

VILLAGE OF PELHAM BOARD OF TRUSTEES  
REGULAR MEETING  
TUESDAY, SEPTEMBER 3, 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:

|     | <b>Non-Recurring Items</b>  |                  |
|-----|---|------------------|
| 7.  | Bond Resolution for Various Capital Projects in the Amount of \$163,000   | <b>Approved</b>  |
| 8.  | Discussion to Allow Placement of Wireless Communications Facilities in Three Locations in the Village of Pelham | <b>Discussed</b> |
| 9.  | Other Business  | <b>None</b>      |
| 10. | <b>Recurring Items</b>  |                  |
| 11. | Authorizing Accounts Payable  | <b>Approved</b>  |
| 12. | Authorizing Minutes of: August 20, 2013   | <b>Approved</b>  |
| 13. | Adjournment to Executive Session  | <b>Approved</b>  |

Next Regularly Scheduled BOT Meeting:

Tuesday, September 17, 2013  
Tuesday, October 1, 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 McGoldrick, Senerchia, Mutti, Marty

The following members of the Board of Trustees were absent:

Trustee Volpe and Kagan

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 said the Village received the bids back for the 3<sup>rd</sup> Street Relief Drain project. He said this project is part of the overall flooding remediation effort in Pelham. The Administrator will be commenting more on the bid results in his report.

Trustees Reports:

Trustee Kagan

Absent

Trustee Marty

None

Trustee McGoldrick

None

Trustee Mutti

Trustee Mutti said Michael Shriman, the DPW General Foreman, has been with the Village now for 32 years. She wanted to acknowledge his hard work and commitment to Pelham.

She said the bids for Trotta Park were opened by the Town. She added that the Town is expected to award the contract at their September 9<sup>th</sup> Board meeting. She said she hopes to have the work completed by the Street Fair in October.

Trustee Mutti finished her report by saying the Pelhamwood Association Block Party will take place on Saturday, September 7<sup>th</sup> between 4 pm and 7 pm.

Trustee Senerchia

Trustee Senerchia advised residents to be vigilant in locking their car doors at night as there have been reported break-ins throughout the Village. He said Detective Deere said there have been two arrests so far.

He reported that the Village changed the timing of the traffic light at Lincoln Avenue and 3<sup>rd</sup> Avenue in the hopes of alleviating traffic. He said however the change actually resulted in more traffic so the light was reset to its original timing.

He reminded residents that the ArtsFest will take place on September 28<sup>th</sup> and 29<sup>th</sup>. He encouraged residents and visitors to attend.

Trustee Volpe

Absent

#### Village Administrator's Report

Administrator Yamuder said the Village hosted an E-Waste Collection Day on Saturday, August 24<sup>th</sup>. He said there were three tractor trailers on site for the collection as well as approximately 30 volunteers. Although the event was not as well attended as hoped, he said hopefully future events will receive more notice.

Regarding the 3<sup>rd</sup> Street Relief Drain project, Administrator Yamuder said the Village received three bids for the work. They ranged from 1.28 to 2 million dollars. These bids were higher than expected and invited Leonard Jackson of Leonard Jackson Associates (LJA) to speak about his reaction to the bids.

Leonard Jackson stated that he was surprised by how high the bids came in. He said with the number of bids returned and that fact that we are heading into winter may have contributed to this sharp increase in the bids. He advised the Board to wait and rebid the project in the springtime with the hope that more contractors will return bids and the prices will be more competitive.

Administrator Yamuder asked if Mr. Jackson could revise his estimates based on the results of this recent bid opening and give the Village some information about what to expect in the springtime. Mr. Jackson responded that he can perform that analysis.

Mayor Cassidy said he was uncomfortable with the original project estimate provided by Leonard Jackson Associates and the bid numbers that came in. He said these bid results throw off the entire project because of how high these bid results were. He said there has to be a more precise method for finding a price this project other than awaiting bid results that could be over 100% of the original project estimate.

Mr. Jackson responded that bidding a job out is not an exact science and the estimates are made based off of similarly sized projects in nearby municipalities. Unfortunately, the municipality is

beholden to the contractors who return their bids. He said with a reasonable number of bidders; the Village should receive a reasonable price for the work.

Trustee Senerchia said the difference between the high and low bids is staggering and could not understand why more contractors did not bid on the project. Mr. Jackson said now happens to be a busy time for contractors and as such some chose not to bid on this particular project. He said he hoped for a better outcome in the spring.

Mayor Cassidy said the Village has already laid out money for the design of this project. Additionally, the prior Board made decisions based on this original estimate which turned out to be half a million dollars short of the lowest bid received by the Village. He asked Mr. Jackson how the Village can proceed in confidence with this project. He requested Mr. Jackson consult with each of the contractors to gather more detail regarding future bidding for this project at a later date. Mr. Jackson said he could reach out to the contractors.

Administrator Yamuder said the Village is beginning its paving operations as part of the annual contract that was awarded some weeks ago. He stated the Village will be working on six separate sections of Village streets thanks to the savings generated by favorable bid prices and by combining operations with New Rochelle.

#### Item #6–Public Comment

Mrs. Podzus followed up on her comments from the last Board meeting on August 6<sup>th</sup>. She said she feels that parking regulations are not being enforced on Clifford Avenue and that this is discriminatory.

Administrator Yamuder said he and the Police Chief are working to furnish satisfactory answers to Mrs. Podzus questions. He said they are looking into the regulations that Mrs. Podzus has cited.

Mayor Cassidy said there is not discriminatory enforcement in the Village. He said the Police Department strives to enforce all regulations throughout the Village. He added that although the Village cannot give a final answer at this time he will work with the Administrator and Police Chief to obtain an answer for her inquiry.

#### Item #7– Bond Resolution for Various Capital Projects in the Amount of \$163,000

Administrator Yamuder stated that the Board will be authorizing a bond for \$163,000 as budgeted for several equipment purchases and capital projects that the Village is planning for in the future. The items listed included: \$22,000 is for Fire Department Self-Contained Breathing Apparatus', repairs to the Fire Department Parking Lot for \$15,000, \$16,000 for some DPW maintenance machinery equipment, \$25,000 for repair to the Wolfs Lane Park retaining wall, and \$85,000 for the design costs of the 3<sup>rd</sup> Street Relief Drain project that were not included in the original grant award.

The Administrator stated that the \$163,000 is a Bond Anticipation Note (BAN) which will be spread over five years. He commented that the Multi-Modal Grant from the New York State Department of Transportation for \$126,500 has been received by the Village. He said this grant assisted in the completion of the DPW Yard House and Parking Lot which will lessen the total amount that must be bonded by the Village. He finished his summary by saying a 2/3 majority vote is required by the Board of Trustees.

Trustee Mutti stated that the repair of the retaining wall along Wolfs Lane Park would not be eligible for grant funding. Administrator Yamuder concurred and stated that he had looked into that possibility but maintenance is not eligible for grant reimbursement.

Mayor Cassidy said the Board has whittled down this number from the budget sessions that took place back in April and May. He said some incoming grants will contribute to bringing down the overall debt of the Village.

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

**BOND RESOLUTION, DATED SEPTEMBER 3, 2013, AUTHORIZING THE ISSUANCE OF UP TO \$163,000 AGGREGATE PRINCIPAL AMOUNT SERIAL BONDS OF THE VILLAGE OF PELHAM, COUNTY OF WESTCHESTER, STATE OF NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW, TO FINANCE THE COSTS OF (I) THE ACQUISITION OF FIRE-FIGHTING EQUIPMENT AND APPARATUS, (II) THE ACQUISITION OF MACHINERY AND APPARATUS FOR CONSTRUCTION AND MAINTENANCE, (III) THE RECONSTRUCTION OF PARKING IMPROVEMENTS, (IV) THE CONSTRUCTION OF A RETAINING WALL, AND (V) CERTAIN PRELIMINARY ENGINEERING COSTS FOR FLOOD REMEDIATION, ALL IN AND FOR THE VILLAGE.**

**WHEREAS**, the Board of Trustees of the Village of Pelham (the “Village”), located in the County of Westchester, in the State of New York (the “State”), hereby determines that it is in the public interest of the Village to authorize the financing of the costs of (i) the acquisition of fire-fighting equipment and apparatus (\$22,000), (ii) the acquisition of machinery and apparatus for construction and maintenance (\$16,000), (iii) the reconstruction of parking improvements (\$15,000), (iv) the construction of a retaining wall (\$25,000), and (v) certain preliminary engineering costs for flood remediation (\$85,000), all in and for the Village, including any equipment, machinery,

apparatus, land and rights-in-land necessary therefor and any preliminary and incidental costs related thereto, at a total cost not to exceed \$163,000, all in accordance with the Local Finance Law;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Trustees of the Village of Pelham, County of Westchester, State of New York, as follows:

Section 1. There is hereby authorized to be issued serial bonds of the Village in the aggregate principal amount of up to \$163,000, pursuant to the Local Finance Law, in order to finance costs of the specific objects or purposes hereinafter described.

Section 2. The specific objects or purposes, or class of objects or purposes, to be financed pursuant to this bond resolution (collectively, the "Project"), the respective estimated maximum cost of such specific object or purpose, or class of object or purpose, the principal amount of serial bonds authorized herein for such specific object or purpose, or class of object or purpose, and the period of probable usefulness of such specific object or purpose, or class of object or purpose, thereof pursuant to the applicable subdivision of paragraph a of Section 11.00 of the Local Finance law, are as follows:

(a) The acquisition of fire-fighting equipment and apparatus for the Village, including any incidental and preliminary costs related thereto, at an estimated maximum cost of \$22,000, for which \$22,000 principal amount of serial bonds, or bond anticipation notes issued in anticipation of such serial bonds, are authorized herein and appropriated therefore, having a period of probable usefulness of ten (10) years pursuant to subdivision 27 of paragraph a of Section 11.00 of the Local Finance Law. Such serial bonds shall have a maximum maturity of five (5) years computed from the earlier of (a) the date of the first issue of such serial bonds or (b) the date of the first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

(b) The acquisition of machinery and apparatus for construction and maintenance for the Village, including any incidental and preliminary costs related thereto, at an estimated maximum cost of \$16,000, for which \$16,000

principal amount of serial bonds, or bond anticipation notes issued in anticipation of such serial bonds, are authorized herein and appropriated therefore, having a period of probable usefulness of fifteen (15) years pursuant to subdivision 28 of paragraph a of Section 11.00 of the Local Finance Law. Such serial bonds shall have a maximum maturity of five (5) years computed from the earlier of (a) the date of the first issue of such serial bonds or (b) the date of the first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

(c) The reconstruction of parking improvements for the Village, including any applicable equipment, machinery and apparatus necessary therefor and any incidental and preliminary costs related thereto, at an estimated maximum cost of \$15,000, for which \$15,000 principal amount of serial bonds, or bond anticipation notes issued in anticipation of such serial bonds, are authorized herein and appropriated therefore, having a period of probable usefulness of ten (10) years pursuant to subdivision 20(f) of paragraph a of Section 11.00 of the Local Finance Law. Such serial bonds shall have a maximum maturity of five (5) years computed from the earlier of (a) the date of the first issue of such serial bonds or (b) the date of the first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

(d) The construction of a retaining wall for the Village, including any applicable equipment, machinery and apparatus necessary therefor and any incidental and preliminary costs related thereto, at an estimated maximum cost of \$25,000, for which \$25,000 principal amount of serial bonds, or bond anticipation notes issued in anticipation of such serial bonds, are authorized herein and appropriated therefore, having a period of probable usefulness of twenty (20) years pursuant to subdivision 10 of paragraph a of Section 11.00 of the Local Finance Law. Such serial bonds shall have a maximum maturity of five (5) years computed from the earlier of (a) the date of the first issue of such serial bonds or (b) the date of the first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

(e) The preliminary engineering costs for flood remediation, any incidental and preliminary costs related thereto, at an estimated maximum cost of \$85,000, for which \$85,000 principal amount of serial bonds, or bond anticipation notes issued in anticipation of such serial bonds, are authorized herein and appropriated therefore, having a period of probable usefulness of five (5) years pursuant to subdivision 62 of paragraph a of Section 11.00 of the Local Finance Law. Such serial bonds shall have a maximum maturity of five (5) years computed from the earlier of (a) the date of the first issue of such serial bonds or (b) the date of the first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

Section 3. The Board of Trustees of the Village has ascertained and hereby states that (a) the estimated maximum cost of the Project is \$163,000; (b) no money has heretofore been authorized to be applied to the payment of the costs of the Project; (c) the Board of Trustees of the Village plans to finance the costs of the Project from the proceeds of the serial bonds authorized herein, or bond anticipation notes issued in anticipation of such serial bonds; (d) the maturity of the obligations authorized herein may not be in excess of five (5) years; and (e) on or before the expenditure of moneys to pay for any item within an object or purpose, or class of object or purpose, set forth herein, for which proceeds of the obligations authorized herein are to be applied to reimburse the Village, the Board of Trustees of the Village took "official action" for federal income tax purposes to authorize capital financing of such item.

Section 4. Subject to the terms and conditions of this bond resolution and the Local Finance Law, including the provisions of Sections 21.00, 30.00, 50.00 and 56.00 to 60.00, inclusive, the power to authorize serial bonds authorized herein, and bond anticipation notes in anticipation of the issuance of such serial bonds, including renewals thereof, and the power to prescribe the terms, form and contents of such serial bonds and such bond anticipation notes, and the power to issue, sell and deliver such serial bonds and such bond anticipation notes are hereby delegated to the Village Administrator/Treasurer, as the chief fiscal officer of the

Village. The Village Administrator/Treasurer is hereby authorized to execute, on behalf of the Village, all serial bonds authorized herein and all bond anticipation notes issued in anticipation of the issuance of such serial bonds, and the Village Clerk is hereby authorized to impress the seal of the Village (or attach a facsimile thereof) on all such serial bonds and bond anticipation notes and to attest such seal. Each interest coupon, if any, representing interest payable on such serial bonds shall be authenticated by the manual or facsimile signature of the Village Administrator/Treasurer.

Section 5. Each of the serial bonds authorized by this bond resolution and any bond anticipation notes issued in anticipation of the issuance of such serial bonds shall contain the recital of validity prescribed by Section 52.00 of the Local Finance Law. The faith and credit of the Village is hereby and shall be irrevocably pledged for the punctual payment of the principal of and interest on all obligations authorized and issued pursuant to this bond resolution as the same shall become due.

Section 6. When this bond resolution takes effect, the Village Clerk shall cause the same, or a summary thereof, to be published together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law in The Journal News, a newspaper having a general circulation in the Village. The validity of the serial bonds authorized by this bond resolution, and of bond anticipation notes issued in anticipation of the sale of such serial bonds, may be contested only if such obligations are authorized for an object or purpose, or class of object or purpose, for which the Village is not authorized to expend money, or the provisions of law which should be complied with as of the date of the publication of this bond resolution, or a summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication, or if such obligations are authorized in violation of the provisions of the Constitution of the State.

Section 7. Prior to the issuance of the obligations authorized herein, the Board of Trustees of the Village shall comply with all applicable provisions prescribed in Article 8 of the Environmental Conservation Law, all regulations promulgated thereunder by the New York State Department of Environmental Conservation, and all applicable Federal laws and regulations in connection with environmental quality review relating to the Project (collectively, the “environmental compliance proceedings”). In the event that any of the environmental compliance proceedings are not completed, or require amendment or modification subsequent to the date of adoption of this bond resolution, the Board of Trustees of the Village will re-adopt, amend or modify this bond resolution prior to the issuance of the obligations authorized herein upon the advice of bond counsel. It is hereby determined by the Board of Trustees of the Village that the Project constitutes a “Type II Action” under the regulations of the State of New York promulgated pursuant to the State Environmental Quality Review Act which, as such, will not have a significant effect on the environment.

Section 8. The Village hereby declares its intention to issue the obligations authorized herein to finance the costs of the Project. The proceeds of any obligations authorized herein may be applied to reimburse expenditures or commitments of the Village made with respect to the Project on or after a date which is not more than sixty (60) days prior to the date of adoption of this bond resolution by the Village.

Section 9. For the benefit of the holders and beneficial owners from time to time of the obligations authorized herein, the Village agrees in accordance with and as an obligated person with respect to the obligations under Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the “Rule”), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner, as may be required for purposes of the Rule. In order to describe and specify certain terms of the Village’s continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the

Village Administrator/Treasurer is authorized and directed to sign and deliver, in the name and on behalf of the Village, the commitment authorized by subsection 6(c) of the Rule (the “Commitment”) to be placed on file with the Village Clerk, which shall constitute the continuing disclosure agreement made by the Village for the benefit of holders and beneficial owners of the obligations authorized herein in accordance which the Rule, with any changes or amendments that are not inconsistent with this bond resolution and not substantially adverse to the Village and that are approved by the Village Administrator/Treasurer on behalf of the Village, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed collectively by this paragraph and the Commitment, shall be the Village’s continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet costs the Village would be required to incur to perform thereunder. The Village Administrator/Treasurer is further authorized and directed to establish procedures in order to ensure compliance by the Village with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the Village Administrator/Treasurer shall consult with, as appropriate, the Village Attorney and bond counsel or other qualified independent special counsel to the Village and shall be entitled to rely upon any legal advice provided by the Village Attorney or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 10. This bond resolution will take effect upon its adoption by the Board of Trustees of the Village.

Item #8– Discussion to Allow Placement of Wireless Communications Facilities in Three Locations in the Village of Pelham

Jeffrey Binder an attorney working for Extenet spoke to the Board regarding the proposal to install three nodes in three separate locations around Pelham. He said he had originally spoken to the Board at the last meeting and would like to, if possible, set a timetable to approve and move forward with this initiative.

He said he has met with the Administrator and Building Inspector along with Rick Angelini, an engineer from Extenet to review the project. He said Extenet is under a tight deadline and would hope to have the Board approve this resolution at the next meeting.

Mr. Binder stated they are currently in negotiation with Pelham Manor on this same issue. He said they have engaged outside counsel to review the proposed right-of-way agreement which Extenet will pay for. The right-of-way agreement will cover fees, liability, and insurance matters as well as boundaries.

Trustee Senerchia asked if it was necessary for a new pole at the third location listed in the proposal. Mr. Binder said because of pre-existing utility equipment on the telephone pole at that location, a new pole would have to be erected in order to provide the appropriate signal strength.

Trustee Mutti asked if consultants can be used to conduct this type of placement work. Mr. Binder responded that he has had a varied relationship with consultants who are sometimes more interested in fees and business than the quality of signal strength. He said Extenet is in the business so they are committed to rendering the best signal possible. Richard Angelini added that poles with utilities cannot be disturbed so an additional pole is required.

Mayor Cassidy asked if the node fees that would be due to the Village are based on a budget or are they fixed. Mr. Binder responded that the fees are at a fixed rate which total approximately \$59.

Trustee McGoldrick asked T-Mobile, the company that Extonet is installing these conduits for, is the only utility that will benefit from this equipment or will other phone companies such as Verizon and AT&T also benefit. Mr. Angelini stated that these nodes are a solution to a larger antenna apparatus and other phone companies can utilize their capabilities.

Trustee Mutti said she this is a coming trend among municipalities. The Mayor said he would like to see more about what other municipalities are doing in response to this trend. He suggested the Board wait on voting until the September 17<sup>th</sup> meeting. He said he would speak with the Village attorney as well.

Administrator Yamuder asked how long the agreement is in effect for. Mr. Binder responded that the agreement would last for as long as the nodes are in place on the poles.

John Cassone of 7<sup>th</sup> Avenue asked if Extenet would be using fiber optic cable. Mr. Angelini responded that they would be using fiber optic. Mr. Cassone asked if there would be an issue with cross-talk. Mr. Angelini said that there would not be an issue. Mr. Cassone asked if any dead spots on the Hutchinson Parkway could be cleared up by the placement of these nodes. Mr. Angelini responded that it is up to the carrier; in this case T-Mobile whether they have dead spots in a certain location.

Item #9– Other Business

None

Item #10– Authorizing the Accounts Payable

Trustee Marty audited the Accounts Payable.

A motion was made by Trustee Marty and seconded by Trustee McGoldrick to adopt the resolution. The vote was approved by a vote of five in favor, none opposed. Trustees Volpe and Kagan 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            | \$ 30,601.79  |
| Water Fund              | \$565.00      |
| Capital Projects Fund   | \$0.00        |
| Trust and Agency Fund   | \$0.00        |
| CD NYS Main Street Fund | \$0.00        |
| H3 Fund                 | \$0.00        |
| TE Expand Trust Fund    | \$0.00        |
| Grand Total             | \$31,166.79   |

**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: August 20, 2013

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

August 20, 2013- Approved

Item #12– Adjournment

A motion was made by Trustee Mutti with a second by Trustee McGoldrick to adjourn the public portion of the Board meeting at 9:10 pm at which time the Board would adjourn for the evening. The motion was approved by vote of five in favor, none opposed. Trustees Volpe and Kagan were absent.

Respectfully submitted,  
Peter Bonington, Secretary to the Village Administrator