said Notice was published in the Penfield Post on December 8, 2011 and was posted on the Town Bulletin Board and Website.

Superintendent of Sewers, Mark DiFrancesco gave an overview of the proposed Sewer Project.

Henry Schnepf, 480 Wilbur Tract Road, stated his concern with the potential water runoff from the proposed subdivision onto his and his neighbor’s property. Mr. Schnepf asked what the Town’s liability and his liability would be if his property would become flooded?

Supervisor LaFontain stated that this Hearing is only for the approval of the sewer project, but asked Mr. DiFrancesco to update Mr. Schnepf on where the process is now in terms of the Subdivision approval.

Mr. DiFrancesco explained that the Town Engineer is working closely with the developer to control the runoff. Mr. DiFrancesco suggested that Mr. Schnepf discuss his concerns with the Town Engineer.

Mark Taltyler, 1639 Creek Street questioned why in the original plan the discharge of water was to the North, but now is to the South towards his property?

Mr. Taltyler stated he has had conversations with the Town’s Engineering and Planning Department staff, but is wondering whether the details of the project have been finalized?

Mr. DiFrancesco stated that the details have been finalized and that the reason it did not go along the original alignment is that there is an existing RG&E easement there, and the Town felt it would be easier to obtain a different route.

Mr. Taltyler asked whether there will be an upgrade to the existing pump station?
Public Hearing #1 - Continued

Mr. DiFrancesco stated that it does not need an upgrade.

Mr. Tytler asked if the Planning Board took into consideration potential future development in the area including his property?

Mr. DiFrancesco stated that there is additional unused capacity that would accommodate future development.

Mr. DiFrancesco suggested that Mr. Tytler meet with him to go over the details.

Hearing closed.

Public Hearing #2 - To Consider Establishment of Sidewalk District No. 15 - Caroline Court Subdivision (1617 Creek Street)

The Town Clerk read the title of the Notice of Public Hearing, said Notice was published in the Penfield Post on December 8, 2011 and was posted on the Town Bulletin Board and Website.

Mark DiFrancesco stated that the developer petitioned the Town Board to establish a Sidewalk District with the purpose of supporting, maintaining and the eventual replacement of the sidewalks within the subdivision. The cost of the installation of the sidewalks will be paid for by the developer and the future maintenance costs will be paid for by the individual homeowners within the District.

Public Participation

Mark Tytler, 1639 Creek Street stated he was under the impression that this development would not have sidewalks and inquired where they would be located?

Mr. DiFrancesco stated that there are sidewalks called for within the development but that he is unsure whether the sidewalks are located on both sides of the street or only one (1) side.

Supervisor LaFountain stated that he believes the sidewalks are only on one (1) side of the street.

Mr. DiFrancesco stated that Mr. Tytler can follow up with him later.

Mr. Tytler asked if it is true that a developer can buy out of the Sidewalk Policy?

Supervisor LaFountain said that it is reviewed on a case by case basis.

Mr. Tytler asked whether every subdivision has a district?

Jim Costello, Director of Developmental Services stated that when developments come into existence and are required to have sidewalks, it becomes an Intensified Sidewalk District that the benefactors of the sidewalk have to pay for.

Mr. Costello also stated that most of the subdivisions in East Penfield do not require sidewalks, therefore the money is put into the General Sidewalk fund to use for the installation of sidewalks that benefit the entire Town.

Hearing closed.

Communications and Announcements

1. The Town and County tax bills will be mailed on December 30, 2011 and collection will begin on that day. Payments can also be dropped off in the locked drop box located on the East side of the Town Hall.
2. Holiday safety tips can be found on the Town Website at www.penfield.org under “Quick Links.”

3. Councilman Quinn went over Christmas tree safety.

4. Winter Safety/Parking Rules are in effect until April 1, 2012. There is no parking on any streets from 2:00 AM to 7:00 AM.

5. The Red Cross will hold a Blood Drive on Friday, December 23, 2011 from 9:00 AM to 2:00 PM at the Penfield Community Center, 1985 Baird Road. Call the Red Cross at 1-800-RED-CROSS to schedule an appointment.

6. Town offices will be closed on Friday, December 23 and Monday, December 26, 2011 for the Christmas Holiday. The Town Offices will also be closed on Monday, January 2, 2012 in observance of the New Year holiday. The Penfield Library will also be closed on Saturday, December 24 and Monday, December 26, 2011.

7. Please bring donations of canned fruits to the Penfield Ecumenical Food Shelf at the Penfield Baptist Church, 1862 Penfield Road or call 234-0799. Donations are also being collected at the Penfield Town Hall, Monday through Friday from 9:00 AM to 5:00 PM.

8. Residents wanting to serve on 2012 Boards and Committees should send their resumes to the Town Clerk.

9. The Winter/Spring Recreation Programs brochure can be found online at www.penfield.org. Registration will begin January 3, 2012 for residents.

10. Christmas tree recycling will begin December 26, 2011 at the Penfield Highway Department, 1607 Jackson Road.

11. Councilwoman Kohl’s next Community Chat will be held on Saturday, January 7, 2012 from 9:00 AM to 10:30 AM at Tim Horton’s, 1786 Empire Boulevard.

Public Participation

Tom Cleary, 1252 Jackson Road spoke again on his concerns with drainage at the Cranberry Cove pond. He stated that he was promised a copy of the Department of Conservation documentation that would explain why the concrete gutter was removed from the pond. Mr. Cleary also stated that he was told by Supervisor LaFountain that he could not locate the document. Mr. Cleary asked how could he obtain the document from the DEC?

 Supervisor LaFountain stated that Mr. Cleary could reach out to the Department of Conservation.

Mr. Cleary stated that he has already contacted the DEC and that he was told they do not have that documentation.

Mr. Cleary also stated he received a record drawing from the Town a year and a half ago that included a concrete gutter and a note saying to clean the ditch to State Road, but now he has received a record drawing that does not include the gutter, nor the note. Mr. Cleary stated he then contacted Costich Engineering, the firm that made the drawing, to ask about it, but they said it would be a conflict of interest to talk to him about it. Mr. Cleary also asked how it changes Crosstown’s obligation for Incentive Zoning requirements in the Cranberry Cove Subdivision such as mitigating drainage concerns with the approved
(Public Participation - Continued)

drawings that he perceives to be illegally altered. He also stated that he is wondering how this sets a precedent for future Incentive Zoning projects.

Additions and Deletions to Agenda - None

Approval of Minutes

Councilwoman Kohl moved to approve the Minutes of November 16, 2011, Councilman Moore seconded and all voted “Aye.”

Petitions - None

Resolutions by Function

Law and Finance

#11T-272 Authorization for Supervisor to sign Contract with Business Automation Services, Inc. for the Purchase of an On-Line Dog Renewal License System by Moore

WHEREAS, the Town Clerk has always provided an efficient customer-driven Clerk’s Office, and

WHEREAS, the Town Clerk has made Customer Service a priority, and

WHEREAS, the Town Clerk would like to provide the residents of Penfield the option of renewing their dog licenses via the Internet

NOW, THEREFORE, BE IT RESOLVED, that the Town Board Authorize the Supervisor to sign a contract with BAS to purchase an On-line Dog Renewal License System, and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the total cost for the system is $1,020, with an annual software hosting and maintenance fee of $850 equaling a total 1st year investment of $1,870 in 2012.

Moved: Moore
Seconded: Kohl

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

Adopted

#11T-273 Authorization to Maintain Properties and Assess the Charges to the 2013 Property Tax Bills by Moore

WHEREAS, on October 2, 1996, the Town Board of the Town of Penfield adopted Article IV-4-28 of the Penfield Zoning Ordinance entitled “Property Maintenance”; and

WHEREAS, the purpose of Article IV-4-28 of the Penfield Zoning Ordinance is to prevent the gradual encroachment of blight, deterioration, unsightliness and property devaluation and to assure that all premises within the Town of Penfield are maintained in a manner that will assure the health, safety and welfare of the general public; and

WHEREAS, the property owners of 23 Alden Glen Drive, SBL #094.02-1-43.122 and 1173 Hatch Road, SBL #094.01-1-10 have failed to maintain the lawn and exterior areas at the subject properties which continues to be a concern for the health, safety and welfare of the surrounding neighbors; and

WHEREAS, the Town staff has continually requested the property owners to maintain at these locations with no result:
NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Penfield hereby authorizes the Building and Zoning Administrator to have the properties appropriately maintained; and

BE IT FURTHER RESOLVED, that the Town Board further authorizes that the cost of said maintenance and any necessary subsequent maintenance during the 2011 and 2012 seasons also be charged to the 2013 property tax bill for the subject properties.

Moved: Moore
Seconded: Quinn

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

Adopted

#11T-274  Authorization for Supervisor to Sign Contract with Training Consultant by Moore

WHEREAS, the Town of Penfield desires to secure the professional services of a Consultant to provide Employee Assistance Programs to Employees;

NOW, BE IT RESOLVED that the Director of Personnel is hereby authorized to sign a contract with EAP Of Rochester, 333 Metro Park, Rochester, NY, to conduct employee assistance programs as scheduled and/or needed for a period of January 1, 2012 to December 31, 2014. A copy of the Agreement is on file in the Personnel Department.

Moved: Moore
Seconded: Metzler

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

Adopted

#11T-275  Authorization for Supervisor to Sign Contract with Sun Life Insurance by Moore

WHEREAS, the Town of Penfield desires to secure Life and Optional Life Insurance coverage for Employees;

NOW, BE IT RESOLVED, that the Supervisor is hereby authorized to sign a contract with Sun Life Insurance, 500 Linden Oaks, Rochester, NY for Life Insurance and Optional Life Insurance coverage for Town Employees. Term of agreement is from February 1, 2012 to January 31, 2014. A copy of the agreement is on file in the Personnel Office.

Moved: Moore
Seconded: Kohl

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

Adopted

#11T-276  Authorization for New York State Disability Insurance Group Plan Renewal by Moore

WHEREAS, the Town Board requested that the New York State Disability Insurance renewal proposals be obtained so that selection could be made for January 1, 2012 to December 31, 2012; and
WHEREAS, the insurance renewal quote from Zurich Insurance Company met all the specifications for the Town of Penfield’s New York State Disability Insurance needs for the 2012; and

BE IT RESOLVED THAT the Town Supervisor is hereby authorized to sign an agreement with Zurich Insurance Company, 58 So. Service Road, Melville, NY for New York State Disability Insurance effective January 1, 2012 and ending December 31, 2012.

Moved: Moore
Seconded: Quinn
Vote: Kohl Aye LaFountain Aye Metzler Aye Moore Aye Quinn Aye
Adopted

#11T-277 Authorization for Workers Compensation Coverage 2012 by Moore

WHEREAS, the Town Board requested that insurance proposals be obtained so that selection could be made for January 1, 2012 to December 31, 2012 insurance year, and

WHEREAS, the Municipal Insurance Consulting Services Inc., acting as consultant to the Town has evaluated the four (4) proposals for our workers compensation insurance coverage’s for the 2012 insurance year on our Workers Compensation Insurance, and

WHEREAS there were three (3) proposals from three (3) vendors, Public Employees Risk Management Association, the New York State Municipal Workers’ Compensation Alliance, and the State Insurance Fund Safety Group, that provides a specific not to exceed and all inclusive quotes, and

WHEREAS there was one (1) proposal that only estimated it quotes and the premium was subjective and based on the amount that the Municipality projected to pay “up front.” The program is designed to have Members “even up” at the end of their policy period based on incurred losses, NYS Assessment Charges, and Plan Administrative Fees. Upon a detailed analysis it was determined that the final cost of this quote exceeds the lowest quote.

NOW, BE IT RESOLVED that the insurance quote of $211,488 from the Public Employer Risk Management Association, Inc. is approved as they met all the specifications for the Town of Penfield’s workers compensation needs for the 2012 insurance year.

Moved: Moore
Seconded: Metzler
Vote: Kohl Aye LaFountain Aye Metzler Aye Moore Aye Quinn Aye
Adopted

#11T-278 Granting an Amendment to the Zoning Ordinance and Map to Allow a Rezoning of 4.05+/- acres from R-1-20 to Business Non-Retail within Routes 250/441 (TF) Overlay District at 2092, 2096, 2100, 2104, 2108, 2112, 2116, 2120 and 2124 Penfield Road by Moore

WHEREAS, pursuant to Article XIV-14-1 of the Penfield Zoning Ordinance, a Petition has been received by the Penfield Town Board pursuant to Article XIV-14-3 of the Code to amend the Zoning Ordinance and Map to rezone 4.05 acres from R-1-20 to Business Non-Retail (BN-R) at the above referenced addresses, situated in the Town of Penfield, New York; and
WHEREAS, a Public Hearing was held pursuant to Article XIV-14-1 of the Penfield Zoning Ordinance and §265 of the New York State Town Law on September 14, 2011, at the Penfield Town Hall, at 7:30 PM, 3100 Atlantic Avenue, in the Town of Penfield, New York, where the facts in the case for the requested rezoning were presented and where citizen input was received and thereafter the Public Hearing was closed and decision was reserved; and

WHEREAS, the Town Board, acting as lead agency pursuant to the requirements of the State Environmental Quality Review Act (SEQRA) has classified this proposal as an Unlisted Action. The Board has determined that the rezoning of the subject 4.05 acres will not have a significant effect on the environment based on the following findings:

1. Article III-3-65 of the Penfield Zoning Ordinance defines the purpose of the Business Non-Retail (BN-R) zoning district as providing “suitable areas for non-retail, service oriented uses that are easily accessible to the neighborhoods which they serve. Such districts are also intended, where possible, to act as a compatible transition area between residential, commercial and industrial areas because of the generally low volume of traffic associated with such uses, their hours of operation and noise characteristics, which make them compatible as transition uses.”

2. The proposed rezoning is consistent with the recommendations of the 2010 Comprehensive Plan which was adopted on February 2, 2011.

3. The 2010 Comprehensive Plan underwent a generic environmental review including Draft and Final Generic Environmental Impact Statements and the Board made subsequent findings related to the Plan and finds this action within the thresholds established in the Final Generic Environmental Impact Statement and corresponding Findings Statement.

4. The Town Board requested that the Town Engineer prepare conceptual layouts for the conversion of the subject properties. The intent was to identify and address potential issues relating to building size and layout, access management strategies, shared parking opportunities, green space requirements and buffering from adjacent residential properties, including but not limited to fencing, berms, preservation of natural buffers and other landscaping. The Board has determined that the properties are best served by an access drive to provide access to and from the properties via Harris Whalen Park Road. Access shall be at a location that allows the greatest separation from Penfield Road and maximizes sight distance. The Town Board acknowledges that the best location will require a waiver from the buffer requirements. A final determination for the location of the access road will be made by the Planning Board, Town Engineer and Project Review Committee prior to allowing the first property conversion from residential to a non-retail business to occur. The Board will require each applicant requesting conversion or redevelopment of the property to install its portion of the proposed access road in the appropriate location prior to occupancy of any such property. All applicants shall comply with any/all requirements of the New York State Department of Transportation and Town Engineer relating to minimizing curbcuts onto Penfield Road (NYS Route 441) as a condition of site plan approval and/or a Change of Use or Conditional Use Permit. Temporary access to Penfield Road may be required. All such improvements shall be required to be completed prior to occupancy of the site. Any and all access points onto Penfield Road from the access road to Harris Whalen Park Road shall be equally split between the adjacent properties unless said road is located on one property. The intent is not to necessarily disadvantage the last property owner to convert to Business Non-Retail (BN-R) and have to burden the owner with the full loss of the use of the property.
5. The final layouts for the subject properties will be determined through a site plan review process with the Penfield Planning Board and/or Change of Use process with the Zoning Board of Appeals. Any future application process will be conducted in compliance with the adopted rules, regulations and guidelines. These include, but are not limited to the Town of Penfield 2010 Comprehensive Plan, the Penfield Zoning Ordinance, the Land Use Access Management Plan (LUAMP), the Design and Construction Specifications and the Penfield Planning Board Design Guidelines.

6. The Board’s intent is to allow flexibility in the layout for each site, identifying issues common to each property that will be encountered by future boards and Authorized Officials having jurisdiction when reviewing and approving use conversions or redevelopment of those properties. The conversion and/or redevelopment of properties which are adjacent to neighboring parcels located in the Land Use Access Management Plan shall be consistent with the specifications of LUAMP, particularly those specifications, identified on page 32 of LUAMP pertaining to curbside location and spacing. The issues pertaining to access management, shared parking, building design, buffer compliance from adjacent residential and school properties and the minimization of curbsides along Penfield Road shall be addressed when and where appropriate. To that end, the Board will require authorized officials and boards to require the following components to be incorporated into the conversion or redevelopment plans as conditions of approval to mitigate potential adverse impacts to the area:

a. The Penfield Zoning Ordinance requires a fifty (50) foot buffer area between residential zoning districts and Business Non-Retail (BN-R) development. The subject properties were approved as single family residential lots with average lot widths of 100 feet and depths of 200 feet. The Town Board recognizes the limitations of the lot sizes pertaining to redevelopment. The Board also recognizes the need for an internal access road to provide a safe means of alternate access to the site. The sites cannot feasibly comply with the fifty (50) foot buffer requirement with the potential construction of the access road and possibly shared parking; therefore, the fifty (50) foot buffer requirement is waived subject to the condition that at the time of conversion or redevelopment, the applicant provides a landscaping plan to adequately buffer the site from an adjacent property. In addition, the applicant will be required to install a six (6) foot high fence of type and design to be determined at the time of the first conversion of property(ies) by the board having jurisdiction after consultation with the Penfield Central School District along the rear property line to screen Harris Hill School from the proposed use or uses. Said fence shall be consistent in material and design with the other properties that have been converted or redeveloped so that there will be continuity along the length of the Harris Hill School property. In addition, the front setback for the existing and any proposed additions or redevelopment of the sites shall be permitted to maintain a fifty (50) foot front building setback. The side and rear building setbacks shall comply with the requirements of the Business Non-Retail (BN-R) zoning district within the 250/441 (TP) Overlay District.

b. All applicants will be responsible for the construction of their portion of an access road or shared access on their properties at the time the site is granted approval for conversion or redevelopment. The access road shall be constructed to the specifications of a private drive as defined in the Town’s Design and Construction Specifications. The applicant shall be required to execute a reciprocal access and shared parking easement, in the Town’s format, to all those property owners who may benefit from the use said shared access and parking facilities. Furthermore, in cases where the New York State
Department of Transportation grants a “temporary access” onto Penfield Road in anticipation of construction of a future permanent curbcut, the owner shall provide the Town of Penfield with a Declaration of Covenants, in the Town’s format, ensuring that the owner will make all necessary improvements to comply with the NYS DOT and Town requirements for modification, relocation or elimination of curbcuts. The Declaration of Covenants shall be executed prior to the site plan being signed by the Planning Department authorized official.

c. The Planning Board shall take into consideration design features that complement the area during the site plan review process of the proposed conversion or redevelopment of the subject properties. The goal of this requirement is to ensure that redevelopment of these sites have less of a general business look to them and more of a residential look as they relate to the residential areas situated in close proximity to them. Said designs shall be reviewed by the Town’s Architectural Consultant.

d. The sites, in addition to being rezoned to Business Non-Retail (BN-R), are now also required to comply with the requirements of the Routes 250/441 (TF) Overlay District, with the exception of the buffer requirements as they have been waived with the action of rezoning. All other aspects of the TF Overlay district are in effect.

e. The Board realizes that all properties along a New York State road that have been granted a curbcut permit have the continued right of access to the right-of-way. The Board also realizes that the subject properties will not develop in a sequence that will allow for the elimination or relocation of curbcuts at any given time. Penfield Road is a major arterial with a high volume of traffic. Therefore, the board having jurisdiction, when considering the redevelopment of any parcels hereby rezoned can consider the elimination or relocation of any existing curbcut in furtherance of the principles of LUAMP at anytime prior to the redevelopment of all parcels subject to this rezoning provided reasonable access to and from Penfield Road is provided each parcel. The Board supports access management principles in this location by limiting the full development of the properties to a single access onto Penfield Road. The final determination of this access point shall be conditioned with NYS DOT to allow sufficient clearance to Willow Pond Way and the existing signalized access to Wegmans Plaza consistent with the specifications of on page 35 pertaining to corner clearances. Once the property(ies) is/are accessible to Harris Whalen Park Road via the access road and a permanent roadway access from Penfield Road to the access road has been constructed for the shared benefit of the applicant’s property(ies), the Penfield Road curbcuts on the property(ies) shall be relocated or eliminated unless they are consistent with the specifications of LUAMP, particularly those specifications identified on page 32 of the Land Use Access Management Plan (LUAMP) pertaining to curbcut location and spacing and subject to the provisions of paragraph 6 (b) above. The Board will require all applicants seeking conversion or redevelopment of a site to meet with the New York State Department of Transportation, the Town Engineer and the Planning Board to determine if the curbcut should be eliminated, relocated or shared with other property owners, once the common drive to Penfield Road is accessible to the subject site. The applicant will comply with the recommendations and requirements of the NYS DOT, all applicable town boards and the Town Engineer prior to occupancy of the site.
f. The Board does not place a size restriction on additions to existing buildings or redevelopment involving new construction. Building size shall be determined based on the required setbacks, green space/landscaping, parking, access road location and design requirements set forth in the Penfield Zoning Ordinance and the Planning Board’s Design Guidelines.

7. The properties are located on the north side of Penfield Road immediately opposite the Wegmans Plaza on the south side of Penfield Road which is zoned General Business and are bounded to the west by a group home owned and operated by the New York State Dormitory Authority zoned R-1-20; to the north by Harris Hill School, to the east by Harris Whalen Park Road and Harris Whalen Park and an existing Business Non-Retail (BN-R) zoning district to the east of Harris Whalen Park Road.

8. The properties are serviced by public sewers and water and private utilities.

9. The Town Board received no written opposition received into the official record, but area residents did offer suggestions with respect to the proposed zoning, including but not limited to, type of business, traffic issues, and neighborhood characteristics.

NOW THEREFORE, BE IT RESOLVED, that the request for rezoning of the 4.05 acres from R-1-20 to Business Non-Retail (BN-R) as more particularly described in Schedule “A” attached hereto, is hereby GRANTED subject to the following conditions:

1. Any future change in use from residential to non-residential shall secure site plan approval from the Planning Board and/or Change of Use or Conditional Use Permit from the Zoning Board of Appeals, prior to the conversion of use and/or construction activity for non-residential use. Any proposed application to any board shall conform to all applicable requirements of the Business Non-Retail (BN-R) zoning district as defined in the 250/441 (TF) Overlay District and shall be consistent with the specifications of Land Use Access Management Plan (LUAMP).

2. All such applicants seeking conversion shall comply with the requirements of all Federal, State, County and local boards, agencies and authorized officials pertaining to all future development of these properties.

3. At the time of conversion and/or redevelopment of the properties which are the subject of this rezoning, such properties shall be burdened with the requirement of constructing a portion of an internal access road to improve public safety. All applicants will be responsible for the construction of their portion of an access road or shared access on their property(ies) at the time the property(ies) is/are granted approval for conversion or redevelopment. The access road to Harris Whalen Park Road shall be constructed to the specifications of a private drive as defined in the Town’s Design and Construction Specifications. The Planning Board and Town Engineer, with input from the Project Review Committee shall determine the most appropriate location for the internal access road and/or shared parking requirements prior to the approval of any application for conversion and/or redevelopment of any of the parcels which are the subject of this rezoning. The applicants’ portion of said road and or shared parking facilities shall be in place prior to the applicant requesting a Certificate of Occupancy for the site.

4. The applicant shall be required to execute a reciprocal access and shared parking easement, in the Town’s format, to all those property owners who may benefit from the use said shared access and parking facilities. Once the internal access road is accessible to Harris
(Resolution #11T-278 - Continued)

Whalen Park Road and a permanent roadway access from Penfield Road to the access road has been constructed for the shared benefit of an applicant’s property(ies), the Penfield Road curbcuts on the property(ies) shall be relocated or eliminated unless they are consistent with the specifications of LUAMP for the subject properties hereby rezoned, particularly those specifications identified on page 32 of the Land Use and Access Management Plan (LUAMP) pertaining to curbcut location and spacing on page 35 of LUAMP pertaining to corner clearances. In cases where the New York State Department of Transportation permits “temporary access” onto Penfield Road, the owner shall provide the Town of Penfield with a Declaration of Covenants, in the Town’s format, ensuring that the owner, as property(ies) to the west and/or east are granted approval for conversion and/or redevelopment, will make all necessary modifications when asked by the Town of Penfield to relocate or eliminate the “temporary access” curbcut(s) to comply with New York State Department of Transportation and Town requirements, consistent with the specifications of LUAMP identified in this section. The Declaration of Covenants shall be executed prior to the site plan being signed by the Planning Department authorized official.

5. Any building to be modified or constructed for an alternative use shall be architecturally designed and constructed in such a manner that is compatible and transitional in size, scale and design with the remaining structures that continue to be used as single family residences, as well as the residences in close proximity to these sites.

6. The sites, in addition to being rezoned to Business Non-Retail (BN-R), although not included in the Routes 250/441 (TF) Overlay District and shall be required to comply with the requirements of the Routes 250/441 (TF) Overlay District, and shall be consistent with the specifications of LUAMP upon their conversion and/or redevelopment; and

BE IT FURTHER RESOLVED, that the Official Zoning Map and the Zoning Ordinance of the Town of Penfield be and the same are hereby amended to reflect the zoning changes approved herein for the property described in Schedule "A"; and

BE IT FURTHER RESOLVED, that the Town Clerk be, and she hereby is authorized and directed to give the necessary notice of such change in the zoning to the departments, agencies and offices having jurisdiction in this matter and to publish the same as prescribed by law and cause the zoning amendment to be entered into the Minutes of these proceedings.

Moved: Moore
Seconded: Kohl

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

Adopted

See “Schedule A” at end of Minutes
WHEREAS, pursuant to Article XIV-14-1 of the Penfield Zoning Ordinance, a Petition has been received by the Penfield Town Board pursuant to Article XIV-14-3 of the Code to amend the Zoning Ordinance and Map to rezone 6.86 acres from R-1-15 to Business Non-Retail (BN-R) at the above referenced addresses, situated in the Town of Penfield, New York; and

WHEREAS, a Public Hearing was held pursuant to article XIV-14-1 of the Penfield Zoning Ordinance and §265 of the New York State Town Law on September 14, 2011, at the Penfield Town Hall, at 7:30 PM, 3100 Atlantic Avenue, in the Town of Penfield, New York, where the facts in the case for the requested rezoning were presented and where citizen input was received and thereafter the Public Hearing was closed and decision was reserved; and

WHEREAS, the Town Board, acting as lead agency pursuant to the requirements of the State Environmental Quality Review Act (SEQRA) has classified this proposal as an Unlisted Action. The Board has determined that the rezoning of the subject 6.86 acres will not have a significant effect on the environment based on the following findings:

1. Article III-3-65 of the Penfield Zoning Ordinance defines the purpose of the Business Non-Retail zoning district as providing “suitable areas for non-retail, service oriented uses that are easily accessible to the neighborhoods which they serve. Such districts are also intended, where possible, to act as a compatible transition area between residential, commercial and industrial areas because of the generally low volume of traffic associated with such uses, their hours of operation and noise characteristics, which make them compatible as transition uses.”

2. The proposed rezoning is consistent with the recommendations of the 2010 Comprehensive Plan which was adopted on February 2, 2011.

3. The 2010 Comprehensive Plan underwent a generic environmental review including Draft and Final Generic Environmental Impact Statements and the Board made subsequent findings related to the Plan and finds this action within the thresholds established in the Final Generic Environmental Impact Statement and corresponding Findings Statement.

4. The Town Board requested that the Town Engineer prepare a conceptual layout showing conversion of the subject properties. The intent was to identify and address issues relating to potential building size layout, access management, shared parking, green space and buffering from adjacent residential properties. The Board has determined that the properties, when converted from residential to Business non-retail, are best served by a common access drive with shared access to provide the safest means of ingress and egress to and from Fairport Nine Mile Point Road. The Board has determined the most appropriate location for the proposed access road to Fairport Nine Mile Point Road is opposite New Wickham Drive. The location of the internal access road will require recommendations from the Project Review Committee prior to allowing the first property conversion from residential to a non-retail business to occur. The Board will require each applicant requesting conversion or redevelopment of the property to install its portion of the proposed access road in the appropriate location as determined by the Board having jurisdiction, after consultation with the New York State Department of Transportation, and the Town Engineer prior to occupancy of any such property. The board having jurisdiction will also require applicants to comply with any/all requirements of the New York State Department...
of Transportation and the Town Engineer relating to minimizing curbcuts onto Fairport Nine Mile Point Road (NYS Route 250) as a condition of site plan approval and/or a Change of Use or Conditional Use Permit. All such improvements shall be required to be completed prior to occupancy of the site.

5. The final layouts for the subject properties will be determined through a site plan review process with the Penfield Planning Board and/or a Change of Use process with the Zoning Board of Appeals. Any future application process will be conducted in compliance with the adopted rules, regulations and guidelines. These include, but are not limited to the Town of Penfield 2010 Comprehensive Plan, the Penfield Zoning Ordinance, the Design and Construction Specifications and the Penfield Planning Board Design Guidelines.

6. The Board’s intent is not to design the layout for each site, but rather to identify and address issues common to each property that will be encountered by future boards and authorized officials having jurisdiction when reviewing and approving use conversions or redevelopment of those properties. The properties, although not located in the Land Use and Access Management Plan (LUAMP) area, shall be subject to the principles of the LUAMP particularly those identified and noted on page 32 of the Land Use and Access Management Plan (LUAMP). The Town Board supports access management, shared parking, building design, buffer compliance from adjacent residential properties and the minimization of curbcuts along Fairport Nine Mile Point Road for this area. To that end, the Board will require authorized officials and boards to require the following to be incorporated into the conversion or redevelopment plans as conditions of approval to mitigate potential adverse impacts to the area:

a. The Penfield Zoning Ordinance requires a fifty (50) foot buffer area between residential zoning districts and Business Non-Retail (BN-R) development. The Board encourages the Planning Board and Zoning Board of Appeals to ensure that vegetation within the fifty (50) foot buffer area is maintained and embellished where necessary as a condition of conversion and/or redevelopment for the purpose of effectively buffering the residents of Cherrymede Crescent from the subject properties. In addition, to provide for an effective buffer from the Cherrymede Crescent residential properties, the Town Board will be modifying the eighty (80) foot front setback requirement so that the existing and any proposed additions or redevelopment of the sites shall be permitted to maintain a fifty (50) foot front building setback. The side and rear building setbacks shall comply with the requirements of the Business Non-Retail Zoning District within the 250/441 (TF) Overlay District.

b. The Board realizes that all properties along a New York State road that have been granted a curbcut permit have the continued right of access to the right-of-way. The Board also realizes that the subject properties will not develop in a sequence that will allow for the elimination or relocation of curbcuts at any given time. Fairport Nine Mile Point Road is a major arterial with a high volume of traffic. Therefore, the board having jurisdiction, when considering the redevelopment of any parcels hereby rezoned can consider the elimination or relocation of any existing curbcut in furtherance of the principles of LUAMP at anytime prior to the redevelopment of all parcels subject to this rezoning provided reasonable access to and from Fairport Nine Mile Point Road is provided each parcel. The Board supports access management principles in this location by limiting the full development of the properties to a single access onto Fairport Nine Mile Point Road. The final location of this access point shall be determined by the board having jurisdiction and shall be conditioned to allow sufficient
clearance to New Wickham Drive. Once the internal access drive is accessible to Fairport Nine Mile Point Road, the currently existing curbcut on a parcel shall be removed unless it meets the specifications of LUAMP for the subject parcels as noted on page 32 of the Land Use and Access Management Plan (LUAMP). The Board will require all applicants seeking conversion or redevelopment of a site to consult with the New York State Department of Transportation, the Town Engineer and the board having jurisdiction to determine if a curbcut should be eliminated, relocated or shared with other property owners, once the common drive is accessible to the subject site. The applicant will comply with the recommendations and requirements of the NYSDOT, all applicable Town Boards and the Town Engineer prior to occupancy of the site. If possible, the access point onto Fairport Nine Mile Point Road opposite New Wickham Drive shall be placed on the property line if it is not placed fully on a parcel to be redeveloped so that one property owner does not bear the burden of losing the use of the property to accommodate all others who would benefit from the access road.

c. All applicants will be responsible for the construction of their portion of an access road or shared access on their properties at the time the site is granted approval for conversion or redevelopment. The access road shall be constructed to the specifications of a private drive as defined in the Town’s Design and Construction Specifications. An applicant shall be required to execute a reciprocal access and shared parking easement, in the Town’s format, to all those property owners who may benefit from the use said shared access and parking facilities. Furthermore, in cases where the New York State Department of Transportation grants a “temporary access” onto NYS Route 250 in anticipation of future relocation or elimination of a curbcut until such time as the site can be served by the access road, the owner shall provide the Town of Penfield with a Declaration of Covenants, in the Town’s format, ensuring that the owner will make all necessary improvements to comply with the NYSDOT and Town requirements for modification, relocation or elimination of curbcuts when requested by the Town of Penfield. The Declaration of Covenants shall be executed prior to the site plan being signed by the Planning Department authorized official.

d. Any proposed building for site redevelopment shall be architecturally designed and constructed in such a manner that is compatible and transitional in size, scale and design with the remaining structures that continue to be single family residences, as well as the residences on Cherrymede Crescent. The goal of this requirement is to ensure that redevelopment of these sites have less of a general business look to them and more of a residential look as they relate to the residential areas situated in close proximity to them. Said designs shall be reviewed by the Town’s Architectural Consultant.

e. The sites being rezoned to Business Non-Retail (BN-R), although not included in the Routes 250/441 (TF) Overlay District shall be required to comply with the requirements of the Routes 250/441 (TF) Overlay District, upon their conversion and/or redevelopment with the exception of the front setback requirements which the Town hereby modifies to fifty (50) feet.

7. The properties are located on the east side of Fairport Nine Mile Point Road immediately north of the corporate limits of the Town of Perinton; south of property which is zoned Business Non-Retail, to the east by the residents of Cherrymede Crescent and to the west by single family residences that have internal access through New Wickham Drive. These six (6) properties are the last
properties with frontage on Fairport Nine Mile Point Road that are currently zoned for single family residential use.

8. The properties are serviced by public sewers and water and private utilities.

9. The Town Board received no written opposition received into the official record, but area residents did offer suggestions with respect to the proposed zoning, including but not limited to type of business, traffic issues, and neighborhood characteristics.

NOW THEREFORE, BE IT RESOLVED, that the request for rezoning of the 6.86 acres from R-1-15 to Business Non-Retail (BN-R) as more particularly described in Schedule “A” attached hereto, is hereby GRANTED subject to the following conditions:

1. Any future change in use from residential to non-residential shall secure site plan approval from the Planning Board and/or Change of Use or Conditional Use Permit from the Zoning Board of Appeals, prior to the conversion of use and/or construction activity for non-residential use. Any proposed application to any board shall conform to all applicable requirements of the Business Non-Retail zoning district in the 250/441 Overlay District (TF) except the parcels hereby rezoned shall be permitted to maintain a fifty (50) foot front setback. Further, any redevelopment shall be consistent with the specifications of the Land Use Access Management Plan (LUAMP).

2. All applicants seeking conversion shall comply with the requirements of all Federal, State, County and local boards, agencies and authorized officials pertaining to all future development of these properties.

3. At the time of conversion and or redevelopment of the properties which are the subject of this rezoning such properties shall be burdened with the requirement of constructing a portion of an internal access roadway to improve public safety. All applicants will be responsible for the construction of their portion of an access road or shared access on their property(ies) at the time the property(ies) is/are granted approval for conversion or redevelopment. The internal access road and common drive access to Fairport Nine Mile Point Road opposite of New Wickham Drive shall be constructed to the specifications of a private drive as defined in the Town’s Design and Construction Specifications. The board having jurisdiction, after consultation with NYSDOT, Town Engineer and the Project Review Committee shall determine the most appropriate location for the internal access road and/or shared parking requirements prior to the approval of any application for conversion and/or redevelopment of any of the parcels which are the subject of this rezoning; the applicant’s portion of said road and or shared parking facilities shall be in place prior to the issuance of a Certificate of Occupancy for the site.

4. The applicant shall be required to execute a reciprocal access and shared parking easement, in the Town’s format, to all those property owners who may benefit from the use of said shared access and parking facilities. Once the property(ies) is/are accessible to Fairport Nine Mile Point Road via the access road or common drive opposite of New Wickham Drive, the Fairport Nine Mile Point Road curbcut(s) on the property(ies) shall be relocated or eliminated unless they are consistent with the specifications of LUAMP for the subject properties hereby rezoned, particularly those specifications identified on page 32 of LUAMP pertaining to curbcut location and spacing, and on page 35 of LUAMP pertaining to corner clearances. In cases where the New York State Department of Transportation permits “temporary access” onto Fairport Nine Mile Point Road, the owner shall provide the Town of Penfield with a Declaration of Covenants, in the Town’s format,
ensuring that the owner, as property(ies) to the north and/or south are granted approval for conversion or redevelopment, will make all necessary modifications when asked by the Town of Penfield to relocate or eliminate the “temporary access” curbcut(s) to comply with New York State Department of Transportation and Town requirements, consistent with the specifications of LUAMP identified in this section. The Declaration of Covenants shall be executed prior to the site plan being signed by the Planning Department authorized official.

5. Any proposed building for site redevelopment shall be architecturally designed and constructed in such a manner that is compatible and transitional in size, scale and design with the remaining structures that continue to be used as single family residences, as well as the residences on Cherrymede Crescent.

6. The parcels being rezoned to Business Non-Retail (BN-R), although not included in the Routes 250/441 (TF) Overlay District shall be required to comply with the requirements of the Routes 250/441 (TF) Overlay District, and shall be consistent with the specifications of LUAMP, upon their conversion and or redevelopment; and

BE IT FURTHER RESOLVED, that the Official Zoning Map and the Zoning Ordinance of the Town of Penfield be and the same are hereby amended to reflect the zoning changes approved herein for the property described in Schedule “A”; and

BE IT FURTHER RESOLVED, that the Town Clerk be, and she hereby is authorized and directed to give the necessary notice of such change in the zoning to the departments, agencies and offices having jurisdiction in this matter and to publish the same as prescribed by law and cause the zoning amendment to be entered into the Minutes of these proceedings.

Moved: Moore
Seconded: Quinn

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

Adopted

See “Schedule A” at end of Minutes

#11T-280  RCC Penfield LLC Tax Certiorari Settlement by Moore

WHEREAS, RCC PENFIELD LLC, heretofore commenced proceedings against the Assessor and the Board of Assessment Review and other respondents for a review of the Assessment for the years 2009, 2010 and 2011 for the premises located at 2160 Fairport Nine Point Road (Tax ID,140.01-2-70.13); located within the Town of Penfield, and

WHEREAS, after negotiations, a tentative agreement has been reached between all parties on the terms of a proposed settlement subject to the approval of the Town Board and to the approval of the Supreme Court of the State of New York, which terms of settlement are set forth in the stipulations on file in the Office of the Town Assessor, and

WHEREAS, upon due consideration of all facts and circumstances, the Town Board finds that the proposed compromise and settlement is fair and reasonable and should be approved.
(Resolution #11T-280 - Continued)

THEREFORE, BE IT RESOLVED, that the proposed settlement of the Tax Certiorari proceedings brought by RCC PENFIELD LLC. For the years 2009, 2010 and 2011 be and hereby are approved.

BE IT FURTHER RESOLVED, that the Attorney representing the Town be and hereby is directed to make application to the Supreme Court of the State of New York for approval of such settlement and that upon obtaining such approval, the Assessor of the Town of Penfield be and he hereby is directed to make the necessary adjustments in the Assessment Rolls for the Town of Penfield to reflect the terms of such settlement.

Moved: Moore
Seconded: Metzler

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

Adopted

Public Works

#11T-281 Authorization to Sign a 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 Rd. Rochester, NY 14612 is licensed by the NYS DEC to handle Wildlife Nuisances, and

NOW, THEREFORE, BE IT RESOLVED, that the Supervisor, be and hereby is authorized to execute a one (1) year agreement with Donald C. Newcomb to trap and remove Beavers as directed by the Town, and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that Donald 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 his NYS DEC license and a copy of any required permits to the Town of Penfield with an invoice for services rendered.

Moved: Metzler
Seconded: Moore

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

Adopted

#11T-282 Authorization to Extend 2012 Amendatory Agreement - All Seasons County/Town Work Agreement by Metzler

BE IT RESOLVED that the Supervisor, be and hereby is authorized to execute a one (1) year extension to the 2012 Amendatory Agreement - All Seasons County/Town Work Agreement.

Moved: Metzler
Seconded: Kohl
Penfield Town Board, December 21, 2011

(Resolution #11T-282 – Continued)

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

Adopted

#11T-283 Awarding a Contract for the Construction of Sanitary Sewers along Collingsworth Drive (Ext. 52 to the Consolidated Sanitary Sewer District) by Metzler

WHEREAS, pursuant to Town Law Article 12-A § 209-C, D & E the Town Board has Established Extension 52 to the Penfield Consolidated Sanitary Sewer District, for the purpose of providing sanitary sewers and appurtenances to 18 properties along Collingsworth Drive, within the Town of Penfield, and

WHEREAS, upon Establishment of said Sewer District Extension the Town Board did authorize the Town Clerk and Superintendent of Sewers to advertise for sealed proposals, in a manner prescribed by Law, in connection with said project; and that said sealed proposals were to be received no later than Friday, December 2, 2011 at 11:00 AM, prevailing time in the office of the Penfield Town Clerk, and

WHEREAS, in conformance with the above authorization eight (8) sealed proposals were received prior to 11:00 AM on December 2, 2011, opened and publically read by the Town Clerk, as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Base Bid</th>
<th>Contingency Bid Items</th>
<th>Total Bid Amount, (Base Bid plus Conditional Items)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Villager Construction, Inc.</td>
<td>$258,923.00</td>
<td>$12,690.00</td>
<td>$271,613.00</td>
</tr>
<tr>
<td>425 Old Macedon Center Road</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fairport, NY 14450</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fineline Pipeline, Inc.</td>
<td>$266,295.00</td>
<td>$5,500.00</td>
<td>$271,795.00</td>
</tr>
<tr>
<td>6271 Decker Road</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Livonia, NY 14487</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Randsco Pipeline, Inc.</td>
<td>$289,555.00</td>
<td>$4,600.00</td>
<td>$294,155.00</td>
</tr>
<tr>
<td>727 Rowley Road</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Victor, NY 14564</td>
<td></td>
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</tr>
<tr>
<td>Blue Heron Construction, Inc.</td>
<td>$308,785.00</td>
<td>$10,020.00</td>
<td>$318,805.00</td>
</tr>
<tr>
<td>9289 Bonta Bridge Road</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jordan, NY 13080</td>
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<tr>
<td>Cucchiara Construction, Inc.</td>
<td>$321,149.50</td>
<td>$5,840.00</td>
<td>$326,989.50</td>
</tr>
<tr>
<td>659 Ridge Road</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Webster, NY 14580</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>CCS Pipeline, Inc.</td>
<td>$329,939.50</td>
<td>$8,064.00</td>
<td>$338,003.50</td>
</tr>
<tr>
<td>37 Summit Street</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Leroy, NY 14482</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Highlander Construction, Inc.</td>
<td>$340,849.30</td>
<td>$9,200.00</td>
<td>$350,049.30</td>
</tr>
<tr>
<td>5774 Kester Road</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Memphis, NY 13112</td>
<td></td>
<td></td>
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<tr>
<td>F. Rizzo Construction, Inc.</td>
<td>$382,119.00</td>
<td>$14,860.00</td>
<td>$396,979.00</td>
</tr>
<tr>
<td>162 York Street</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Auburn, NY 13021</td>
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<td></td>
</tr>
</tbody>
</table>
WHEREAS, after reviewing all the bids it was determined that the bid received from Villager Construction, Inc. in the Total Bid Amount of $271,613.00, was the lowest Total Bid received and did meet the Town's bidding requirements for this project.

NOW, THEREFORE, BE IT RESOLVED that based on the evidence given, the recommendation of MRB Group and staff, the Town Board hereby awards this contract for construction of sanitary sewers and appurtenances within said Extension 52, along Collingsworth Drive in Penfield, in the Total Bid amount of $271,613.00 which is comprised of a Base Bid amount of $258,923.00 & Conditional Items of $12,690.00, and

BE IT FURTHER RESOLVED, that said award is predicated on said contractor obtaining and submitting for review and approval the appropriate Bonds, Insurance and Contractors’ Questionnaire, and subsequent execution of required Contract Documents; at which time the contractor shall have been deemed given Notice to Proceed with this contract.

Moved: Metzler
Seconded: Quinn

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

Adopted

WHEREAS, pursuant to Town Law Article 12 § 202-b the Town Board has determined that replacement of the last and final section of the Extension 19 Forcemain, Phase III is in the public interest, and

WHEREAS, upon said determination the Town Board did authorize the Town Clerk and Superintendent of Sewers to advertise, in a manner prescribed by Law, for sealed proposals in connection with said project; and that said sealed proposals were to be received no later than Wednesday, November 23, 2011 at 11:00 AM, prevailing time in the office of the Penfield Town Clerk, and

WHEREAS, in conformance with the above authorization four (4) sealed proposals were received prior to 11:00 AM on November 23, 2011, opened and publically read by the Town Clerk, as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Base Bid</th>
<th>Contingency Bid Items</th>
<th>Total Bid Amount, (Base Bid plus Conditional Items)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blue Heron Construction</td>
<td>$343,454.00</td>
<td>$4,840.00</td>
<td>$348,294.00</td>
</tr>
<tr>
<td>9289 Bonta Bridge Road</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jordan, NY 13080</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Villager Construction, Inc.</td>
<td>$470,726.00</td>
<td>$5,750.00</td>
<td>$476,476.00</td>
</tr>
<tr>
<td>425 Old Macedon Center Road</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fairport, NY 14450</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Highlander Construction, Inc.</td>
<td>$472,783.45</td>
<td>$4,000.00</td>
<td>$476,783.45</td>
</tr>
<tr>
<td>5774 Kester Road</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Memphis, NY 13112</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Randsco Pipeline, Inc.</td>
<td>$642,749.00</td>
<td>$4,000.00</td>
<td>$646,749.00</td>
</tr>
<tr>
<td>727 Rowley Road</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Victor, NY 14564</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
WHEREAS, after reviewing all the bids it was determined that the bid received from Blue Heron Construction in the Total Bid Amount of $348,294.00, was the lowest Total Bid received and did meet the Town's bidding requirements for this project, and

NOW, THEREFORE, BE IT RESOLVED that based on the evidence given, the recommendation of staff and MRB Group, the Town Board hereby awards this contract from replacement of that section of the Extension 19 Pump Station Forcemain known as Phase III, in the Total Bid amount of $348,294.00, which is comprised of a Base Bid amount of $343,454.00 & Conditional Items of $4,840.00, and

BE IT FURTHER RESOLVED, that said award is predicated on said contractor obtaining and submitting for review and approval the appropriate Bonds, Insurance and subsequent execution of required Contract Documents; at which time the contractor shall be deemed to have been given Notice to Proceed with this contract.

Moved: Metzler
Seconded: Moore

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

Adopted

#11T-285 Making a Determination of Non-significance and Adopting a Negative Declaration for the Silverwoods Subdivision Pond Maintenance & Improvements by Metzler

WHEREAS, the Town Board supports the on-going maintenance of storm water facilities; and

WHEREAS, the Engineering Department has recommended that the Silverwoods Subdivision pond be cleaned in 2011; and

WHEREAS, the project is to be funded from the existing Drainage Levy; and

WHEREAS, the Town Board, acting as lead agency pursuant to the State Environmental Quality Review Act has classified this proposal as an unlisted action.

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

Moved: Metzler
Seconded: Kohl

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

Adopted

#11T-286 Authorization for Construction of Silverwoods Subdivision Pond Maintenance and Water Quality Improvement Project by Metzler

WHEREAS, the Town Board is supportive of drainage maintenance projects to protect adjoining neighbors, improving water quality benefits to our receiving waterways, and maintain flood control features of Town owned stormwater control facilities, and
WHEREAS, the Engineering Department has recommended that the Silverwoods Subdivision Pond be cleaned and improved to comply with NYSDEC requirements, and

WHEREAS, the first phase of the project shall be completed by C.P. Ward, Inc. through their term contract with Monroe County for heavy equipment operation for a cost not to exceed $150,000, and

WHEREAS, the funding for the project are provided in the 2011 Drainage Levy.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Penfield hereby authorizes a contract with C.P. Ward Inc., 100 River Road, Scottsville, NY 14546, to assist the Town of Penfield in the Silverwoods Subdivision Pond Maintenance and Water Quality Improvement Project for a cost not to exceed $150,000.

Moved: Metzler
Seconded: Quinn

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

Adopted

Public Safety - None

Community Services

#11T-287 Advertising for Bids for Printing Program Brochures by Kohl

BE IT RESOLVED, that the Assistant Director of Recreation be, and hereby is, authorized to advertise in the manner prescribed by law for sealed proposals, to furnish the Town of Penfield the following:

Printing of the Recreation Department Seasonal Program Brochure

BE IT FURTHER RESOLVED, that the service is covered by such sealed proposals as in accordance with specifications prepared by the Assistant Director of Recreation. Sealed proposals are to be submitted to the office of the Town Clerk until 11:00 AM EST January 19, 2012 and then and there to be opened and read publicly.

Moved: Kohl
Seconded: Quinn

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

Adopted

#11T-288 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:

Jarmila Haseler, 4274 St. Paul Blvd., Rochester, NY 14617, Instructor for Growing Sprouts and Micro-Greens Indoors 1/17/12, Indoor Seeding: Preparing for Next Season’s Harvest 2/21/12, and Planning Beautiful and Productive Vegetable Gardens 4/17/12, for a fee of 70% of total revenue. Voucher to be submitted on 4/18/12.
Penfield Town Board, December 21, 2011

(Resolution #11T-288 – Continued)

Penfield Racquet Club, 667 Panorama Trail W, Rochester, NY 14625, Pre-Natal Aqua and Exercise, Water Yoga, Swim Lessons – 6 month – Age 3, Junior Racquetball, Noontime Workout, Personal Training Package, and Yoga Sculpt, 1/9/12 – 5/24/12, for a fee of 75% of the total program revenue. Vouchers to be submitted 1/18, 2/15, 4/4, 5/16/12.

Pisces School of Dive, Inc., 783 Fairport Road, East Rochester, NY 14445, Discover Scuba Diving, 5/12/12 for a fee of 75% of the total revenue less expenses. Voucher to be submitted 5/16/12.

Sea Dragons Swim Club, P.O. Box 112, Penfield, NY 14526, Competitive Swimming Intro, 4/17/12 – 5/10/12, for a fee of 75% of the total program revenue. Voucher to be submitted 5/2/12.

Dave Rogachefsky, 2199 East Main Street, Rochester, NY 14609, Friday Gym Frolics, and K-2 Sports of all Sorts, 1/12/12 – 5/25/12 for a fee of 75% of the total revenue less expenses. Vouchers to be submitted 2/1, 3/7, 4/4 & 5/16/12.

Lisa Valcore, 57 Country Lane, Penfield, NY 14526, Zumbatomic – 1/14/12 – 3/31/12 and Zumba Gold – Fridays – 1/13/12 – 6/15/12 for a fee of 70% of the total revenue. Vouchers to be submitted 2/1, 3/21, 4/18 and 6/6/12.

Gymnastics Training Center, 2051 Fairport Nine Mile Point Road, Penfield, NY 14526, Gymnastics – Beginner and Gymnastics for Tiny Tumblers – 1/23/12 – 4/30/12, and Gymnastics Camp – 2/20/12 – 4/13/12 for a fee of 75% of the total program revenue. Vouchers to be submitted 3/7, 4/18 and 5/2/12.

TrueNorth Equestrian Center, 3476 Atlantic Avenue, Penfield, NY 14526, Horseback Riding Intro, 3/12/12 – 4/11/12, for a fee of 75% of the total program revenue. Voucher to be submitted 4/18/12.

Big Oak Driving Range, North Washington Street, PO Box 430, East Rochester, NY 14445, Jr. Golf, 4/28/12 – 6/30/12 for a fee of 75% of the total program revenue. Vouchers to be submitted 5/16 and 6/20/12.

Maureen Ward, 46 Reynolds Road, Webster, NY 14580, Great Handmade Cards, 3/27/12, 4/24/12 and 5/22/12 for a fee of 70% of the total program revenue. Vouchers to be submitted 4/4 and 6/6/12.

Penfield Art Center, 2131 Five Mile Line Road, Penfield, NY 14526, Introduction to Pen and Ink, 3/24/12 for a fee of 70% of the total program revenue. Voucher to be submitted 4/4/12.

Martha Sweeney, 74 Redwood Drive, Penfield, NY 14526, Painting and Drawing, 1/23/12 – 6/11/12 for a fee of 70% of the total program revenue. Vouchers to be submitted 2/1, 3/7, 5/2 and 6/6/12.

Benjamin Wild, 120 Willowbend Drive, Penfield, NY 14526, Basic Woodworking, Carpentry, Home Repair and Painting, 3/1/12 – 3/22/12 for a fee of 70% of the total program revenue. Voucher to be submitted 3/21/12.

Kathryn Boone, KB Dog Training, 28 Landing Park, Rochester, NY 14625, Dog Obedience Classes, 1/19/12 – 5/16/12 for a fee of 75% of the total program revenue less expenses. Vouchers to be submitted 2/1, 3/7, 4/4, and 5/16/12.

Diane DiRoberto, P.O. Box 10621, Rochester, NY 14610, Photo Tips from the Pros – 5/19/12, for a fee of 70% of the total program revenue. Voucher to be submitted 5/16/12.

Rees & Company, Inc., 147 Morgan Road, Scottsville, NY 14546, Remodeling Your Kitchen: Getting Started, 2/16/12 and 4/26/12 for a fee of 70% of the total program revenue. Vouchers to be submitted 2/15 and 5/2/12.
(Resolution #11T-288 - Continued)

Carrie Herscovici, 17 Watchet Lane, Fairport NY  14450, Gentle Yoga, 1/13/12 - 6/8/12 for a fee of 75% of the total program revenue for 10 or less registrants or a fee of 70% of the total program revenue for over 10 registrants. Vouchers to be submitted 2/1, 3/21, 4/18 and 6/6/12.

Anne Freitas, 85 Harwood Circle, Rochester, NY  14625, Get Fit with Fun, 1/3/12 - 5/24/12, for a fee of 70% of the total program revenue. Vouchers to be submitted 1/18, 3/7, 4/4 and 5/16/12.

Therese Bason 172 D Serene Park, Webster, NY  14580, Pilates Mat Class – Mondays and Yoga’lates, 1/19/12 - 6/18/12, for a fee of 75% of the total program revenue for 10 or less registrants or a fee of 70% of the total program revenue for over 10 registrants. Vouchers to be submitted 2/1, 3/21, 4/18 and 6/6/12.

Rhonda Flint, 1036 Pondbrook Point, Webster, NY  14580, Pilates Mat Class – Tuesdays, 1/17/12 - 6/12/12 for a fee of 75% of the total program revenue per class for 10 or less registrants or a fee of 70% of the total program revenue per class for over 10 registrants. Vouchers to be submitted 2/1, 3/21, 4/18 and 6/6/12.

Sandra Sanzotta, 911 Lothario Circle, Webster, NY  14580, Low Impact Aerobics, 1/14/12 - 6/2/12 for a fee of 70% of the total program revenue. Vouchers to be submitted 1/18, 3/7, 4/18 and 6/6/12.

Glenda Bondy, 16 St. Ebbas Drive, Penfield, NY  14526, Zumba Gold – Wednesdays, 1/11/12 - 6/13/12 for a fee of 70% of the total program revenue. Vouchers to be submitted 1/18, 3/7, 4/18 and 6/6/12.

Mary Lynne DiFolco, 1213 Shoecraft Road, Webster, NY  14580, Golf – Beginner and Sharpen Your Short Game, 4/25/12 - 5/17/12 for a fee of 75% of the total program revenue. Vouchers to be submitted 5/2 and 5/16/12.

Marcia Orlandini, 11 Brookside Drive, Fairport, NY  14450, Volleyball Intermediate Co-ed Play, 1/12/12 - 6/7/12, for a fee of $25.00 per class. Vouchers to be submitted 1/18, 3/7, 4/4 and 6/6/12.

Amend Resolution #11T-214 from 9/7/11 for Bernie Ziegler, (new) fee of $30 for each class.

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 adjourned the meeting at 9:20 PM.

Amy Steklof
Town Clerk
Schedule “A”

Description of the Areas to be Rezoned
From R-1-20 to Business Non-Retail

ALL THAT TRACT OR PARCEL OF LAND situate in the Phelps and Gorham Purchase, Township 13, Range 4 in the Town of Penfield, County of Monroe, and State of New York, as shown on a map entitled “Proposed Penfield Road Rezoning from R-1-20 to Business Non-Retail” prepared by the Town of Penfield, dated June 21, 2011, being more particularly bounded and described as follows:

Beginning at the intersection of Penfield Road (NYS Route 441) and Harris Whalen Park Road, at the southeast corner of property located at 2124 Penfield Road and the right-of-way of Penfield Road (NYS Route 441); thence

North, a distance of 183 feet along the easterly property line of 2124 Penfield Road to the northeast property corner of 2124 Penfield Road and the Penfield Central School District property line; thence

West, a distance of 931.50 feet along the northerly property lines of properties located at 2124, 2120, 2116, 2112, 2108, 2104, 2100, 2096 and 2092 Penfield Road to the northwest property corner of 2092 Penfield Road and the Penfield Central School District properties; thence

South, a distance of 200 feet along the westerly property line of 2092 Penfield Road to the southwest property corner of 2092 Penfield Road and the right-of-way of Penfield Road (NYS Route 441); thence

East, a distance of 931.50 feet along the property frontages of 2092, 2096, 2100, 2104, 2108, 2112, 2116, 2120 and 2124 Penfield Road and the right-of-way of Penfield Road (NYS Route 441) to the southeast property corner of 2124 Penfield Road (NYS Route 441) to a point of beginning, containing 4.05 acres of land, more or less.
Description of the Areas Proposed to be Rezoned
From R-1-15 to Business Non-Retail

ALL THAT TRACT OR PARCEL OF LAND situate in the Phelps and Gorham Purchase, Township 13, Range 4 in the Town of Penfield, County of Monroe, and State of New York, as shown on a map entitled "Proposed Route 250 Rezoning from R-1-15 to Business Non-Retail" prepared by the Town of Penfield, dated June 21, 2011, being more particularly bounded and described as follows:

Beginning at the southwest corner of property located at 2332 Fairport Nine Mile Point Road and the right-of-way of Fairport Nine Mile Point Road (NYS Route 250); thence

North, a distance of 124.15 feet along the easterly property line of 2332 Fairport Nine Mile Point Road to the northeast property corner of 2332 Fairport Nine Mile Point Road and the southeasterly property line of 2330 Fairport Nine Mile Point Road; thence

North, a distance of 632.39 feet along the easterly property lines of properties located at 2332, 2330, 2324, 2316, 2300 and 2200 Fairport Nine Mile Point Road to the northeast property corner of 2200 Fairport Nine Mile Point Road and 2174 Fairport Nine Mile Point Road; thence

West, a distance of 554.77 feet along the northerly property line of 2200 Penfield Road to the northwest property corner of 2200 Fairport Nine Mile Point Road and the right-of-way of Fairport Nine Mile Point Road (NYS Route 250); thence

South, a distance of 983.80 feet along the property frontages of 2200, 2300, 2316, 2324, 2330 and 2332 Fairport Nine Mile Point Road and the right-of-way of Fairport Nine Mile Point Road (NYS Route 250) to the southwest property corner of 2332 Fairport Nine Mile Point Road (NYS Route 250) to a point of beginning, containing 6.86 acres of land, more or less.
Councilwoman Metzler’s Comments pertaining to Resolution #11T-278 and #11T-279

Councilwoman Paula Metzler 12/21/11 Legislative Session
Comments to rezoning Resolutions:

First, I would like to thank the town staff for their patience and for providing the Board with information and clarification as we went through the process of accepting, reviewing and deliberating upon the Petition brought by the resident owners of the 9 parcels of property to be affected by this Resolution. It is through their hard work that we have been able to meet our duty of due diligence to ALL of our residents with respect to this very important application.

Let me continue to preface my remarks with this statement: To be perfectly clear, from the minute the Board accepted the petition, and even before, I have been in favor of rezoning this strip of properties to something other than residential. Such a rezoning would be in the best interests of the property owners, as they wish to now or in the future have the option of selling their property to a viable purchaser.

A real opportunity for this Board to take Lloyd’s Corners to the next step without simply repeating verbatim that which already exists in that area. Without simply turning to a page in the town code book, and opting for more of the same. A real opportunity to provide services, employment opportunities, and to make use of the existing sidewalks as well as the proximity to Harris Whalen Park to provide the best options for development for our residents that do not exist, or could exist more, in Lloyd’s Corners, a gateway into our town, from points east, north and south.

A gateway of which we should strive to be proud. An opportunity to do so, while still protecting those residents within this strip who wish to stay in their home for a few years or for another generation or longer. An opportunity to create and enact a transitional zone, with appropriate buffers, restrictions and conditions that could also reasonably satisfy the concerns of those who appropriately do not want to see Route 441 turn into a busy commercial corridor that we see in some other towns.

I note that the Petition specifically seeks a rezoning from residential to Business Non Retail, BNR. As was clarified during the public hearing and during work sessions, the Petition states BNR because that is the only EXISTING code section that would apply to the area. Procedurally, the petition was required to have such a title. As was also clarified, it is within the purview and discretion of this Board to create a new zoning district or code subdivision if it is in the best interests of the Town--- to rezone the properties to something other than residential, but not necessarily Business Non Retail.

The Business Non Retail section of the zoning code was enacted in 1981. I am sure that many of you, like me, can remember what the Town of Penfield, and specifically Lloyd’s Corners, looked like in 1981. A lot different than it does now.

Our town has grown immensely since 1981, and I believe that our zoning code should be updated to reflect that--- to ensure that uses are not exhausted in a particular area due to the zoning code not offering a variety of appropriate and needed uses for a district.

The 2010 Comprehensive Plan does reflect the growth of our town, as did the 2000 Comprehensive Plan, and other studies that have been adopted since then. To be clear, as stated in the Comprehensive Plan, the comprehensive plan is a framework or guide, not a mandate.
In fact, the comp plan sets forth succinctly the not only permissible, and at times encouraged, deviation from the plan to satisfy the needs of the greater community and the interests of the many over the few.

While it has been mentioned that the Comp plan recommends in one line that this area be rezoned to BNR, it does not require it. In fact, the comp plan offers other alternatives in its future land use planning map and the definitions related to the shaded areas of the map. ---- The future land use planning map shows the area in question in red, the properties owned by the residents on the petition, as desired “commercial” with commercial being defined as “Retail, office and service related businesses that cater to local residents and the traveling public.” This may appear that the comp plan is contradicting itself—however, I don’t believe it is a contradiction, but rather a well thought out implicit advisement to be consider various forms of low intensity, transitional non residential uses for the properties that border Harris Hill School and Harris Whalen Park, properties that also are close to other residential neighborhoods.

Additionally, applicable NY state law provides the authority and discretion for a town to deviate from the guidelines of a comp plan when such deviation serves a legitimate municipal purpose with respect to development.

For your reference, (Review what businesses are in BNR)

So if not BNR, then what? Well, a mix of desirable non retail type establishments and low intensity, retail services could be included in a transitional zone. I would have seriously considered such a compromise of zoning provisions, including the possibility of another bank, so long as the additional options I have discussed were included as well.

While Penfield prides itself on being the leader on many fronts, we would not be the first by any means to enact such a transitional zoning district. In researching this topic before us, I have spent many hours looking at neighboring communities who have embarked on transitional zoning in high traffic areas that abut or are in proximity to residential neighborhoods. The Town of Webster has a Neighborhood Commercial District Zone which provides for a multitude of services, including retail and office space, with specific conditions to allow for adequate buffers and transition. The Town of Ogden has 2 zoning types of this type of transitional zone--- the Residential Transitional District and the Neighborhood Commercial District. The Town of Pittsford has the Monroe Avenue Transitional Zone. The town of Irondequoit has a Mixed Use Commercial Zoning District which strongly resembles BNR but adds some worthwhile, necessary retail services, on a smaller neighborhood scale, providing walkability and pedestrian friendly services which might I add our 2010 comprehensive plan strongly encourages where there are existing sidewalks in town, such as those that exist along the north side of 441 in front of the properties which seek rezoning.

This type of zoning that would in my mind serve 2 very important purposes; 1) to enable those property owners listed on the petition to sell their property with the greatest number of development options to them---- As you can tell from the list of businesses I just read, BNR alone does NOT provide the resident property owners with the greatest number of options for non residential development. If you take a close look at the transitional zones in the towns I just mentioned, those who own property in those towns have significantly more options for BNR than our property owners here will have.

The result? Potential developers will be limited to only those who wish to develop that small list of specific types of businesses, not a greater variety, which to me, would be desirable. With BNR, what’s the result? Potentially a 10th bank in Lloyd’s Corners. Do you know there are already 9 banks, 8 of them free standing within about a ¾ square mile? Potentially an 11th or 12th bank as well. The Town of
Penfield will not be able to preclude that legally. If rezoning were to include MORE options, with strict conditions such as hours of operation, size and style of building, perhaps no drive thru or delivery establishments, buffers, landscaping and appropriate lighting, and conditions for use, the residents who wish to remain in their homes indefinitely will not be “boxed out” or “outdeveloped” just because their neighbors were the first to sell and develop their properties.

That concerns me, as while I certainly understand and sincerely appreciate the goals of the residents who now wish to sell their property and move, to have a bank with drive thru constructed on the southwest corner of Harris Whalen Park Road and 441, I also represent those who wish to stay in their homes, including the gentleman who signed the petition and then told us that he would like the option of perhaps developing a small retail establishment on his property. He will never get that option with BNR.

And remember, once this area is zoned BNR the Town does not have the authority, legally, to rezone one or 2 parcels to another type of zoning— that would be illegal spot zoning.

2) The second important purpose that a transitional zone would serve would be additional services for our residents; providing additional uses, with conditions, statistically improves the chance that we won’t have banks 10, 11 and 12 in Lloyd’s Corners. While it has been informally stated that there is not a market for retail right now due to the economy, I believe that any rezoning should anticipate and provide options for when the market makes its frequent and sometimes unpredictable dips and upswings. Again, more options for development. More options for our property owners on Route 441. A transitional zoning code that does not mirror or repeat the code from 1981 but rather allows for development that can stand the test of time and market changes, but can also be the impetus for additional services to the business district, enabling Lloyd’s Corners to truly become that one stop gateway for those traveling through our town, and more importantly, all of our residents.

For these foregoing reasons, I am compelled to vote NO on this resolution. I want to assure those residents who contacted me after watching the hearing that they have been heard. I have heard your wish to encourage more of a variety of establishments in Lloyd’s Corners. While I was willing to compromise, I have heard you, loud and clear, that you believe there is enough BNR zoning already in the area of Rt 250 and 441. And I have certainly heard those residents who do not want to see more banks and ATMs in that area. Who do not want to see valuable property taken up by more of the same. I do want to also assure our residents however, that, even though I do not support the underlying provision of the resolution, the rezoning to BNR, that I did participate as best as I knew how in the discussion related to and the revisions to this resolution, particularly with respect to traffic and public safety, and that I did not stop advocating for what is best for the greater community and for those traveling on Route 441.

I respect any members who may not vote the same way, and I know that they listened and deliberated thoughtfully as we discussed this very important application over several work sessions. Under the guidance of Supervisor LaFountain, we were able to all speak our minds and offer our input and insight, and for that I remain proud to be on this board, critically thinking along with my colleagues as to what is best for the future of our town.