

VILLAGE OF PELHAM BOARD OF TRUSTEES
 REGULAR MEETING
 TUESDAY, DECEMBER 2, 2014, 7:30 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.	Continuing a Public Hearing on ExteNet's Wireless Telecommunication Application	Discussed
8.	Resolution Requesting United Water New Rochelle to Pay the Village of Pelham a Gross Receipts Tax as a Utility Company Doing Business in the Village of Pelham	Approved
9.	Resolution Authorizing an Inter-Municipal Agreement to Provide Winter Road Salt to the Pelham Public School District	Approved
10.	Resolution Authorizing a Forfeiture of Deposit of \$25,000 to be Transferred to the General Fund	Approved
11.	Other Business	None
Recurring Items		
12.	Authorizing Accounts Payable	Approved
13.	Authorizing Minutes of: November 6, 2014, November 12, 2014	Approved
14.	Adjournment to Executive Session	Approved

Next Regularly Scheduled BOT Meetings:

Tuesday, December 16, 2014
 Tuesday, January 6, 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:

Trustees Senerchia, Mutti, Reim, and Kagan, and Marty, Volpe (arrived at 7:55 p.m.)

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 stated the Village Holiday Party will be on Wednesday, December 10th beginning at 5:30 p.m.

He stated that he is looking forward to finalizing the transfer agreement with United Water and divesting the Village of the liability of managing a water fund.

Trustees Reports:

Trustee Kagan

Trustee Kagan reported the United Water transfer agreement has been drafted by United Water and will be sent to the Public Service Commission for their approval. He hopes to have more to report at coming meetings.

Trustee Marty

Trustee Marty reported that the last day for residents to use gas-powered leaf blowers will be on Monday, December 15th.

Trustee Mutti

Trustee Mutti reported that she has been working closely with Assemblywoman Amy Paulin and State Senator Jeff Klein on issues related to the track noise at the Metro-North Station. She stated that there has been some progress which is heartening however some elements of the track noise cannot be remediated.

She said she will be attending one of the MTA's open meetings at Grand Central Terminal. She said she intends to thank them for their attention to the issues raised by the community.

She said the proposed Children's Adventure Park is entering the design and engineering phase. She said the Village will begin researching possible vendors.

Trustee Reim

None

Trustee Senerchia

Trustee Senerchia stated that the Chamber of Commerce has developed a gift card marketplace to support local businesses. He said this effort is being coordinated through Burbio.com which is a website created and administered by a Pelham resident.

He added that the Police negotiations are ongoing and he hopes to have more to report at future meetings.

Trustee Volpe (arrived at 7:55 p.m.)

None

Village Administrator's Report

Administrator Yamuder stated the last day that residents can leave organic waste, including loose leaves, out at the curb will be Monday, December 15th.

He said the meters along 5th Avenue and Wolfs Lane will be bagged between December 12th and December 29th. The two-hour meter limit remains in effect.

Item #6– Public Comment

Dryda Madison stated she will be teaching fitness classes at the Daronco Townhouse and said she is honored to now be a part of this community.

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

Mayor Cassidy stated that the Board is still receiving information daily from ExteNet and other sources. He said the Board will continue this public hearing until December 16th. He said the Board would take comments but will hold-off on a decision until the next meeting.

Nigel Scott-Williams of Pine Avenue stated that he held a petition of residents and associations concerned with the placement of the nodes in the community. He mentioned EcoPel, the Pelham Preservation and Garden Society, and the Pelville Association.

Trustee Mutti stated that she sits on the Board of the Pelhamwood Association and was not aware of this petition.

Mark Rookwood of EcoPel stated that he was not sure of this statement regarding a petition however he said EcoPel’s position is that they would like to nodes removed.

Jennifer Laphey of the Pelham Preservation and Garden Society stated that she is not aware of this petition that was mentioned by Mr. Williams. She stated the official position of the PPGS is that the nodes should be removed. She speculated that this petition can only be representative of the residents who have signed it.

Cathy Zalankis of 111 Cliff Avenue stated that a permit cannot be granted for a location which ExteNet has declared inferior and will compromise their coverage. She said there is no basis to move the pole.

Steven Barshov, attorney for the Kaplan’s, stated that ExteNet has the burden of proof to show that there is a significant gap in service. He stated that his contention that ExteNet has not proved that fact and that there is no significant gap in service. He said this is in part because ExteNet has not provided data based on service related in-building coverage vs. vehicle coverage. He said that his expert, Richard Comy, is present to answer questions on this issue.

Trustee Kagan asked Mr. Comy to define the terms “significant gap.”

Mr. Comy stated that a “gap” in coverage is the lack of any service signal. He claimed that ExteNet is not saying there is no coverage, only that they need to improve the signal strength.

He advised that the Board should not be thinking in terms of setting a precedent regarding the proliferation of nodes in the Village. They should only be considering the current application as it

relates to the purported “gap” in service. He stressed that all possible avenues be explored to diminish the effect on residents.

Mr. Barshov stated that the Board’s powers are only to accept or deny an application. He added that a cellular utility does not have the responsibility under the law to provide cell service in all areas.

Trustee Marty said that the Village could become exposed legally by relying on these interpretations and asked if these interpretations had been tested in court. He added that there is an increasing demand and expectation of service on the part of customers.

Mark McNulty of Corlies Avenue stated that he believed there is a service gap in the areas where the nodes have been placed. He said he has experienced bad cell reception as a result of this gap.

Trustee Volpe asked if Mr. McNulty worked for either ExteNet or T-Mobile. Mr. McNulty confirmed that he did not work for either company.

Catherine Griffiths stated she was concerned about the nodes being placed in the Village due to her family’s cancer history.

Christian Privat of Young Avenue stated that he is speaking for several individuals stating their opposition to the nodes on the basis that they believe there is no significant gap in service.

Mike Carpenter of Chester Park stated he would like to see the submissions made by ExteNet and other parties made available on the website as quickly as possible.

Trustee Volpe stated that the Board has been very transparent during this process. He said all the documents received have been placed on the website and are available in hard copy fashion at the Village Hall. He added that email requests to the Trustees have also been honored.

Mayor Cassidy added that the latest submissions were received that day at 3 p.m. The Board has only just had time to give it a cursory review. He said all submissions would be posted on the website for public review.

Mr. Barshov asked if the Board could establish a deadline for all submissions to be made prior to a Board decision on this matter.

Chris Fisher of Cuddy and Fedder, representing ExteNet stated that they are preparing to respond to these statements. He said ExteNet and his firm have serious disagreements with some of the allegations made in legal submissions and in these Board meetings. He asked if ExteNet could be given the final opportunity to rebut these statements and give closing arguments with regard to the application currently before the Board.

Mayor Cassidy stated he would confer with the Village attorney’s and determine a fair cut-off point for all parties.

Item #8– Resolution Requesting United Water New Rochelle to Pay the Village of Pelham a Gross Receipts Tax as a Utility Company Doing Business in the Village of Pelham

Administrator Yamuder stated that the Village, after consulting with United Water, has fixed an accounting error on their end. He said an internal auditing error at United Water had previously prevented the Village from receiving the gross receipts tax amounting to \$30,000. He said the error has been corrected at this time and the Village will be receiving the outstanding sum retroactively.

Trustee Kagan asked Administrator Yamuder to confirm whether there would be any additional costs to residents/customers of United Water to make up for the 3 year lapse. Administrator Yamuder confirmed that residents would not be charged.

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

WHEREAS, the former Village of Pelham and the Village of North Pelham did consolidate into one village known as the Village of Pelham as of June 1, 1975; and

WHEREAS, the Village Board of the consolidated Village of Pelham did enact Local Law No. 1-1975 which provided for the continuation of the ordinances, local laws, rules and regulations of the former Village of Pelham and North Pelham; and

WHEREAS, the Village Code of the former Village of North Pelham contained a Local Law No. 1-1950 imposing a tax on utilities doing business in the Village of North Pelham pursuant to the authority granted by Section 138-d (currently Section 186-a) of New York State Municipal Village Law equal to one per centum (1%) from a utility's gross income; and

WHEREAS, the consolidated Village of Pelham continued to receive a one percent (1%) gross receipts tax until the quarter ending June 2013; and

NOW, THEREFORE, BE IT RESOLVED, the Board of Trustees of the consolidated Village of Pelham requests United Water New Rochelle to continue to pay the Village of Pelham a one percent (1%) gross receipts tax as a utility doing business in the Village of Pelham.

Item #9– Resolution Authorizing an Inter-Municipal Agreement to Provide Winter Road Salt to the Pelham Public School District

Administrator Yamuder stated this resolution is an inter-municipal agreement between the Village and the School system for the Village to supply surplus salt to the schools for the purposes of snow and ice removal. The Schools will pay the Village for any tonnage received. The Administrator stated that

he coordinated with Anthony Mandelli of the Pelham Schools and confirmed the nature of this agreement with NYCOM.

Mayor Cassidy stated this is a clear case of shared services and urged this type of further cooperation.

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

WHEREAS, the Pelham School District desires to enter into an Inter-municipal Agreement (IMA) with the Village of Pelham to provide them with 20 tons of road salt in December 2014; and

WHEREAS, the Pelham School District and the Village of Pelham are both municipal entities;

WHEREAS, the Pelham School District and the Village of Pelham desire to share services for the benefit of both municipal entities;

WHEREAS, the Village of Pelham will charge the same going rate of \$61.40 per ton of road salt from a New York State contract with Atlantic Salt, Inc.; and

WHEREAS, The Village of Pelham will only deliver the road salt if stock of road salt is available with priority going to the Village of Pelham first; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Village Administrator are authorized to take the necessary and appropriate actions to effect this IMA.

Item #10– Resolution Authorizing a Forfeiture of Deposit of \$25,000 to be transferred to the General Fund.

Administrator Yamuder stated this resolution will transfer monies received under the terms of an MOU agreement from Spinnaker Real Estate Partners to the general fund. The proposed development project never went forward however, under the terms of the MOU, Spinnaker forfeits the \$25,000.

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

WHEREAS, the Village of Pelham entered into a Memorandum of Understanding with Spinnaker Real Estate Partners, LLC, dated June 5, 2012 regarding the proposed 5th Avenue at 3rd Street Development Site; and

WHEREAS, the Memorandum of Understanding between the Village of Pelham and Spinnaker Real Estate Partners, LLC, contained language in Paragraph 3- Deposit stating “(ii) the Deposit shall not be refundable for any reason whatsoever.”; and

WHEREAS, the \$25,000 non-refundable deposit is hereby forfeited as per the Memorandum of Understanding; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Board of Trustees authorize the Village to transfer the \$25,000 non-refundable deposit to the Village’s General Fund under Account A2620- Forfeitures of Deposit.

Item #11– Other Business

None

Item #12– Authorizing the Accounts Payable

Trustee Volpe audited the Accounts Payable.

A motion was made by Trustee Volpe and seconded by Trustee Senerchia 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	\$1,878,393.72
Water Fund	\$887.65
Capital Projects Fund	\$0.00
Trust and Agency Fund	\$350.00
CD NYS Main Street Fund	\$0.00
H3 Fund	\$0.00
TE Expand Trust Fund	\$0.00
Grand Total	\$1,879,631.37

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

Item #13– Authorizing Minutes of: November 6, 2014, November 12, 2014, and November 18, 2014

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

November 6, 2014- Approved

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

November 12, 2014- Approved

The Board decided to table these minutes until a later meeting.

November 18, 2014- Tabled

Item #14– Adjournment to Executive Session (if Needed)

A motion was made by Trustee Kagan with a second by Trustee Marty to adjourn the public portion of the Board meeting at 9:29 pm and go into Executive Session to discuss a pending legal 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