

MEETING HELD AUGUST 20, 2012

A meeting of the Board of Trustees of the Village of Port Chester, New York, was held on Monday, August 20, 2012 at 6:00 P.M., in the Court Room of the Police Headquarters Building, 350 North Main Street, Port Chester, New York, with Mayor Dennis Pilla presiding.

Present in addition to Mayor Pilla, were Trustees, Bart Didden, Saverio Terenzi, Luis Marino and Joseph Kenner.

It should be noted that Trustees Daniel Brakewood and John Branca were absent.

Also present were Village Manager, Christopher Russo; Assistant Village Manager/Director of Code Enforcement, Christopher Steers; Village Attorney, Anthony Cerreto; Village Treasurer, Leonie Douglas; Director of Planning and Development, Christopher Gomez and Deputy Village Clerk, Jacqueline Johnson.

* * * * *

On motion of Trustee Marino, seconded by Trustee Kenner, the meeting was declared opened at 6:10 p.m.

AYES: Trustees Terenzi, Didden, Marino, Kenner, and Mayor Pilla
NOES:
ABSENT: Trustees Brakewood and Branca

* * * * *

MOTION FOR EXECUTIVE SESSION

At 6:11 p.m., on motion of Trustee Kenner, seconded by Trustee Marino, the Board of Trustees adjourned to an executive session for consultation with Labor Counsel to discuss a particular police personnel matter and Board discussion regarding appointment of particular persons as Village Manager and Village Clerk.

AYES: Trustees Terenzi, Didden, Marino, Kenner and Mayor Pilla
NOES: None
ABSENT: Trustees Brakewood and Branca

No action was taken in executive session.

At 6:59 p.m., on motion of Trustee Kenner, seconded by Trustee Marino, the executive session was closed and the public portion of the meeting was reopened.

AYES: Trustees Terenzi, Didden, Marino, Kenner and Mayor Pilla
NOES: None
ABSENT: Trustees Brakewood and Branca

SPECIAL LICENSE AGREEMENT:

Agreement between the Village of Port Chester and B&H USA Grill (aka Cousin Frankie's Grill) for outdoor seating on Village property at Rear 116 North Main Street.

RESOLUTION

AUTHORIZING REVOCABLE LICENSE AGREEMENT WITH “COUSIN FRANKIE’S RESTAURANT

On motion of TRUSTEE KENNER, seconded by TRUSTEE DIDDEN, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, request has been made by B & H USA Grill, LLC d/b/a “Cousin Frankie’s” Restaurant, Rear 116 North Main Street, Port Chester, for use of an unimproved portion of the Village’s Downtown Shopper’s Parking Lot for use as an outdoor patio for patron dining; and

WHEREAS, the grant of permission is in the form of a revocable license agreement; and

WHEREAS, the area is currently unnecessary for Village needs; and

WHEREAS, the Board finds that the proposed use by the Licensee would facilitate a properly planned amenity that will attract business to the Village; and

WHEREAS, the Board further finds that the grant of permission would further encourage the most desirable use of land and buildings in the retail shopping district and thereby increase the Village’s tax base. Now, therefore, be it

RESOLVED, that the Village Manager be and is hereby authorized to execute a revocable License Agreement with B & H USA Grill, LLC, 145 Oak Street, with regard to the use of an unimproved portion of the Downtown Shoppers Parking Lot for use an outdoor patio for dining as accessory to the restaurant at Rear 116 North Main Street, material terms and conditions are as follows:

- annual license
- \$400 fee
- compliance with all laws and regulations
- full indemnity
- insurance satisfactory to the Village’s insurance company
- restoration
- revocation on grounds of public necessity or breach.

Approved as to Form:

Anthony Cerreto
Village Attorney

AYES: Trustees Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES:

ABSENT: Trustees Branca and Brakewood

DATE: August 20, 2012

PUBLIC COMMENTS

Mayor Pilla asked if there was anyone from the audience who would like to make any comments.

Ms. Goldie Solomon commented about being tax payer and resident of Port Chester and said that the most important issues for the residents of Port Chester are health, wealth and safety.

Mr. John Reavis commented about the resignation of Village Manager, Christopher Russo and also about the appointment of proposed new Village Manager Christopher Steers. Mr. Reavis also commented about pedestrian and vehicle safety.

PRESENTATION

1. *Final report on the Comprehensive Plan and Zoning Code Amendments/Map and the State Environmental Quality Review Act (SEQRA) process.*

The Director of Planning and Development, Christopher Gomez spoke regarding the SEQRA process and submitted the following documents into record, please see insert "A". Based on the discussions with the Board regarding the zoning amendments and SEQRA adoption schedule; Mr. Steers said that Thursday, September 20th DGEIS public hearing will be rescheduled and for another date. Mr. Steers said that he will let the Board know when he has a confirmed date.

RESOLUTIONS

RESOLUTION
APPOINTMENT OF VILLAGE MANAGER

On motion of TRUSTEE KENNER, seconded by TRUSTEE MARINO, the following resolution was adopted by the Village of Port Chester, New York:

WHEREAS, Christopher J. Russo has resigned from his position of Village Manager, effective October 10, 2012; and

WHEREAS, Christopher Steers, Director of Code Enforcement, had been appointed by the Board of Trustees as Assistant Village Manager; and

WHEREAS, the Board has reviewed a proposed employment with Mr. Steers as Village Manager and all is in order. Now, therefore be it

RESOLVED, that Christopher Steers be and is hereby appointed as Village Manager, effective October 11, 2012, and be it further

RESOLVED, that on behalf of the Board of Trustees the Mayor is hereby authorized to enter into an employment agreement with Mr. Steers in the form annexed herein setting out the following terms and conditions:

- two year term
- annual base salary of \$180,000
- \$2,000 relocation and housing allowance
- assigned village vehicle
- six months severance
- annual performance and goals evaluation

Approved as to Form:

Anthony Cerreto
Village Attorney

ROLL CALL

AYES: Trustees Terenzi, Didden, Marino, and Kenner and Mayor Pilla

NOES:

ABSENT: Trustees Branca and Brakewood

DATE: August 20, 2012

Mayor Pilla said that he spoke with Trustee Brakewood and Trustee Brakewood gave his best regards with Mr. Steers new appointment as Village Manager.

RESOLUTION
SET PUBLIC HEARING FOR AN INTERIM LOCAL LAW
AMENDING THE CODE OF THE VILLAGE OF PORT CHESTER
ESTABLISHING A PERMIT AMNESTY PROGRAM

On motion of TRUSTEE KENNER, seconded by TRUSTEE, DIDDEN the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the Board of Trustees has made code enforcement its first policy and has taken the initiative by supporting the development and implementation of a comprehensive, nondiscriminatory code enforcement program; and

WHEREAS, the Board has knowledge that work has been done without a building permit, or work that was done with a permit was not properly closed out with the requisite inspection and certificate of occupancy. Such requirements are not new, and have been in effect since the adoption of the initial Village's Zoning Regulation in 1927; and

WHEREAS, the Board finds that the current situation with regard to such permits and certificates is not only long-standing, but pervasive throughout the entire village and poses a real and present danger to the safety of all residents; and

WHEREAS, the Building and Code Enforcement Departments have proactively engaged property owners to resolve permit and certificate of occupancy issues on a case-by-case basis. However, the Board finds and declares that an amnesty program herein would provide the necessary legislative sanction to such efforts and ultimately significantly encourage voluntary code compliance. Now, therefore, be it

RESOLVED, that a public hearing is to be held on September 4, 2012 at 7:00 p.m. at the Village Justice Courtroom, 350 North Main Street, Port Chester, New York 10573, to consider the advisability of adopting an interim local law to amending the Code of the Village of Port Chester, establishing a Permit Amnesty Program.

AYES: Trustees Brakewood, Terenzi, Didden, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustees Branca, Marino

DATE: August 6, 2012

RESOLUTION
RETAINER FOR MARINE ENGINEERING CONSULTING SERVICES

On motion of TRUSTEE DIDDEN, seconded by TRUSTEE MARINO, the following resolution was adopted by the Village of Port Chester, New York:

WHEREAS, Halcrow Engineers. P.C. is in the business of providing marine engineering consulting services; and

WHEREAS, by resolution adopted on August 2, 2010, the Board authorized the execution of an agreement with Halcrow to design a steel replacement to the failed portion of the vinyl sheet bulkhead at the Village Marina; and

WHEREAS, this engagement has been deferred by the Board pending discussions with the developer whose contractor constructed this portion of the bulkhead in order to consider a repair to the failed bulkhead as an alternative approach; and

WHEREAS, the Village Manager has utilized the additional consulting services of Halcrow to provide necessary technical assistance regarding the developer's proposed vinyl sheeting repair pending a determination by the Village to proceed; and

WHEREAS, it is contemplated that such expense is being incurred without prejudice to the Village's position with the developer; and

WHEREAS, an agreement is necessary to formalize this additional scope of work. Now, therefore, be it

RESOLVED, that the Village Manager be hereby authorized to enter into an agreement with Halcrow Engineers, P.C., 22 Cortland Street, New York, compensation to be \$280/hour for the Project Manager and otherwise as set out in the Detailed Man Hours and Cost Schedule annexed thereto, and be it further

RESOLVED, that the Village Treasurer be authorized to make payment to Halcrow from the previously established capital project as follows:

Marina Improvement Project, 005.7230.0400.2009.0107

Approved as to Form:

Village Attorney

AYES: Trustees Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES:

ABSENT: Trustees Branca and Brakewood

DATE: August 20, 2012

RESOLUTION

RETAINER FOR THIRD-PARTY ADMINISTRATION SERVICES FOR FORMER VILLAGE'S SELF-INSURED WORKERS COMPENSATION PROGRAM

On motion of TRUSTEE TERENZI, seconded by TRUSTEE KENNER, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the Village of Port Chester formerly had a self-insured workers compensation program; and

WHEREAS, such program required the Village to retain a firm to provide third-party administration services ("TPA"); and

WHEREAS, PMA Management Corp. was the last TPA before the Village retained PERMA as its workers' compensation carrier; and

WHEREAS, PMA has been actively managing the "run-off" or claims that were open as of the date of such change; and

WHEREAS, PMA's proposed fee for such service was significantly less than that submitted by PERMA; and

WHEREAS, the Village Manager recommends that PMA's agreement be renewed for the 2012-2013 Fiscal Year. NOW, THEREFORE, be it

RESOLVED, that the Village Manager be and is hereby authorized to enter into an agreement with PMA Management Corp, , 330 Fellowship Road, Suite 200, Mount Laurel, New Jersey 08054, to continue as Third Party Administrator for the "run-off" claims with regard to the Village's former self-insured workers compensation program through May 31, 2013 Fiscal Year, compensation to be \$12,000.

Approved as to Form:

Village Attorney

AYES: Trustees Terenzi, Didden, Marino, Kenner and Mayor Pilla
NOES:
ABSENT: Trustees Branca and Brakewood
DATE: August 20, 2012

RESOLUTION
CERTIORARI SETTLEMENT
PATHMARK STORES, INC
SECTION 142.53, BLOCK 1, LOT 5

On motion of TRUSTEE DIDDEN, seconded by TRUSTEE MARINO, the following resolution was tabled by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, Cronin, Cronin & Harris, P.C. filed certiorari proceedings for review of tax assessments fixed by the Village of Port Chester upon property designated as Section 142.53, Block 1, Lots 5 on the Tax Assessment Map of the Village of Port Chester for the tax assessment years 2008 and 2009; and

WHEREAS, filings were made against the Town of Rye for these and for subsequent tax assessment years; and

WHEREAS, these proceedings are on the trial calendar in the Westchester Supreme Court; and

WHEREAS, after conference with the Court, the parties have agreed to settle these proceedings, and, with regard to the Village of Port Chester, by the Village accepting a reduction in the assessment for the tax assessment years 2008 through 2009 with a total refund due of \$9,031.97, statutory interest being waived, as follows:

Section 142.53.1-5

Year	Original Assessment.	New Assessment.	Amount of Reduction
2008	\$11,000,000	\$10,700,000	\$300,000
2009	\$11,000,000	\$10,300,000	\$700,000

Now, therefore, be it

RESOLVED, that the Village Attorney is authorized to sign the Consent Judgment with Cronin, Cronin & Harris, P.C., attorneys for petitioner, Pathmark Stores, Inc., settling the above matter in the amount of \$9,031.97 charged to General Fund A/C 1960.480.

Approved as to Form:

Village Attorney

AYES: Trustees Terenzi, Didden, Marino, Kenner and Mayor Pilla
NOES:
ABSENT: Trustees Branca and Brakewood
DATE: August 20, 2012

RESOLUTION

On motion of TRUSTEE TERENZI, seconded by TRUSTEE MARINO, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, Joan Mancuso resigned as Clerk of the Village of Port Chester; and
WHEREAS, the Board has interviewed candidates for this public office; and
WHEREAS, Jackie Johnson, Deputy Clerk has been acting in the capacity of Acting Clerk pending the selection of Clerk. Now, therefore, be it
RESOLVED, that Janusz Richards, be and hereby appointed Clerk of the Village of Port Chester, said appointment to be effective immediately and to expire on April 1, 2013, at an annual rate of compensation of \$75,000.

Approved as to Form:

Anthony Cerreto
Village Attorney

ROLL CALL

AYES: Trustees Terenzi, Didden, Marino, and Kenner
NOES: Mayor Pilla
ABSENT: Trustees Branca and Brakewood
DATE: August 20, 2012

DISCUSSIONS

Five year planning and village priorities.

Mayor Pilla asked Mr. Steers to set up another discussion in September.

Starwood Capital update.

Mayor Pilla asked that the Board and Staff have a meeting regarding Starwood Capital first and then set up a date to have a workshop with Starwood Capital.

Traffic and Parking Management update.

Mayor Pilla spoke regarding construction in the Village on Westchester Avenue with Broad and Pearl Street.

Schedule Public Hearing on September 18, 2012 for new local law regarding car booting procedures.

Mr. Cerreto spoke regarding car booting procedures. There was further discussion with the Board. No action was taken.

REPORTS

The Deputy Clerk presented a report from Washington Engine & Hose Co. No. 4 on the election of new member Ferdinando (Freddy) Schiro. The Board congratulated Mr. Schiro on his election and referred the report to staff.

The Deputy Clerk presented a report from Brooksville Engine & Hose Co. No. 5 on the removal of members Steve Muriel and George Ortera. The Board referred the report to staff.

PUBLIC COMMENTS AND BOARD COMMENTS

Public Comments:

Ms. Martha Bell thanked Christopher Russo for his work in the Village and congratulated Mr. Christopher Steers on his appointment. Mr. Janusz Richards thanked the Board for their support and commented that he looks forward working with the Board and for the residents of this community. Mr. Moralina commented regarding the parking at the Marina. Ms. Helena Keenan commented regarding the traffic light on Pearl Street and Boston Post Road. Mayor Pilla answered Ms. Keenan that he will have the traffic sergeant look into this matter. Mr. Abel congratulated Mr. Steers on his appointment and commented regarding the amnesty program.

Board Comments:

Trustee Terenzi commented regarding the maintenance at the Marina. Trustee Terenzi also congratulated Mr. Steers on his appointment as Village Manager and commented that he is looking forward to the upcoming projects in the Village. Trustee Didden commented regarding the Quality of Life Task Force. Trustee Marino commented regarding the Village Clerk's position. Trustee Kenner commented regarding the Master Plan and congratulated Mr. Steers and Mr. Richards on their appointment. Mayor Pilla congratulated Mr. Steers and Richards on their appointment.

Trustee Kenner made a motion to close the meeting at 9:15 p.m., Trustee Marino seconded the motion.

AYES: Trustees Terenzi, Didden, Marino, Kenner, and Mayor Pilla

NOES:

ABSENT: Trustees Brakewood and Branca

Respectfully submitted,

Jacqueline Johnson
Deputy Village Clerk

BFJ Planning

August 20, 2012

VILLAGE OF PORT CHESTER COMPREHENSIVE PLAN AND ZONING CODE AMENDMENTS/MAP

The following is a record of all proposed revisions to the **May 21, 2012 Public Hearing Draft of the Port Chester Comprehensive Plan** and the **May 21, 2012 Public Hearing Draft of the Zoning Code Amendments and Map**. These proposed revisions have been fully vetted by Village staff, in collaboration with BFJ Planning. The final submission of the Comprehensive Plan and Zoning Code Amendments and Map will reflect these changes.

Note: Proposed text *additions* are shown in **red**. Text proposed to be *deleted* is **crossed-out**.

COMPREHENSIVE PLAN

Revision #1:

Chapter 13: Land Use Strategies, Downtown/Train Station Subarea (p. 137)

Revise map boundary and corresponding text for the Downtown/Train Station subarea to reflect the proposed new C5 district. Willet Avenue will no longer be the northeast boundary line. The new boundaries will be N. Pearl St., King St. and Westchester Ave., as mapped on the proposed Draft Official Zoning Map.

Revision #2:

Chapter 14: Regulatory Controls, Neighborhood Protection and Enhancement Zones (p . 152)

Require Consider* Site Plan Approval *in for* Two-Family ~~Districts~~ *Dwellings

Currently, the Village Municipal Code requires site plan approval for all multi-family zoning districts (Sec. 345-23). One- and two-family ~~zoning districts dwellings~~ are exempt. Requiring site plan approval for ~~the Village's two-family district (R2F)~~ **two-family dwellings** would empower either the Planning Commission or the Village Board of Trustees to review ~~the development of land in the R2F district~~ **two-family dwellings** in terms of (1) erection or enlargement of all residential buildings or accessory uses and (2) any change in use or intensity of use that would affect the characteristics of the site in terms of parking, loading, access, drainage, utilities or municipal services.

BFJ Planning

Revision #3:

Chapter 14: Regulatory Controls, United Hospital Site, Zoning Recommendations (pp. 154-155)

The existing FAR of the United Hospital site is 0.80.; ~~it is recommended that this FAR be maintained under the proposed rezoning.~~ The maximum building height for a hotel/commercial use is proposed to be 8 stories (85 feet), while the maximum building height for a residential building is proposed to be 5 stories ~~(4 residential floors over ground floor retail).~~

ZONING CODE AMENDMENTS AND MAP

Revision #1:

Sec. 345.13. Nonconforming uses and nonconforming buildings and structures.

A. Continuing Existing Uses. Except as otherwise provided in this section, the lawfully permitted uses of land or buildings and structures existing at the time of the adoption of this Regulation, **or amendments made to this regulation inclusive of new zoning districts,** may be continued in accordance with the provisions of this section, although such use does not conform to the regulations specified by this Regulation for the district in which such land or building is located. Said uses, buildings and structures shall be deemed nonconforming uses.

Revision #2:

Sec. 345.13. Nonconforming uses and nonconforming buildings and structures.

C. Nonconforming use of buildings or structures.

(2) Any such nonconforming use may be extended throughout any parts of the building or structure which were manifestly arranged or designed for such use at the time of the adoption of this Regulation **and subsequent amendments.**

Revision #3:

Sec. 345-16. Building Height and Floor Area Bonus Program.

B. General Regulations.

(1) The bonus program is available in the C2 Main Street Business, C5 Train Station Mixed Use, C5T Downtown Mixed Use Transitional and PMU Planned Mixed Use districts (see Schedule of

BFJ Planning

Regulations for Nonresidence Districts, Attachment 3B) **by special exception only** and is subject to approval by the Village Board of Trustees.

Revision #4:

Sec. 345-16. Building Height and Floor Area Bonus Program.

C. Bonus Floor Area Option.

(1) Open Space Provision. In the eligible zoning districts specified herein, proposals that include an open space monetary contribution in addition to the minimum usable open space requirement of the respective district can receive bonus floor area, as specified in the Schedule of Regulations for Nonresidence Districts, Attachment 3B and subject to approval by the Village Board of Trustees. The payment **in-lieu for bonusable floor** area shall be calculated at **10 percent a minimum of 15 percent** of the assessed value of the bonusable floor space, as determined by the Village Assessor.

Revision #5:

Sec. 345:62. Planned Mixed Use (PMU) District.

F. Site Plan Approval. Before a building permit may be issued by the Building Inspector for any use for which a special permit has been issued within the Planned Mixed Use district, a site plan shall be approved therefore in accordance with the provisions of Article V of this Zoning Regulation. Authority to approve site plans for such uses is vested in the Village Board of Trustees.

Revision #6:

Sec. 345:62. Planned Mixed Use (PMU) District.

Allow for "Ground-floor office as accessory use to multi-family development" as a Principal Permitted Use as opposed to a Special Exception Use.

Revision #7:

Schedule of Regulations for Nonresidence District, Part 1, Use Regulations

Design Waterfront (DW) district:

Allow for "Heating, air-conditioning, plumbing, electrical and similar construction businesses, excluding open storage of materials" by Special Exception in order to accommodate such uses currently existing in the M1 district targeted for a rezoning to DW. These uses are not permitted in the existing DW district.

BFJ Planning

Revision #8:

Schedule of Regulations for Nonresidence Districts

C2 Main Street Business district:

- **FAR:** Return the proposed 3.5 FAR (bonusable to 4.0) to the existing 3.2 FAR (bonusable to 4.0)/
- **Minimum Size of Lot, Area per Dwelling Unit:** Increase the proposed minimum 250 square foot lot area per dwelling unit to a 750 square foot lot area/DU. A minimum 575 square foot lot area/DU can be achieved for a project when the project includes any of the provisions specified in the Building Height and Floor Area Bonus Program (see §345-16).
- **Multifamily:** Return the proposed Multifamily as a Permitted Principal use to the existing Special Exception use.

Revision #9:

C5 Train Station Mixed Use district:

- **Minimum Size of Lot, Area per Dwelling Unit:** Revise the proposed 250 square foot lot area/DU to a 400 square foot lot area/DU. A minimum 250 square foot lot area/DU can be achieved for a project when the project includes any of the provisions specified in the Building Height and Floor Area Bonus Program (see §345-16).
- **Multifamily:** Return the proposed Multifamily as a Permitted Principal use to the existing Special Exception use.

Revision #10:

- **Minimum Size of Lot, Area per Dwelling Unit:** Revise the proposed 250 square foot lot area/DU to a 575 square foot lot area/DU. A minimum 400 square foot lot area/DU can be achieved for a project when the project includes any of the provisions specified in the Building Height and Floor Area Bonus Program (see §345-16).
- **Multifamily:** Return the proposed Multifamily as a Permitted Principal use to the existing Special Exception use.

BFJ Planning

UPDATED COMPREHENSIVE PLAN, ZONING AMENDMENTS AND SEQR ADOPTION SCHEDULE As of Wednesday, August 15, 2012

Monday, August 20, 2012

- Final Report: Comprehensive Plan and Zoning Code Amendments/Map
- Discussion of SEQR process

Tuesday, September 4, 2012: BOT Meeting

- Accept DGEIS for public distribution
- Set DGEIS Public Hearing for 9/20

Thursday, September 20, 2012: Special Meeting

- DGEIS Public Hearing
- Record kept open for 10 days for public comment

Monday, October 1, 2012: BOT Meeting

- BOT is briefed on FGEIS

Monday, October 15, 2012

- BOT accepts FGEIS and circulates

Monday, October 29, 2012: Special Meeting

- BOT adopts SEQR Findings
- BOT adopts 2012 Comprehensive Plan and Zoning Text/Map changes.