

May 7, 2018

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The Regular Town Board meeting of the Town of Wheatfield was held May 7, 2018 at 7:00 pm at Wheatfield Town Hall, 2800 Church Road, North Tonawanda, County of Niagara and State of New York to audit bills and to conduct any other business coming before the Town Board.

PRESENT: Supervisor Don MacSwan, Councilmen Larry Helwig, Randy Retzlaff, Curt Doktor, Town Attorney Matthew Brooks, and Town Clerk Kathleen Harrington-McDonell.

EXCUSED: Councilman Gilbert Doucet

**PUBLIC INPUT**

Several residents spoke against the proposed subdivision Aubrey Way

Moved by Councilman Doktor and seconded by Councilman Helwig to approve the minutes of April 16, 2018 as presented.

**This motion was CARRIED: AYES 4 – NAYS 0.**

Moved by Councilman Retzlaff and seconded by Councilman Doktor to approve the bill payment for voucher # 20180655 – 20180814 in the amount of \$278,393.47 as follows:

General Fund	\$ 49,235.52
Highway	\$ 131,944.89
Water/Sewer	\$ 12,850.16
Trust & Agency	\$ 25,240.50
Spec. Dist/Lighting	\$ 158.55
Refuse	\$ 7,822.50
Pre-Paid	\$ 51,141.35

**This motion was CARRIED: AYES 4 – NAYS 0.**

Moved by Councilman Retzlaff and seconded by Supervisor MacSwan to schedule a public information meeting on Monday, May 21, 2018 at 7:15 pm to review the Town's Draft Stormwater Annual Report for 2017 and the Town's Stormwater Management Plan.

**This motion was CARRIED: AYES 4 - NAYS 0.**

Moved by Supervisor MacSwan and seconded by Councilman Helwig to award the Pump Station Generator Project to **State Group Industrial USA Limited** for their low bid of **\$224,300.00**.

**This motion was CARRIED: AYES 4 – NAYS 0.**

Moved by Councilman Doktor and seconded by Supervisor MacSwan to authorize Wendel to provide services during construction for the Pump Station Generator Project in accordance with their proposal letter dated May 3, 2018, for a total estimated fee of **\$9,300.00**.

**This motion was CARRIED: AYES 4 - NAYS 0.**

Moved by Councilman Retzlaff and seconded by Councilman Helwig;

**WHEREAS**, the Town of Wheatfield is proposing to construct a multi-use trail along River Road from the intersection of 102nd Street to Witmer Road; and

**WHEREAS**, the Town of Wheatfield, through its consultants, have developed a draft plan for this trail; and

**WHEREAS**, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Wheatfield Town Board with its consultants have conducted a thorough environmental review of this project.

**NOW, THEREFORE BE IT RESOLVED**, the Wheatfield Town Board, in accordance with the State Environmental Quality Review Act (SEQRA) has determined that the proposed project will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public

and is consistent with social and economic considerations and therefore issues the attached SEQR Negative Declaration in accordance with Section 617.7 of the SEQR regulations, and

May 7, 2018

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**BE IT FURTHER RESOLVED THAT**, the Supervisor is authorized to sign the Environmental Assessment Form (EAF), which, with the attached supporting materials, will act as the SEQR Negative Declaration.

**This motion was CARRIED: AYES 4 – NAYS 0.**

Moved by Supervisor MacSwan and seconded by Councilman Doktor;

**WHEREAS**, the Town of Wheatfield has received a subdivision application from Robert Weaver to subdivide the property located at 3400 Niagara Falls Boulevard into 23-single family home lots, as depicted on the drawings prepared by Advanced Design Group; and

**WHEREAS**, the Wheatfield Planning Board has reviewed the project, and although they are not ready to make a recommendation on the subdivision, they have requested that the Town Board begin the SEQR process to receive input from other agencies; and

**WHEREAS**, the Wheatfield Town Board agrees that the project is not ready to proceed with preliminary subdivision, but agrees that, in accordance with the New York SEQR Regulations contained in 6 NYCRR Part 617, they would like to conduct a coordinated review under SEQR for this project and establish the Town Board as SEQR Lead Agency.

**NOW, THEREFORE, BE IT RESOLVED**, that the Wheatfield Town Board hereby authorizes Wendel to start the SEQR coordinated review process, stating the Town Board's desire to be Lead Agency, and

**BE IT FURTHER RESOLVED**, that the Town Board refers the application back to the Planning Board for their continued review and potential resolution of issues and concerns with the project.

**This motion was CARRIED: AYES 4 - NAYS 0.**

Moved by Councilman Helwig and seconded by Supervisor MacSwan to appoint the Wheatfield Town Clerk, Kathleen M. Harrington-McDonell, as the Fair Housing Officer for the Town of Wheatfield for 2018.

**This motion was CARRIED: AYES 4 – NAYS 0.**

Moved by Councilman Retzlaff and seconded by Supervisor MacSwan to appoint the Wheatfield Town Attorney, Matthew E. Brooks, Esq., as the Americans With Disabilities Act Coordinator for the Town of Wheatfield for 2018.

**This motion was CARRIED: AYES 4 – NAYS 0.**

Moved by Supervisor MacSwan and seconded by Councilman Doktor to authorize the Town of Wheatfield to adopt the following Notice Under the Americans With Disabilities Act for the Town of Wheatfield, as follows:

#### **NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT**

In accordance with the requirements of Title II of the Americans With Disabilities Act of 1990 (ADA), the Town of Wheatfield will not discriminate against qualified individuals with disabilities on the basis of disability in its services, program, or activities.

**Employment:** The Town of Wheatfield does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA.

**Effective Communication:** The Town of Wheatfield will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in Town of Wheatfield programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

May 7, 2018

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**Modifications to Policies and Procedures:** The Town of Wheatfield will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in the Town of Wheatfield offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the Town of Wheatfield, should contact the office of MATTHEW E. BROOKS, Esq. Town of Wheatfield Attorney, 2800 Church Road, North Tonawanda, New York 14120, Telephone No.: (716) 504-0494 as soon as possible, but no later than 48 hours before the scheduled event.

The ADA does not require the Town of Wheatfield to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of the Town of Wheatfield is not accessible to persons with disabilities should be directed to MATTHEW E. BROOKS, Esq., Town of Wheatfield Attorney, 2800 Church Road, North Tonawanda, New York 14120, Telephone No.: (716) 504-0494.

The Town of Wheatfield will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public, but are not accessible to persons who use wheelchairs, and to authorize its placement for posting in the Town Hall and other Town buildings.

**This motion was CARRIED: AYES 4 – NAYS 0.**

Moved by Supervisor MacSwan and seconded by Councilman Retzlaff to authorize the Town of Wheatfield to approve and establish a Grievance Procedure Under the Americans With Disabilities Act for the Town of Wheatfield, as follows:

#### **GRIEVANCE PROCEDURE UNDER THE AMERICANS WITH DISABILITIES ACT**

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 (ADA). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the Town of Wheatfield. Employment related complaints of disability discrimination are covered elsewhere, in policies available from the Human Resources Office of the Town of Wheatfield.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date and description of the problem. No particular format of the complaint is required. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request.

The complaint should be submitted, in writing, by the grievant and/or his/her designee, as soon as possible, but no later than 60 calendar days after the alleged violation to: MATTHEW E. BROOKS, Esq., Town of Wheatfield Attorney, 2800 Church Road, North Tonawanda, New York 14120, Telephone No.: (716) 694-6441.

Within 15 calendar days after receipt of the complaint, the ADA Coordinator or his/her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the ADA Coordinator or his/her designee will respond, in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the Town of Wheatfield and offer options for substantive

resolution of the complaint.

If the response by the ADA Coordinator or his/her designee does not satisfactorily resolve the issue,

May 7, 2018

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the complainant and/or his/her designee may appeal the decision within 15 days after receipt of the response to the agency head or his/her designee.

All written complaints received by the ADA Coordinator or his/her designee, appeals to the agency head or his/her designee, and responses from these two (2) offices will be retained by the Town of Wheatfield for at least three (3) years and to authorize its placement for posting in the Town Hall and other Town buildings.

**This motion was CARRIED: AYES 4 – NAYS 0.**

Moved by Councilman Doktor and seconded by Supervisor MacSwan to hire Timothy Metzger as summer seasonal help at a rate of pay and terms pursuant to Job Specifications of the Water/Sewer Department's seasonal help and pending approval of Human Resources, and Niagara County criminal background check.

**This motion was CARRIED: AYES 4 – NAYS 0.**

Moved by Councilman Helwig and seconded by Supervisor MacSwan to hire Anthony Oliveri as seasonal help at a rate of pay and terms pursuant to Job Specifications of the Recreation Department's seasonal help and pending approval of Human Resources, and Niagara County criminal background check.

**This motion was CARRIED: AYES 4 – NAYS 0.**

Moved by Supervisor MacSwan and seconded by Councilman Retzlaff to establish the month of April, annually, as "Fair Housing Month" for the Town of Wheatfield.

**This motion was CARRIED: AYES 4 - NAYS 0.**

**The following motion was rescinded;** to schedule a public Work Session regarding the Town of Wheatfield's Refuse and Recycling Contract, to be held on Monday, May 21, 2018 at 6:00 p.m., at the Town of Wheatfield Town Board Council Chambers, 2800 Church Road, North Tonawanda, New York 14120.

**This motion was RESCINDED.**

Moved by Supervisor MacSwan and seconded by Councilman Helwig to schedule a public Work Session regarding the Town of Wheatfield's 2019 Town Budget, to be held on Monday, May 21, 2018 at 6:30 p.m., at the Town of Wheatfield Town Board Council Chambers, 2800 Church Road, North Tonawanda, New York 14120.

**This motion was CARRIED: AYES 4 - NAYS 0.**

Moved by Supervisor MacSwan and seconded by Councilman Retzlaff to DENY the temporary road closure and use of Inducon Drive West and Inducon Drive East at the Vantage International Point Office Park for bicycle racing as proposed by Jonathan Rosen for Criterium bicycle racing to occur at ten (10) weekly events during the Summer of 2018.

**This motion was CARRIED: AYES 4 – NAYS 0.**

Moved by Councilman Doktor and seconded by Councilman Retzlaff to authorize the Town of Wheatfield to re-state and re-promulgate its existing policy regarding driveway (commercial and residential) placement in relation to Town easements and undeveloped "paper" roads and stub streets. It is hereby restated that it is Town policy to not allow driveway connections (commercial and

residential) to temporary and/or permanent turn-around easements or undeveloped "paper" roads and stub streets within the Town of Wheatfield. In the future, the Building Inspection Department is authorized to deny building permits for building plans that have such driveway connections or, if not properly indicated within the plans, to withdraw building permits, halt construction and/or deny Certificate of Occupancy for properties which connect driveways to turn arounds and non-dedicated streets within the Town of Wheatfield. Said non-dedicated streets include temporary and/or permanent turn-around easements, as well as undeveloped "paper" roads and stub streets owned by the Town of Wheatfield.

**This motion was CARRIED: AYES 4 - NAYS 0.**

May 7, 2018

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Moved by Supervisor MacSwan and seconded by Councilman Retzlaff to authorize the Highway Department to remove the traffic circle island at the easterly end of Craig Drive and to pave said area in order to facilitate traffic flow and snow plowing.

**This motion was CARRIED: AYES 4 – NAYS 0.**

Moved by Councilman Doktor and seconded by Councilman Helwig to authorize and allow the Town of Wheatfield Supervisor, Don MacSwan, to direct Wendel Engineering and the Town Attorney to begin the process to subdivide residential lots from Town-owned property fronting on Witmer Road in the area across from Ferchen Street and David Drive. This Motion only authorizes the Town of Wheatfield, Wendel Engineers and the Town Attorney to begin the procedure of determining the feasibility and sale of said proposed subdivided lots and does not authorize any actual sale of any properties at this time.

**This motion was CARRIED: AYES 4 – NAYS 0.**

The next Town Board Meeting is scheduled for May 21, 2018 at 7:00 pm with a Work Session an 6:30 pm to discuss the 2019 Budget, a Public Hearing at 6:45 pm to discuss the proposed change to Town Code Chapter 200: Zoning/Off-Street Parking, and at 7:15 pm the Town's Draft Stormwater Annual Report for 2017 and the Town's Stormwater Management Plan.

**PUBLIC INPUT-** none

Moved by Supervisor MacSwan and seconded by Councilman Helwig to adjourn at 7:44 pm.

**This motion was CARRIED: AYES 4 – NAYS 0.**

Respectfully submitted,

Kathleen Harrington-McDonell  
Town Clerk