TOWN OF PENFIELD
3100 Atlantic Avenue, Penfield, NY 14526-9798

Town Board Work Session Agenda (REVISED*)
January 09, 2013
7:00 PM

I. Call to Order

II. Approval of Minutes  December 12, 2012

III. Monthly Reports - December

IV. Public Hearing – None

V. Guests – 7:00 PM #1 – Jackie Holtzman – Streamline Approval Request for Massage Therapy Office at 2129 Five Mile Line Road – Costello

#2 - Richard Majkszak – Discussion of Potential Application for Computer Service Shop at 1830 Penfield Road. – Costello

VI. ACTION ITEMS

Law and Finance
1. Requested Amendment to Ordinance to allow chickens – All
   (Sandy Gianniny – 47 Cobbles Drive)

Public Works
1. Parkview/White Village Sewer Project – DiFrancesco
2. Review of Bid for Heavy Duty Track Excavator – Williams/Benway

Public Safety - None

Community Services
1. Heritage Christian Services Home, 1450 Shoecraft Road – LaFountain (*)

VII. INFORMATIONAL ITEMS

Law and Finance
1. Yogurt Shop, 2105 Five Mile Line Road Public Hearing 1/23/13 – Costello
2. Jeremiah’s, 2164 Fairport Nine Mile Point Road Public Hearing 1/23/13 – Costello

Public Works - None

Public Safety - None

Community Services - None

VIII. HELD ITEMS
1. Pond Ownership – Staff

IX. Old Business - None

X. New Business - None

XI. Executive Session – Real Estate, Litigation and Human Resource Matters

XII. Adjournment
Town Board Work Session Minutes  
January 9, 2013  
7:00 PM

I. Call to Order

Present:
Supervisor LaFountain  
Councilwoman Kohl  
Councilwoman Metzler  
Councilman Moore  
Councilman Quinn – Arrived at 7:13 PM

Also Present:
Bob Beedon  
Geoff Benway  
Jim Costello  
Mark DiFrancesco  
Lisa Grosser  
Andy Suveges  
Ronnie Williams

II. Approval of Minutes – 12/12/12

CM Moore moved for the approval of the Minutes of December 12, 2012, CW Metzler seconded the motion.

III. Monthly Reports – Supervisor LaFountain stated that most of the reports for December have been received, tomorrow is the deadline.

IV. Public Hearing – None

V. Guests 7:00 PM #1 Jackie Holtzman – Streamline Approval Request for Massage Therapy Office at 2130 Five Mile Line Road – Costello

Jim Costello introduced Jackie Holtzman and reviewed that she is interested in opening a Massage Therapy Office at 2130 Five Mile Line Road. This will be replacing an existing business that was approved in 2002 for Joanne Fletcher. The business will be located next to the Angus Steak House. Costello had forwarded an email from the applicant to the Board summarizing her intent.

Councilman Moore stated that this would fall under the streamlining policy and should be approved.

Councilwoman Metzler agreed with Councilman Moore.

Jackie Holtzman stated she is currently employed at Xerox. She recently graduated from Massage Therapy School in December. The licensing exam is at the end of January and it then takes 6 – 8 weeks to obtain her license. She anticipates a March or April opening. She plans to run her business part time Thursday, Friday and Saturday. She intends to leave Xerox at the end of
2013 and start full time, five (5) days a week in 2014. She has also worked as a Personal Chef and would like to include nutritional aspects to her job. She would like to also offer some food preparation for her clients.

Councilwoman Metzler inquired if Ms. Holtzman would be cooking on site?

Holtzman stated that there would be no on site cooking, any food preparation would be done in resident’s homes.

Costello said the previous applicant was also approved to have a second therapist at this location. He asked Holtzman if she intends to include an additional therapist?

Holtzman stated possibly, but we would work opposite schedules and not at the same time.

Supervisor LaFountain inquired about signage.

Holtzman said she would utilize the same size sign with different wording.

The Board agreed and Supervisor LaFountain instructed Costello to draft a letter to Holtzman approving the application with the same conditions of approval as the previous applicant.

Costello asked Holtzman if the Fire Marshal had visited the site?

Holtzman said she was unsure if the Fire Marshal had been to the site.

Costello said he would include the Fire Marshal’s inspection as a condition of approval in his letter to Holtzman.

#2 Richard Majkszak – Discussion of Potential Application for Computer Service Shop at 1830 Penfield Road – Costello

Jim Costello introduced Richard Majkszak who has been speaking with Markos Skrombolas about leasing space on the first floor of his property. This project would be in line with the type of operation the Board is interested in for that location.

Richard Majkszak stated that this property was designed as a restaurant and the owner still thinks it should be a restaurant. We are discussing the possibility of putting in office space.

Costello reminded the Board that Majkszak is not seeking approval yet, but wanted to get a feeling from the Board if he should move forward.

Councilman Moore said he is in agreement this is what we envision for this site.
Majkszak stated that he is an on site service repairman who works with Dell and Hewlett Packard. Some of his clients are Chase Bank, Tim Horton’s, Arby’s, Wegmans and Walmart. He would have remote servers on site and one (1) to two (2) staff members on site that would require one (1) to two (2) parking spots. He would have possibly 2 to 3 customers per day.

Moore asked if the Public Parking area on Five Mile Line would be adequate for his needs?

Majkszak said yes. Customers would be coming to his location for meetings and there would not be a lot of people in and out.

Costello asked if there would be retail sales at this location.

Majkszak said his customers would be mostly service and repair work. He would be the only employee at this location.

Councilwoman Kohl asked if he would be occupying the entire first floor?

Majkszak said we plan to use the entire first floor and turn it into office space. We are still negotiating.

Costello said he had recently spoken with Mr. Amore who came before the Board last fall regarding a restaurant application at this location. He is still interested and is trying to obtain additional parking from Mr. Crane. We have a meeting on Friday to discuss this further. He advised Majkszak to stay on top of this with Skrombolas.

Majkszak said he would be meeting again this week with Skrombolas.

Moore reiterated that this is the type of operation we would like to see in that property. He would be receptive to discussing an application when Majkszak reaches an agreement with Skrombolas.

Supervisor LaFountain asked Majkszak if there is any intent to have retail sales?

Majkszak said maybe a little, he is only interested in commercial sales which would be one (1) to two (2) customers a day. His primary focus is repair. 75% of his work is done at the customer’s location.

LaFountain said he is sensitive to offering retail sales. This location would be more suitable for a maintenance and repair business.

Costello asked if this site doesn’t work out, would you be interested in another location in the Four Corners?
Majkszak said yes, he has also spoken with the owner of the hardware store.

Councilwoman Metzler said this is the first opportunity for that building that she has been intrigued and encouraged by.

The Board agreed that this would be a good use for the property.

Costello said he would share the Town Board’s comments with both Mr. Amore and Mr. Skrombolas.

VI. ACTION ITEMS

Law and Finance

1. Requested Amendment to Ordinance to allow chickens - All
   (Sandy Gianniny - 47 Cobbles Drive)
 Supervisor LaFountain stated that Ms. Gianniny had come before the Board at the 12/19/12 Legislative Session. She presented the Board with a letter, a You Tube Video clip and a CD titled “Mad City Chicken.” She is requesting the Board to change the code to allow pet chickens. Ms. Gianniny received a notice that she was in violation of the Town Zoning Ordinance.

Andy Suveges reviewed that in September 2012 he received a call from a resident regarding chickens at 47 Cobbles Drive. He visited the site and spoke with the owner. Under the Town Zoning Ordinance, five (5) acres are required to house livestock. Ms. Gianniny indicated she is interested in seeking a revision to the Ordinance to allow chickens that are pets. If this is not allowed, she will have to get rid of her chickens.

Councilman Quinn asked if Ms. Gianniny had gone before the Zoning Board of Appeals before approaching the Town Board?

Ms. Gianniny stated that she had completed the application for the variance and was told that everyone who had gone before the Zoning Board of Appeals had been turned down. Town Staff suggested she take a different approach and go before the Town Board requesting the Ordinance be redefined to differentiate pets from livestock.

Councilwoman Metzler said no one has requested a change to the Ordinance before. We have only had complaints against chickens. She is very sensitive to the precedent that has been set by the Zoning Board of Appeals. Since the Fall of 2009 there have been three (3) or four (4) hearings regarding chickens.

Suveges said we have had more issues with chickens recently than we did 10 years ago.

Gianniny said the Ordinance could outline the guidelines to allow chickens. She moved here from Brighton and chickens were allowed there.
Metzler said the complaints we have had are because of the density of the neighborhoods. This is why we require a minimum five (5) acres.

Gianniny asked the Board if they would say the Town of Penfield has a denser neighborhood than the City of Rochester? The City of Rochester code allows pet chickens.

Metzler said the Town of Penfield code is more conducive to the Penfield than the City of Rochester code is to Penfield.

LaFountain stated that there are parts of Penfield that have a higher density.

Gianniny said you could have different code for different size lots. The requirement of five (5) acres is almost a farm.

Jim Costello referenced Article II, if you raise livestock for profit you need a minimum of 5 acres. However, if you raise livestock but not for profit, you can have less than 5 acres. The requirement however, is that you must be 100 feet from any property line and I don’t believe you can meet that criteria.

Metzler stated that we have received complaints from neighbors in your area regarding chickens.

Gianniny said she has forever wild land to the back of her property. She said her land is only 1/3 acre, but her neighbors like her chickens and ask about them frequently.

Costello asked Suveges if this had occurred because of a neighbor complaint.

Suveges said yes.

Gianniny said she asked her neighbors before she moved in and all were supportive.

Suveges said someone called to ask if chickens were allowed, they were not complaining of noise.

Councilman Quinn asked if this is a similar situation to what occurred on Embury Road?

Suveges said the bigger issue was they had a rooster on Embury Road, and they also did not have five (5) acres.

Councilwoman Kohl stated you need to review the conditions under which the Zoning Board of Appeals would allow chickens. We have had more applications for variances to allow chickens; however, most people see chickens as livestock.

Gianniny said there are a number of people in Penfield with chickens, and that is why she thought she could have them.
Kohl said maybe you could get a Petition of supporters.

Gianniny said you could add a sub clause in the Ordinance that would allow chickens as pets. People have cats and ferrets; the Town allows Pit Bull Rescue, why not chickens. The chickens are part of my family. 48 cities allow chickens and there are rules to keep them. People enjoy having their pet chickens all over the country; this has become a new ground swelling.

LaFountain asked Ms. Gianniny if she would be willing to go before the Zoning Board of Appeals for a variance.

Gianniny said yes.

Quinn stated that the Town currently has an avenue to work within the Zoning Ordinance. If you go before the Zoning Board of Appeals, then you would know if there is opposition or support from your neighbors.

Metzler said the Zoning Board of Appeals is the proper vehicle to obtain approval. She is not interested in changing the Zoning Ordinance at this time, the law provides an avenue for a resident to obtain permission.

LaFountain stated that the Town has had three (3) different applications, one (1) from that neighborhood and all have been denied. The Zoning Board of Appeals has been consistent in denying those that can not meet the required criteria as stated in the Zoning Ordinance.

Gianniny said the requirement of five (5) acres is unreasonable for pet chickens.

Moore said every situation is unique. This is your argument for the Zoning Board of Appeals as to why your variance should be granted. There is a process in place and everyone gets treated fairly before the Board.

Metzler stated that variances are granted from the Zoning Board of Appeals on a case by case basis.

LaFountain said if the Zoning Board of Appeals denies this application, the Town Board is not willing to change the Zoning Ordinance to allow pet chickens.

Public Works
1. Parkview/White Village Sewer Project - DiFrancesco
Mark DiFrancesco stated he had e-mailed the Board regarding what would be required for the Petition process. DiFrancesco, with Ann Buck, Town Assessor, has been gathering property information to incorporate in to the Petition. Once the Petition has been finalized he can start to gather the required signatures needed for the Board to take action on the Sewer District formation.
DiFrancesco continued to say that certain Engineering documents are also a required part of the Petition process. These components, such as a Map/Plan and Report, Long Form EAF and correspondence with potentially involved agencies are included within the Phase-A portion of MRB Group’s proposal for engineering services.

Until the Board authorizes the full Engineering proposal for this project, the Board could authorize just the Phase-A portion of the work so that the Petition process can move ahead.

Supervisor LaFountain asked if the cost is $8,000 to have this done?

DiFrancesco confirmed that the cost of the Phase-A portion of the Engineering proposal is $8,000. MRB would invoice us, consistent with the terms set forth in the Engineering proposal, to be deducted from the $8,000.

Councilwoman Metzler asked if this was a budgeted expense.

DiFrancesco said without an established district these costs are allowed under NYS Town Law to be charged against the General Fund and reimbursed once the Extension has been established.

LaFountain stated that the Board has not yet authorized the expense. This will yield a proper paper trail for auditing and control, so DiFrancesco can start getting the Petition signed.

The Board agreed and gave DiFrancesco authorization to proceed with the Phase-A portion of the MRB Group Engineering Proposal.

Public Works

2. Review of Bid for Heavy Duty Track Excavator – Williams/Benway

Ron Williams reviewed that one (1) bid was received on 12/27/12 from six (6) possible suppliers. The bid is for a used 2012 Heavy Duty Track Excavator for $169,251. All accessories are included. There is a 17 month and a 2,000 hour warranty. This is equipment that the Town has rented and put the hours on. We would like to use the drainage fund to pay for this equipment.

Geoff Benway said this equipment is used primarily for drainage work. It allows an operator to work alone. It is one piece of machinery that can excavate ditch and remove tree and brush. This equipment allows access to sites we could not access before.

Councilwoman Metzler asked if this is an upgrade. Can we do more projects more efficiently with less man power?

Benway said yes.
Williams said we can work in crews of two (2), one (1) machine operator and one (1) spotter. Some of the projects we have completed in the last five (5) months are: Four Corners Drainage Project, Cherrymede Pond, Willow Pond and Wilbur Tract Road. The equipment was also used for soil remediation at Jackson Road. The equipment can be used throughout Watershed management with an annual preventative program. We can become proactive rather than reactive. The benefits are we save $5,000 to $6,000 from renting the equipment. The payback is shorter to actually purchase the equipment. During the last five (5) months we have used the equipment 70% of the time. We would like to train an additional employee to use the equipment which could increase use to 80% versus with one (1) operator. Williams recommends we purchase the equipment instead of renting it.

Benway said we have checked with other Towns and most have multiple pieces of excavating equipment. Both Webster and Perinton have similar equipment.

LaFountain said the “Volvo” equipment that was purchased was paid for by both the drainage fund and incentive zoning. He is supportive of utilizing the drainage fund, but not 100%.

Bob Beedon stated we have $338,000 in the drainage fund, if we use $169,251 we would have $168,749 remaining.

LaFountain said it makes sense to purchase the equipment. He asked that Williams review the equipment budget and we will pay for the equipment with a portion from the drainage fund and a portion from the equipment budget. He asked if the Board would agree to this and allow himself, Beedon and Williams to work out the financial details.

The Board agreed and a Resolution will be prepared for the next Legislative Session on January 16, 2013.

Public Safety – None

Community Services
1. Heritage Christian Services Home, 1450 Shoecraft Road – LaFountain

Supervisor LaFountain stated that we held a Public Information meeting and some residents raised concerns. I have encouraged those with concerns to meet with Heritage Christian and visit existing sites.

The Board agreed and a letter will be prepared allowing Heritage Christian to move forward.

VII. INFORMATIONAL ITEMS

Law and Finance
1. Yogurt Shop, 2105 Five Mile Line Road Public Hearing 1/23/13 – Costello
Jim Costello has forwarded comments from PRC to the applicant. The Historic Board has agreed to the improvements to the building. The Public Hearing will be held on January 23, 2013. Post cards are being mailed tomorrow.

2. Jeremiah’s, 2164 Fairport Nine Mile Point Road Public Hearing 1/23/13 - Costello
Jim Costello has forwarded comments from PRC to the applicant. He has met with the neighbors and Doodlebugs. Concerns regarding drainage have been addressed. He has received an email from the neighbor on Braunston Drive who supports the application. The applicant is willing to do what he has to regarding trees and landscaping to satisfy the neighbors. The Public Hearing will be held on January 23, 2013. Post cards are being mailed tomorrow.

Public Works - None
Public Safety - None
Community Services - None

VIII. HELD ITEMS
1. Pond Ownership - Staff

IX. Old Business - None

X. New Business - None

XI. Executive Session - Real Estate, Litigation and Human Resource Matters - The Board met in an Executive Session following the Work Session regarding a Human Resource matter.

XII. Adjournment - Supervisor LaFountain adjourned the Work Session at 8:08 PM.