

VILLAGE OF PELHAM BOARD OF TRUSTEES
REGULAR MEETING
TUESDAY, MAY 7, 2013, 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.	Public Discussion and Consideration of the Village of Pelham's MS-4 Report Under the EPA Phase 2 Stormwater Management Guidelines, and Authorizing Submission to the NYSDEC for Consideration of Renewal of the Village's SPEDES Permit	Discussed
8.	Public Hearing for Local Law #2-2013 a Local Law to Revise the Regulation of Sidewalk Cafes in the Business Districts- Closing continued Hearing and Opening a Hearing on A Revised Proposed Law	Approved
9.	Resolution Authorizing the Implementation and Funding of the New York State Multi-Modal Program Aid Eligible Costs and State Administered Federal Program Aid as part of the Sparks Avenue Park and Ride Expansion Project.	Approved
10.	Other Business	None
Recurring Items		
11.	Authorizing Accounts Payable	Approved
12.	Authorizing Minutes of: April 15, 2013, April 23, 2013	Approved
13.	Adjournment to Executive Session	Approved

Next Regularly Scheduled BOT Meeting:
Tuesday, May 21, 2013
Tuesday, June 4, 2013

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, Trustees Kagan, McGoldrick, Senerchia, Mutti, Marty, and Volpe

The following members of the Board of Trustees were absent:

None

Village staff in attendance:

Village Administrator Robert Yamuder and 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 said the Board will be discussing a report to the Housing Urban Development (HUD) organization during Executive Session. He said this is a county-wide matter affecting many municipalities and a response is required by May 15, 2013.

Trustees Reports:

Trustee Kagan

Arrived at 8:15 pm

Trustee Marty

None

Trustee McGoldrick

Trustee McGoldrick stated he would begin working on the Site Plan Review Committee to simplify the site plan process. He said the next step will be a meeting with the Architectural Review Board (ARB).

Trustee Mutti

Trustee Mutti stated that the residents around the Benedict Fountain volunteered their time to do plant and revitalize the fountain area. She said the residents hope to electrify the fountain in the future to allow it to fully function.

She stated volunteers also worked on the path through the NYW&B site over the weekend. They are working on upgrading the fence around the site. She said she was in contact with the Building Inspector and the residents in the area.

Trustee Mutti invited residents to visit the Pelham Public Library to see the tree exhibit as prepared by Barbara Mundy. She said the exhibit features tree history, photos, and a street tree survey.

Trustee Senerchia

None

Trustee Volpe

Trustee Volpe said he had reviewed the HUD documentation. He said that as this matter will have an impact on the Pelham community he reached out to some attorney's and suggested the Board hire counsel to review and draft a response to this letter.

Village Administrator's Report

Administrator Yamuder stated the Memorial Day Parade will take place on Monday, May 27th beginning at 11 am.

He said United Water of New Rochelle is conducting hydrant flushing over the next three days. He said residents may notice water discoloration or a loss of water pressure. There are updates on the Village website. If residents have questions they can contact Village Hall for guidance.

Item #6–Public Comment

John Cassone of 7th Avenue said there was an incident at St. Catherine's Church over the weekend. He said a parishioner fainted during the service. He said luckily the Pelham Police responded within 3 minutes and some off-duty RN's were available. He added however that the flycar and ambulance took approximately 15 minutes to respond.

Item #7–Public Discussion and Consideration of the Village of Pelham's MS-4 Report Under the EPA Phase 2 Stormwater Management Guidelines, and Authorizing Submission to the NYSDEC for Consideration of Renewal of the Village's SPEDES Permit

Administrator Yamuder stated this resolution pertains to the annual report the Village submits to the Department of Environmental Conservation (DEC). He said the Village has historically received high marks on during its audit. He added that this year the Village received the highest possible rating for its MS4 audit. There is no requirement for the Board to vote on the report. He said the Village will be submitting this report on June 1, 2013.

The documentation for the SPDES permit was prepared by Michael Ritchie and James Maxwell of Dolph Rotfeld Engineering. The federal law commonly known as Stormwater Phase II permits will be

required for stormwater discharges from Municipal Separate Storm Sewer Systems (MS4s). To implement the law, the department has developed two general permits, one for MS4s in urbanized areas and one for construction activities. The permits are part of the State Pollutant Discharge (SPDES) and the operators of regulated MS4s and operators of construction activities must obtain permit coverage under either an individual SPDES permit or one of the general permits. The reporting period is from March 2012 to March 2013. The report must be compiled and submitted to the NYS DEC by June 1, 2013.

Item #8– Public Hearing for Local Law #2-2013 a Local Law to Revise the Regulation of Sidewalk Cafes in the Business Districts- Closing Continued Hearing and Opening a Hearing on A Revised Proposed Law

Trustee McGoldrick said this resolution is a part of a continuing public hearing regarding the revisions to the sidewalk café regulations in the Village Code. He said there have been several amendments to the law so far including the striking out of the provisions requiring the use of china and wait staff in order to be considered eligible for a permit.

He said there had been some discussion in the interim regarding language for umbrella bases and how they relate to securing the umbrella. The law as it has been revised stated that the manufacturer of the umbrella must manufacture a base that anchors the umbrella. The Village Prosecutor and Building Inspector have both weighed in with their respective viewpoints on this issue. He said he is fine with the amended language as it is written and presented to the Board.

Trustee Senerchia agreed that this is an important revision to pass in order for more businesses to have access to this amenity.

Trustee Mutti stated she agreed with Building Inspector Russo that a base regardless of whether it originates from the manufacturer of the umbrella would be sufficient as long as it secures the umbrella in place.

Administrator Yamuder stated that after speaking with the Building Inspector and the Village Prosecutor he determined that changing this language at the meeting would not constitute a substantive change to the law and required a continuance of the public hearing.

Trustee Kagan said he did not want to see an umbrella with a loose fitting base that came from a different manufacturer than that of the umbrella. He said he wanted to prevent a substandard base from being used on an umbrella that could become a projectile in the event of high winds.

Trustee Volpe said there is an assumption in the law that the manufacturer of the umbrella makes a base for it. Trustee Mutti agreed it is hard to tie the umbrella manufacturer to selecting a base for the umbrella.

Trustee Marty said the goal is to make this process simpler for the business. He said the ARB should give its input up front so the applicant can move forward after one or two meetings. Mayor Cassidy responded that after a conversation with ARB Chairman Ron Czajka he was told that an applicant who can deliver an application with a design scheme similar to the suggestions given by the ARB; the applicant can be given approval and move forward without waiting for the next meeting a month later.

Trustee Volpe said the ARB is not the final arbitrator however. He said the process as outlined in the Code states the Building Inspector approves or denies an application and if the applicant wants to appeal the decision; they can then come before the Board of Trustees to get a final decision.

Anna Valente of Pure Bliss asked the Board why she was denied a sidewalk café permit. Mayor Cassidy said under the current Code language her establishment would not be eligible for a sidewalk café permit which is why the Village is revising the language at this meeting to allow her to reapply for a permit in the coming days.

Administrator Yamuder stated the revision to the law will become effective after the State receives the approved changes to the Code. He said it may take a few days before Ms. Valente can reapply for a sidewalk permit.

Ms. Valente thanked the Board for their consideration.

A motion was made by Trustee McGoldrick and seconded by Trustee Senerchia to close the hearing. The vote was approved by a vote of seven in favor, none opposed.

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

The Board will be closing the public hearing for the original draft dated April 18, 2013 of the Regulation of Sidewalk Cafes in the Business districts at this meeting. Changes have been incorporated into a new draft dated May 3, 2013

LOCAL LAW NUMBER 2 OF 2013

**A local law to revise
the regulation of sidewalk
cafes in the business districts.**

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

SECTION 1

The following changes are made in Section §75-2 of the Code of the Village of Pelham:

- 1) The following definition is added:

FOOD SERVICE ESTABLISHMENT A location where food is prepared and intended for individual portion service and that either the Westchester County Department of Health or New York State Department of Agriculture and Markets regulates.

- 2) The definition of sidewalk café is repealed, and the following definition is adopted:

SIDEWALK CAFÉ An outdoor eating area that is:

1. Located on a public sidewalk adjoining a food service establishment;
2. Operated by the adjacent food service establishment;
3. Comprised of readily removable furniture and furnishings, such as umbrellas, railings, and planters; and
4. Open to the air, except that a retractable awning is permitted.

SECTION 2

In §75-3F of the Code of the Village of Pelham after the words “in front of the” the words “food service establishment” replace the word “restaurant,” and similarly after the words “in conjunction with such” the words “food service establishment” replace the word “restaurant.”

SECTION 3

The following changes are made in §75-4 of the Code of the Village of Pelham:

- 1) Subsection 75-4F is amended as follows:

After the first sentence of the subsection the following two sentences are inserted:
“Every umbrella must be secured in a device that the manufacturer of the umbrella

designed to anchor the umbrella. There must be a clearance of seven feet between the sidewalk and the lowest edge of the umbrella.”

- 2) In the third sentence of Subsection I after the word “appurtenant” the words “food service establishment” replace the word “restaurant.”
- 3) Subsections 75-4J and 75-4L are repealed.
- 4) Subsections 75-4K, M, N, and O are renamed Subsections 75-4J, K, L and M respectively.

SECTION 4

The following changes are made in § 75-5 of the Code of the Village of Pelham:

- 1) In Subsection 75-5C in the second sentence after the words “at the time the” the words “food service establishment” replace the word “restaurant.” Then in the third sentence after the word “No” the words “food service establishment” replace the word “restaurant.”
- 2) In Subsection 75-5D after the introductory words “During periods when the” the words “food service establishment” replace the word “restaurant.”

SECTION 5

In Subsection 75-6D of the Code of the Village of Pelham the words “food service establishment” replace the word “restaurant,” the last word in the subsection.

SECTION 6

The following new section is added to Chapter 75 of the Code of the Village of Pelham:

§ 75-7. Partial invalidity.

If any section of this chapter shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

SECTION 7

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

5/3/13

Item #9– Resolution Authorizing the Implementation and Funding of the New York State Multi-Modal Program Aid Eligible Costs and State Administered Federal Program Aid as part of the Capital Improvements to Parking Lot #7 and Department of Public Works Facility.

Mayor Cassidy said State Assemblywoman Amy Paulin and former Trustee Mia Homan recently notified the Village that a grant the Village applied for is moving forward in the administrative process. He said the Multi-Modal #4 grant program is a reimbursement program for the DPW Yard Project and Parking Lot Renovation.

Administrator Yamuder said the Village has already completed the project so the administrative reimbursement process is all that remains to complete the grant. He said this application was originally submitted two years ago.

Trustee Marty confirmed that 43 additional parking spaces were created out of this project bringing the total number of spaces to 101.

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

Item #10– Other Business

None

Item #11– Authorizing the Accounts Payable

Trustee Volpe audited the Accounts Payable.

A motion was made by Trustee Volpe and seconded by Trustee McGoldrick to adopt the resolution. The vote was approved by a vote of six in favor, none opposed. Trustee Kagan was 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	\$ 46, 328.22
Water Fund	\$1,408.50
Capital Projects Fund	\$0.00
Trust and Agency Fund	\$0.00
CD NYS Main Street Fund	\$0.00
H3 Fund	\$0.00
<u>TE Expand Trust Fund</u>	<u>\$0.00</u>
Grand Total	\$47,736.72

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

Item #12– Authorizing Minutes of: April 15, 2013, April 23, 2013

A motion was made by Trustee Volpe and seconded by Trustee McGoldrick to approve the minutes for the April 15, 2013 meeting. The vote was approved by a vote of six in favor, none opposed. Trustee Kagan was absent.

April 15, 2013- Approved

A motion was made by Trustee Volpe and seconded by Trustee Senerchia to approve the minutes for the April 23, 2013 meeting. The vote was approved by a vote of six in favor, none opposed. Trustee Kagan was absent.

April 23, 2013- Approved

Item #13– Adjournment to Executive Session

A motion was made by Trustee McGoldrick with a second by Trustee Volpe to adjourn the public portion of the Board meeting at 8:25 pm and got into Executive Session to discuss a 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