PENFIELD TOWN BOARD AGENDA

Wednesday, July 17, 2013, 7:30 PM

Supervisor R. Anthony LaFountain, presiding

I Call to Order - Pledge of Allegiance - Roll Call

II Public Hearing #1 – To Allow a Carpet and Flooring Office at 1788 Penfield Road, located in the Four Corners (FC) Zoning District

III Communications and Announcements

IV Public Participation

V Additions and Deletions to Agenda

VI Approval of Minutes –June 5, 2013

VII Petitions

VIII Resolutions by Function

Law and Finance
13T-150 Authorizing Purchase of a Portion of Property at 1777 Penfield Road from Dr. Arnold J. DiPietro to Create Additional Right of Way to Extend Motts Lane
13T-151 Setting a Public Hearing for Conditional Use Permit to Allow a Chocolate Shop at 1865 Penfield Road
13T-152 Authorization for Release of an Access and Turnaround Easement to Lots 2, 3, & 4 at 1440 Scribner Road
13T-153 Authorization for Release of a Sanitary Sewer Easement at 1440 Scribner Road
13T-154 Authorization for release of a Drainage Easement at 1440 Scribner Road
13T-155 Adoption of Town of Penfield Background Check Policy
13T-156 Granting Relief From Condition # 7 of Resolution #13T-81 Pertaining to the Permitted Hours of Operation of the Outdoor Dining Area for the Proposed Jeremiah’s Tavern located at 2164 Fairport Nine Mile point Road
The Regular meeting of the Penfield Town Board was held on Wednesday, July 17, 2013 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:  Lisa Grosser  Deputy Town Clerk  
Richard Horwitz  Town Attorney  
Jim Costello  Director of Developmental Services  

Supervisor LaFountain called the meeting to order – Pledge of Allegiance

Public Hearing #1  To Consider Issuance of a Conditional Use Permit to Allow a Carpet and Flooring Office at 1788 Penfield Road – SBL #139.05-2-23.103 – Chris Wensley (see Resolution #13B-146)

The Deputy Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on July 3, 2013 and was posted on the Town Clerk Bulletin Board and Website. 19 postcards were mailed and three (3) Homeowners Associations were notified.

Supervisor LaFountain confirmed with Town Attorney Horwitz that this Public Hearing is properly before the Board.

Chris Wensley, 50 Yorkshire Rd., Rochester, would like to open a Floor Coverings International Store. They will sell carpet and flooring and install both residential and commercial properties. The office will include a showroom. Initially there will be only one (1) employee and he may wish to add one (1) to two (2) employees in the future. They will be open by appointment only at first, and may extend to regular business hours in the future. The signage will be the same as other businesses in the building.

Councilwoman Metzler asked where the business will be located?

Wensley stated at 1788 Penfield Road, in front of the Penfield Hots building.

Councilwoman Kohl asked if the sign will be part of the medical building?

Wensley said it will replace the existing sign that says “Lease or Rent.”

Metzler asked if the sign will have to meet franchise requirements?

Wensley said it will include the logo, but be done locally.

Metzler asked about vehicles on site.

Wensley stated he will use a regular size SUV. The warehouse will be at a separate location.

Councilman Quinn asked if the SUV would be parked after business hours.

Wensley said no, only during regular business hours.

Supervisor LaFountain inquired as to the square footage of the store.

Wensley said 900 square feet.

LaFountain asked if there would be an opportunity to expand in the future?
Penfield Town Board, July 17, 2013

(Public Hearing #1 - Continued)

Wensley said yes, he is only taking one (1) unit at this time, he could add a second unit at a later date if needed.

Metzler asked if materials would be delivered to the Penfield Road site?

Wensley said only samples; there will be a separate facility for inventory.

LaFountain said there is ample public parking in the area, and it would be sufficient if employees are added in the future.

Metzler asked about refuse collection.

Wensley said he would utilize a small, enclosed dumpster.

LaFountain reviewed that the next step would be for the Board to review this Public Hearing at the next Work Session on July 24, 2013.

Public Participation – None

Hearing Closed.

Communications and Announcements

1. All dog owners should make sure their pet’s rabies vaccine is current due to possible interaction with rabid wildlife.

2. The next Passport night in Penfield will be held on Thursday, August 29, 2013 from 5:30 PM to 7:30 PM. Questions can be directed to the Town Clerk’s office at 340-8629, or the Monroe County Clerk’s office at 753-1600.

3. The Summer Amphitheater “Kids Fest” concerts continue tomorrow night with the Dady Brothers at 7:00 PM. The Dinner Dogs will appear on July 25, 2013 and Mike Kornrich will follow on August 1, 2013. For more information about this series, visit www.penfieldrec.org.

4. The Department of Public Works will host an Open House from 1:00 PM to 4:00 PM Thursday, July 18, 2013. The DPW welcomes visitors at the Town’s Public Works Complex, 1607 Jackson Road. The Open House will showcase a range of specialty vehicles from the Highway, Sewer and Parks Departments. Staff will highlight systems that promote sustainability including the Town’s Energy Management System, solar power, electric vehicle charging stations, oil recycling, and the stormwater filtering rain garden and bat house. Everyone is welcome to attend, registration is not required. For more information please visit www.penfield.org.

5. Please be advised that many tasks on the Department of Public Works schedule, including drainage projects, catch basin and gutter repairs, and sidewalk installations are delayed due to the frequency and unusually high amount of rainfall this spring and summer. June’s total rainfall was 6.27 inches. By comparison, the normal monthly average for June is 0.27 inches. Year to date totals show 21.32 inches of rain through June 30, which is nearly five (5) inches above average. Further, the July 3 “micro-burst” storm raised the level of Irondequoit Creek an amazing five (5) feet at Blossom Road and two (2) feet at Allen’s Creek in a matter of an hour. The Town Engineer advises that August typically has the highest rainfall totals. Please bear with us, we are eager to complete the work we have started and will finish projects by the end of the construction season.
6. The Summer Amphitheater “Cool Jazz” concerts continue with Tritone Jazz Camp Faculty on Tuesday, July 23, 2013 at 7:00 PM. The White Hots will appear on Tuesday, July 30, 2013 at 7:00 PM. For more information about this series, visit www.penfieldrec.org.

7. Next week will be Supervisor LaFountain’s last column in the Penfield Post until November 13, 2013 due to the political black out period. During this time various Town Department Heads will be “Guest Columnists” to highlight the various items and projects they are working on. Supervisor LaFountain’s column will continue to appear on the Town website www.penfield.org.

8. The turn arrows in the Four Corners were turned on at Noon today. This has been a long time coming and credit should be given to the NYS State DOT and Caccamise Electrical.

9. As part of Time Warner Cable’s ongoing initiative to convert analog channels to digital-only format, on or about July 23, 2013, Time Warner Cable will convert the Public, Education and Government or otherwise known as “PEG” Access channels to the digital only format within the Basic Service Tier (“BST”). At that time, the PEG channels will no longer be transmitted in analog format. These PEG channels will remain visible on their pre-existing channel numbers; 4, 12 and 15 only when accessed through a Time Warner cable supplied digital set top box, a Digital Adapter or a CableCARD equipped with Unidirectional Digital Cable Product. Customers should contact Time Warner Cable by September 23, 2013 to obtain a Digital Adapter(s) at no cost until December 31, 2014. Beginning January 1, 2015 Time Warner Cable will add a $.99 fee for each adapter per month. Instructional links are available on the PCTV website at www.penfieldtv.org.

10. The Penfield Little League Challenger Division will be holding a Tournament between Webster and Penfield on Saturday, July 27, 2013 starting at 9:30 AM at the Veteran’s Memorial Park Baxter Field. For more information visit www.penfieldbaseball.com.

11. The Summer Amphitheater “Saturdays on Stage” concerts start on Saturday, July 20, 2013 at 7:00 PM featuring Ruby Shooz. The Gap Mangione New Big Band will appear on July 27, 2013, followed by Mr. Mustard Beatle Review on August 3, 2013. For more information about this series, visit www.penfieldrec.org.

12. Penfield Recreation introduces an exciting new free program called “Basic of Nutrition” to be held Tuesday, July 23, 2013 at 6:00 PM, at the Penfield Community Center, 1985 Baird Road. This is a one-time, interactive class led by Tom Culliton, a graduate of SUNY Oswego’s Health & Wellness Program. This class is free and open to the public, participants are asked to register online at www.penfieldrec.org. For more information or to register by phone please call 340-8655, option 6.

Public Participation

Monica Gorlick, 54 S. Village Trail, said she was taken by surprise at the last Town Board Work Session regarding Jeremiah’s Restaurant. Councilwoman Metzler mentioned a Petition and stated that residents felt pressured to sign. She had collected signatures for the Petition and feels she knows who Councilwoman Metzler is referencing. She stated she did not pressure any residents into signing the Petition. She continued to say she cancelled her personal plans to be present at the sound testing held June 15, 2013. She said she was disappointed that Jeff Reddish did not arrive on time. She feels the testing was a waste of time. She continued to say Reddish did not attend the last Town Board Work Session and this shows disrespect to the residents, the Board and the Town. She feels if everyone had met in a
different setting, they may have come to a different conclusion. She offered her home for a meeting several times. She continues to be concerned about noise from the restaurant and how it will impact her quality of life. She doesn’t want to be disrespected and feels the Resolution has been changed since discussed at the last Town Board Work Session.

Tim Murphy, 48 Corral Drive, said he was pleased that Supervisor LaFountain enabled a flag raising at Rothfuss Park recently. His son brought home the flag from Afghanistan and it is being flown at Rothfuss Park in memory of all the men and women who have served during the war in the Middle East. He presented Supervisor LaFountain with a certificate and photos of the flag raising.

Supervisor LaFountain thanked Mr. Murphy’s son and all who have served their country. LaFountain added that it is our honor to fly the flag before it is retired.

Murphy added that certificates will also be presented to Andy Strawhand and Dick Burgey.

Murphy also thanked Supervisor LaFountain for his work in getting the traffic turn signals added at the Four Corners. This is an important item and a job well done.

Murphy also recognized Supervisor LaFountain for emceeing the Penfield Business Association and Shepherd Home’s recent Golf Tournament.

Suzanne Wilson, 38 Canterbury Trail, stated that she is not in favor of the patio at Jeremiah’s Restaurant. She feels that allowing the restaurant to be open until 10:00 PM and keeping entertainment to a minimum would be a compromise. The traffic in the area is horrendous lately and new businesses will generate more traffic. She feels that the Board should think before we allow additional businesses.

Ann Kubus, 52 South Village Trail, referenced Article IV-4-9 that is mentioned in the Jeremiah’s Restaurant Resolution; this is our insurance policy. She asked if the residents can rely on Article IV-4-9 and does it include any type of noise, not just music?

Supervisor LaFountain said yes, we all experience noise near our homes. The intent of the Ordinance is to protect the residents.

Kubus thanked the Board for all of their hard work and patience. She appreciates the time and effort that was put forth regarding this application.

Jeff Reddish also thanked the Board for their hard work. He stated the 11:00 PM closing time, seven (7) days a week is going to work; both he and the managers of Jeremiah’s Restaurant will make sure of it. The sound study shows the noise will not have as bad of an impact as originally thought. He will address the neighbors concerns as needed.

Monica Gorlick asked why did the closing time change from 10:00 PM to 11:00 PM, seven days a week?

Additions and Deletions to Agenda

Councilman Moore moved to add Resolution #13T-158 as New Business, Councilwoman Kohl seconded and all voted “Aye.”

Approval of Minutes

Councilwoman Kohl moved to approve the Minutes of June 5, 2013, Councilman Quinn seconded and all voted “Aye.”

Petitions – None
Penfield Town Board, July 17, 2013

Resolutions by Function

Law and Finance

#13T-150 Authorizing Purchase of a Portion of Property at 1777 Penfield Road from Dr. Arnold J. DiPietro to Create Additional Right of Way to Extend Motts Lane by Moore

WHEREAS, The Town Board proposes to purchase a portion of property at 1777 Penfield Road, consisting of 0.012 +/- acres for the purpose of creating additional right of way to extend Motts Lane; and

WHEREAS, the Town of Penfield has had an appraisal prepared by Midland Appraisal Associates to determine a fair market value for said property, that being $3,036; and

WHEREAS, the property owner, Dr. Arnold J. DiPietro has offered to sell a portion of said property for $3,036; and

WHEREAS, the Penfield Town Board is best suited to act as “lead agency” within the meaning of the State Environmental Quality Review Act (SEQRA) and thus does hereby designate itself as “lead agency” pursuant to SEQRA; and

BE IT RESOLVED, that the subject action is determined to be an Unlisted action pursuant to the State Environmental Quality Review Act (SEQRA) and the Town Board has determined that the purchase of the subject properties will not create an adverse impact to the environment;

NOW, THEREFORE, BE IT RESOLVED, that the Supervisor is hereby authorized to sign a Purchase and Sale Contract for the purchase a portion of said property at 1777 Penfield Road in the amount of $3,036; and

Moved: Moore
Seconded: Kohl

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

Adopted

#13T-151 Setting a Public Hearing for a Conditional Use Permit to Allow a Chocolate Shop at 1865 Penfield Road by Moore

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Conditional Use Permit pursuant to Article III-3-97 of the Code to allow a chocolate shop at 1865 Penfield Road, located in the Four Corners (FC) zoning district;

NOW, THEREFORE BE IT RESOLVED, that the Penfield Town Board is best suited to act as lead agency within the meaning of the State Environmental Quality Review Act (SEQRA) and thus does hereby designate itself as Lead agency pursuant to SEQRA; and be it further

RESOLVED, that the subject application is determined to be a Type II action pursuant to the requirements of the State Environmental Quality Review Law; and be it further

RESOLVED, that the Town Board of the said Town of Penfield shall hold a Public Hearing at the Penfield Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on August 7, 2013, at 7:30 PM on said date, to consider the said application and to hear all persons interested on the question of the issuance of a Conditional Use Permit to allow a chocolate shop at 1865 Penfield Road in the Four Corners (FC) zoning district; and be it further
RESOLVED, that a copy of this Resolution, certified by the Town Clerk, shall be published at least once in the official newspaper of the Town, the first publication thereof to be not less than ten (10) nor more than twenty (20) days before the date set for said Hearing as aforesaid. A copy of this Resolution shall be posted on the official signboard of the Town as prescribed by Law.

Moved: Moore
Seconded: Quinn

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<th>Vote:</th>
<th>Kohl</th>
<th>Aye</th>
<th>LaFountain</th>
<th>Aye</th>
<th>Metzler</th>
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<th>Moore</th>
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Adopted

#13T-152 Authorization for Release of an Access and Turnaround Easement to Lots 2, 3 & 4 at 1440 Scribner Road by Moore

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 an existing Access and Turnaround Easement to Lots 2, 3, & 4, at 1440 Scribner Road, as shown on a map entitled “1440 Scribner Road Subdivision” prepared by Passero Associates, last revised June 24, 2011, filed in the Monroe County Clerk’s Office as Liber 11018 of maps, Page 74, as the easements on said property are no longer necessary; and

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

Moved: Moore
Seconded: Metzler

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<th>Aye</th>
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<th>Aye</th>
<th>Metzler</th>
<th>Aye</th>
<th>Moore</th>
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Adopted

#13T-153 Authorization for Release of a Sanitary Sewer Easement at 1440 Scribner Road by Moore

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 an existing 20’ wide Sanitary Sewer Easement, at 1440 Scribner Road, as shown on a map entitled “1440 Scribner Road Subdivision” prepared by Passero Associates, last revised June 24, 2011, filed in the Monroe County Clerk’s Office as Liber 11018 of maps, Page 543, as the easement on said property is no longer necessary; and

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

Moved: Moore
Seconded: Kohl

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<th>LaFountain</th>
<th>Aye</th>
<th>Metzler</th>
<th>Aye</th>
<th>Moore</th>
<th>Aye</th>
<th>Quinn</th>
<th>Aye</th>
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</table>

Adopted
#13T-154 Authorization for Release of a Drainage Easement at 1440 Scribner Road by Moore

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 an existing 20’ wide Drainage Easement, at 1440 Scribner Road, as shown on a map entitled “1440 Scribner Road Subdivision” prepared by Passero Associates, last revised June 24, 2011, filed in the Monroe County Clerk’s Office as Liber 11018 of maps, Page 536, as the easement on said property is no longer necessary; and

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

Moved: Moore  
Seconded: Quinn

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

Adopted

#13T-155 Adoption of Town of Penfield Background Check Policy by Moore

WHEREAS, the Town of Penfield is committed to protecting the security, safety, and health of our employees, residents and others, safeguarding the assets and resources of the Town and assuring individuals in responsible positions are worthy of the trust they are given; and

WHEREAS, the Town Board desires to establish a protocol for doing background checks on individuals seeking employment, volunteering, and/or providing a contractual service for the Town. All department heads are required to comply with Town policy and procedures; 

NOW, THEREFORE, BE IT FURTHER RESOLVED, that all employees (part-time, full-time, and seasonal including competitive and non-competitive class employees), union employees, volunteers, contractual service providers or any person (s) offering/position and in particular who work with children, youth, senior citizens or other vulnerable populations will be required to have a Background Check investigation. At a minimum the background check shall include a nationwide criminal background and sex offender check; and

BE IT FURTHER RESOLVED, that all contractual service providers are responsible to submit a background check release form to the Town of Penfield that verifies that all instructors/staff/volunteers performing any paid, unpaid, or volunteer offering/position has successfully been approved through a background screening including nationwide criminal background and sex offender check. All contract service providers are responsible for all fees associated with the background check; and

BE IT FURTHER RESOLVED, that this Policy will take affect on September 1, 2013.

Moved: Moore  
Seconded: Metzler

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

Adopted
WHEREAS, on February 20, 2013, in Resolution 13T-081, the Town Board of the Town of Penfield granted preliminary and final resubdivision and site plan approval and a conditional use permit to allow the construction and operation of a 6,500 square foot sit-down restaurant with an accessory 2,600 square foot outdoor dining patio at 2164 Fairport Nine Mile Point Road; and

WHEREAS, Condition #7 of said Approval Resolution limited the permitted hours of use of the outdoor dining patio from 11:00 AM to 10:00 PM on a daily basis; and

WHEREAS, the applicant met with the Town Board at it’s March 27, 2013 Work Session to request relief from said Condition #7 as it found limitation of use of the proposed outdoor dining patio to be too restrictive; and

WHEREAS, the Town Board determined that it was fair and equitable to allow the applicant to present its case for later hours of operation and for the public to comment on the applicant’s proposal to ensure that it can feasibly operate its business while protecting the health, safety and general welfare of the public;

WHEREAS, the Town Board of the said Town of Penfield held a Public Hearing at the Penfield Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on May 1, 2013 at 7:30 PM on said date, to consider the applicant’s request for relief from Condition #7 of Resolution 13T-081 and to hear all persons interested on the question of granting relief from Condition #7 of Resolution 13T-081 to allow later hours of operation of the outdoor dining patio of the proposed Jeremiah’s Tavern proposed to be constructed at 2164 Fairport Nine Mile Point Road; and

WHEREAS, the applicant presented its rationale for requesting longer hours of use of the outdoor dining area and requested that it be permitted to utilize a flat screen television and “piped background music” within the outdoor dining area as well; and

WHEREAS, nine (9) area residents expressed their concerns for extending the approved hours of operation of the outdoor dining area pertaining to potential noise issues; and

WHEREAS, the Town Board required that the applicant conduct a sound study for the subject property to determine the decibel levels necessary to create adverse noise impacts to adjacent properties; and

WHEREAS, on June 7, 8 and 11, 2013, Marathon Engineering conducted a scientific sound study adjacent to several neighborhoods which identified no noise impacts above 54 decibels at the closest point to the easterly and southerly neighborhoods, however, neither members of Town staff nor concerned neighbors participated in said study. On June 12, 2013, at it’s Work Session, the Town Board directed the applicant to conduct a second study to allow members of the Town and concerned neighbors to participate and verify the findings of said study in real time; and

WHEREAS, on Saturday evening, June 15, 2013, at 7:30 PM, Marathon Engineering conducted a fourth sound study at the site in which the Town Supervisor, area residents and the applicant participated. The study included sound testing from the subject site and its proximity to Braunston Drive, Canterbury Trail and South Village Trail and Cherrymede Crescent. Sounds involving human conversation, an automobile horn and music were amplified from ambient (46-47 db) to 100 decibels from the control site and no sound above 53 db was detected on Braunston Drive, Canterbury Trail, South Village Trail or Cherrymede Crescent during this study period.
NOW, THEREFORE, BE IT RESOLVED, that based on the findings of the four sound studies conducted by Marathon Engineering on June 7, 8, 11 and June 15, 2013, the Board finds that the applicant’s request to extend the hours of operation of the proposed outdoor dining area is reasonable subject to the following conditions:

1. On February 20, 2013, in Condition #7 of Resolution 13T-081, the Town Board limited the permitted hours of use of the outdoor dining area from 11:00 AM to 10:00 PM on a daily basis, based on its concern for adverse impacts to area residents. The Board hereby extends the hours of use from 11:00 AM to 11:00 PM on a daily basis.

2. The applicant had offered, as a compromise, to address neighbor concerns by eliminating live music in the outdoor dining patio until such time as it can demonstrate that the use of the patio does not create adverse noise impacts to area residents, at which time it may request permission from the Town Board, through the Public Hearing review process to consider live music on the patio and further extend the permitted hours of operation of the patio, if warranted.

3. The Board, as a response to the applicant’s proposal to eliminate live music from the patio, will permit the applicant’s request for flat screen televisions and “piped background music” on the patio, subject to compliance with the requirements of Article IV-4-9 of the Penfield Ordinance pertaining to noise abatement.

4. The applicant shall be required to provide area residents with the proposed manager’s contact information to address and abate any valid noise issues experienced by them.

5. Failure to comply with the conditions set forth hereinabove may result in the Town Board requiring a review of the applicant’s Conditional Use Permit for non-compliance. In the event that the applicant if found to be non-compliant, it will be required to abate the violation by whatever means necessary subject to Town Board approval.

The Board bases its decision to extend the applicant’s hours of operation on its following findings:

1. The applicant had expressed concern to the Board that it proposes to expend approximately $2.4 million on the site and that it could not justify the cost without being able to market the use of the site to its fullest practicable extent.

2. The applicant proposed scenarios that included maintaining the hours permitted by the Board to 10:00 PM from Sunday to Thursday and allowing him to extend the hours on Friday and Saturday evenings to midnight. The applicant also proposed to eliminate live music altogether to allow later hours.

3. Although the Board is confident that the sound studies conducted by Marathon Engineering dated June 12, 2013 and revised June 20, 2013 demonstrate that the proposal will not create adverse noise impacts to area residents, the Board finds that permitting the applicant to extend the hours of the use of the patio from 10:00 PM to 11:00 PM will be an appropriate timeframe until the business is well established and it is assured that the business has operated on a sustained basis in compliance with the requirements of the Penfield Noise Ordinance. Once a positive record has been established to the Board’s satisfaction, it will permit the applicant to request further extended hours and live music on the patio.

4. The Board encourages the applicant and the residents who have expressed concern regarding this proposal to meet periodically to ensure that a relationship among all parties can be established and that concerns, if any, can be immediately addressed all parties satisfaction.
Penfield Town Board, July 17, 2013

(Resolution #13T-156 – Continued)

Moved: Moore
Seconded: Kohl

Discussion: Councilman Moore stated that he had suggested the closing time be changed to 11:00 PM at the last Work Session. He stated he is glad the residents were a part of the process. This application raised a lot of discussion on both sides of the issue. The Coventry Neighborhood is a beautiful part of our Town. This Resolution is a compromise; everyone gets some of what they want. The applicant had documented tests regarding sound levels. These tests confirmed that sound will not negatively impact the neighborhood. The applicant wants to be a part of the community and a good neighbor. This will be a reputable business in Penfield. We don’t know what the noise impact will be yet, because the restaurant isn’t open yet. We have only had discussions regarding the possibility of noise. We cannot punish the applicant without knowing if there will be an impact. We need to give the applicant a chance. If there is a negative impact to the neighborhood there are safeguards in the Resolution, and the applicant will address any problems.

Councilman Quinn stated that he agrees with many of Councilman Moore’s comments. The restaurant needs to be open before we can determine what sound comes from the site. The Resolution has mechanisms in place to mediate sound if there is a problem. The sound studies were accurate. The first three (3) studies were carelessly done because the engineer did not go into the neighborhood. The forth sound study was the best because the Supervisor and staff went into the neighborhoods. The applicant has spent money, time and effort. Councilman Quinn’s determinations were based on the sound studies and all information on the table, and not based on the applicant’s repeated claim that he has spent considerable money on the project. We are happy to welcome the restaurant to the Town and hope it is a successful and great neighbor.

Councilwoman Metzler agrees with comments from Councilman Quinn. She shares in the resident’s frustration. This is not the first application where neighboring residents have been both opposed and in favor. Our duty is to research and deliberate and sometimes help the applicant along. We did not lose sight of the goal to develop the property. We have reached a mediated compromise. This is how we process development applications. There was a communication breakdown and we expect the applicant to handle things differently in the future. It was frustrating to see useless sound data. It is our duty as Board members to listen to all residents and do what is best for the community as a whole.

Councilwoman Kohl stated that this was a long process. This wouldn’t have happened if the applicant was in attendance when the original Resolution was approved. We have heard from residents and listened to the applicant. It is a compromise to change the closing hour from 10:00 PM to 11:00 PM. There are mechanisms in place if it gets out of hand. It is a true compromise.

Vote: Kohl Aye LaFountain Aye
As Metzler Aye
Amended Quinn Aye
Adopted
**Public Works** - None

**Public Safety** - None

**Community Services**

#13T-157 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:

Marc Jacobson, 15 Dundas Drive, Rochester, NY 14625, Penfield Recreation Soccer League Official, 6/24/2013 – 8/1/2013, for the fees of: $15.50 per 8, 9, and 10/ under game and $19.50 per 14/under game. Vouchers to be submitted monthly.

The following persons to provide service as Boys Soccer Camp Instructors 6/24/13 – 6/28/13, for the fee of $22.50 per day: Vouchers to be submitted 7/17/13.

- Thomas Szatko, 18 Thorntree Circle, Penfield, NY 14526
- Samuel Tiffany, 317 County Line Road, Macedon, NY 14502
- Chris Sergeant, 56 Canterbury Trail, Fairport, NY 14450
- Evan Orlando, 15 Maple Hill Farm Road, Penfield, NY 14526
- Ian Masters, 50 Random Knolls Drive, Penfield, NY 14526
- Jack Cipro, 5 Glen Circle, Penfield, NY 14526
- Philip DiFrancesco, 83 Brentwood Drive, Penfield, NY 14526
- Tim Obzud, 51 Hillcrest Drive, Penfield, NY 14526
- Peter Juliano, 28 Terrace Hill Drive, Penfield, NY 14526
- Jerha Rohlin, 4368 Ontario Center Road, Walworth, NY 14568
- Marc Jacobson, 15 Dundas Drive, Rochester, NY 14625
- Tim Graves, 1582 Sweets Corners Road, Fairport, NY 14550, Assistant Director of Penfield Recreation Boys Youth Soccer Camp 6/24/13 – 6/28/13, for a fee of $41.00 per day. Voucher to be submitted 7/17/13.
- John Cotsonas, 224 West Ave., East Rochester, NY 14445 Director of Penfield Recreation Boys Youth Soccer Camp, for the fee of $325.00 plus $1.00 per participant ($2.00 per participant for camps with enrollments exceeding 59). Voucher to be submitted 7/17/13
- Tom Westbrook, 6328 Murphy Dr., Victor, NY 14564, Assistant Director, Boys Soccer Camp, 6/24/13 – 6/28/2013, for the fee of $41.00 per day. Voucher to be submitted 7/17/13.

The following persons to provide service as Volleyball Instructors, 6/24/13 – 6/28/13, for a fee of $24.00 per day plus $1 per day for each year previously working camp. Vouchers to be submitted 7/17/13.

- Joe Fusare, 6 Chamberlain Rd., Honeoye Falls, NY 14472
- Ben Naylor, 9 Woodspring Hill, Honeoye Falls, NY 14472
- Jack Lawatsch, 47 Helmsford Way, Penfield, NY 14526
- Vincent Gagliardo, 1782 Sweets Corners Road, Fairport, NY 14450
- Garrett Quiel, 9 Rockbridge Lane, Penfield, NY 14526
- Christina Aguiefera, 638 Saddle Crest Drive, Webster, NY 14580
- Erin Mozingo, 16 Terrace Hill Drive, Penfield, NY 14526
- Grace Pumich, 1385 Cherry Laurel Circle, Webster, NY 14580
- Emily Knipper, 43 LaDue Avenue, Clifton Springs, NY 14432
- Corey Wiktorski, 114 Jackson Road Ext., Penfield, NY 14526
- Rebecca Doser, 14 Summer Glen Drive, Penfield, NY 14526
- John Sprague, 2709 Penfield Road, Fairport, NY 14450
- Rachel Salisbury, 14 Melbourne Green, Fairport, NY 14450
- Ethan Dangler, 136 Jackson Road Ext., Penfield, NY 14526
- Alex Wang, 3693 Stalker Road, Macedon, NY 14502

Mike Fusare, 6 Chamberlain Rd., Honeoye Falls, NY 14472, Director, Volleyball Camp, 6/24/13 – 6/28/13, for a fee of $345.00 plus $1.00 per
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paid participant, ($2.00 per participant for any camp exceeding 59 participants). Voucher to be submitted 7/17/13.

(Resolution #13T-157 - Continued)

Moved: Kohl
Seconded: Quinn

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

Adopted

Old Business - None

New Business

#13T-158 Setting a Public Hearing for a Conditional Use Permit and Preliminary and Final Resubdivision and Site Plan Approval and an Environmental Protection Overlay Permit to Allow a 225 Boat Slip Expansion to Southpoint Marina and the Development of an Accessory 2,700 Square Foot Clubhouse and Pool on 13.28 Acres at 1384 and 1420 Empire Boulevard — SBL #’s 108.06-1-1 and 108.06-1-008.1 — COMIDA and Focus Property Management LLC by Moore

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Conditional Use Permit, Preliminary and Final Resubdivision and Site Plan Approval and an Environmental Protection Overlay Permit pursuant to Articles III-3-10, III-3-94, IV-4-25 and IX-9-2 of the Code to allow a 225 boat slip expansion to the Southpoint Marina and an accessory 2,700 square foot clubhouse and pool, on 13.28 acres, at 1384 and 1420 Empire Blvd., located in the LaSalle’s Landing Development (LLD) zoning district; and

WHEREAS, the Penfield Town Board is best suited to act as “lead agency” within the meaning of the State Environmental Quality Review Act (SEQRA) and thus does hereby designate itself as “lead agency” pursuant to SEQRA; and

WHEREAS, the subject application is determined to be a Type I action pursuant to Section 617.4 of the State Environmental Quality Review Act (SEQRA);

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the said Town of Penfield shall hold a Public Hearing at the Penfield Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on August 7, 2013, at 7:30 PM on said date, to consider said application and to hear all persons interested on the question of the issuance of a Conditional Use Permit, Preliminary and Final Resubdivision and Site Plan Approval and an Environmental Protection Overlay Permit pursuant to Articles III-3-10, III-3-94, IV-4-25 and IX-9-2 of the Code to allow a 225 boat slip expansion to the Southpoint Marina and an accessory 2,700 square foot clubhouse and pool, on 13.28 acres, at 1384 and 1420 Empire Blvd., in the LaSalle’s Landing Development (LLD) zoning district; and be it further

RESOLVED, that a copy of this Resolution, certified by the Town Clerk, shall be published at least once in the official newspaper of the Town, the first publication thereof to be not less than ten (10) nor more than twenty (20) days before the date set for said Hearing as aforesaid. A copy of this Resolution shall be posted on the official signboard of the Town as prescribed by Law.

Moved: Moore
Seconded: Kohl

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

Public Participation

Suzanne Wilson asked if there was a time frame for expanded hours of operation for Jeremiah’s Restaurant?

Supervisor LaFountain said he feels it will be at least one (1) season of operation. Any expansion of hours would require another Public Hearing.

Wilson requested that postcards be sent to the residents because she doesn’t look at the website or read the paper.

LaFountain said the same perimeter would be used for postcards as the second Public Hearing.

Rose Marie Carey, 24 Canterbury Trail, asked when will the restaurant open?

Supervisor LaFountain said the Resolution is approved for the modified business hours. The applicant must meet all Conditions of Approval for both the original Resolution and this Resolution granting relief from Condition Number 7. The applicant will come into PRC and once everything is completed the map will be signed off on. The applicant will also have to obtain easements and submit a Letter of Credit for improvements. He would then apply for the building permit. The average time to build a home is two (2) to three (3) months and will then open some time after that. It will probably take the two (2) to five (5) months for the applicant to meet all requirements.

Ms. Carey asked if the restaurant can’t open until mid 2014, would that push back the time frame for reviewing any extension of hours on the patio?

LaFountain said he would consider May to October a full season for the patio.

Ms. Carey asked how to proceed regarding the noise ordinance. If residents have an issue should we approach Mr. Reddish personally?

LaFountain said in the Town when neighbors have a problems they can call 911, work with neighbors or contact the Town for assistance through Code Enforcement or the Supervisor. If the Sheriff is contacted, the Town would be advised of the situation.

Councilwoman Metzler said the applicant can lose his permit to operate if there is a violation of the noise reductions; he has a lot to lose. The result would be the same based on which ever effort you took.

Dennis Gorlick, 54 South Village Trail, thanked the Board for sticking out this long drawn out process. The best scenario would be residents never have to contact the Restaurant Manager. It is good to know the resident’s have a method of recourse. It is obvious what is at stake for the restaurant; the investment in this business. The Board also needs to take into consideration the investment of ten neighbors homes; this would outweigh the applicant’s investment. The value of the residents’ homes needs to be considered as well as the value of the restaurant.

Sam Paris suggested the Board look into a point system to control the noise. He would like to see Penfield kept quiet. He doesn’t feel residents should call the Sheriff for noise complaints.

Monica Gorlick said the patio isn’t going to make or break the restaurant. Good food and good service makes a restaurant. The noise test didn’t account for 150 people talking on the patio. The people that want the restaurant don’t live in that neighborhood.
Adjournment

Supervisor LaFountain adjourned the meeting at 9:12 PM.

Lisa Grosser
Deputy Town Clerk