PENFIELD TOWN BOARD AGENDA

Wednesday, September 5, 2012    7:30 PM

Supervisor R. Anthony LaFountain, presiding

I Call to Order - Pledge of Allegiance - Roll Call

II Budget Officer’s Message and Information Presentation on the 2013 Tentative Budget

III Public Hearing #1 – To Consider the Establishment of Ashlyn Rise Subdivision Sidewalk District (#16)

Public Hearing #2 – To Consider Adopting Proposed Local Law No. 1 of 2012, Moratorium on and Prohibition of Gas and Petroleum Exploration and Extraction Activities, Underground Storage of Natural Gas, and Disposal of Natural Gas or Petroleum Extraction, Exploration and Production Wastes within the Town of Penfield

IV Communications and Announcements

V Public Participation

VI Additions and Deletions to Agenda

VII Approval of Minutes – August 1, 2012

VIII Petitions

IX Resolutions by Function

Law and Finance

#12T-188 Authorize the Town Comptroller to Attend the PERMA Board Meeting

#12T-189 Setting Public Hearing on 2013 Preliminary and Special District Budget

#12T-190 Authorization for Release of a Conservation Easement on 1812 Baird Road

#12T-191 Authorizing Supervisor to Sign Agreement with the Jomanda Way Homeowners Association, Inc.

#12T-192 Approval of Special Permit to Allow a State Farm Insurance Agency and Continuation of a Second Story Apartment at 1833 Penfield Road

#12T-193 Approval of Special Permit to Allow a Sit-down Restaurant at 1857 Penfield Road
#12T-194  Authorization to Attend American Planning Association Upstate New York Chapter Annual Conference
#12T-195  Approval of Special Permit to Allow the Construction of an Office Building at 30 Sanders Farm Drive and 2041 Penfield Road
#12T-196  Authorize Town Cable Television Coordinator to Attend the Alliance for Community Media – North East Quarterly Board Meeting

Public Works

#12T-197  Authorization for Supervisor to Sign Contract for Fire Marshal Vehicle Conversion
#12T-198  Authorization to Auction Surplus Equipment

Public Safety - None

Community Services

#12T-199  Authorization for Supervisor to Sign Recreation Contracts

X  Old Business
XI  New Business
XII  Public Participation
XIII  Adjournment
The Regular meeting of the Penfield Town Board was held on Wednesday, September 5, 2012 at 7:30 PM at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York.

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

Also Present: Amy Steklof   Town Clerk  
              Richard Horwitz  Town Attorney  
              Robert Beedon  Town Comptroller  
              Mark DiFrancesco  Superintendent of Sewers

Supervisor LaFountain called the meeting to order – Pledge of Allegiance

Supervisor LaFountain recognized Gary Richardson from the “Friends of the Penfield Library.”

Mr. Richardson, 48 Cardogan Square, stated that Janet Flanagan and he are co-chairmen of the Friends of the Penfield Library’s Annual Used Book Sale. The sale will be held at 1985 Baird Road and will begin Tuesday, September 11, 2012 from 2:00 to 9:00 PM for members of the Friends of the Penfield Library, and for those who would like to pay $5.00 to participate on the first day of the sale. The sale will continue Wednesday, September 12 and Thursday, September 13 from 10:00 AM to 9:00 PM. On Friday, September 14 all items will be sold at half price, and on Saturday, September 15, the Friends of the Penfield Library will continue the sale by providing a Wegman’s paper bag for patrons to fill for only $3.00. All of the proceeds will be donated for use of the Penfield Library.

Last year’s proceeds allowed the Penfield Library to enhance their wireless internet access to spread throughout the building to include all classrooms. Bright boards have also been purchased. The proceeds also help to provide on-going Children’s programs, the Spring into Arts program and other ongoing activities and maintenance for the Library. For more information contact the Penfield Library at 340-8720 or go to www.libraryweb.org/penfield.

Supervisor LaFountain stated that the Book Sales keep Penfield as one of the top libraries in the Monroe County system. Supervisor LaFountain thanked Mr. Richardson, Janet Flanagan and members of the Friends of the Penfield Library for their efforts.

Supervisor LaFountain and Finance Director Robert Beedon presented the 2013 Tentative Budget to the Town Board and the Penfield residents.

The Proposed budget of $15.1 million is 1.5% below the current 2012 budget. Major impacts on 2013 expenses include the full funding of retirement cost at 21% of salary, a 12% increase in Workers Compensation cost, a 12% increase in medical cost and a 10% increase in General Liability Insurance cost.

The Town tax rate will remain flat at $2.64 per $1,000 of assessed property value and is one of the lowest tax rates in Monroe County. Penfield is recognized as one of the most financially responsible towns in New York State. Moody’s Investor’s service has given the Town of Penfield the top rating of Aa2 which allows Penfield to secure low interest financing for capital projects and assists with cash flow throughout the year.

Copies of the 2013 Tentative Budget will be available starting tomorrow, September 6, 2012 at the Penfield Library, 1985 Baird Road, at the Town Clerk’s office or by contacting the office of the Comptroller in the Penfield Town Hall, 3100 Atlantic Avenue.
The Tentative Budget can also be reviewed online at www.penfield.org (see Quick Links on the home page).

The Budget Public Hearing is set for October 3, 2012. Comments will be reviewed by the Town Board through October 12, 2012. The 2013 Budget calendar is as follows:

- April – September 2012 Town Supervisor, Finance Director and Staff conduct budget work sessions; prepare Tentative Budget.
- September 5, 2012 - Town Supervisor, Finance Director present a summary of the Tentative Budget to Town Board and community; document made public for review. (During this period, Tentative Budget becomes the Preliminary Budget)
- September 5 – October 10, 2012 – Public comment period.
- October 3, 2012 – Public Hearing on 2013 Preliminary Budget; public comments received.
- October 3 – 12, 2012 – Town Board reviews comments, develops a Final Budget.
- October 17, 2012 – Town Board Legislative meeting, adoption of a Final 2013 Budget; Adopted Budget made public.
- October 18, 2012 – Town presents Penfield Adopted 2013 Budget to County of Monroe.

Public Hearing #1 To Consider the Establishment of Ashlyn Rise Subdivision Sidewalk District (#16)  
(See Resolution #12T-173)

Mark DiFrancesco from the Town’s Engineering Department gave an overview of the project.

Mr. DiFrancesco stated the subdivision is made up of 35 lots and is on the west side of Fellows Road and south of NYS Route 441. He also stated that the developer/land owner has petitioned the Town Board to establish the Sidewalk District.

The Town’s sidewalk policy requires all new developments to install sidewalks on both sides of the street, but the developer has asked the Town for a waiver so as to be able to install sidewalks on one side of the street and to make improvements to pedestrian paths out to NYS Route 441 and along Fellows Road. Mr. DiFrancesco stated the developer will pay for all of the improvements. This will be the last district formation for the Ashlyn Rise Subdivision.

Hearing closed.

Public Hearing #2 To Consider Adopting Proposed Local Law No. 1 of 2012, Moratorium on and Prohibition of Gas and Petroleum Exploration and Extraction Activities, Underground Storage of Natural Gas, and Disposal of Natural Gas or Petroleum Extraction, Exploration and Production Wastes within the Town of Penfield (See Resolution #12T-187)

Supervisor LaFountain gave an overview and history on the proposed Local Law and stated that in March of this year a number of people asked the Town Board to consider a Moratorium on Hydrofracking within the Town of Penfield. The Town Board researched the matter and felt that there was sufficient coverage in the Town’s current Ordinance. However, after Supervisor LaFountain and Town Attorney Richard Horwitz attended a state led overview of both sides of the hydrofracking issue and due to the fact that revisions of the Town’s Ordinances are currently underway, the Town Board decided it was appropriate to hold a Public Hearing to consider a one (1) year moratorium on hydrofracking in the Town of Penfield. The moratorium will give the Town Board the opportunity to make sure everything pertaining to the issue is appropriately covered in the Town Ordinance and give them the chance to look at all Highway agreements.
Public Participation

Joyce Herman, 87 Hillary Lane read a statement in support of Local Law #1 of 2012 to consider a one (1) year moratorium on hydrofracking within the Town of Penfield. Her statement can be found at the end of the Minutes.

H. Robert Herman, 87 Hillary Lane stated he is representing himself as well as the Interfaith Alliance of Rochester. Mr. Herman stated that the Interfaith Alliance has made a resolution in opposition to hydrofracking and urges the Town Board to take the same position. Mr. Herman also stated that he supports the one (1) year moratorium to allow further study.

Susan Pixley, 83 Huntington Meadow spoke in support of the one (1) year moratorium. She stated her concern that the proper research, proper ordinances, restrictions and regulations are not in place and applauds the Town Board for considering a one (1) year moratorium.

Ed Walluck, 2030 Salt Road, spoke against the one (1) year moratorium and stated he is opposed to a total ban. He feels there is a lot of misinformation on both sides of the issue. Mr. Walluck stated he knows of three (3) wells near Horseheads, NY that have experienced none of the problems that had been brought up at the previous meeting. He further stated that the wells provide jobs and income for the Town.

David Koon, of Perinton, NY stated that although he is not a resident of the Town of Penfield he knows a lot of what is going on in Albany with regards to hydrofracking. Mr. Koon stated he believes that hydrofracking will never come to the Catskills because that is where New York City gets its water supply. As far as the rest of New York State, he is not sure what will be decided. He commended the Town Board for considering a one (1) year moratorium. He stated that he does not believe all the facts are out on the subject and there are still a lot of unanswered questions.

Richard Stevens, 2391 Penfield Road stated that he moved to Penfield because of the water and is concerned about contamination of the ground water. Mr. Stevens informed the Board that the State of Pennsylvania fined Chesapeake Energy $900,000 for contaminating two (2) families drinking water wells. Mr. Stevens also said he is dubious of any new technology that requests exemptions from existing environmental laws. He urged the Town Board to support the one (1) year moratorium and a permanent ban on hydraulic fracturing.

John Schmeelk, 35 Meadow View Drive, stated that he feels the discussion of hydrofracking is being driven by fear. He would like to see a more fair and balanced approach in regards to the question of hydrofracking and feels a one (1) year moratorium is appropriate. He hopes the Town Board does not rush into a total ban.

Jim Paduchowski, 119 Farmbrook Drive, stated he had attended an information session on hydrofracking in the Village of Dresden in the Town of Torrey where there were speakers for and against the issue. Mr. Paduchowski stated that he learned from the session that there are still a lot of unanswered questions. He is in favor of the one (1) year moratorium so as to have time to collect more information on the subject.

Dan Merriam, 17 Woodshire Lane, Gates, NY, stated he supports the one (1) year moratorium and feels there are other safer methods to extract gas from the ground. Mr. Merriam stated he is concerned that when there is horizontal drilling, the water supply above the drilling can be damaged.

Valerie Jutsum, 2509 Penfield Road e-mailed the Town Board in support of petroleum drilling and mining as long as it is done in a responsible manner.
Supervisor LaFountain stated that the next discussion of this subject will occur at the next Work Session to be held on Wednesday, September 12, 2012.

Hearing closed.

Communications and Announcements

1. Tax collection began Tuesday, September 4, 2012. The tax office is open Monday through Friday from 9:00 AM to 5:00 PM for full payments and first installments. Payments can also be made at any of the three (3) M & T Banks in Penfield. Payments can also be deposited in the drop box located next to the front entrance to the Town Hall at 3100 Atlantic Avenue. Contact the Tax Receiver’s office at 340-8626 for more information.

2. Please use caution when around school buses and in school zones. For information and safety tips check the following website: http://www.safeny.ny.gov.

3. Penfield’s annual “Tastin’ the Blues” will be held Saturday, September 15, 2012 from Noon to 4:00 PM at the Penfield Amphitheater and Kiwanis Stage. For more information visit: www.penfield.org.

4. Eastbound lanes on NYS Route 104 (Irondequoit Bay Bridge) in the towns of Irondequoit and Webster will be closed Friday, September 7 to Sunday, September 9, 2012.

5. Supervisor LaFountain recognized Jayla Rose Burton for her accomplishment in receiving her Juris Doctorate and declared September 5, 2012 as Jayla Rose Burton Day.

6. The Penfield Trails Committee will sponsor a free public hike at Smith Pioneer Cemetery on Saturday, September 8, 2012 at 9:00 AM. To pre-register and for more information call Penfield Recreation at 340-8655.

7. The Penfield 5K challenge will be held on Sunday, September 30, 2012. Check in time begins at 8:00 AM and the race will start at 9:00 AM. For more information and to download the registration form visit www.penfield.org.

8. Historic Canoe Rides with Rene Robert LaSalle will be held on Sunday, September 16, 2012 from Noon to 4:00 PM and will leave from Bay Creek Paddle on Empire Boulevard. To register call 340-8655.

9. Young Open and Honest Players (YOHP) will hold Auditions for Murder Mystery Dinner Theater on Thursday, September 6, 2012 at 4:00 PM at the Penfield Community Center. For more information call Penfield Recreation at 340-8655.

10. Councilwoman Kohl’s next Community Chat will be held on Tuesday, September 18, 2012 from 5:30 to 7:00 PM at the Penfield Public Library.

Public Participation

Tom Cleary, 1250 Jackson Road stated he is concerned with, what he feels was a mistake made when the Town installed 12 inch pipes instead of 18 inch pipes while extending a culvert under Jackson Road at Cranberry Cove Pond.

Mr. Cleary also stated he had heard the Town was being fined by the Department of Environmental Conservation (DEC) for a mistake made on Helmsford Way when the Town cleaned a pond and deposited dirt in a Federal wetland.
Supervisor LaFountain stated he has not seen anything to indicate that the Town is being fined and believes the dirt was deposited in the proper area. Supervisor LaFountain also informed Mr. Cleary that the Town maps and the DEC maps are different and the Town has asked the DEC for a reading on it.

Supervisor LaFountain stated that until the DEC gets back to the Town, no further work will be done in that area.

Additions and Deletions to Agenda - none

Approval of Minutes

Councilman Moore moved to approve the Minutes of August 1, 2012, Councilman Quinn seconded and all voted “Aye.”

Petitions - None

Resolutions by Function

Law and Finance

#12T-188 Authorize the Town Comptroller to Attend the PERMA Board Meeting by Moore

WHEREAS, the Town Comptroller is on the Board of Directors for the workers compensation carrier, Public Employers Risk Management Association, and

WHEREAS, the PERMA Board Meeting will be held on October 9-10, 2012 located in Latham, New York and will be paid fully for mileage and hotel expenses by PERMA, and

NOW BE IT RESOLVED, that the Town Comptroller attend the PERMA Board Meeting on October 9-10, 2012.

Moved: Moore
Seconded: Kohl

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

Adopted

#12T-189 Setting Public Hearing on 2013 Preliminary and Special District Budget by Moore

BE IT RESOLVED, that a Public Hearing on the proposed Town of Penfield 2013 Preliminary Budget and the 2013 Special District Budgets be held on Wednesday, October 3rd 2012 at 7:30 PM at the Penfield Town Hall, and that all persons wishing to be heard be given an opportunity at that time, and

BE IT FURTHER RESOLVED, that the Town Clerk cause a notice of the Public Hearing to be published in the official newspaper at least five (5) days prior to the Hearing and that said Legal Notice shall contain a summary of the Budget as required by law, and

BE IT FURTHER RESOLVED, that the Legal Notice also list a summary of the 2013 Budget, and contain a statement that a copy of the Preliminary Budget is available at the office of the Town Clerk, where any interested person may inspect it during office hours on or after September 28th 2012. A copy of the 2013 Preliminary Budget is also available in the Finance Department at the Town Hall located at 3100 Atlantic Avenue and the Public Library at 1985 Baird Road.
(Resolution #12T-189 - Continued)

Moved: Moore
Seconded: Quinn

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

Adopted

#12T-190 Authorization for Release of a Conservation Easement on 1812 Baird Road by Moore

WHEREAS, the Penfield Planning Board required a Conservation Easement “for all lands on the subject property that fall within the NYSDEC identified wetlands and adjacent area” in their October 23, 1997 approval, and

WHEREAS, the Conservation Easement was to be conveyed to the Genesee Land Trust, and

WHEREAS, the Genesee Land Trust (as authored by their Executive Director Gay Mills) stated in a fax transmission dated June 1, 2005 that “the easement was not conveyed to the Genesee Land Trust nor did the Genesee Land Trust wish to receive the easement,” and

WHEREAS, the easement does not cover the lands identified as being in a NYSDEC wetland or its adjacent area as was identified on the Resubdivision Map prepared by D.J. Parrone & Associates, P.C. and dated March 23, 1999, and

WHEREAS, the Conservation Easement to the Genesee Land Trust was identified on the Instrument Survey for 1812 Baird Road, as prepared by Parrone Engineering and dated November 6, 2007.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Penfield hereby authorizes the Supervisor to sign a release of Easement to permit a release of the existing Conservation Easement on lot R-5 of the Beaudell Subdivision as prepared by D.J. Parrone & Associates, P.C. and dated March 23, 1999.

BE IT FURTHER RESOLVED, that the Release of Easement shall be in the town’s format and shall be recorded in the Monroe County Clerk’s Office with a certified copy of this Resolution.

Moved: Moore
Seconded: Metzler

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

Adopted

#12T-191 Authorizing Supervisor to Sign Agreement with the Jomanda Way Homeowners Association, Inc. by Moore

WHEREAS, the Jomanda Way Homeowners Association, Inc. has petitioned the Town of Penfield to improve Jomanda Way and upon completion of said improvement has also requested that the Town accept permanent dedication of said private drive as a public right-of-way; and

WHEREAS, the members of the Jomanda Way Homeowners Association have agreed to accept the responsibility of paying for the required improvements to Jomanda Way through general obligation serial bonds in an aggregate principal amount not to exceed $165,000 and bond anticipation notes in anticipation thereof, as well as funds that have been collected by the Association for the purpose of said road improvements; and

Moved: Moore
Seconded: Metzler

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

Adopted
NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Penfield hereby authorizes Supervisor R. Anthony LaFountain to execute an Agreement to allow the Town of Penfield to accept funds from the Jomanda Way Homeowners Association, Inc. in the amount of $32,500 for the purpose of using $15,000.00 to reduce the initial bonding/financing for the project from $165,000.00 to $150,000.00 and the remaining $17,500.00 shall be applied by the Town of Penfield to payments to be made on the bonding for the project, subject to the review and approval of the Town Attorney.

Moved: Moore  
Seconded: Kohl

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

Adopted

#12T-192 Approval of Special Permit to Allow a State Farm Insurance Agency and Continuation of a Second Story Apartment at 1833 Penfield Road by Moore

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Special Permit, pursuant to Article III-3-97 of the Code to allow a State Farm insurance agency and continuation of an apartment at 1833 Penfield Road, located in the Four Corners (FC) zoning district; and

WHEREAS, the Town Board of the said Town of Penfield held a Public Hearing at the Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on August 8, 2012, at 7:30 PM on said date, to consider the application and hear all persons interested on the question of the issuance of a Special Permit to allow a State Farm insurance agency and the continuation of an apartment on the second floor at 1833 Penfield Road, in the Four Corners (FC) zoning district and the Public Hearing was closed.

NOW, THEREFORE, BE IT RESOLVED, that the applicant’s request for a SPECIAL PERMIT to allow a State Farm insurance agency and continuation of an apartment on the second floor at 1833 Penfield Road is hereby GRANTED subject to the following conditions:

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

2. The applicant shall comply with the occupancy requirements that have been established by the Penfield Fire Marshal in accordance with the International Building Code and obtain any/all necessary permits.

3. The applicant shall obtain a building permit prior to any proposed remodeling on the site.

4. The applicant shall be required to work with the Town of Penfield and her immediate neighbors to assist in the creation of a common enclosed dumpster area.

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

6. Failure to comply with the conditions set forth hereinabove may result in the revocation of this Special Permit pursuant to the requirements of Article XI-11-14 of the Zoning Ordinance.
AND BE IT FURTHER RESOLVED, that the applicant’s proposal is classified as a Type II action pursuant to the requirements of the State Environmental Quality Review Act (SEQRA) and no environmental review is necessary.

The Town Board, in granting the Special Permit, does so based on its following findings:

1. The applicant has recently purchased the subject property and proposes to relocate her State Farm insurance agency from 2131 Five Mile Line Road to said property. The applicant also proposes to remodel the second floor to continue to use it as a two (2) bedroom apartment. The proposed remodel will bring the site into compliance with the requirements of the New York State International Building Code.

2. The applicant’s business consists of herself and two (2) full time staff members.

3. The applicant proposes to continue to lease the remaining space to Penfield Coin and Jewelry.

4. The property has more than adequate parking to accommodate both the businesses and the second floor apartment. The applicant is working with the Town of Penfield to create a public parking area which will benefit all of the businesses in the southeast quadrant of the Four Corners.

5. This use will continue to provide a needed service to the residents of Penfield and is a use consistent with the goals of the Four Corners Plan. The Board is pleased that the applicant chose to continue to conduct her business in the Four Corners.

Moved: Moore
Seconded: Quinn

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

Adopted

#12T-193 Approval of Special Permit to Allow a Sit-down Restaurant at 1857 Penfield Road by Moore

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Special Permit, pursuant to Article III-3-97 of the Code to a restaurant at 1857 Penfield Road, located in the Four Corners (FC) zoning district; and

WHEREAS, the Town Board of the said Town of Penfield held a Public Hearing at the Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on August 15, 2012, at 7:30 PM on said date, to consider the application and hear all persons interested on the question of the issuance of a Special Permit to allow a restaurant at 1857 Penfield Road, in the Four Corners (FC) zoning district and the Public Hearing was closed.

NOW, THEREFORE, BE IT RESOLVED, that the applicants’ request for a SPECIAL PERMIT to allow a restaurant at 1857 Penfield Road is hereby GRANTED subject to the following conditions:

1. The applicant shall obtain a SPECIAL PERMIT from the Town Clerk and pay the appropriate fee. The SPECIAL PERMIT is non-transferable. Any subsequent owner or operator shall be required to apply for and obtain a SPECIAL PERMIT from the Town Board to operate a business at this location.
2. The applicant shall comply with the occupancy requirements that have been established by the Penfield Fire Marshal in accordance with the New York State Building Code and obtain any/all necessary permits from the Building Department.

3. Adequate on-site parking and shared parking with the property at 1853 Penfield Road shall be available at all times to accommodate the applicant’s business. At no time shall adjacent property owners be adversely impacted by those patronizing this business.

4. The owner of the subject property shall be required to submit a reciprocal access and parking easement to provide for cross access and parking over his property to adjacent property owners; said easement shall be in the Town’s format and shall be subject to the approval of the Town Attorney.

5. The applicant shall obtain a Liquor License from the New York State Liquor Authority prior to serving alcohol at this location; furthermore, the applicant shall ensure that the primary use of the property remains as a sit-down restaurant and that the sale of alcohol is secondary and incidental to the sale of food.

6. Any proposed exterior improvements shall be consistent with the requirements of the Four Corners Design Standards Manual and subject to the approval of the Town Board.

7. The applicant requested approval for outdoor dining as part of his application. The Board will not grant his request at this time, however is willing to consider an application for outdoor dining once the business is established. The applicant may apply for outdoor dining at some point of his choosing during the winter months of 2012 so that outdoor dining is available to him in the spring of 2013, subject to compliance with the conditions of approval set forth herein.

8. The applicant shall be responsible for the continuous maintenance of the hood and exhaust system and at no time shall odors emanate from the site that may cause a nuisance to area property owners.

9. The applicant shall not be permitted to have any type of entertainment to the exterior of the restaurant. The applicants may apply for Special Permits to conduct outdoor events pursuant to the requirements of the Penfield Zoning Ordinance. Said events shall be subject to the approval of this Board and/or the Building Department. The applicants are permitted to have an internet juke box and unamplified entertainment within the restaurant.

10. The applicant shall comply with the permitted hours of operation for the Four Corners zoning district, that being 6:00 AM to 12:00 AM on a daily basis.

11. The applicant shall be required to enclose the dumpster(s) and grease containers on the site by no later than October 1, 2012. Said enclosure and its location shall be determined by the applicant, the Building Department and the Director of Developmental Services.

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

13. Failure to comply with the conditions set forth hereinabove may result in the revocation of this Special Permit pursuant to the requirements of Article XI-11-14 of the Zoning Ordinance.

AND BE IT FURTHER RESOLVED, that the applicant’s proposal is classified as a Type II action pursuant to the requirements of the State Environmental Quality Review Act (SEQRA) and no environmental review is necessary.
The Town Board, in granting the Special Permit, does so based on its following findings:

1. The applicant proposes to operate the restaurant as a Mexican restaurant to be known as Itacate.

2. The applicant currently has a successful Mexican restaurant on the west side of the County and is an established restaurateur.

3. The applicant is aware of, and will comply with the operational requirements of the Four Corners district.

4. The Board has required the owner of the subject property to submit a reciprocal access and parking easement with his adjacent property owners for the purpose of allowing his tenant and the adjacent owners to share access and parking facilities as is required in the Four Corners district.

5. The Board has required the applicant install a dumpster enclosure for the site by no later than October 1, 2012 as requested by the.

6. The applicant is aware that they will not be permitted to provide outdoor entertainment on the site except in special cases where a Special Permit is subject to approval by the Town Board and/or the Building Department. The applicant is permitted to have an internet juke box and unamplified entertainment within the restaurant.

7. There are adequate parking facilities on site and shared parking with the property owners at 1853 Penfield Road to accommodate this business, as well as the day care operating at 1853 Penfield Road, as demonstrated by the prior operators of the restaurant and the prior and current owners of the day care.

8. The Board has held the applicant’s request for outdoor dining in abeyance until the business is established in the Town. The Board has stated that it will allow the applicant to apply for outdoor dining in late 2012 or early 2013 if all conditions of approval outlined in this Resolution are met and satisfied.

9. The applicant has stated that he will comply with all applicable codes and regulations pertaining to the operation of a sit-down restaurant and sale of alcohol in the Town of Penfield.

10. The proposal is consistent with, and furthers the goals and objectives of the Four Corners zoning district.

Moved: Moore
Seconded: Metzler

Adopted

Moved: Moore
Seconded: Metzler

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

WHEREAS, the 2012 Planning Department budget includes funding intended to allow two (2) representatives to attend the APA Upstate NY Chapter Conference; and
WHEREAS, it is in the town’s best interest to have staff members attend training workshops to gain knowledge pertaining to current practices in zoning, preservation, environmental protection, redevelopment, and case law; and

WHEREAS, the American Planning Association is not-for-profit national educational organization that provides leadership in the development of vital communities; and

WHEREAS, the Town Planner also serves as the nine (9) county Genesee/Finger Lakes Section President as well as on the APA Upstate NY Executive Board which meets during the conference,

NOW, THEREFORE, BE IT RESOLVED that Town Planner and Planning Technician are hereby authorized to attend the American Planning Association Upstate NY Annual Conference, to be held from September 19 to 21, 2012 in Corning, NY for a cost not to exceed $1,130. This cost will be allocated from the 2012 departmental conference budget line.

Moved: Moore
Seconded: Kohl

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

Adopted

#12T-195 Approval of Special Permit to Allow the Construction of an Office Building at 30 Sanders Farm Drive and 2041 Penfield Road by Moore

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Special Permit pursuant to Article III-3-49-C of the Code to allow the construction of a 6,000+/- square foot office building at 30 Sanders Farm Drive and 2041 Penfield Road, located in the Planned Development (PD) zoning district;

WHEREAS, the Town Board of the said Town of Penfield held a Public Hearing at the Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on July 18, 2012, at 7:30 PM on said date, to consider the application and hear all persons interested on the question of the issuance of a Special Permit to allow the construction of a 6,000+/- square foot office building at 30 Sanders Farm Drive and 2041 Penfield Road, in the Planned Development (PD) zoning district and the Public Hearing was closed and decision was reserved.

NOW, THEREFORE, BE IT RESOLVED, that the applicant’s request for a Special Permit to allow the construction of a 6,000+/- square foot office building at 30 Sanders Farm Drive and 2041 Penfield Road is hereby GRANTED subject to the following conditions:

1. The applicant shall obtain a Special Permit from the Town Clerk and pay the appropriate fee. The Special Permit is non-transferable. Any subsequent owner or tenant of the proposed office building shall be required to apply for and obtain a Special Permit from the Town Board to operate a commercial use other than that proposed by the applicant.

2. The applicant shall comply with the conditions set forth by the Planning Board in its Resolution granting site plan and resubdivision approval, dated August 9, 2012, as well as the Zoning Board of Appeals in its Resolution granting area variances, dated June 19, 2012.
3. The applicant shall comply with the occupancy requirements that have been established by the Penfield Fire Marshal in accordance with the New York State International Building Code and obtain any/all necessary permits from the Building Department.

4. Adequate on-site parking shall be available at all times to accommodate the businesses that are proposed to operate from this site. At no time shall adjacent property owners be adversely impacted by those working at or patronizing this site.

5. The applicant shall comply with the requirements of the Town Engineer to ensure that this proposal satisfactorily addresses concerns raised by neighbors relating to drainage and buffering.

6. The applicant shall be required to obtain a permit from the New York State Department of Transportation for the purpose of removing one of the horseshoe driveway curbcuts onto Penfield Road (NYS Route 441) to bring the site into compliance with the Town’s Highway Frontage Policy.

7. The applicant shall be required to construct a sidewalk along his property frontage on the east side of Sanders Farm Drive and shall submit a sidewalk easement, in the Town’s format, acceptable to the Town Attorney.

8. The Town Board shall review and approve of the final Landscape Plan before signature by the Landscape Consultant and shall review and approve of all site plans before signatures by authorized parties.

9. This site shall comply with all Federal, State, County and Town Codes.

10. Failure to comply with the conditions set forth hereinabove may result in the revocation of this Special Permit pursuant to the requirements of Article XI-11-14 of the Zoning Ordinance.

AND BE IT FURTHER RESOLVED, that the applicant’s proposal is classified as an Unlisted Action pursuant to the requirements of the State Environmental Quality Review Act (SEQRA). The Planning Board, acting as the lead agency has determined that this proposal will not have a significant effect on the environment and prepared a determination of non-significance for the action of granting preliminary and final subdivision and site plan approval as more particularly set forth in its Resolution of approval dated August 9, 2012.

The Town Board, in granting the Special Permit, does so based on its following findings:

1. The applicant owns the subject parcel as well as the adjacent parcel to the east on which he operates his tax preparation business. His intent is to combine the two (2) properties and construct a 6,000+/- square foot office building to provide lease space for his son and to accommodate additional tenants.

2. The applicant satisfactorily demonstrated that the traffic volumes to and from the site will be minimal as they will generally be by an appointment only basis.

3. The applicant proposes to construct adequate parking facilities on site to accommodate both the existing building at 2041 Penfield Road as well as the proposed office at 30 Sanders Farm Drive.
(Resolution #12T-195 – Continued)

4. The applicant has demonstrated that he will comply with all applicable codes and regulations. In addition, the applicant proposes to address existing drainage concerns raised by adjacent owners to the south and buffering concerns to the west of this site.

5. The applicant’s proposed office is a specially permitted use within the Planned Development (PD) zoning district. The Board finds this proposal to be properly scaled to both the adjacent residences and other businesses operating in this area of Penfield.

Moved: Moore  
Seconded: Quinn

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

Adopted

#12T-196  Authorize Town Cable Television Coordinator to Attend the Alliance for Community Media – North East Quarterly Board Meeting by Moore

WHEREAS, the Town Cable Television Coordinator is on the Board of Directors for the Alliance for Community Media Northeast Region (ACM-NE) encompassing the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island and Vermont, and

WHEREAS, the ACM-NE Board Meeting will be held on September 27th in Shrewsbury, Massachusetts and Partial reimbursement will be paid by the Town and partial reimbursement will be paid by ACM-NE. Authorized expenses will be reimbursed by the Town upon presentation of a properly completed voucher with supporting documents for mileage and hotel expenses, and

THEREFORE BE IT RESOLVED, that David E. Renner, Cable Television Coordinator is hereby authorized to attend the ACM-NE quarterly meeting at a shared cost with the Town of Penfield.

Moved: Moore  
Seconded: Metzler

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

Adopted

Public Works

#12T-197  Authorization for Supervisor to Sign Contract for Fire Marshal Vehicle Conversion by Metzler

BE IT RESOLVED, that the Town Board authorizes the Town Supervisor to sign a contract with Thomas Link, 207 Oakwood Lane, Webster, NY for services related to the conversion of a Town of Penfield building department vehicle to use for the Fire Marshal.

Said Contract is on file in the Town Clerk’s Office.

Moved: Metzler  
Seconded: Moore
(Resolution #12T-197 - Continued)

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

Adopted

#12T-198 Authorization to Auction Surplus Equipment by Metzler

BE IT RESOLVED, that the following equipment be declared surplus:

DEPARTMENT OF PUBLIC WORKS

Miscellaneous Small Equipment (See Attached List)

- 1997 Chevy Pick Up Truck H-16
- 2000 International IH Medium Duty Dump Truck H-85
- 2001 F450 Dump Truck S-517

BE IT FURTHER RESOLVED to authorize the Town Supervisor and Director of Public Works the authority to amend a listing of Town Equipment declared as surplus and subject to Public Auction.

BE IT FURTHER RESOLVED, that the Director of Public Works be authorized to enter into a contract with Roy Teitsworth, Inc., to auction said equipment.

AND BE IT FURTHER RESOLVED, that the proceeds resulting from the auction and sale of these pieces of equipment be credited to the appropriate fund.

Moved: Metzler
Seconded: Kohl

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

Adopted

Public Safety - None

Community Services

#12T-199 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:

Baltazar Ortiz, 3531 Atlantic Avenue, Penfield, NY 14526, Assistant to the instructor for Science & Nature Camp Jr. Explorers 8/20/12 – 8/23/2012 and Awesome Art with Miss Teresa 8/27/12 – 8/30/12 for a fee of $300. Voucher to be submitted on 9/05/12.

Jessie Hollenbeck, 8 Wood Street, Pittsford, NY 14534, Staff Assistant for Tastin’ the Blues event 9/15/2012 for a fee of $9.00 per hour. Voucher to be submitted on 9/19/12.

Joseph Meli, 2600 Dewey Avenue Apt. 3, Rochester, NY 14616, Guest Speaker for Fall Open House on 9/17/12 and for lecture series on 11/15/12 for a fee of $40 per lecture. Voucher to be submitted 9/19/12.

Bernie Ziegler, 172 Grafton Street, Rochester, NY 14621, Instructor for Senior Line Dancing Class 9/24/12 – 11/5/12 for a fee of $30 a class. Voucher to be submitted on 11/7/12.
(Resolution #12T-199 – Continued)

Dick Seils, 23 Brookshire Lane, Penfield, NY 14526, Instructor for Beginning Euchre, and two (2) Beginning Pickleball classes 10/15/12 – 11/26/12 for a fee of 70% of total program revenue. Voucher to be submitted on 11/07/12 for a fee of 70% of total revenue.

Usah Shah, 688 East Avenue Apt. 7c, Rochester, NY 14607, Instructor for Meditation and Health 10/2/12 – 10/30/12 and 11/6/12 – 12/4/12 for a fee of 70% of total program revenue. Vouchers to be submitted on 10/17/12 and 11/21/12.

Doris Adamek, 2500 East Avenue, Rochester, NY 14610, Guest speaker on 9/17/12 for a fee of $35. Voucher to be submitted on 9/19/12.

Monroe Community College, Workforce Development, 1000 East Henrietta Road, Rochester, NY 14623, to provide S.A.T. Preparation Classes, 11/4/12, 11/11/12, 11/18/12 for a fee of $195.00 per registered participant per three (3) class session. Vouchers to be submitted at the conclusion of the three (3) class session with an invoice.

Amy Coppola, 30 Tyburn Way, Rochester, NY 14610, Instructor for Intro to Irish Dance ages 3-5, Intro to Irish Dance ages 6-14, 9/20/12 – 11/15/12 for a fee of 70% of total revenue. Voucher to be submitted on 11/7/12.

Joyce Bossard, 841 Corwin Road, Rochester, NY 14610, Instructor for Beginning Knitting 9/24/12 – 11/5/12 for a fee of 70% of total revenue. Voucher to be submitted on 10/17/12.

Joe Callan, 1410 Harris Road, Webster, NY 14580, Instructor for Ladies Let’s Go Fishing on 9/29/12 and 10/6/12 for a fee of 70% of total revenue. Voucher to be submitted on 10/3/12.

Debbie Stein, 91 Spruce Lane, Rochester, NY 14622, Instructor for Drawing for Fun 9/20/12 – 10/25/12 for a fee of 70% of total revenue. Voucher to be submitted on 10/17/12.

Jerry Taylor, 1342 Harwood Lane, Macedon, NY 14502, Guest Speaker for Lecture Series Computer Tips for Inexperienced Users on 10/4/12 for a fee of $40. Voucher to be submitted on 9/19/12.

John Kowiak, 33 Charisma Drive, Rochester, NY 14606, Guest Speaker for Thursday Lecture series “Why Good People Do Bad Things” on 12/6/12 for a fee of $35. Voucher to be submitted on 11/21/12.

Kathy Lenahan, 41 N. Main Street, Honeoye Falls, NY 14472, Instructor for Genealogy for Beginners on 10/26/12 and Scrapbooking Your Antiques on 11/2/12 for a fee of 70% of total revenue. Voucher to be submitted on 11/7/12.

Mark Toker, 7 Burrows Drive, Rochester, NY 14625, Magic Show for Seniors on 10/16/12 for a fee of $60. Voucher to be submitted on 10/3/12.

Dr. Allan O’Grady Cuseo, 228 Fitzhugh Street South, Rochester, NY 14608, Director for Play Reading Performance on 10/2/12 for a fee of $60. Voucher to be submitted on 9/19/12.

Dorothy Brenneis, 28 Woodside Dr., Penfield, NY 14526, Instructor for a Harvest of Healthy Fun, 9/14/12 – 9/28/12, for a fee of 70% of total revenue. Voucher to be submitted on 10/3/12.

Mark Vogt, 3217 Pine View Dr., Walworth, NY 14568, Co-Instructor for Sports ABCs for Tots, 10/6/12 – 10/27/12, for a fee of 35% of total revenue. Voucher to be submitted on 11/07/12.

Ed Porto, 97 Keyel Dr., Rochester, NY 14625, Co-Instructor for Sports ABCs for Tots, 10/6/12 – 10/27/12, for a fee of 35% of total revenue. Voucher to be submitted on 11/7/12.
Penfield Town Board, September 5, 2012

(Resolution #12T-199 - Continued)

Moved: Kohl
Seconded: Quinn

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 9:25 PM.

Amy Steklof
Town Clerk
Statement before Penfield Town Board re Local Law #1 2012 (9/5/12)

Supervisor LaFountain and Town Board members, thank you. Thank you for the opportunity to speak about local law #1 2012. Since it’s not an every day experience that you are submitting a new local law for a vote by the board, it is significant. You are to be congratulated that you are, by so doing, recognizing the vast importance of this issue to the people of our community.

By voting for this each one of you will be able to look your children and grandchildren in the eye - - no matter what Governor Cuomo decides - - and say that you did everything you could within your jurisdiction to prevent what could be the most destructive unnecessary, voluntary, internal attack on the citizens of this state - - one with potentially far more effects than 9/11.

Perhaps you are fortunate in that, as I assume, no gas and oil companies have yet come to you with seductive offers to pay a huge up-front premium for land you own, as has apparently happened with town board members in other towns - - those who then decide to support fracking for the good of their “local economy.”

We live in a time so filled with lies and disinformation, that it has become difficult for decision-makers to determine what is true. The Governor said some time ago that his decision would be based on “science.” However, he has refused to meet with scientists, engineers, health professionals - - those whose life is dedicated to science and well-being, and instead provided to the gas and oil companies advance access to the SGEIS before it was made public. Those companies say they are about energy independence and jobs, (two good things), but who are dedicated to their profits, have millions and millions of dollars to gain, and who have little track record of responsibility or caring for the consequences of their acts.

The gas companies claims of “clean energy” – sweetly trying to seduce us with ubiquitous t.v. and radio ads --- fly in the face of the fact that 5 million tons of toxic water per will be used for hydrofracturing.

The governor has hinted that he will allow fracking in certain counties where “they” want it, and only with “strict regulations.” There are no regulations in place or even offered in the SGEIS document - - only “it would be a good idea to” kinds of comments. There is no way to enforce regulations if there were any. Currently a slap on the hands is what officials in Pennsylvania have said is all that happens. Moreover, any safety regulations that are currently mentioned CANNOT provide assurances that leaks, explosions, and other faults will not create short and long-term disasters.

PLEASE look at the videos and information coming from the people of Pennsylvania who are already suffering the consequences. The American Natural Gas Association has spent over 80 million dollars (probably a very good investment if they get their way) in a PR campaign that includes the help of Hill and Knowlton, the very company that in the 1950’s and 60’s tried to convince Americans that tobacco did not cause cancer.

In case anyone thinks this is not our issue, thinking “let them have what they want in the Southern Tier” --- the waterways know no boundaries, either under the earth or on top. The Genesee River flows north; our precious Finger Lakes are a source of joy and pride and food and beauty for all of us.

If Governor Cuomo gives in to the oil and gas companies – perhaps as a way of building a chest for a 2016 Democratic run for President, I believe it will be the most regrettable decision of his life.
We in Penfield cannot stop the Governor, but we can raise a voice that will be a
counter to these huge forces who do not have our families’ interests at heart.
Please do so and let your children and grandchildren know that you did it and why.

Thank you for the opportunity to speak. We look forward to congratulating you on
being willing to take an honest and courage step on one of the most significant
issues of our time.

Joyce S. Herman
87 Hillary Lane
Penfield 14526

44 year resident of Penfield.