

VILLAGE OF PELHAM BOARD OF TRUSTEES
REGULAR MEETING
TUESDAY, DECEMBER 16, 2014, 7:00 PM
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
6. Public Comment

Agenda Items:

Non-Recurring Items		
7.	Adjournment to Executive Session	Approved
8.	Continuing a Public Hearing on ExteNet's Wireless Telecommunication Application	Tabled
9.	Other Business	Tabled
Recurring Items		
10.	Authorizing Budget Transfers	Tabled
11.	Authorizing Accounts Payable	Tabled
12.	Authorizing Minutes of: November 18, 2014, December 2, 2014	Tabled
13.	Adjournment to Executive Session	Tabled

Item #1 – Meeting called to order: The meeting of the Board of Trustees was called to order by Mayor Cassidy at 7:00 p.m.

The following members of the Board of Trustees were present:

Mayor Cassidy, Trustees Volpe, Senerchia, and Mutti

The following members of the Board of Trustees were absent:

Trustees Kagan, Reim and Marty (arrived at 7:03 p.m.)

Village staff in attendance:

Village Administrator Robert Yamuder, Secretary to the Village Administrator Peter Bonington

Item #7– Adjournment to Executive Session

A motion was made by Trustee Volpe with a second by Trustee Senerchia to adjourn the public portion of the Board meeting at 7:02 pm and go into Executive Session to discuss a pending legal matter after which time the Board would return to the public meeting. The motion was approved by vote of four in favor, none opposed.

VILLAGE OF PELHAM BOARD OF TRUSTEES
REGULAR MEETING
TUESDAY, DECEMBER 16, 2014, 7:30 PM
VILLAGE HALL – 195 SPARKS AVENUE, PELHAM, NY

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Agenda Items:

Non-Recurring Items		
7.	Continuing a Public Hearing on ExteNet's Wireless Telecommunication Application	Approved
8.	Other Business	None
Recurring Items		
9.	Authorizing Budget Transfers	Approved
10.	Authorizing Accounts Payable	Approved
11.	Authorizing Minutes of: November 18, 2014	Approved
12.	Adjournment to Executive Session	Approved

Next Regularly Scheduled BOT Meetings:

Tuesday, January 6, 2015
Tuesday, January 20, 2015

All meetings start at 7:30 p.m. unless otherwise noted.

Item #1 – Meeting called to order: The meeting of the Board of Trustees was called to order by Mayor Cassidy at 7:30 p.m.

The following members of the Board of Trustees were present:

Mayor Cassidy and Trustees Volpe, Senerchia, Mutti, Reim, and Kagan, and Marty

The following members of the Board of Trustees were absent:

Village staff in attendance:

Village Administrator Robert Yamuder, Secretary to the Village Administrator Peter Bonington

Item #2 – Pledge of Allegiance:

The Pledge of Allegiance was led by Mayor Cassidy.

Reports:

Mayor Cassidy Report

Mayor Cassidy reported that Burbio.com is hosting a gift card marketplace forum for Village merchants.

He said the Board will begin discussing upcoming budget for the coming Fiscal Year. He stated that the Village has been operating on an aggressive budget that has functioned below the State mandated tax cap through tight control by Village department heads.

Trustees Reports:

Trustee Kagan

Trustee Kagan reported that he was reviewing the application to transfer the water system to United Water to the Public Service Commission. He said he hopes to have more to report at future meetings.

Trustee Marty

Trustee Marty stated that yesterday was the last day to put out leaf or other organic matter. He said the Village will resume organic collections on March 15, 2015. He added that yesterday was also that last day to use gas-powered leaf blowers.

Trustee Mutti

Trustee Mutti reported that the MTA is proposing a fare rate hike and is holding an open comment period on their website.

She stated that the Village is looking into some possible remediation fixes to the Highbrook Bridge to alleviate run-off.

She thanked the Pelhamwood Association for their decorations around the neighborhood.

Trustee Reim

Trustee Reim stated the Village looks very nice with the wreaths and other holiday decorations.

Trustee Senerchia

Trustee Senerchia thanked the Village DPW for cleaning out the catch basins in anticipation of future rainstorms.

He stated that the Police Department will begin interviews to fill positions left by retiring officers. He added that Union negotiations are ongoing.

He reminded residents to lock their car doors as there have been a number of break-ins around town recently.

Trustee Volpe

Trustee Volpe thanked the Mayor and staff for organizing the Christmas party at Infusion. He said the Trustees all donated gifts which were raffled off.

Village Administrator's Report

Administrator Yamuder thanked the DPW for their work around the Village and wished the community a happy holiday season.

He said two-hour parking meters around town would be bagged from December 12th to December 29th. The two-hour limit would remain in effect.

He said the Village has received its CHIPS funding for road improvements in the amount of \$116,000.

He finished by saying that United Water had approved payment of the gross receipts tax retroactively in the amount of \$30,000 to the Village.

Item #6– Public Comment

None

Item #7– Continuing a Public Hearing on ExteNet’s Wireless Telecommunication Application

Mayor Cassidy gave a summary of the events leading to this public hearing regarding the ExteNet application. He said with the December 20th deadline approaching, the Board intends to make a decision tonight. He said he hoped residents who are making comments keep them positive and within the three minute time period.

Helen McCarol stated that she had a petition of 155 names of Pelham residents opposed to the installation and use of these nodes. She asked if the Board would like to hear the names of the residents listed.

Mayor Cassidy responded that the Board already has a copy of the petition.

Mike Carpenter of Central Avenue thanked the board for posting the submitted materials on the Village website.

Mr. Barshov, the attorney representing the Kaplan’s stated that it his contention that ExteNet has not shown a significant gap in service to justify the utility pole or node at the present location. He said that conclusion merits a denial of the application by the Village Board.

Carol Spawn Desmond of Corona Avenue stated that the Board is basing its decision off of ExteNet prepared data and documents. She stated that she feels that is insufficient under the Code and the Board should seek its own data.

Chris Fisher, the attorney representing ExteNet stated that he does not agree with some of the statements made during this meeting and previous hearings. He said ExteNet has been transparent as evidenced by the level of detail provided to the Board and public. He said ExteNet has the burden of proof and it has met that burden.

Matt Kaplan of Cliff Avenue said this has been a long and difficult process and he took legal action reluctantly. He urged the Board to reject the application.

Mr. Spolzino, counsel for the Village outlined the SEQRA process that the Village must complete in order to move forward. He added that a right-of-way agreement would have to be approved between the Village and ExteNet as well.

Trustee Kagan asked what the Board cannot consider when judging the application.

Mr. Spolzino stated the Board cannot consider possible health issues or interference with radio transmission of these nodes. He said these considerations have been taken off the table by Federal law.

Trustee Volpe stated the EAF form that must be completed as part of the SEQRA process has been supplemented since it was first submitted. He stated the Village must approve it for the three node locations and will declare itself as lead agency unless it chooses to delegate another entity.

Trustee Kagan made edits to the language of the EAF form which the Board approved of.

A motion was made by Trustee Volpe and seconded by Trustee Mutti to approve the EAF form. The vote was approved by a vote of seven in favor, none opposed.

Mr. Spolzino suggested that the Board document its approval or denial of the application in writing. He reminded the Board that they cannot deny the application if they feel ExteNet has proved a significant gap in service and has chosen the least intrusive means to remedy that gap.

Trustee Kagan asked Mr. Fisher for data and documentation illustrating the gap when the nodes are on and when they are off. Specifically, he asked for when the 'drive-tests' were performed and under what conditions. Trustee Kagan further stated that he had asked for it on three separate occasions.

Mr. Fisher stated that information should already have been provided in the form of a map with the report dated October 2014, but he was unable to provide the actual test date. Mr. Fisher stated that more detailed information regarding service levels and deficiencies in Pelham would have to come directly from T-Mobile and they do not release that material without further negotiations.

Trustee Kagan asked Chris Angellini, engineer for ExteNet, if the Nodes were tested with the nodes all on and all off, but not individually. Mr. Angellini confirmed they were all tested on and off together because they operate as a system.

Trustee Kagan said the lack of clarity on the testing methodology and mistakes made in the documents ExteNet presented, has led to a credibility gap within the Pelham community and ExteNet.

Trustee Volpe asked Mr. Barshov about the lack of case law in which a municipality successfully won a case against node proliferation.

Mr. Barshov said the Village does not have to invoke the law if they determine the application is incomplete and deny it on lack of evidence of a significant gap.

Mr. Fisher stated that the Village does not have to decide on the application based on case law. He said the Village should consider it from a planning and zoning standpoint.

Lee Afflerbach, consultant for the Village stated that the data and documentation provided are consistent with other municipalities. He said data in this case is real data because the nodes are active. He said he does not see a reason to doubt that this data is accurate.

Trustee Volpe asked Mr. Afflerbach if the submissions provided give enough evidence for both in-building and vehicular data.

Mr. Afflerbach stated that there is enough data to extrapolate those findings. He added that coverage is easily affected by placement of these nodes.

Trustee Senerchia asked if there are any restrictions on ExteNet and what they can do without Board approval.

Mr. Angelini of ExteNet stated that ExteNet can only make repairs to the electronics. They cannot make additions or attachments.

After some discussion, the Mayor suggested the Board vote on the application for the special permit.

A motion was made by Trustee Mutti and seconded by Trustee Volpe to direct Village counsel to prepare a resolution approving the permit. The vote was approved by a vote of six in favor, Trustee Kagan was opposed.

Mr. Spolzino said that a special resolution could be written and approved by the Board at a future meeting to codify this acceptance in writing. The Board agreed on a special meeting to be held at 5:30 p.m. on Monday, December 22, 2014 at Village Hall.

Trustee Kagan stated he was opposed to the resolution approving the application because the submissions were sloppy, and the data is suspect because the methods and dates of testing were not disclosed. He said he would also like to spare the Village costly litigation if possible, but he did not feel that particularly with regard to node 1, that ExteNet had met its burden of proving the existence of a significant gap. He said for those reasons he could not support the application as it exists.

Trustee Reim stated he hoped this process set a precedent for better submissions in the future.

Trustee Senerchia stated he felt that the Village has done its due diligence and must comply with Federal regulations.

Trustee Mutti said that the public is increasingly reliant on these devices. She said the Village has retained its own engineers to qualify the submissions by ExteNet.

Trustee Marty stated this was a close call however ExteNet and the Village's consultant agree there is a significant gap in service.

Trustee Volpe stated that he favors the application reluctantly. He said the first submission left many unanswered questions and procedural problems which in turn generated a credibility gap in the

community. He said however that the Village did receive sufficient data to support ExteNet's contention about the gap in service which is why he is voting in favor of it now.

Mayor Cassidy said the Village has taken steps to improve this process by strengthening its Code, hiring experts, and holding public hearings. He said the sad part of this process is that it has pit neighbor against neighbor. He said it has been a difficult process and hopefully next time the Village will be better situated to handle it.

A motion was made by Trustee Mutti and seconded by Trustee Volpe to approve a right-of-way agreement substantially similar to the one entered into with ExteNet previously. The vote was approved by a vote of six in favor, Trustee Kagan was opposed.

Item #8– Other Business

None

Item #9– Authorizing Budget Transfers

These Budget Amendments and Transfers were requested by Finance Director Shirley Brown.

A motion was made by Trustee Volpe and seconded by Trustee Kagan to approve the resolution. The vote was approved by a vote of seven in favor, none opposed.

RESOLUTION

Re: Budget Amendments and Transfers for Fiscal Year 2014-15

Whereas, pursuant to the provisions of Section 5-520 of the New York State Village Law, the Board of Trustees, by resolution, may increase existing Appropriations by transferring funds from the unexpended balance of another appropriation, from the contingent account, from available cash surplus or unanticipated revenues within a fund, or by borrowing, and

Whereas, in all cases, there are sufficient unexpended balances in other appropriations accounts, excess revenues or fund balances available to cover the transfers, now therefore be it

Resolved, that pursuant to Village Law Section 5-520, the Board of Trustees hereby authorizes and directs the proper Village officers to modify the 2014-15 Budget by making the following amendments and rollovers:

2014/15 BUDGET AMENDMENTS AND TRANSFERS - BOARD MEETING DECEMBER 16, 2014					
2014/15 BUDGET AMENDMENTS					
To: CAPITAL FUND		From: CAPITAL FUND			
H.3120.204	Police- Tactical Equipment (Guns)	\$ 5,460	H.2655	Minor Sales- Equipment (Guns)	\$ 5,460
Note: To reflect Grant from NYS Department of Justice					
H.2705	Gifts and Donations- Junior League of Pelham	\$ 121,400	H.8510.400.1	Woodland Park Child Play Area	\$ 121,400
Note: To reflect Woodland Park Play Area to be totally funded by JLP					
To: GENERAL FUND		From: GENERAL FUND			
A.3120.121	Police- Special Assignment	\$ 19,905	A.2772	Refund for Personnel Services	\$ 21,428
A.9030.935	Social Security	\$ 1,523			
		\$ 21,428			
A.5112.400	Permanent Improvements- Contractual	\$ 3,445	A.2705	Gifts and Donations	\$ 3,445
Note: To reflect contract and donations to prepare and paint the Clock Tower					
2014/15 BUDGET TRANSFERS					
To: GENERAL FUND		From: GENERAL FUND			
A.1620.424	Village Hall/DPW Maintenance	\$ 5,000	A.1610.201	Village Hall Equipment	\$ 3,500
			A.1610.401	Computer & Equip't Services	\$ 1,500
					\$ 5,000
A.9085.800	Fireman Retirement Supplement	\$ 48,204	A.3410.101	Fire Personal Services- Reg.	\$ 48,204
Note: To reallocate funds to cover Lt. Bucaj going out on 207a					
A.3410.424	Fire Building Maintenance	\$ 2,000	A.3410.121	Fire Pers. Serv. Training O/T	\$ 2,000
A.5989.453	Traffic Maintenance of Equipment	\$ 11,000	A.1990.990	Contingency	\$ 11,000
Note: To cover emergency repairs- possible ConEd reimbursement					
A.8170.120	Public Works- Street Cleaning O/T	\$ 16,000	A.7110.120	Public Works- Parks O/T	\$ 16,000
Note: To reallocate over time					
A.9049.949	Workers Comp Insurance	\$ 1,531	A.1910.910	Contingency	\$ 1,531
Note: Overage due to write off Lovell Dividend accrual					
	Grand Total of Exchanged Funds:	\$ 235,468		Grand Total of Exchanged Funds:	\$ 235,468

Item #10– Authorizing the Accounts Payable

Trustee Marty is auditing the Accounts Payable.

A motion was made by Trustee Marty and seconded by Trustee Mutti to approve the resolution. The vote was approved by a vote of seven in favor, none opposed.

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	\$70,350.95
Water Fund	\$11,190.00
Capital Projects Fund	\$0.00
Trust and Agency Fund	\$1,752.50
CD NYS Main Street Fund	\$0.00
H3 Fund	\$0.00
<u>TE Expand Trust Fund</u>	<u>\$0.00</u>
Grand Total	\$83,293.45

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

Item #11– Authorizing Minutes of: November 18, 2014, December 2, 2014

A motion was made by Trustee Kagan and seconded by Trustee Marty to approve the resolution. The vote was approved by a vote of seven in favor, none opposed.

November 18, 2014- Approved

December 2, 2014- Tabled

Item #12–Adjournment to Executive Session

A motion was made by Trustee Marty with a second by Trustee Mutti to adjourn the public portion of the Board meeting at 10:34 pm and go into Executive Session to discuss a pending litigation matter after which time the Board would adjourn for the evening. The motion was approved by vote of seven in favor, none opposed.

Respectfully submitted,
Peter Bonington, Secretary to the Village Administrator