

Present: Mayor: Brian Hemminger
Trustee: Howard Hughson Trustee: Joe DeBrock
Trustee: BJ Hicks Trustee: Michael Cheney

Also present: Clerk/Treasurer: Jill Seifert; DPW Superintendent: Ken McAllister, Deputy Clerk/Treasurer: Melissa Westfall; WWTP Operator: Adam Lotyczewski; Code Enforcement Officer: Jim Murphy & Fire Chief: Ron Nieskes.

Public: Pat Hemminger & Mary Anne Gier

Mayor Hemminger opened the meeting with the pledge of allegiance to the flag at 7:00 pm.

The Board reviewed the Ontario County Planning Department and the Village of Phelps Planning Board comments regarding Local Law #1 – 2016; with approval of the findings within and no changes made to the text of the Local Law as presented by Attorney Jeff Graff the following resolution was offered by Trustee Hughson, 2nd by Trustee Cheney:

RESOLUTION AUTHORIZING ADOPTION BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PHELPS OF LOCAL LAW NO. 1 OF 2016 ENTITLED “A LOCAL LAW AMENDING THE VILLAGE OF PHELPS ZONING LAW SCHEDULES”

WHEREAS, a resolution was duly adopted by the Board of Trustees of the Village of Phelps for a public hearing to be held by said Board of Trustees on August 8, 2016, at 7:00 p.m. at the Village Hall, 8 Banta Street, Phelps, New York, to hear all interested parties on a proposed Local Law entitled, “A Local Law Amending the Village of Phelps Zoning Law Schedules”; and

WHEREAS, notice of said public hearing was duly advertised in the official newspaper of the Village of Phelps, on July 28, 2016 and all other notices required by law to be given were properly served, posted or given; and

WHEREAS, said public hearing was duly held on August 8, 2016, at 7:00 p.m. at the Village Hall, 8 Banta Street, Phelps, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof; and

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law it has been determined by the Village Board that adoption of said Local Law would not have a significant effect upon the environment and could be processed by other applicable governmental agencies without further regard to SEQR.

WHEREAS, the Board of Trustees of the Village of Phelps, after due deliberation, finds it in the best interest of the Village of Phelps to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of the Village of Phelps hereby adopts said Local Law No. 1 of 2016, entitled, “A Local Law Amending the Village of Phelps Zoning Law Schedules”, a copy of which is attached hereto and made a part of this resolution, and be it further

RESOLVED, that the Village Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Village of Phelps, to give due notice of the adoption of said local law to the Secretary of State of New York, to publish an abstract of this local law in the Village’s official newspaper and to post a copy of this local law conspicuously at or near the main entrance to the office of the Village Clerk.

I, Jill Seifert, Village Clerk of the Village of Phelps, do hereby certify that the Board of Trustees of the Village of Phelps adopted the aforementioned resolution on September 12, 2016, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Brian Hemminger	XX	_____
Howard Hughson	XX	_____
Joe DeBrock	XX	_____
Bette Hicks	XX	_____
Michael Cheney	XX	_____

Village of Phelps
Local Law No. 1 of the year 2016.

A local law “Amending the Village of Phelps Zoning Law Schedules”

Be it enacted by the **Board of Trustees of the Village of Phelps** as follows:

Section 1. Schedule I Zoning Schedule for the C-2 Commercial District included at the end of Chapter 175 (Zoning) of the Code of the Village of Phelps is hereby amended with the insertion of a new Permitted Principal Use to read as follows:

One or more dwelling units in combination with other C-2 District permitted uses (12)

Section 2. Schedule I Zoning Schedule for the C-2 Commercial District included at the end of Chapter 175 (Zoning) of the Code of the Village of Phelps is hereby amended with the insertion of a new footnote (12) to read as follows:

(12) One or more dwelling units in combination with other permitted uses shall be permitted only in multi-story buildings and then only on the second and/or third stories of such building, as applicable. The minimum lot size area, minimum lot width, minimum setbacks, maximum principal building height and building coverage on lot for this permitted use shall be governed by the regulations governing the other permitted use the dwelling unit or units will be in combination with.

Section 3. Footnotes (6), (7), (8), (9) and (10) in Schedule I Zoning Schedule for the B-O Business and Office District, included at the end of Chapter 175 (Zoning) of the Code of the Village of Phelps, are hereby deleted and new footnotes (6), (7), (8), (9) and (10) are hereby inserted in their place to read as follows:

- (6) Expansion of Non-Conforming Uses are further regulated in Section 175-10.15 of this Chapter of the Village Code.
- (7) Research, Engineering and Light Manufacturing is further regulated in Section 175-10.8 of this Chapter of the Village Code.
- (8) Personal Wireless Communications Facilities are further regulated in Section 175-10.11 of this Chapter of the Village Code.
- (9) Tourist Homes (Bed & Breakfasts) are further regulated in Section 175-10.12 of this Chapter of the Village Code.
- (10) Single-family Dwelling Conversions as further regulated in Section 175-10.14 of this Chapter of the Village Code.

Section 4. Footnotes (5) and (6) in Schedule I Zoning Schedule for the C-1 Commercial District, included at the end of Chapter 175 (Zoning) of the Code of the Village of Phelps, are hereby deleted and new footnotes (5) and (6) are hereby inserted in their place to read as follows:

- (5) Expansion of Non-Conforming Uses are further regulated in Section 175-10.15 of this Chapter of the Village Code.
- (6) Personal Wireless Communications Facilities are further regulated in Section 175-10.11 of this Chapter of the Village Code.

Section 5. Footnotes (5), (6), (10) and (11) in Schedule I Zoning Schedule for the C-2 Commercial District, included at the end of Chapter 175 (Zoning) of the Code of the Village of Phelps, are hereby deleted and new footnotes (5), (6), (10) and (11) are hereby inserted in their place to read as follows:

- (5) Expansion of Non-Conforming Uses are further regulated in Section 175-10.15 of this Chapter of the Village Code.
- (6) Personal Wireless Communications Facilities are further regulated in Section 175-10.11 of this Chapter of the Village Code.
- (10) Research, Engineering and Light Manufacturing is further regulated in Section 175-10.8 of this Chapter of the Village Code.
- (11) Single-family Dwelling Conversions as further regulated in Section 175-10.14 of this Chapter of the Village Code.

Section 5. Footnotes (2), (3), (4), (5) and (6) in Schedule I Zoning Schedule for the M-1 Industrial District, included at the end of Chapter 175 (Zoning) of the Code of the Village of Phelps, are hereby deleted and new footnotes (2), (3), (4), (5) and (6) are hereby inserted in their place to read as follows:

- (2) Expansion of Non-Conforming Uses is further regulated in Section 175-10.15 of this Chapter of the Village Code.
- (3) Research, Engineering and Light Manufacturing is further regulated in Section 175-10.8 of this Chapter of the Village Code.
- (4) Adult Use Entertainment Establishments are further regulated in Sections 175-38 and Section 175-10.9 of this Chapter of the Village Code.

- (5) Personal Wireless Communications Facilities are further regulated in Section 175-10.11 of this Chapter of the Village Code.
- (6) Construction Company / Contractor Storage Yard are further regulated in Section 175-10.13 of this Chapter of the Village Code.

Section 6. Footnotes (6), (7), (8), (9) and (10) in Schedule I Zoning Schedule for the R-1-13.5 Residential District, included at the end of Chapter 175 (Zoning) of the Code of the Village of Phelps, are hereby deleted and new footnotes (6), (7), (8), (9) and (10) are hereby inserted in their place to read as follows:

- (6) Expansion of Non-Conforming Uses are further regulated in Section 175-10.15 of this Chapter of the Village Code.
- (7) Major Home Occupations are further regulated in Section 175-10.10 of this Chapter of the Village Code.
- (8) Personal Wireless Communications Facilities are further regulated in Section 175-10.11 of this Chapter of the Village Code.
- (9) Tourist Homes (Bed & Breakfasts) are further regulated in Section 175-10.12 of this Chapter of the Village Code.
- (10) Cluster Residential Development is limited to single family detached and two family detached dwelling units. Public water and sewer service is required. Cluster Residential Development is permissive not mandated in the R-1-13.5 Residential District. Minimum size tract shall be 15 acres.

Section 7. Footnotes (6), (7), (8) and (9) in Schedule I Zoning Schedule for the R-1-20 Residential District, included at the end of Chapter 175 (Zoning) of the Code of the Village of Phelps, are hereby deleted and new footnotes (6), (7), (8) and (9) are hereby inserted in their place to read as follows:

- (6) Expansion of Non-Conforming Uses are further regulated in Section 175-10.15 of this Chapter of the Village Code.
- (7) Major Home Occupations are further regulated in Section 175-10.10 of this Chapter of the Village Code.
- (8) Personal Wireless Communications Facilities are further regulated in Section 175-10.11 of this Chapter of the Village Code.
- (9) Tourist Homes (Bed & Breakfasts) are further regulated in Section 175-10.12 of this Chapter of the Village Code.

Section 8. Footnotes (4), (5), (6) and (7) in Schedule I Zoning Schedule for the R-2 Residential District, included at the end of Chapter 175 (Zoning) of the Code of the Village of Phelps, are hereby deleted and new footnotes (4), (5), (6) and (7) are hereby inserted in their place to read as follows:

- (4) Expansion of Non-Conforming Uses are further regulated in Section 175-10.15 of this Chapter of the Village Code.
- (5) Major Home Occupations are further regulated in Section 175-10.10 of this Chapter of the Village Code.
- (6) Tourist Homes (Bed & Breakfasts) are further regulated in Section 175-10.12 of this Chapter of the Village Code.
- (7) Single-family Dwelling Conversions as further regulated in Section 175-10.14 of this Chapter of the Village Code.

Section 4. VALIDITY.

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 4. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the New York Department of State.

Per Jeff's instructions; Jill will return a certified copy of the resolution and two signed originals of the Local Law for his office to file with the Secretary of State.

REPORTS:

- Police:
1. August reports – No questions.
 2. September schedule provided.
 3. Court fees - None.
- 8 Banta Street:
1. Phelps Lions Club Proposed Electrical Project – Brian is awaiting a return phone call from Dan Moracco.
 2. FLTG – phone, internet & wireless upgrade; received an estimate of additional costs for cabling and install of the system from FLTG and Lantek Communications in the amount of \$1,540. Per Ken, he would recommend, if we are moving forward with the project, to use these people as they are the ones familiar with what needs to be done and where. Motion by Trustee DeBrock, 2nd by Trustee Hughson and unanimously carried authorizing Mayor Hemminger to sign the quote on the Village's behalf.
 3. Alison Newman (Elite Health) – Brian requested Jill update the Board; per our lease agreement, if a tenant stays past the end of the month indicated for departure, another month's lease is payable. Communication of the same has been sent to Alison and as of today's date; her space (Suite 408) remains completely furnished and obviously occupied.
 4. Library – received a work order from Leah Hamilton, Library Manager, indicating a strong "mold" odor in her office and the teen area of the library. Ken investigated the basement and crawl space with no evidence of increased moisture; both of these areas always have an odd odor. Ken indicated that there are multiple possible points of entry for moisture on the exterior walls, where conduit enters the building and the sealant has shrunk over the years. Adam spoke of mold kits where you swab surfaces and test for the physical presence of mold. The Board requested that Ken fix the points of entry that we are aware of and that Adam proceed with the testing; Jill to communicate the plan to Leah.
- DPW, WWTP & Water:
1. August report: no questions. Ken reported that the lift station at the car wash failed Sunday evening; it is irreparable, materials needed have been ordered. Digging out of Banta Street curbing started today, with Geneva Granite on site for install later in the week. Adam reported that the sludge hauling has been completed and that he and Ken are discussing the timing of the installation of the other half of the digester/aerator.
 2. Frere – 45 South Wayne - Brian and Ken met with Phil Frere; a long-term temporary solution to the ground water problem has been decided on. While Geneva Granite is in the Village to install curbing on Banta Street they will install replacement curbing at Frere's house. This will be the only solution until South Wayne has a street project.
 3. Falls lighting project – Geneva Electric has ordered the materials.
 4. 6 Pleasant Avenue – Tina Suhr has approached Brian regarding whether the Village would be interested in the street in front of this property being dedicated to the Village. The property contains two buildings, Benemy Welding (Suhr's business) and a small rental home, the street would have to be dedicated to the Village in order to obtain the road frontage required to split the property in two creating the business to be sold off in the future and the home to retain as a retirement dwelling. At first glance, the street condition would be the only issue and it would increase the Village Highway Inventory used to calculate CHIPS funding, but upon further consideration the property is zoned M-1 and residences are not allowed. Brian and Jill to look into this further.
- Redfield Park:
1. Bathrooms remain open; weather will decide closing date.
- Crooked Bridge Park:
1. Received a letter from resident, Doris Wells. She is requesting the Village Board consider a gentle sloping path from the Memorial Garden to the tables and benches located creek side; she feels the current hill is too steep for young and elderly to traverse safely. Brian indicated that this would be something the, yet to be formed, Park & Playground Commission could discuss. He will contact Doris.
- Code Enfmt:
1. August reports: no questions. Received anticipated Planning Board application from Larry Tillack for another version of his "restaurant"; will be seen at the September 26th meeting. Per Jim's communication with the County; 55 Main Street is on an online auction through September 22nd for \$4,000.
 2. Annexation – Brian informed the Board that Larry Tillack has approached him regarding the Village possibly annexing his property at the west end of the Village into the Village limits. This was discussed briefly at the May 9, 2016 Board Meeting. Annexation would be a costly legal process and Larry wants to know the Board's feeling on the possibility of this happening. After a brief discussion; where the only "pro" to the request would be being able to better control the west entrance to the Village and the "cons" being numerous; the Board indicated that this is not something they would be interested in pursuing; Brian to contact Larry.
- Fire Department:
1. August report – No questions. Ron informed the Board that he has the opportunity to purchase a set of demo cutters & spreaders from T& R Rescue Solutions for \$15,200, a \$7,000 savings. This is not a budgeted item as you never know when a set will become available. The set is like the jaws but portable. The Board discussed Ron's budget with him

and indicated if he chooses to purchase this equipment they support his decision and request that he plan his other purchases accordingly.

2. Volunteer Application – Dave Sutton – after Board review; Trustee Hughson requests that the Fire Department provide clarification of the applicants reason for leaving Penn Yan Volunteer Ambulance - “unprofessional”. Ron and Michael will discuss with the Fire Department.

YP&R Comm: 1. Nothing to report – Brian reiterated his desire to form a Park & Playground Commission; Jill has advertised in the Merchandiser for interested parties for this Commission and for the vacant position on the Planning Board.

Treasurer Rpt: 1. August report – no questions.
2. Retirement Estimate – annual estimate of bill coming in November for payment in December; budget numbers are adequate to cover.

Minutes: 1. Minutes of the August 8, 2016 Regular meeting – Motion by Trustee Hughson, 2nd by Trustee Hicks, and unanimously carried accepting the minutes as presented.
2. Minutes of the August 22, 2016 Planning Board meeting – For Information Only.
3. Minutes of the August 24, 2016 Historic District Commission meeting – For Information Only.

Correspondence:

1. Charter Communications 8/17 - Station & technical changes.
2. NYS DOT – The Clerk’s office received notification of competitive funding available for transportation- related projects and programs, including bicycle, pedestrian and multi-use paths, and/or projects that will help meet the requirements of the Clean Air Act by reducing congestion and vehicle emissions. This funding is available through the Transportation Alternatives Program (TAP) and the Congestion Mitigation and Air Quality Improvement Program (CMAQ).
3. Natural Gas Bid Agreement – WFL BOCES gas bid awarded to Empire Natural Gas. Motion by Trustee DeBrock, 2nd by Trustee Hughson and unanimously carried authorizing Mayor Hemminger to sign the contracts on behalf of the Village.
4. Lifetime Benefit Solutions – required HRA update; motion by Trustee DeBrock, 2nd by Trustee Hicks and unanimously carried authorizing Mayor Hemminger to sign the agreement on behalf of the Village.
5. Municipal assistance to public cemeteries – copy of NYS law, Chapter 69 dropped off by Mark Falkey, President of Resthaven Cemetery Association. Per the associations’ auditor, the Village could assist the association, as a not-for-profit entity, with the following: tree removal, stone for driveway repair, water supply to the cemetery, general maintenance and/or monetary assistance. Brian indicated that there are a number of not-for-profit entities within the Village that the Village does not offer support to. The Board requests that Jill check with other Village Clerk’s regarding their municipality and cemeteries there in; in addition, contact Linda Nieskes, Phelps Town Clerk, to see if Resthaven has approached the Town as well.

New Discussion:

1. **Resolution #16 – 2016 WFL BOCES Electric Bid** - Resolution offered by Trustee DeBrock, 2nd by Trustee Hughson:

RESOLUTION FOR THE PURPOSE OF PARTICIPATING IN A COOPERATIVE BID COORDINATED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES OF ONTARIO, SENECA, WAYNE AND YATES COUNTIES FOR COOPERATIVE ELECTRICITY WFL 2017-12 BID

WHEREAS, The Village of Phelps of New York State desires to participate in a Cooperative Bidding Program conducted by The Board of Cooperative Educational Services of Ontario, Seneca, Wayne and Yates Counties from year to year or, until this Resolution is rescinded, for the purchase for supply of electricity. And...

WHEREAS, The Village of Phelps of New York State is desirous of participating with The Board of Cooperative Educational Services of Ontario, Seneca, Wayne and Yates Counties in the joint bid of the commodities and/or services mentioned below as authorized by General Municipal Law, Section 119-o... And...

WHEREAS, The Village of Phelps of New York State has appointed The Board of Cooperative Educational Services of Ontario, Seneca, Wayne and Yates Counties as representative to assume the responsibility for drafting of specifications, advertising for bids, accepting and opening bids, tabulating bids, reporting the results to the Village of Phelps of New York State and making recommendations thereon...

THEREFORE, BE IT RESOLVED, That The Village of Phelps of New York State and The Board of Cooperative Educational Services of Ontario, Seneca, Wayne and Yates Counties hereby accepts the appointment of The Board of Cooperative Educational Services of Ontario, Seneca, Wayne and Yates Counties to represent it in all matters related above... And...

BE IT FURTHER RESOLVED, That The Village of Phelps of New York State authorizes the above-mentioned Board of Cooperative Educational Services of Ontario, Seneca, Wayne and Yates Counties to represent it in all matters regarding the entering into contract for the purchase of the below-mentioned commodities and/or services... And...

BE IT FURTHER RESOLVED, That The Village of Phelps of New York State agrees to assume its equitable share of the costs incurred as a result of the cooperative bidding... And...

NOW, THEREFORE, BE IT RESOLVED, That The Board of Trustees on behalf of the Village of Phelps of New York State hereby is authorized to participate in cooperative bidding conducted by The Board of Cooperative Educational Services of Ontario, Seneca, Wayne and Yates Counties for supply of electricity and if requested to furnish the Board of Cooperative Educational Services of Ontario, Seneca, Wayne and Yates Counties an estimated minimum number of units that will be purchased by the Board of Cooperative Educational Services of Ontario, Seneca, Wayne and Yates Counties. The Board of Cooperative Educational Services of Ontario, Seneca, Wayne and Yates Counties is hereby authorized to award cooperative bids to the bidder deemed to be the lowest responsive and responsible meeting the bid specifications and otherwise complying with Article 5-A of the General Municipal Law of the State of New York relating to public bids and contracts.

I, Jill Seifert, Village Clerk of the Village of Phelps, do hereby certify that the Board of Trustees of the Village of Phelps adopted the aforementioned resolution on September 12, 2016, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Joe DeBrock	XX	_____
Bette J. Hicks	XX	_____
Michael Cheney	XX	_____
Howard Hughson	XX	_____
Brian Hemminger	XX	_____

2. Larry Tillack’s Annexation Inquiry – Discussed previously; Reports – Code Enforcement.
3. Quarry Street – Condition of Street; Brian and Ken discussed and Ken will be putting together some possibilities.

- Old Discussion:
1. Charter Communications – 02/11/16 renewal of franchise agreement – Jill emailed Chris Mueller, Director, Government Affairs again.
 2. Crosswalk at PCC/Old Mill – Per Brian and Tom Mitchell’s email dated July 19th; the only option in NYS DOT’s opinion, moving the entrance/driveway of the Old Mill Hot Dog Stand, is not a feasible option per Tom. Prior to removing this item; Jill to draft a letter to Tom Mitchell including the original email from Greg Trost at NYS DOT.
 3. Parking Code – Jill and John need to contact Jeff Graff.
 4. Generator for PCC – Ken has received bid specifications from CPS for both this generator and the one that is needed at the Sewer Plant; Jill and Ken to move forward on requesting bids. The Board will plan on conducting the bid awards at the October 10th Board meeting.

Transfers: Motion by Trustee DeBrock, 2nd by Trustee Hughson and unanimously carried to make the following transfers:

To:	From:	Amount:
A7550.4	A1990.4	\$ 1,000.00
A5410.4	A5110.4*	\$ 5,000.00

Vouchers: Motion by Trustee DeBrock, 2nd by Trustee Cheney and unanimously carried to pay the following vouchers as presented.

Abstr#04	General	Ck #'s: 14891 – 14938	In the amount of:	\$ 39,579.54
Abstr#04	Water	Ck #'s: 11055 – 11065	In the amount of:	\$ 28,527.07
Abstr#04	Sewer	Ck #'s: 11681 – 11699	In the amount of:	\$ 29,775.39

Adjournment: 8:35PM: Motion by Trustee DeBrock, 2nd by Trustee Hughson and carried to adjourn the meeting.

Respectfully submitted,

Jill K. Seifert
Clerk/Treasurer