

VILLAGE OF PELHAM BOARD OF TRUSTEES REGULAR MEETING
TUESDAY, SEPTEMBER 18, 2007 – 7:30 P.M.
VILLAGE HALL – 195 SPARKS AVENUE, PELHAM, NY
MINUTES

- | | | |
|----|--------------------------------|---------------|
| 1. | Call To Order | |
| 2. | Pledge of Allegiance | |
| 3. | Mayor's Report | |
| 4. | Trustees' Reports | |
| 5. | Village Administrator's Report | Approximate |
| 6. | Public Comment | Starting Time |
| # | Agenda Items: | of Discussion |

	Committee Reports	7:45 p.m.
7.	Update on Pelham Post Office.	Discussed
8.	Update on Flooding initiatives.	Discussed
9.	Update on Streetscape Clean-up & Improvements.	Discussed
10.	Update on Cliff Remediation for Pelham Medical Group	Discussed
11.	Update on Comprehensive Plan update.	WkSess 9/25
12.	Update on Website and Telecommunications initiatives.	Discussed
13.	Update on Grant requests – Fire Department Vehicle Grant	Discussed
	Streets, Traffic and Parking	8:30 p.m.
14.	Amending the Code re: Second St., from 3 rd to 5 th Avenues, to prohibit parking on the south side between 3 rd and 4 th Aves, and add metered parking time limits between 4 th and 5 th Aves.	Approved
15.	Authorizing the honorary designation of Harmon Avenue between the Harmon clock tower and 5 th Avenue as Michael Schwerner Road	Authorized
16.	Amending the Code relating to the No Parking Area on the south side of Washington Avenue, from Highbrook Ave. for another 40 feet.	Approved
17.	Amending the Code to add No Left Turn from northbound Wolfs onto Marquand, from 7 a.m. to 9 a.m., on school days.	Approved
	General Business	8:45 p.m.
18.	Public Hearing September 18, 2007, on a Proposed Local Law to add Landscapers to the list of entities that may be given a violation under Chapter 68 on Noise re: Leaf Blowers.	Discussed; tabled
19.	Scheduling a Public Hearing on an amendment to the Code Chapter 68-Noise amending the dates when leaf blowers may be used.	Discussed, tabled
20.	Public hearing considering adoption of a Local Law enacting Newspaper Rack Regulations, as amended.	Approved
21.	Authorizing an agreement with the NYS DMV for sharing driver information to collect past-due parking violations.	Authorized
22.	Scheduling a Public Hearing on a Code Amendment to Ch. 77 Signs, etc., to include illumination of Windows in Commercial Establishmnts.	Discussed, Tabled
23.	Scheduling a Public Hearing on an amendment to the Code Chapter 81 on Snow and Ice, regarding traction-improving materials.	Scheduled
24.	Authorization of payment for a Judgment in a lawsuit.	Approved
	Housekeeping	9:30 p.m.
25.	Authorizing the Accounts Payable	Approved
26.	Old Business/New Business – A. Active Shooter Police Training; B. Adopting Adjusted Base Proportions.	Discussed; Appvd AVP
27.	Minutes – July 17, August 7 and September 4, 2007	7/17 & 8/4 Approved
28.	Executive Session	
29.	Adjournment	Adjourned

Next Regular Board Meetings are Tuesdays October 2nd and October 16th
Work Session Meeting of the Comprehensive Plan Committee on Sept. 25th 7:30 p.m.
* All meetings start at 7:30 p.m. unless otherwise noted. Agenda is subject to change.

VILLAGE OF PELHAM BOARD OF TRUSTEES REGULAR MEETING
TUESDAY, SEPTEMBER 18, 2007 – 7:30 P.M.
VILLAGE HALL – 195 SPARKS AVENUE, PELHAM, NY

Item #1 – Meeting called to order: The meeting of the Board of Trustees was called to order by Mayor Edward Hotchkiss at 7:35 p.m.

The following members of the Board of Trustees were present:

Mayor Edward Hotchkiss, Trustees Greco, Homan, Lewis, and Potocki. Trustee Morris and Trustee Weinstein were absent.

Village staff in attendance:

Administrator/Treasurer Richard Slingerland and Administrative Aide Devron Wilson

Item #2 – Pledge of Allegiance:

The Pledge of Allegiance was led by Mayor Edward Hotchkiss.

Item #3 – Mayor's Report:

Mayor Hotchkiss reported that he and Village Administrator Richard Slingerland met with the Chamber of Commerce about the village's plans for development. Maggie Klein of The Pelham Weekly attended the meeting between the village and the Chamber of Commerce. On behalf of the Chamber of Commerce, Maggie Klein suggested to the board that the village coordinate with CRP Sanitation to have the business district and 5th Avenue residents' garbage picked up on the same day.

Mayor Hotchkiss also reported that Verizon has fiber-optic cables installed in the Pelham Heights section of Pelham. The Village has received a FOIL (Freedom of Information Law) request from Verizon to share information from the villages' current contract with cablevision.

Item #4 – Trustees' Report:

Trustee Greco reported that Engine 5 has been repaired and is due back in the Pelham Firehouse by tomorrow. Once Engine 5 returns to the firehouse, Fire Chief Carfora will schedule an on-site pump test.

Trustees Homan and Lewis had nothing to report.

Item #5 – Village Administrator's Report:

Village Administrator Richard Slingerland reported on the Safe Routes to School Program for the village. The village has implemented several initiatives to make traveling to school more safe for students.

1. The Village has moved the flashing caution light on Blvd approximately 70ft east of its original location thereby making it more visible to cars traveling along Blvd.
2. Hand-held stop signs were given to all village crossing guards.

Mr. Slingerland also reported that the village will be participating all week in a Hurricane Preparedness Exercise with the County. He further mentioned that he is awaiting property ownership documents from New Rochelle proving that the hill west of Glenwood Lake is owned by Westchester County.

Item #6 – Public Comment:

Susan Mutti of 62 Highbrook Avenue suggested the Village extend the working hours of the crossing guards at Highbrook and 1st Street, and Highbrook and Washington Avenue by 45 minutes in the afternoon. This is to accommodate the middle school students who are dismissed from school later than the elementary school students.

Lucy Carney of 230 Ancon Avenue reported that she observes cars speeding daily at Blvd and Irving Place. She suggested that the village paint a crosswalk at Loring Avenue and Blvd to encourage students to cross the street there as opposed to crossing at Blvd near Irving Place.

Item #7 – Update on Pelham Post Office:

Mayor Hotchkiss, Administrator Slingerland, and Trustee Homan met with representatives from the Post Office on September 6, 2007 to discuss the villages' concerns. The post office agreed to meet with the villages' architectural review board to discuss ways to improve the look of the proposed post office building. However, the board believes that the Post Office is set on building at the 26 1st Street location.

Christine Conroy of 37 1st Street mentioned that she believed to have read somewhere that the Post Office will hold off building until 2009. Administrator Slingerland responded stating that the post office and Mr. Santomero have reached an agreement which will allow the Post Office to remain at their current location until April 2009. However, the Post Office can begin building at the proposed new location before then. Mrs. Conroy proposed that the village recommend the Post Office to move to a location along 5th Avenue such as the T & L Property. Mayor Hotchkiss mentioned that the idea of re-locating the Post Office to a 5th Avenue location was already raised. However, the Post Office does not seem to want to entertain the idea.

Item #8 – Update on Flooding initiatives:

Mayor Hotchkiss mentioned that the village is waiting to receive documentation which proves that the area spanning from west of Glenwood Lake to the culvert located behind 576 7th Avenue, is owned by Westchester County. Administrator Slingerland is organizing all the villages' storm drain studies and videos as it relates to the Hutchinson River Parkway to submit to Dolph Rotfeld Engineering.

Item #9 – Update on Streetscape Clean-up & Improvements:

Administrator Slingerland has been coordinating with Landscape Architect Hank White regarding Wolfs Lane Park. Tree Planting bids will be sent out shortly.

Item #10 – Update on Cliff Remediation for Pelham Medical Group:

Administrator Slingerland reported that remediation work has started on the cliff located behind the Pelham Medical Group building. The village is closely monitoring the

remediation work. The work is approximately 60% complete. Trustee Greco mentioned that the rock remediation project should be complete within a month.

Item #11 – Update on Comprehensive Plan update:

There is a Work Session meeting scheduled for Tuesday September 25, 2007 between the Village's Committee and Saratoga Associates to discuss the Comprehensive Plan.

Item #12 – Update on Website and Telecommunications initiatives:

Administrator Slingerland reported that a new link for the Work Order Request Form has been added to the village website. Residents are encouraged to use the automated Work Order Request Form to inquire about potholes, catch basins, street lights, garbage, etc. Trustee Lewis mentioned that the Work Order Request Form will streamline various inquiries and ultimately allow the village to respond more efficiently. The village plans to have the form and system finalized by the end of the month.

Item #13 – Update on Grant requests – Fire Department Vehicle Grant:

The Village of Pelham has received a grant of \$261,250 from the FEMA Dept. of Homeland Security Assistance to Firefighters Program, to be used towards the purchase of a new fire truck to replace the 1978 Engine 5 pump truck. Administrator Slingerland stated that the Fire Department has been applying for this grant for the past six years. He thanked Fire Chief Carfora and others who worked on the grant. Trustee Greco also thanked Chief Carfora, Lieutenant DiNapoli, and others who worked on the grant.

Item #14 – Amending the Code relating to Second Street, between 3rd and 5th Avenues, to prohibit parking on the south side between 3rd and 4th Aves, and add metered parking time limits between 4th and 5th Aves:

A motion was made by Trustee Greco, with a second by Trustee Lewis to adopt the resolution. The resolution was approved unanimously by vote of five in favor, none opposed. Trustee Morris and Trustee Weinstein were absent.

RESOLUTION

AMENDING THE CODE TO EFFECT SECOND STREET
PARKING REGULATION CHANGES FROM THIRD AVENUE TO FIFTH AVENUE

Amending Chapters: 90-49, No Parking Any Time, 90-50, Standing Prohibited; 90-51, Stopping Prohibited, as follows:

Chapter 90-49:

Add:

Street	Side	Location
Second Street	South	From Third Avenue to Fourth Avenue

Chapters: 90-50, Standing Prohibited and 90-51, Stopping Prohibited, as follows:

Add:

Name of Street	Side	Location
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Second Street South From Third Avenue to Fourth Avenue

Adding reference to Chapter 90-56 on metered parking Zones

Name of Street	Side	Time Limit	Location
Delete the following:			
Second Street	North	2 hrs.	From Wolf's Lane to a point 120 feet north thereof
Replace with the following:			
Second Street East	North	2 hrs.	From Wolfs Lane to a point 120 feet east thereof
Delete the following:			
Second Street	North	2 hrs	From Fourth Ave to a point 30 feet west of Fifth Ave
Replace with the following:			
Second Street	South	2 hrs.	From Fourth Ave to a point 20 feet west of Fifth Ave

Item #15 – Authorizing the honorary designation of Harmon Avenue between Clocktower and 5th Avenue as Michael Schwerner Road:

Mayor Hotchkiss suggested that the board change Michael Schwerner Road to read Michael Schwerner Way. Trustee Homan suggested that the board create criteria for someone to be honored with memorial.

Village Administrator Slingerland gave a brief mention of Michael Schwerner's background and connection to Pelham. Mr. Schwerner was born in New York City in 1939. He graduated from Pelham Memorial High School in 1957. After graduating from Cornell University in 1961, Schwerner worked as a social worker in Manhattan. He joined the Congress On Racial Equality (CORE) and in 1964 went to Mississippi as a CORE field-worker. On June 21, 1964, Schwerner and two of his friends, went to Longdale to visit Mt. Zion Methodist Church, a building that had been fire-bombed by the Ku Klux Klan because it was going to be used as a Freedom School. On the way back to the CORE office in Meridian, the three men were arrested by a Deputy Sheriff. Later that evening they were released from jail only to be stopped again on a rural road, where a white mob shot them dead and buried them in an earthen dam. This story later became the basis for the movie *Mississippi Burning*. The request to name the section of Harmon Avenue "Michael Schwerner Way" was made recently to the Town Board by a two of his friends.

A motion was made by Trustee Potocki, with a second by Trustee Greco to adopt the resolution. The resolution was approved unanimously by vote of five in favor, none opposed. Trustee Morris and Trustee Weinstein were absent.

RESOLUTION

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham hereby authorizes the honorary designation of Harmon Avenue between the Harmon clock tower (a.k.a. Helen Harper clock tower) and 5th Avenue as Michael Schwerner Road, in honor of his memory and as a reminder of his sacrifice to the cause of Civil Rights.

Item #16 – Amending the Code relating to the No Parking Area on the south side of Washington Avenue, from Highbrook Ave. for another 40 feet:

A motion was made by Trustee Potocki, with a second by Trustee Homan to adopt the resolution. The resolution was approved unanimously by vote of five in favor, none opposed. Trustee Morris and Trustee Weinstein were absent.

RESOLUTION

AMENDING THE CODE OF THE VILLAGE OF PELHAM
EXTENDING THE NO PARKING AREA
ON THE SOUTH SIDE OF WASHINGTON AVENUE
FROM Highbrook Ave. FOR ANOTHER 40 FEET

Amending Chapters: 90-49, No Parking Any Time, as follows:

Street	Side	Location
Delete the following: Washington Avenue	South	From Highbrook Avenue to a point 300 feet east thereof
Replace with the following Washington Avenue	South	From Highbrook Avenue to a point 340 feet east thereof

Item #17 – Amending the Code to add No Left Turn from northbound Wolfs onto Marquand, from 7 a.m. to 9 a.m., on school days:

A motion was made by Trustee Homan, with a second by Trustee Greco to adopt the resolution. The resolution was approved unanimously by vote of five in favor, none opposed. Trustee Morris and Trustee Weinstein were absent.

Note: This issue came up both as a matter under review by the Safe Routes to School initiative, and a complaint by a resident of Marquand, noting that numerous vehicles use

Marquand Avenue as a turn-around, causing traffic difficulties both on Marquand and on Wolfs Lane

RESOLUTION

Amending The Code § 90-42. Schedule IIIa: Prohibited Turns At Intersections.
To Add No Left Turn From Northbound Wolfs Lane Onto Marquand Place
From 7 A.M. To 9 A.M., On School Days.

Name of Street	Direction of Travel	Prohibited Turn	Hours	At Intersection of
Add the following				
Wolf's Lane	North	Left	7 a.m. – 9 a.m.	Marquand Place

School Days

Item #18 – Public Hearing September 18, 2007, on a Proposed Local Law to add Landscapers to the list of entities that may be given a violation under Chapter 68 on Noise re: Leaf Blowers:

Susan Mutti of 62 Highbrook Avenue preferred the Board keep the Code provision that homeowners be issued a violation under Chapter 68, as opposed to the landscaper. Mrs. Mutti believes that this will educate homeowners about the law and hopefully encourage homeowners to communicate the law to the landscaper.

Jeremy Driesen of 144 Pelhamdale Avenue would prefer that the landscaper be issued a violation under Chapter 68 as opposed to the homeowner. Mr. Driesen mentioned that he observes gas powered leaf blowers being used throughout the village daily.

Lucy Carney of 230 Ancon Ave. would prefer landscapers be issued a warning before a violation is issued. Mrs. Carney suggested that the village create a flyer with the leaf blower law information included on it in English and Spanish. The police officers can give the flyers to landscapers in hopes to prevent them from breaking the law. Mr. Slingerland commented that the Village Clerk had sent Leaf Blower Law notices to all landscapers who work in Pelham.

John Cassone of 312 7th Avenue would prefer that the homeowner be issued a violation under Chapter 68 as opposed to the landscaper. In addition to the homeowner being issued a violation, a notice should be sent to Westchester County to have a strike placed against the contractor's license.

Public Hearing September 18, 2007, on a Proposed Local Law to add Landscapers to the list of entities that may be given a violation under Chapter 68 on Noise re: Leaf Blowers.

After discussion of the draft proposed local law, the Mayor and Board decided to table the matter for the time being.

A local law that repeals Section 68-19 and adopts a new Section 68-19 that defines the parties who can be prosecuted for violating the laws limiting the use of leaf blowers.

BE ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PELHAM AS FOLLOWS:

SECTION 1

Section 68-19 is repealed, and the following new Section 68-19 is adopted: changes are made in Article V of Chapter 68 of the Code of the Village of Pelham:

§ 68-19. Penalties for offenses.

For a violation of the provisions of this Article the owner, as defined in § 54-8 of the Code of the Village of Pelham, of the premises where such a violation has occurred, and the landscaper, gardener, contractor or any other person, as defined in Section 1-9 of the Code of the Village of Pelham, who commits, takes part in or assists in any such violation shall be subject to the penalties set forth in Article III of Chapter 1 of the Code of the Village of Pelham.

SECTION 2

This local law shall take effect upon its adoption and filing with the Secretary of State.

Item #19 – Scheduling a Public Hearing on an amendment to the Code Chapter 68-Noise amending the dates when leaf blowers may be used:

Trustee Potocki suggested that the village begin the leaf blower season in the beginning of March. Trustee Homan mentioned that the law is fine the way it is now. Trustee Greco would like the law to eliminate leaf blower use on Sundays.

This matter was tabled, and No public hearing was scheduled for this topic.

RESOLUTION

SCHEDULING A PUBLIC HEARING
on a Proposed Local Law to amend the time frame when
Leaf Blowers may be used in the Village of Pelham
under Chapter 68 on Noise re: Leaf Blowers.

The existing language and proposed language were as follows:

Delete the following:

§ 68-17. Further limitation on seasonal use of leaf blowers.

The operation of leaf blowers shall be limited to the time period between March 15 and April 30, inclusive, and October 15 and December 15, inclusive, of each calendar year.

Replace with the following:

§ 68-17. Further limitation on seasonal use of leaf blowers.

The operation of combustion engine powered leaf blowers is prohibited May 16 through September 30. The use of combustion engine powered leaf blowers is allowed October 1 through May 15.

Item #20 – Public hearing considering adoption of a Local Law enacting Newspaper Rack Regulations, as amended:

At the last Board meeting, I was requested to find out whether we can restrict the placement of newspaper racks to only Commercial Districts, or more specifically only Wolfs Lane and 5th Avenue.

I contacted the Pace University Municipal Law Resource Center, and they advised me because of the free speech issues, that such a limitation was an unconstitutional restriction.

As part of the enactment of this legislation, it was recommended the Board adopt an annual per-newsrack placement fee. The Board considered that, and adopted the annual fee at a rate of \$35 per newsrack.

A motion was made by Trustee Lewis, with a second by Trustee Greco to adopt the resolution. The resolution was approved unanimously by vote of five in favor, none opposed. Trustee Morris and Trustee Weinstein were absent.

Local Law #5 -- 2007

A LOCAL LAW to enact a new Chapter 59 of the Code of the Village of Pelham entitled, "Newsracks" to regulate the placement of newsracks placed in public places around the Village.

Section 1. Chapter 59 of the Code of the Village of Pelham, NY, entitled, "Newsracks", is hereby adopted as follows:

§ 59-1. Intent.

A. Findings. The Board of the Village of Pelham, NY, hereby finds that:

(1) The uncontrolled placement and lack of maintenance of newsracks in public rights-of-way present an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control and emergency services.

(2) Without proper regulation, unsightly newsracks may be placed in locations where they obstruct walkways, or crosswalks, and endanger persons using public rights-of-way, and such placements constitute public nuisances.

(3) The existence of these factors constitutes an unreasonable interference with and obstruction of the use of public rights-of-way; a potentially dangerous condition; an offense to the senses; and an obstruction of the free use of property as to interfere with the comfortable enjoyment of life and property by the entire community.

(4) The Village of Pelham recognizes, however, that the use of such rights-of-way is historically associated with the sale and distribution of newspapers and publications and that access to those areas for such purposes should not be absolutely denied. The Village of Pelham further finds that these strong and competing interests require a reasonable accommodation which can best be achieved through means defined in this chapter, which is designed to accommodate such interests regulating the place and manner of using such newsracks.

B. Purpose. The provisions and prohibitions of this chapter have the purpose of securing and promoting the public health, safety and general welfare of persons in the Village in their use of public rights-of-way through the regulation of placement, appearance, number, size and servicing of newsracks on the public rights-of-way so as to:

(1) Provide for pedestrian and driving safety and convenience.

(2) Ensure no unreasonable interference with the flow of pedestrian or vehicular traffic, including ingress to, or egress from, any place of business or from the street to the sidewalk, or access to drop curb cuts.

(3) Provide reasonable access for the use and maintenance of sidewalks, poles, posts, traffic signs, hydrants and similar appurtenances.

(4) Reduce visual blight on the public rights-of-way; protect the aesthetics and value of surrounding properties.

(5) Reduce exposure of the Village to personal injury or property damage claims and litigation.

(6) Protect the right to distribute information protected by the United States and New York State Constitutions through use of newsracks.

(7) Protect the rights of disabled citizens to use public rights-of-way as detailed in the Americans with Disabilities Act (ADA).

C. Preservation of constitutional rights. It is not the intent of this chapter to, in any way, discriminate against, regulate or interfere with the publication, circulation, distribution or dissemination of any printed material that is constitutionally protected.

§ 59-2. Definitions.

VILLAGE ADMINISTRATOR – Refers to the Village Administrator of the Village of Pelham or his or her designee.

BUILDING INSPECTOR – Refers to the Building Inspector of the Village of Pelham.

DISTRIBUTOR -- The person responsible for placing and maintaining a newsrack in a public right-of-way.

NEWSRACK -- Any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display, sale or distribution of newspapers, advertising materials or other written materials.

PERSON -- Any person or persons or entity, including, but not limited to, a corporation, limited-liability company, partnership, unincorporated association or joint venture.

RIGHT-OF-WAY -- The area between property lines which may be unimproved or surfaced and which may include public highways, streets, roadways and sidewalks.

ROADWAY -- That portion of a street improved, designed or ordinarily used for vehicular travel.

SIDEWALK -- Any surface provided for the exclusive use of pedestrians.

STREET -- All the area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, highways, alleys, sidewalks and unimproved areas.

§ 59-3. Permit required.

It shall be unlawful for any person, firm or corporation to install, place, maintain or operate on any public street or sidewalk, or in any other public way or place in the Village, any newsrack, without first having obtained a permit from the Building Inspector specifying the exact location of such newsrack. One permit may be issued to include any number of newsracks, provided that all newsrack locations are indicated on the permit.

§ 59-4. Application for permit; fee.

- A. Application for such permit shall be made, in writing, to the Building Inspector upon such form as shall be provided by him or her and shall contain the name and address of the applicant, the contact person's name, title, telephone and facsimile number and e-mail address, and the proposed specific location of each newsrack and shall be signed by the applicant.
- B. From the above application information, the Building Inspector shall approve or disapprove the locations in accordance with the standards and criteria set forth in this chapter within 15 days of filing the application for such permit. In any case where the Building Inspector disapproves of a particular location, such disapproval shall be without prejudice to the applicant designating a different location.
- C. The Building Inspector shall grant a permit if the location and installation of the newsrack comply with all of the standards and criteria set forth in this chapter and if all other requirements of this chapter are met.
- D. An annual permit fee shall be set forth in the Village's fee schedule for each application, at such rates as may be set by resolution of the Board of Trustees for such placement in the Village of Pelham.

§ 59-5. Conditions and duration of permit.

- A. Permits may be issued for the installation of a newsrack or newsracks without prior inspection by the Village of the location, but such newsrack or newsracks and their installation, use or maintenance shall be conditioned upon continued observance of the provisions of this chapter.
- B. Such permits shall be valid for one (1) calendar year and shall be renewable pursuant to the criteria and standards for original applications and upon payment of the permit fee.
- C. Newsrack permits shall not be assignable.
- D. The Village Administrator and the Building Inspector must be notified in writing of a proposed newsrack replacement with a new or different newsrack or the relocation of a newsrack to a different location, which location shall be specified in such notice. The Building Inspector shall approve or disapprove such replacement or relocation, in accordance with the criteria and standards set forth in this chapter, for a permit within 15 days of receipt of such written notification. If the replacement is approved by the Building Inspector, the existing permit shall be amended to reflect the change approved.

§ 59-6. Indemnification.

As a condition of approval of any newsrack permit, the distributor shall file a written statement with the Building Inspector, in a form satisfactory to the Village Attorney, by which the newsrack owner agrees to indemnify, hold harmless and defend the Village, its officers and employees against any loss, liability or damage, including expenses and costs, for bodily or personal injury and for property damage sustained by any person as a result of the installation, use and/or maintenance of a newsrack within the Village.

§ 59-7. Insurance.

As a condition of approval of any newsrack permit, the distributor shall file with the Building Inspector a certificate of insurance from an AM Best A-rated insurance company authorized to conduct business in New York, demonstrating that the distributor has general liability insurance with limits of at least \$1 million each occurrence and \$2 million general aggregate. The insurance policy must name the Village of Pelham as an additional insured. The insurance shall be maintained during the permit period of any newsrack and provide for not less than 30 days' notice of cancellation to the Village Administrator and the Building Inspector.

§ 59-8. Location, placement and number of newsracks.

Any newsrack that rests, in whole or in part, on any portion of a public right-of-way or which projects onto, into or over any part of a public right-of-way shall be located in accordance with the following provisions:

A. No newsrack shall project onto, into or over any part of the roadway of any public street, nor shall it rest, wholly or in part, upon, along or over any portion of the roadway of any public street.

B. Newsracks may be placed next to each other, provided that no more than three newsracks may be grouped, which group of newsracks shall not extend for a distance of more than eight feet. All newsracks in a group of newsracks shall abut the adjacent newsrack in such group unless safety considerations require otherwise. There shall be a space of not less than three feet between each group of newsracks.

C. No newsrack shall be placed, installed or maintained:

- (1) Within five feet of a marked crosswalk.
- (2) Within 10 feet of a street corner without a marked crosswalk.
- (3) Within 15 feet of a fire hydrant.
- (4) Within five feet of a fire call box or police call box.
- (5) Within five feet of a driveway or alley.
- (6) In a place that reduces the clear space for the passageway of pedestrians to less than four feet.

- (7) On any access ramp for disabled persons.
- (8) Where such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including parked or stopped vehicles, or the ingress to or egress from any residence or place of business.
- (9) Where such installation, use or maintenance endangers the safety of persons or property.
- (10) Within three feet of or on any public area improved with lawn, flowers, shrubs, trees or other landscaping, or within three feet of any display window of any building abutting the sidewalk or parkway or in such a manner as to impede or interfere with the reasonable use of such window for display purposes.
- (11) Within 250 feet of any other newsrack on the same side of the street in the same block containing the same issue or edition of the same publication.

D. Except as provided for in § 59-8 B of this chapter, no more than one newsrack shall be located on any public right-of-way within a space of 100 feet in any direction within the same block of the same street; provided, however, that no more than eight newsracks shall be allowed on any one block except the area adjacent to the Metro North railroad station. In determining which newsracks shall be permitted to be located or to remain if already in place, the Building Inspector shall be guided by the following criteria:

- (1) No more than one newsrack for the same publication may be placed on any one block, unless the length of the sidewalk on a block is greater than 250 feet in length [see §58-C. (11)].

§ 59-9. Standards for maintenance and installation.

Any newsrack that, in whole or in part, rests upon, in or over any public sidewalk or parkway shall comply with the following standards:

- A. No newsrack shall exceed five feet in height, 30 inches in width, or two feet in thickness.
- B. Newsracks must be secured in a safe manner. No newsrack, however, shall be chained, bolted or otherwise attached to any municipal fixture, such as a parking meter, stop sign, or other traffic sign or control device, located in the public right-of-way, or to any tree or tree support.
- C. No newsrack shall be used for advertising signs or publicity purposes other than those dealing with the display, sale, purchase or distribution of the newspaper or periodical sold or distributed in the newsrack.
- D. Each coin-operated newsrack shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event that the person is unable to receive the paid-for publication. The coin-return mechanism shall be

maintained in good working order.

E. Each newsrack shall have affixed to it, in a readily visible place so as to be seen by anyone using the newsrack, the permit number, together with a notice setting forth the name and address of the distributor and the telephone number of a working telephone service to call to report a malfunction, or to secure a refund in the event of a malfunction of the coin-return mechanism or to give any notice provided for in this chapter.

F. Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:

- (1) It shall not be permitted to remain empty for a period exceeding 30 consecutive days.
- (2) It is reasonably free of dirt and grease.
- (3) It is reasonably free of chipped, peeling and cracked paint in the visible painted areas.
- (4) It is reasonably free of rust and corrosion in the visible unpainted metal areas.
- (5) The clear plastic or glass parts, if any, through which the publications are viewed are unbroken and reasonably free of cracks and dents.
- (6) The paper or cardboard parts or inserts are reasonably free of tears and are legible.
- (7) The structural parts are not dented or broken.
- (8) It is free of graffiti.

§ 59-10. Violations; removal; inspection fees.

Upon determination by the Building Inspector that a newsrack has been installed, used or maintained in violation of this chapter, the Building Inspector shall issue an order to the distributor of the newsrack to correct the violation. Such order shall be telephoned or sent by facsimile to the distributor and confirmed by mailing a copy of the order by certified mail, return receipt requested, or by registered mail or delivery service, signature required. The order shall specifically describe the violation, suggest actions necessary to correct the condition, and inform the distributor of the right to appeal. Failure to properly correct the offending condition within 10 days (excluding Saturday, Sunday and legal holidays) after the mailing date of the order or to appeal the order as provided in § 59-11 within five days after its receipt shall result in the offending newsrack being summarily removed and possessed as unclaimed property. If the offending newsrack is not properly identified as to owner under the provisions of this chapter, it shall be removed immediately and processed as unclaimed property. An impound fee, which shall be measured by the Village's cost and expense of impounding, shall be assessed against each newsrack summarily removed. The Building Inspector shall cause inspection to be made of the corrected condition or of a newsrack reinstalled after removal under this section. The distributor of said newsrack shall be charged an inspection fee for each newsrack so inspected in an amount established by resolution of the Board of Trustees. This fee shall be in addition to all

other fees and charges required under this chapter.

§ 59-11. Appeals.

Any person aggrieved by a finding, determination, notice, order or action taken under this chapter may appeal to the Village Administrator or the Village Administrator's designee. An appeal must be perfected within ten (10) days after receipt of notice of any protested decision or action, by filing with the Village Administrator a letter of appeal briefly stating the basis for the appeal. A hearing shall be held on a date not more than fifteen (15) days after receipt by the Village Administrator of the letter of appeal. The appellant shall be given at least five (5) days' notice of the time and place of the hearing. The Village Administrator or the Village Administrator's designee shall give the appellant, and any other interested party, a reasonable opportunity to be heard in order to show cause why the determination of the Building Inspector should not be upheld. At the conclusion of the hearing, the Village Administrator shall make a final decision. The decision shall be immediately subject to appeal through a court of competent jurisdiction.

§ 59-12. Existing newsracks.

Any newsrack in existence prior to the effective date of this chapter and which does not have a newsrack permit shall be removed or brought into conformance with the provisions of this chapter, including the issuance of a permit for such newsrack, within forty-five (45) days after the effective date of this chapter. If the distributor fails to comply with this provision, the Building Inspector shall issue an order to the distributor of the newsrack to correct such violation in accordance with § 59-10 of this chapter, and shall enforce such order in accordance with those provisions.

§ 59-13. Emergencies.

Nothing contained in this chapter shall be interpreted to limit or impair the exercise by the Village of its police power, in the event of an emergency, as determined by the Building Inspector, to remove any newsrack that presents a danger of imminent personal injury or property damage to users of the Village rights-of-way or would otherwise hamper or impair the fulfillment by the Village of its governmental obligations, including, but not limited to, snow removal and street cleaning.

Section 2. This Local Law shall take effect immediately upon adoption and filing with the Secretary of State of the State of New York.

Item #21 – Authorizing an agreement with the NYS DMV for sharing driver information to collect past-due parking violations:

A motion was made by Trustee Homan, with a second by Trustee Greco to adopt the resolution. The resolution was approved unanimously by vote of five in favor, none opposed. Trustee Morris and Trustee Weinstein were absent.

RESOLUTION

AUTHORIZING AN AGREEMENT WITH THE NYS DMV
AUTHORIZING THE VILLAGE'S COLLECTION AGENT COMPLUS
TO INVESTIGATE AND SHARE PARKING DATA WITH THE STATE OF NEW YORK

RESOLVED, that the Board of Trustees of the Village of Pelham authorizes an agreement and the issuance of letter by the Village Administrator authorizing the NYS DMV to share data and information with Complus Innovations on behalf of the Village of Pelham to continue to obtain data and vehicle records, with regard to parking violations.

Item #22 – Scheduling a Public Hearing on a Code Amendment to Ch. 77 Signs, etc., to include illumination of Windows in Commercial Establishmnts:

This topic has been tabled until further notice.

The proposed change was to expand Chapter 77-9 E regarding illumination of signs, to include all illumination in windows in commercial districts.

The Board determined that they preferred not to regulate the kinds of lights in windows in business districts, if it was too restrictive on holiday light displays.

Item #23 – Scheduling a Public Hearing on an amendment to the Code Chapter 81 on Snow and Ice, regarding traction-improving materials:

A motion was made by Trustee Greco, with a second by Trustee Homan to adopt the resolution. The resolution was approved unanimously by vote of five in favor, none opposed. Trustee Morris and Trustee Weinstein were absent.

RESOLUTION

Scheduling A Public Hearing
On A Proposed Local Law To Amend Chapter 81 on Snow and Ice
Regarding traction-improving materials.

The Board of Trustees of the Village of Pelham hereby schedules a public hearing to be held at 7:30 p.m. on Tuesday, October 2, 2007, in Village Hall at 195 Sparks Avenue,

Pelham, NY, on a draft proposed Local Law that would amend the Code of the Village of Pelham, as follows:

On A Proposed Local Law To Amend Chapter 81.4 on Snow and Ice, Regarding traction-improving materials.

A copy of the Local Law is on file in the offices of the Village Clerk and may be viewed during normal business hours of 8 a.m. to 5 p.m., or an electronic copy may be obtained from the opening page of the Village's website www.pelhamgov.com.

By Order of the Mayor and Board of Trustees
Terri Rouke, Village Clerk
Richard Slingerland, Village Administrator/Deputy Clerk

LOCAL LAW NUMBER OF 2007

A local law that amends Chapter 81-4
Regarding Traction Improving Materials.

**BE ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF
PELHAM AS FOLLOWS:**

SECTION 1

Chapter 81.4 entitled, "Regulations to apply in cases of severe icing." is repealed, and the new Section 81.4 is adopted in the Code of the Village of Pelham, as follows:

Delete the following:

§ 81-4. Regulations to apply in cases of severe icing.

In case snow and ice on any sidewalk shall be frozen so hard that it cannot be removed without injury to the sidewalk, it shall, within the time specified in § 81-3, be strewn and kept strewn with ashes, sand, sawdust or other suitable material so as to be no longer dangerous to life and limb. As soon as practicable thereafter, the sidewalk shall be completely cleared of snow, ice and other materials strewn thereon, as provided in this chapter.

Replace with the following:

§ 81-4. Regulations to apply in cases of severe icing.

In case snow and ice on any sidewalk shall be frozen so hard that it cannot be removed without injury to the sidewalk, it shall, within the time specified in § 81-3, be strewn and kept strewn with ~~ashes,~~ sand, sawdust or other suitable material **to provide traction so that pedestrians can walk safely on the sidewalks** ~~so as to be no longer dangerous to life and limb~~. As soon as practicable thereafter, the sidewalk shall be

completely cleared of snow, ice and other materials strewn thereon, as provided in this chapter.

SECTION 2

This local law shall take effect upon its adoption and filing with the Secretary of State.

Item #24 – Authorization of payment for a Judgment in a lawsuit:

On the motion of Trustee Homan, seconded by Trustee Greco, the following resolution was authorized by vote of five in favor, none opposed. Trustees Morris and Weinstein were absent.

RESOLUTION

**AUTHORIZING PAYMENT OF A JUDGMENT
IN THE MATTER OF
JOSEPH DEMASI AND DOMENIC RAGNO
vs JOSEPH BENEFICO INDIVIDUALLY AND
AS CHIEF OF POLICE OF THE VILLAGE OF PELHAM,
RICHARD SLINGERLAND AS VILLAGE ADMINISTRATOR
OF THE VILLAGE OF PELHAM,
AND THE VILLAGE OF PELHAM**

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham hereby authorizes the payment of the judgment ordered by the Court in the Matter of Joseph DeMasi and Domenic Ragno vs. Joseph Benefico, Individually and as Chief of Police of the Village of Pelham, Richard Slingerland, Individually and as Village Administrator of the Village of Pelham, and the Village of Pelham, in the total amount of sixty four thousand seven hundred sixteen dollars and fifty one cents (\$64,716.51), for pay and interest as required by the court ordered judgment pursuant to the case index number 05-0610 (Supreme Court of the State of New York, County of Westchester) and Docket No. 2005-09828 (Appellate Division, Second Department) and authorizes the Mayor, the Village Attorney and the Village Administrator/Treasurer to take the necessary and appropriate actions to effect this Court Order and make the payment of these monies.

Item #25 – Authorizing the Accounts Payable:

A motion was made by Trustee Homan, with a second by Trustee Lewis to adopt the resolution. The resolution was approved unanimously by vote of five in favor, none opposed. Trustee Morris and Trustee Weinstein were absent.

RESOLUTION

WHEREAS, pursuant to Section 5-524 of the New York State Village Law, the Board of Trustees shall audit all claims against the Village.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the Board of Trustees after audit of the following claims, authorizes payment for services rendered and materials received, for the following items that have been submitted to the Treasurer's Office for payment and authorized by the Village Administrator:

<u>Fund Name:</u>	<u>Amount</u>
General Fund	\$131,654.09
Water Fund	\$688.45
Capital Projects Fund	\$26,731.45
Trust and Agency Fund	\$2,743.75
H3 Fund	\$0.00
Expendable Trust Fund	\$72.50
Grand Total	\$161,890.24

NOW, THEREFORE, BE IT RESOLVED, that this Board hereby approves payment of the above-mentioned claims and authorizes payment thereof.

Item #26 – Old Business/New Business:

Old Business:

Trustee Potocki reported that the Pelham Police Department participated in another “active shooter” training last week at the High School. Trustee Potocki also mentioned that he will contact County Legislator Jim Maisano regarding ownership of Lincoln Avenue being transferred from Westchester County to the Village of Pelham.

The Village Administrator had one item to add, as a matter of new business that had been brought to his attention today by the Town Assessor.

New Business:

Resolution to adopt the Base Assessment Proportions for the Village of Pelham for the 2008 Village Tax Year.

A motion was made by Trustee Greco, with a second by Trustee Potocki to adopt the resolution. The motion passed unanimously by vote of five in favor, none opposed. Trustee Morris and Trustee Weinstein were absent.

RESOLUTION
ADOPTING THE 2007 ADJUSTED BASE ASSESSMENT PROPORTIONS
FOR THE VILLAGE OF PELHAM
FOR THE 2008 VILLAGE TAX YEAR

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham hereby adopts the 2007 Final Assessment Roll Adjusted Base Proportions using the 2007 Final Assessment Roll for the Village of Pelham on the request and recommendation of the Assessor, at the rates of 85.334710 for Homestead, and 14.665290 for Non-Homestead; and

BE IT FURTHER RESOLVED the Mayor, Village Administrator/Treasurer and the Assessor are authorized to take the necessary and appropriate steps to effect this action.

Item #27 – Minutes – July 17, August 7 and September 4, 2007:

A motion was made by Trustee Lewis, with a second by Trustee Potocki to only adopt the minutes from July 17, 2007. The motion passed unanimously by vote of five in favor, none opposed. Trustee Morris and Trustee Weinstein were absent.

A motion was made by Trustee Homan, with a second by Trustee Potocki to only adopt the minutes from August 7, 2007. The motion passed unanimously by vote of five in favor, none opposed. Trustee Morris and Trustee Weinstein were absent.

The minutes from September 4, 2007 were tabled until the next scheduled Board of Trustees meeting on Tuesday October 2, 2007

Item #28 – Executive Session:

The Mayor asked for a motion to go into Executive Session to discuss personnel matters. On the motion of Trustee Potocki, seconded by Trustee Homan, the Board voted to go into Executive Session. The motion was passed unanimously by vote of five in favor, none opposed. Trustee Morris and Trustee Weinstein were absent.

Item #29 – Adjournment:

On the motion of Trustee Potocki, seconded by Trustee Homan, the Board voted to adjourn the public portion of the board meeting and go into Executive Session at 9:50p.m. to discuss personnel matters. The motion was passed unanimously by vote of five in favor, none opposed. Trustee Morris and Trustee Weinstein were absent.

Respectfully submitted,

Devron Wilson, Administrative Aide

Richard Slingerland, Administrator/Deputy Clerk