I. Call to Order

II. Approval of Minutes - April 24, 2013 (both Public Hearing and Work Session)

III. Monthly Reports - April

IV. Public Hearing – None

V. Guests – Randy Barkin – Relocation of Incognito Menswear & Tux Shop - Costello

VI. ACTION ITEMS

Law and Finance
1. Recreation Master Plan - Bilow
2. Ashlyn Rise Sign Placement on Town Property/Special Improvement District/Pond Ownership – Benway
3. Jeremiah’s Tavern, 2164 Fairport Nine Mile Point Road – Relief from Condition #7 - Costello

Public Works
1. Request for a Top Soil Sales Operation at 1364 Jackson Road, Ben Barry – Benway
2. Request for a Top Soil Sales Operation at 2343 Penfield Road, Blake Miller – Benway
3. Request to Occupy a Drainage Easement for a Pool House at 6 Bainbridge Lane, Jonathan Oliva – Benway
4. Parkview/White Village Sewer Project Update - DiFrancesco

Public Safety - None

Community Services - None

VII. INFORMATIONAL ITEMS

Law and Finance
1. May 15th Public Hearings – Costello
   • 1850 Penfield Road, Dog Grooming Salon
   • 1785 Penfield Road, Outdoor Dining – Signatures at the Humphrey House

Public Works - None

Public Safety - None

Community Services - None

VIII. HELD ITEMS - None

IX. Old Business - None

X. New Business - None

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

XII. Adjournment
I. Call to Order

Present:
Supervisor LaFountain – Arrived at 7:15 PM
Councilwoman Kohl
Councilwoman Metzler
Councilman Moore
Councilman Quinn

Also Present:
Geoff Benway
Chris Bilow
Jim Costello
Mark DiFrancesco
Lisa Grosser

II. Approval of Minutes – 4/24/13
CW Kohl moved for the approval of the Minutes for the Public Hearing and the Work Session of April 24, 2013, CM Quinn seconded the motion.

III. Monthly Reports – Reports for April are coming in and there are no issues.

IV. Public Hearing – None

V. Guests – Randy Barkin – Relocation of Incognito Menswear and Tux Shop
Councilwoman Metzler introduced Randy Barkin who is interested in moving his business to the newly renovated hardware store building next door at 1823 Penfield Road.

Jim Costello said on April 8th he had forwarded an email to the Board from Randy Barkin requesting approval of the relocation. This relocation falls under the streamline process as the business is not changing; it is a relocation. Costello recommends this for the streamline process as it is a good operation and the applicant maintains compliance with the code. The permit will be subject to conditions and the Board will not hold a Public Hearing.

Metzler stated a precedent has been set with The Upper Crust Bakery who changed locations and went through a similar streamline process.

Costello said this was also done with Lansing Sales and Service as well as others.
Councilwoman Kohl asked if there would be an increase in employees?

Randy Barkin said there will be no additional employees.

Councilman Quinn asked about signage.

Barkin said he is working on a new sign.

Costello said he will forward the proposed sign to the Board for its review.

Metzler suggested Barkin add information to his sign suggesting customers use the rear parking area. She asked what is the time frame for moving the business?

Barkin stated they would start the interior construction in June. His existing lease ends in August. He is looking for a smooth transition and plans to be in the new building by the end of July and open for business the middle of August.

Kohl asked if there would be more than one (1) entrance?

Barkin said he would be utilizing both the front and back entrances.

Kohl asked if he would be utilizing the space upstairs.

Barkin stated that yes, he would.

Kohl asked if Barkin will be adding anything else to his product line, like women’s clothing?

Barkin said no, we are looking to add more new men’s clothing.

Costello stated that Barkin has been working with the Building Inspector and the Fire Marshal and he is in compliance.

Metzler stated the property owner is Ron Baroody.

The Board agreed and asked Costello to prepare the permit for review. When Costello receives the plan for the sign he will also forward that to the Board.

VI. ACTION ITEMS

Law and Finance

1. Recreation Master Plan – Bilow

Chris Bilow reviewed that the Master Plan was submitted on April 24, 2013. One resident requested a copy and no comments were received.

The Board approved and the Resolution will be submitted for the next Legislative Session on May 15, 2013.
2. Ashlyn Rise Sign Placement on Town Property/Special Improvement District/Pond Ownership – Benway

Geoff Benway said the development of Special Improvement Districts has been discussed with Mark DiFrancesco, Bob Beedon, Ann Buck and himself. He submitted a revised informational flyer for the Board’s review. The first Special Improvement District was established for Abbington Place. Benway stated that there is an outline based on items in the original Resolution for Abbington Place. There will be a 60% approval requirement from the residents in the district. The Town Board must approve the service and verify the safety/function.

Benway continued to say Special Improvement Districts will be only for new subdivisions with a project in the right-of-way or town owned land. Benway also suggested including trails in Special Improvement Districts. There is an existing park district in the Town. Benway continued to say the process and schedule will be consistent with the way lighting and sewer districts are currently being handled.

Councilman Quinn asked for clarification on the 60% resident approval.

Benway said when a district is formed the developer is the only one who needs to approve the formation and that would be 100%. After the district is established and a particular service is required, 60% of the residents in the district must approve the amenity/service.

Jim Costello said there may be existing neighborhoods who would petition for improvements.

Quinn suggested when a developer requests a Special Improvement District, there should be a list of the ten available amenities. Residents cannot be allowed to pick whatever they want 10 years later.

Costello asked how would we handle an existing neighborhood with an existing pond that would like to add an aeration system?

LaFountain said we would require 60% resident approval. LaFountain asked of existing ponds, how many are the Town’s responsible and how many are privately owned?

Benway said there are about 40 ponds on Town Owned property and another 40-50 that the Town has an easement on private property. Benway said he has always pushed for Town owned ponds because we have better control.

LaFountain said his concern is a private pond. The owner’s get quotes for improvements and calls the Town and wants something done.
Benway said it was discussed with Ann Buck, Assessor to set up a base fee of $1.00 per property. If residents don’t like an improvement, such as a median, and want it removed we would have funding to remove it.

DiFrancesco said we need to make sure we are proportionate when setting up a Special Improvement District. For example Ashlyn Rise is approved for 36 lots. 12 lots have been sold and the developer will have to be responsible for the remaining 18 lots.

LaFountain said this may make the developer prioritize his needs for improvements.

DiFrancesco said if a subdivision was petitioning to have a sign repaired, the Town would get an estimate for the repair and an estimate for the removal. Those two (2) costs would then be given as a proposal to the residents in the district and directly reflected in their fees to fund the district.

LaFountain said he is concerned that there may be additional staffing requirements to manage these districts, as Special Improvement Districts become more popular.

DiFrancesco said we have to decide if having Special Improvement Districts is enough of a benefit to our residents to justify the potential additional staffing requirements.

Quinn said this is a benefit that the developer would have to sell to the residents. Once a district is formed we have to determine how to fund it. We need this to be equitable for all residents from the first house to the last house. Quinn also said we need to determine how to define subdivision lines as new streets are added.

Councilman Moore stated regarding Ashlyn Rise; he feels neighborhoods don’t need signs. He doesn’t feel a subdivision sign is a selling feature.

LaFountain said he is concerned about ponds. If a developer wants a sign he can sell it to the residents. If the residents no longer want the sign, we can get an estimate, charge residents and remove the sign. LaFountain continued to say ponds in developments become the responsibility of the developer. We will be getting more ponds and we need to figure out how to address this.

DiFrancesco said the Drainage Fund is set up to take care of the functionality of the ponds. If the residents want an enhanced look then a Special Improvement District would be required.

LaFountain asked the Board to review the flyer and get comments back to Benway.
Benway submitted the flyer to Town Attorney Horwitz for review and is waiting for comments.

LaFountain said this will be a held item until the May 22, 2013 Work Session.

3. Jeremiah’s Tavern, 2164 Fairport Nine Mile Point Road – Relief from Condition #7 – Costello

Supervisor LaFountain reviewed that the Public Hearing was held on May 1st and a number of residents submitted feedback. Comments have been received from Monica Gorlick, Mike Young, Suzanne Wilson and Rich and Angie Farrell.

Jim Costello confirmed that no additional comments had been received.

Councilwoman Kohl stated she is concerned with the discussion of speakers on the patio at the recent Public Hearing. The Resolution stated no amplification; speakers and television were not originally requested.

Jeff Reddish said he is willing for work with the Board. He can eliminate the request for live music. The televisions would only be for background entertainment. He has envisioned the patio with speakers. They would be for background music only and should not be heard by the neighbors. He will do everything he can to make sure noise is not a problem.

Councilwoman Metzler asked if the location of the patio is the same as originally proposed?

Reddish said yes, the patio will be in front of the building. The patio at the Gates location has music and a fireplace and they have had no complaints.

Kohl suggested Reddish start with the originally approved hours and come back in six (6) months to request outdoor music.

Supervisor LaFountain said at the original Public Hearing there was no discussion of speakers. Acoustical music was the only discussion. The original Resolution stated no amplification of music.

Reddish stated he was not aware that speakers would not be allowed on the patio.

LaFountain said only acoustical music was approved, the Board was surprised to hear of speakers at the last Public Hearing.

Metzler stated at the previous hearing we discussed a six (6) month trial with the originally approved hours. After that trial you could come back to the Board for approval of additional hours, speakers and live music. Let’s make the project work, maybe in increments. Metzler referenced Signatures at the
Humphrey House; they came before the Board for a patio with the original approval. The Board approved the project, but asked that they wait and come back for the patio approval. The business has been very successful and they just came to the Board for approval for a deck instead of a patio. She suggests Reddish establish the business and then come back to the Board for additional approvals. This could yield a better project and we would be willing to offer this again.

Reddish said he is investing 2 ½ million into this project and hoping to get an approval is not something he can do.

LaFountain said you don’t want to move forward with everything and have the Board pull the Conditional Use Permit because of problems.

Reddish said he has established restaurants in other towns, and we have had no issues. He is willing to compromise and can table the live music for now. He needs speakers for background music on the outdoor patio.

LaFountain said there are a number of locations in Town that have outdoor patios and do not have speakers for outdoor music. The Town has had problems in the past with outdoor music. We are approaching this application cautiously. We are willing to work with you. We have worked with businesses that are willing to meet us halfway and establish the business first. LaFountain continued to say establish your track record with the Town first and demonstrate that there are no problems and then move forward.

Reddish said he doesn’t need full hours, we can scale that back. We could stay open to 12:00 AM on weekdays and 12:30 AM on weekends.

Metzler stated it is not credible that your business depends on background speakers on a seasonal outdoor patio.

Reddish said we are trying to set a mood. Without a vibe you’re going to get beat up by the other guy. This business is tough we need every advantage we can have.

Metzler said your business does not hinge on outdoor speakers and televisions in the first six (6) months. Why not open and have a short waiting period.

Reddish said he cannot invest 2 ½ million dollars in hopes to get approved in the future.

Kohl said outdoor music would have to come in time. Don’s Original, Joey’s Pasta House and T-Bones all have outdoor patios without outdoor music. She cannot see outdoor dining hours beyond 10:00 PM during the week. We would have to see how that works before approving anything later than 10:00 PM.
Reddish said the speakers would be for background music. It is not a problem with the other restaurants. He is willing to compromise, but 10:00 PM is too early, he would like to be open until midnight during the week.

Kohl asked why can’t patrons move inside after 10:00 PM?

Reddish said he had a vision and that includes the outdoor patio. He specifically picked this site and thinks the restaurant will be very successful. If he can’t do certain things, he may have to look at other options. Reddish asked if the Board reviewed the letters of support he submitted at the Public Hearing.

The Board agreed they had reviewed the letters that were submitted.

Councilman Moore said he feels a compromise should be reached. He has no doubt Reddish would be a good neighbor in that location. The Board has received some very passionate letters and testimony from the neighbors. I know Reddish cares about the neighbors as they are his customers. The issue is noise we need to focus on that issue alone. Moore appreciates the offer of reduced hours and we should be able to reach a compromise. If issues arise I am confident you would address them. Moore feels we can come to a compromise and give this a shot.

Metzler stated risk is involved in each area. She feels Reddish should wait six (6) months for outdoor music. Depending on when you break ground it may not encompass the summer.

Quinn stated he is unsure if a compromise can be reached. It seems like there is a line in the sand. Why is the patio the focal point of the whole project? Residents spoke against having the outdoor patio open beyond 10:00 PM. He hopes the applicant stays in town. Quinn suggested staying open until 10:00 PM on weekdays and 12:00 AM on weekends would be a compromise. In six (6) months you can come back to the Board for the extras.

LaFountain stated that Jeremiah’s would be a good addition in Penfield. He would like to see them here. He stands by the original Resolution. The applicant needs to demonstrate a good faith effort. Open and get a sense for the neighborhood, have a successful business. In six (6) months we can review for extended hours. The Board needs to be consistent with what we have done in the past.

Metzler agrees that there has been no noise yet. The Board may be willing to take the risk and allow you speakers and television until 10:00 PM on weekdays and 12:00 AM on weekends. With this compromise there will be a caveat to pull the permit if there is a founded complaint from the neighbors. Metzler also suggests the applicant hire a sound engineer to do a sound study and make sure the sound does not go beyond the property line.
Reddish agreed to Metzler’s offer.

Quinn supports this compromise.

Councilman Moore asked for clarification.

Metzler stated speakers, music and television would be allowed on the outdoor patio until 10:00 PM weekdays and 12:00 AM weekends. In six (6) months we will review this again.

LaFountain asked Costello to prepare a draft Resolution for the Board’s review. He advised that there may not be a unanimous vote. We will review the proposed Resolution and would not be able to approve it until the June 5th Legislative Session.

Costello suggests having the draft Resolution available for everyone to review including the Board, applicant and neighbors. Costello advised the applicant work on the physical aspect of the outdoor dining area. Work with a sound engineer to minimize the sound impacts and have a report for the Board to review.

LaFountain said we will discuss the Draft Resolution at the next Work Session on May 22nd.

Metzler suggested the applicant meet with a sound engineer and have a discussion regarding moving the patio to minimize the noise.

Costello asked about notifying the neighbors, several are in attendance this evening.

LaFountain said a meeting should be scheduled with the applicant and the neighbors.

Public Works
1. Request for a Top Soil Sales Operation at 1364 Jackson Road, Ben Barry – Benway
   Geoff Benway stated that Ben Barry had a top soil permit 4-5 years ago. He will be using Herb Boyce for the excavation. The site will be a screening operation only. Soil will be brought in, screened and then sold.

   Councilman Quinn asked if neighbors had any concerns.

   Benway said no, the site is wooded and there is farm land nearby.

   Quinn asked the hours of operation.

   Benway said according to the ordinance the hours will be Monday through Friday, 7:00 AM to 5:00 PM and Saturday 8:00 AM to 1:00 PM. This will be for a six (6) month term. The nearest home is 600 feet away.
Councilwoman Metzler asked about the notification process.

Benway said if this goes to a Public Hearing, postcards would get mailed to the neighbors within a 500 foot radius.

Quinn asked about the boats parked on the property; are they permitted?

Jim Costello said no, the boats are not allowed.

Quinn suggested Barry be required to remove the boats from the property before a top soil permit is issued.

The Board agreed with Quinn’s recommendation.

Supervisor LaFountain asked Benway what is the amount of soil that will be screened?

Benway said the material will be brought in from off site. He does not have the exact quantity.

LaFountain asked that Benway verify the quantity.

Benway will contact the applicant regarding the boats, the top soil permit will be drafted with the standard conditions and forwarded to the Board for review.

2. Request for a Top Soil Sales Operation at 2343 Penfield Road, Blake Miller – Benway

Geoff Benway stated that this property is in a wetland. The screening would have to be set up in a specific area to be compliant. The nearest home is 200 feet away.

Supervisor LaFountain asked if there had been problems with this site in the past?

Benway said the problems were due to the amount of disturbance in the area.

Costello said the applicant stripped the site and did not re-vegetate as quickly as he should have. The screening area needs to be moved away from residents. The area he is using for screening now is where the sewer for Ashlyn Rise will be located.

Benway said he is still waiting to verify the quantity, but it should be less than 10,000 Cubic Yards; no EPOD permit is required.

LaFountain asked if screening has been taking place on site without the permit?

Costello stated he was at the site last week and nothing is being done with respect to topsoil screening.
LaFountain asked where the applicant stands on the list of requirements from PRC?

Costello said he is working on those requirements. He has done more in the last 30 days than in the past two (2) years.

LaFountain suggests this is held until all of the information is received. He would like to continue to see improvements at the site and the applicant has until June 1st to meet all of the requirements.

Councilwoman Metzler agrees we should hold off on issuing the permit until the property is brought into compliance.

LaFountain confirmed there will be no screening on the property until the Board issues the permit.

3. Request to Occupy a Drainage Easement for a Pool House at 6 Bainbridge Lane, Jonathan Oliva – Benway

Geoff Benway said the applicant wants to add a pool house. The lot has a pond and an easement on the property. There is a discharge pipe towards NYS RTE 250. The pool house will encroach 30 sq. ft. within the easement. The resident does not want to put the pool house to the west because it will occupy the middle of his backyard.

Jim Costello said the Town has the easement to go in and review the status of the pond.

Supervisor LaFountain asked why we have the easement.

Benway said the easement is for inspection purposes only. If the pond were to clog it would flood the homes in the area.

LaFountain asked if we can abandon the easement or a portion of the easement?

Costello pointed out that there are two (2) means of access and we do not need this access point.

The Board agreed and LaFountain instructed Benway to prepare a Resolution for the next Legislative Session on May 15, 2013 to abandon a portion of the easement.

4. Parkview/White Village Sewer Project Update – DiFrancesco

Mark DiFrancesco stated he has 61% approval and he has stopped actively canvassing. He is still accepting signatures and hopes to get to 67% approval.

DiFrancesco continued to say the total for Engineering Services is $192,250 we have already authorized $11,250 which leaves a balance of $181,000. He would like to move forward and authorize the balance next week.
DiFrancesco then reviewed the estimated time line. On 6/19/13 establish the Town Board as Lead Agency. On 8/7/13 adopt the Negative Declaration, conclude SEQR and call for the Public Hearing on 9/4/13. On 9/18/13 establish the sewer district and authorize the bonding. Construction would start this time next year. We would have to have another Public Information meeting before the end of this year. DiFrancesco also said we should have money in the contract to hire out the inspection observation services. We would prefer to avoid hiring a consultant and hire from the private sector.

DiFrancesco will email the revised time line with the revised estimate to the Board for its review.

LaFountain stated with 61% approval we are above the requirement. Four (4) Board members agreed it was okay to proceed and asked DiFrancesco to prepare the Resolution authorizing the Engineering Services for the May 15, 2013 Legislative Session.

Councilman Quinn abstained.

Public Safety - None

Community Services - None

VII. INFORMATIONAL ITEMS

Law and Finance
1. May 15th Public Hearings - Costello
   • 1850 Penfield Road, Dog Grooming Salon
   Jim Costello said he has spoken with the neighbors and there are no concerns. There is an attorney who expressed concerns about boarding dogs overnight. Costello will meet with the attorney prior to the Hearing.
   • 1785 Penfield Road, Outdoor Dining - Signatures at the Humphrey House
   Jim Costello reviewed that this Public Hearing is scheduled and there are no concerns.

Public Works - None

Public Safety - None

Community Services - None

VIII. HELD ITEMS - None

IX. Old Business - None

X. New Business - None
XI. **Executive Session** - Real Estate, Litigation and Human Resource Matters - No Session tonight

XII. **Adjournment** - Supervisor LaFountain adjourned the Work Session at 9:09 PM.