

VILLAGE OF PELHAM BOARD OF TRUSTEES  
REGULAR MEETING  
TUESDAY, JULY 10, 2012, 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

Approximate  
Starting Time  
of Discussion

# Agenda Items:

	<b>Non-Recurring Items</b>	<b>7:45 p.m.</b>
7.	Site Plan Application by Ron Krichilsky (contractor vendee) for 339 Eighth Avenue for a Proposed Single-Family Dwelling	Approved
8.	Resolution Authorizing the Completion of Probation for Fire Lieutenant Robert Benkwitt	Approved
9.	Public Hearing on Proposed Changes in the Commercial Zoning Code	Discussed
10.	Resolution on Enforcement of Overnight Parking on Carol Avenue	Approved
11.	Young Avenue Presentation	Discussed
12.	Authorizing a Stipulation of Agreement with Retired Firefighter	Approved
	<b>Committee and Community Liaison Reports</b>	<b>8:30 p.m.</b>
13.	Email Notification System	None
14.	Commercial Zoning Review	None
15.	Site Plan Review	None
16.	B & W Site	None
17.	Employee Benefits/HR Manual	None
18.	Tree Committee	None
19.	Park Improvements	Discussed
20.	Development (including 3 <sup>rd</sup> Street RFP)	None
21.	Parking	None
22.	KVS Accounting Software Implementation	Discussed
23.	Updating Building Code, Chapter 79 and 98	None
24.	Replacing Televising Video Equipment	Discussed
25.	Other Business- NYPA Tree Program 2012	Discussed
	<b>Recurring Items</b>	<b>9:30 p.m.</b>
26.	Authorizing Accounts Payable	Approved
27.	Authorizing Minutes of: June 5, 2012, June 19, 2012	Tabled
28.	Adjournment to Executive Session	<b>9:45p.m.</b>

Next Scheduled Board Meetings are:

Tuesday, August 14, 2012

Tuesday, September 4, 2012

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

The Agenda is subject to change

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 Hotchkiss, Trustees Lewis, Kagan, Marty, McGoldrick, and Morris

The following members of the Board of Trustees were absent:

Trustee Marciona and McGoldrick

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 Hotchkiss.

Reports:

Mayor Hotchkiss's Report

Mayor Hotchkiss stated that the Village has several flooding grants in the application process at this time. He said there is a Federal Environmental Protection Agency (EPA) grant for \$340,000 with a Village match of 45% or \$287,182. He said the purpose of this grant is to install a 52" pipe along 3<sup>rd</sup> Street between 1<sup>st</sup> Avenue and 4<sup>th</sup> Avenue. He said each project that these grants are intended to fund are distinct and each one should alleviate flooding in a specified area. He said the Village is very anxious to receive these funds to continue these important projects.

The Mayor stated that the Village has received a report from the engineering firm Modjeski and Masters in regard to the Highbrook Avenue Bridge. One of the recommendations is to put up a fence around the perimeter of the bridge area on the Village property; a precautionary measure will keep residents safe from any falling debris from the bridge.

Trustees Reports:

Trustee Lewis

Trustee Lewis commended the Pelham Police Department for apprehending a suspect in an attempted break-in on Clifford Avenue. He reminded residents to be diligent and take precautions with their cars and homes when they are gone such as locking doors.

Trustee Marciona

Absent

Trustee Marty

None

Trustee McGoldrick

Absent

Trustee Kagan

None

Trustee Morris

None

#### Village Administrator's Report

Administrator Yamuder stated that the Pelham Fire Department received a \$2,000 grant for new computers in the firehouse recently. He thanked Fire Chief Stone and the Fire Department for putting this grant together.

He said the Village is undergoing its annual financial audit, and he has not heard of any issues which is a good sign that the usual exceptional standard is continuing. In a few weeks the Board will receive the annual report from the auditing firm of O'Connor Davies.

The Administrator finished his report by saying the Village DPW has received its confined space entry equipment. The DPW will be organizing some training for members of the DPW and other Village departments in the coming weeks.

Item #6–Public Comment

Susan Mutti of 62 Highbrook Avenue stated there is going to be a commemoration for the 100<sup>th</sup> anniversary of the Boston and Westchester Railroad at the New Rochelle Public Library at 10 a.m. She invited any interested residents to the event.

Item #7– Site Plan Application by Ron Krichilsky (Contractor Vendee) For 339 Eighth Avenue For A Proposed Single-Family Dwelling

After some discussion, a motion was made by Trustee Marty and seconded by Trustee Lewis to adopt the resolution. The vote was approved by a vote of five in favor, none opposed. Trustees Marciona and McGoldrick were absent.

RESOLUTION

AUTHORIZING A SITE PLAN APPLICATION BY  
RON KRICHILSKY (CONTRACTOR VENDEE) FOR  
339 EIGHTH AVENUE FOR A PROPOSED SINGLE-FAMILY DWELLING  
& DETACHED TWO CAR GARAGE

RESOLVED, that the application for a Site Plan by Ron Krichilsky (Contractor Vendee) is approved, based on the review and recommendations by the Planning Board (hereinafter “Planning”), Architectural Review Board (hereinafter “the ARB”) which the Planning and ARB approval memos are attached to and made a part of this approval; and

BE IT FURTHER RESOLVED, that the conditions applied by Planning, and ARB are as follows:

1. All work shall be performed in compliance with Planning approval, as noted on plan drawings, dated March 8, 2012, as prepared by Thomas Abillama Architect
2. In addition, all plantings for dwelling be as per approved plans;
3. The house and the garage be built in accordance with their respective approved plans which are approved by the Planning Board and/or the Architectural Review Board of the Village Of Pelham And;
4. A Foundation Location Survey showing the location of the footings and the top of foundation elevation for the two story house and detached two car garage must be submitted to the Building Inspector before the framing of the building can commence.
5. Top of Foundation wall shall not exceed 7’6” over curb height (plus or minus 6”);

6. That the applicant must obtain and submit the new deed for the apportioned property to the Village of Pelham Building Department upon making an application for the building permit;

BE IT FURTHER RESOLVED, that this application for a site plan to include a single family dwelling, detached two car garage and landscaping at 339 Eighth Avenue is subject to the procedures, regulations and requirements of the Pelham Village Code and Pelham Building Department; and

BE IT FURTHER RESOLVED, that the Mayor, Village Administrator, Building Inspector and other appropriate Village officials are authorized to take the necessary and appropriate actions to effect this approval and authorize this remediation plan to proceed, including the imposition of additional conditions and requirements as may be necessary.

## MEMO

Date: June 29, 2012

To: Village of Pelham Board of Trustees

From: Village of Pelham Architectural Review Board

Re: Application for proposed single-family dwelling and detached two car garage

The Architectural Review Board (ARB) recommends that the Village of Pelham Board of Trustees (BOT) approve the application submitted by Ron Krichilsky (Contractor Vendee), for a proposed single-family dwelling and detached two car garage.

Work shall be performed as shown on drawings SP.1, SP.2, A.1, A.2, A.3., A.4, A.5, A.6 dated 3/8/2012 with revisions for ARB dated 5/23/2012 and 6/26/2012.

### Item #8–Resolution Authorizing the Completion of Probation for Fire Lieutenant Robert Benkwitt

Trustee Marty read a letter from Fire Chief Stone stating that Lt. Benkwitt has satisfactorily completed his probation period and asked he be made a full time lieutenant with an effective date of Monday, July 16, 2012. Trustee Marty mentioned that there is currently one Fire Lieutenant out due to an injury and cautioned that the overtime budget will reflect that missing lieutenant.

A motion was made by Trustee Marty and seconded by Trustee Lewis to adopt the resolution. The vote was approved by a vote of five in favor, none opposed. Trustees Marciona and McGoldrick were absent.

RESOLUTION

AUTHORIZING THE SUCCESSFUL COMPLETION OF PROBATION  
FOR ROBERT BENKWITT AS FIRE LIEUTENANT

BE IT RESOLVED, that the Mayor and Board of Trustees hereby authorize the successful completion of probation for Robert Benkwitt as Fire Lieutenant, which is approved based on the positive evaluation and recommendation of the Fire Chief.

Item #9– Public Hearing on Proposed Changes in the Commercial Zoning Code

Mayor Hotchkiss stated the Board is opening up a public hearing on the proposed changes to the Commercial Zoning Code. He said the Board can discuss these changes and invited the public to make comments subsequently. He asked Trustee Lewis to give some background on the events leading up to these proposed changes.

Trustee Lewis said he chaired the citizens' advisory Zoning Committee to oversee the proposed revisions to the Commercial Zoning Code. He said the purpose of these revisions is to resolve conflicting zoning regulations a result of the merger of the Villages of North Pelham and Pelham in 1975. He said these proposed changes are consistent with the goals of the 2008 Pelham Comprehensive Plan. Trustee Lewis thanked the officials and volunteers who worked on this committee.

Trustee Lewis stated that the changes to the Commercial Code will be more uniform with the creation of two districts, C1 and C2, in the downtown area. Trustee Marty said he had worked with Trustee Lewis on this project and hoped the revisions would make it easier for residents and merchants to understand the Commercial Code.

The Mayor invited Phil Butler of Keane and Beane, the Village's land use law firm, to give some clarifications to the Board members and the public.

Trustee Kagan had comments regarding area character, restrictions on property, setback requirements, and inclusions/exclusions within the districts.

Jennifer Lapey, Chairmen of the Pelham Preservation and Garden Society, said that uniformity does not necessarily serve the community. She asked if the Board could postpone voting on this matter until the Society has had a chance to review the proposed changes.

Nigel Scott-Williams of 5 Pine Avenue had several matters he wished to discuss with the Board. He said he had become familiar with the proposed changes as former chairman of the Architectural Review Board. He said the building height limits stipulated in the changes as 72 feet would have a large impact on the nature of the downtown. Trustee Marty corrected him that the building height limit proposed is 70 feet.

Mr. Scott-Williams stated these changes would open the downtown up to sliver buildings across the length and breadth of the 5<sup>th</sup> Avenue district. Mayor Hotchkiss responded that new buildings would need zoning variances and stated the Village land use boards and Board of Trustees would still have to approve any buildings in the Pelham downtown.

Mr. Scott-Williams stated that the current development proposal for 5<sup>th</sup> Avenue and 3<sup>rd</sup> Street is a motivation behind these proposed zoning changes. He said there is opposition to the project within the community and the Village will be losing parking spaces in municipal lot #2.

Trustee Marty stated there were five to six developers interested in the site at 5<sup>th</sup> Avenue and 3<sup>rd</sup> Street. He said while the project would be consistent with the goal of building density in the downtown, it is not connected with the changes to the Commercial Code.

Art Scinta of the Pelham Preservation Society asked if the vote on this resolution could be postponed until September to allow the Society and the general public to review these proposed changes and give input. He also requested further analysis and shadow drawings be done to ascertain the effect of the proposed building height limits.

Mayor Hotchkiss stated the Board will have this matter on the agenda for the August meeting, but will not vote on it until the September meetings later if necessary.

The Board decided to continue the public hearing until a later meeting.

Village Of Pelham, NY  
Public Hearing That Amends Chapter 98 of the Code of the Village of Pelham

Local Law No. 4- 2012

**Local Law would amend Chapter 98 of the Code of the Village of Pelham, namely the Zoning Code, by eliminating the Business-1, Business-2, Business -3 and M Zoning Districts and creating the Commercial C-1 and Commercial C-2 Zoning Districts and setting forth permissible uses and dimensional requirements for same. The proposed Local Law will involve changes to both the text of the Village Zoning Code and to the Village Zoning Map.**

Be enacted by the Board of Trustees of the Village of Pelham as follows;

Item #10– Resolution on Enforcement of Overnight Parking on Carol Avenue

Mayor Hotchkiss stated that this resolution is about the enforcement of overnight parking regulations on Carol Avenue. He said the Village intends to give the residents on Carol Avenue until October 1, 2012, to make new parking arrangements before the enforcement begins. He said the Board has spoken to the State Legislature about the possibility of getting a home rule designation on this issue; however, our representatives said there was not enough of a case for a home rule decision.

The Mayor said there has never been a case put forward that asserts that Carol Avenue is a private street. He said Board minutes from 1979, only show the opinion of one Trustee who believed it could be a private street. He said the Village has received a legal opinion from Keane and Beane on this matter, and it determined that it is a public street.

Phil Butler of Keane and Beane summarized the letter opinion from his firm saying that for 30 years the street has been maintained by the Village, which would prescribe it as a public street even if it was once considered to be private.

Mayor Hotchkiss said the overnight parking regulation is a matter of public safety and it is supported by the majority of residents in the Village.

Trustee Kagan stated the Village expended considerable time and expense to come to this decision. He stated he went to the County Clerk's office and reviewed the maps and records. He said the records show clearly that the street is a public street. Trustee Kagan said he understands the

frustration of the residents but as government officials, Board members cannot ignore lapse in enforcement once it is aware of it. He said this is not a popular proposal but it is a fair one. Trustees Marty, Lewis, and Morris agreed with this evaluation of the resolution.

Carolyn O'Connor said this resolution is pushing the issue into a legal forum. She wanted to know the reason that parking was not enforced on Carol Avenue for so long. She asked why parking on the street is a safety issue on Carol and not on other streets where there is overnight parking. Mayor Hotchkiss responded there are other streets that the Village will have to address but said that Carol Avenue is a public street and is subject to the same regulations as all other public streets in Pelham.

Kathy Mattisi of 228 Carol Avenue requested that the street be paved and that any flagstones that are the Village's responsibility be fixed. She also asked if the Village could generate a similar licensing agreement for Carol Avenue as the Village did for the Clovelly Homeowners' Association.

Mayor Hotchkiss stated that the licensing agreement was a settlement of a dispute over the ownership of the Brookside and Hillside streets. He said it is not the preferred policy but said the Village wished to avoid a costly legal dispute despite a strong case that the streets were public. The Mayor said the Village would consider paving Carol Avenue, but due to diminishing funds from State aid, being the streets are not paved as often as the Board would like.

Louise Gallo of 245 Wolfs Lane said she appreciated the position the Board is in and the work that Trustee Kagan did in examining this issue. She said the Trustees should factor into their considerations that they will be affecting the lives of many residents on Carol Avenue with this new enforcement policy.

Iris Kasten of 240 Carol Avenue asked the Board members how they can allow parking on a public street as they have done with the Clovelly Homeowners' Association. She said she understood that New York State law is that no permits can be sold for parking on a public street. Ms. Kasten asked what the State's response was when contacted about the licensing agreement on Brookside and Hillside Avenues.

Mayor Hotchkiss stated the licensing agreement is for a transition period and is a settlement to a dispute of ownership between the Village and Clovelly.

Bob Keller of 245 Wolfs Lane said he did not understand the logic behind the licensing agreement. He asked how the Board can state that no parking on the streets overnight is a safety concern and yet allows Clovelly the right to park overnight on its side of the street. Mr. Keller stated he did not see the fairness in this resolution.

Mayor Hotchkiss responded that this is not the optimal situation but the licensing agreement was a mutual settlement of a dispute where both sides had meritorious arguments. Mr. Keller responded that this arrangement will create a future problem for Carol Avenue.

Francis Lamatta of 220 Carol Avenue read off the Police Safety Tips posted on the Village website. He asked why the Village can discriminate against one side of the street and not the other.

Mayor Hotchkiss responded that the Village must enforce the law on Carol Avenue now that it is aware of the lack of enforcement on that block. The Mayor asked if there were any more comments from the public. There were none.

A motion was made by Trustee Marty and seconded by Trustee Lewis to adopt the resolution. The vote was approved by a vote of five in favor, none opposed. Trustees Marciona and McGoldrick were absent.

Kathy Mattisi presented a Freedom of Information request for all records related to private ownership of Carol Avenue.

#### RESOLUTION REGARDING OVERNIGHT PARKING ON CAROL AVENUE

WHEREAS, it has come to the attention of the Village Board that the overnight parking regulations of the Village have not been enforced Carol Avenue between Brookside Avenue and The Boulevard, and

WHEREAS, the Board of Trustees is willing to give residents of the Village and especially those living on Carol Avenue a reasonable period of time in order to come into compliance with the parking regulations applicable on Carol Avenue,

Therefore, be it

RESOLVED, that commencing October 1, 2012, the Village Police Department is hereby directed to enforce the parking regulations on the east side of Carol Avenue between Brookside

Avenue and The Boulevard and on the west side of Carol Avenue between Hillside Avenue and The Boulevard.

Item #11– Young Avenue Presentation

Christine Sheppard, of 215 Young Avenue gave a presentation to the Board regarding the creation of a road that runs through the NYW&B Village property that would connect Young Avenue with “Little” Young Avenue, with a dead end at the Lincoln Avenue intersection. Ms. Sheppard stated in addition to allowing an easier passage for traffic safety reasons as well as connecting the two neighborhoods of Young Avenue, are prime motivations as well as connecting the two neighborhoods of Young Avenue.

Trustee Marty stated after consulting with Leonard Jackson Associates (LJA) the estimated price for this project would be approximately \$150,000 to \$160,000. He said this would also include increased parking for the Greenspace area and an increase in property value for the homes on Young Avenue. He stated the next big question would be how to pay for this project.

Trustee Lewis asked Administrator Yamuder if there were grant opportunities for projects such as the one proposed by the representatives of the 200 block on Young Avenue. Administrator Yamuder stated he was not aware of any but he would look into the matter further.

Trustee Kagan asked if the Greenspace would have to be shortened to allow this road to go through. Trustee Marty responded it would be affected in some way by this proposed project. Trustee Marty asked how the residents on Pell Place would feel about this project.

Administrator Yamuder stated that the proposed route for the road is marked on the Village tax maps as an unimproved road.

Trustee Marty stated this proposed project is a part of the overall options paper being developed by the NYW&B Committee. He stated that there has been some sense of support for this project within the Committee.

Item #12– Authorizing a Stipulation of Agreement with Retired Firefighter

Trustee Lewis asked if this agreement had changed at all since the last time the Board reviewed it. Trustee Kagan stated that only the dollar amount had changed since it was last reviewed.

Administrator Yamuder stated the Village attorneys as well as Shirley Brown, the Village’s financial advisor reviewed this agreement. The Administrator and Trustee Kagan thanked the attorneys and

Ms. Brown for reviewing the agreement and resolving an accounting error. The Administrator stated the payment to Mr. Warn would be \$43,242.58 which would cover the years from 2006 to the present. He said it would be effective as of July 7, 2012.

A motion was made by Trustee Marty and seconded by Trustee Kagan to adopt the resolution. The vote was approved by a vote of five in favor, none opposed. Trustee Marciona and McGoldrick were absent.

Resolution  
Authorizing a Stipulation of Agreement  
with Retired Firefighter Christopher Warn

BE IT RESOLVED, the Board of Trustees hereby approves the Stipulation of Agreement between the Village and retired firefighter Christopher Warn executed by Mr. Warn on July 7, 2012, resolving a dispute over payments owed to him under General Municipal Law §207-a(2) and authorizes the Mayor to execute such Agreement on behalf of the Village.

Item #13– Email Notification System

None

Item #14–Commercial Zoning Review

None

Item #15– Site Plan Review

None

Item #16–B & W Site

None

Item #17–Employee Benefits/HR Manual

None

Item #18– Tree Committee

None

Item #19– Park Improvements

None

Item #20- Development (including 3<sup>rd</sup> Street RFP)

None

Item #20- Parking

None

Item #21–KVS Accounting Software Implementation

Administrator Yamuder stated that the Village staff will be receiving more training on the KVS accounting software in the coming weeks.

Item #22– Updating Building Code, Chapters 79 and 98

None

Item #23– Replacing Televising Video Equipment

Secretary Bonington stated the Village is in the process of procuring the last of the media equipment for the public broadcast system. Once the remaining equipment arrives, the installation will be coordinated. He stated he hoped to have the media rack fully functional by the next Board meeting on Tuesday, August 14, 2012.

Item #25– Other Business

Trustee Marty stated that Lieutenant Bucaj of the Village Fire Department is currently out as the result of an injury. He said the overtime for the Fire Department is escalating and predicted the Village will go over budget.

Administrator Yamuder said the Lieutenant has been recommended for surgery on the affected shoulder. He said he will be out for at least six months.

Trustee Marty stated the Village has struggled with this issue before. He said the Fire Chief has recommended a temporary Lieutenant to help alleviate the overtime effect.

Administrator Yamuder said the Fire Department states they must have leadership at a fire scene. He said the Board must decide if it wishes to promote from within. Trustee Kagan asked about hiring from outside the department.

Administrator Yamuder stated the New York Power Authority (NYPA) has an annual tree program in which the Village can purchase a certain number of trees and receive a two-for-one deal for every tree it purchases. He stated that last year the Village purchased 10 trees and received 20 as part of the program.

A motion was made by Trustee Morris and seconded by Trustee Kagan to adopt the resolution. The vote was approved by a vote of five in favor, none opposed. Trustees Marciona and McGoldrick were absent.

#### RESOLUTION

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham authorizes the payment of \$1,000.00 to the New York Power Authority (NYPA) two-for-one tree plan in which the Village can receive two trees for every one it purchases. The amount to be invested will not exceed \$1,000.00.

NOW, THEREFORE, BE IT RESOLVED BE IT FURTHER RESOLVED, that the Village Administrator and the DPW Foreman are authorized to take the necessary and appropriate actions to effect this project.

#### Item #26—Authorizing Accounts Payable

Trustee Lewis audited the Accounts Payable.

A motion was made by Trustee Lewis and seconded by Trustee Kagan to adopt the resolution. The vote was approved by a vote of five in favor, none opposed. Trustees Marciona and McGoldrick 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	\$ 126,816.04
Water Fund	\$ 0.00
Capital Projects Fund	\$ 0.00
Trust and Agency Fund	\$8,930.88
H3 Fund	\$0.00
TE Expandable Trust Fund	<u>\$0.00</u>

Grand Total \$ 135,746.92

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

Item #27– Authorizing Minutes of: June 5, 2012, June 19, 2012

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

June 5, 2012- Tabled

June 19, 2012- Tabled

Item #28– Adjournment to Executive Session

A motion was made by Trustee Lewis with a second by Trustee Kagan to adjourn the public portion of the Board meeting and go into Executive Session to discuss a personnel matter at 10:30 p.m. after which time the Board would adjourn for the evening. The motion was approved by vote of five in favor, none opposed. Trustees Marciona and McGoldrick were absent.

Respectfully submitted,  
Peter Bonington, Secretary to the Village Administrator