

## Town of Grand Island – Regular Meeting #20

A regular meeting of the Town Board of Grand Island, New York was held at the Town Hall, 2255 Baseline Rd., Grand Island, NY at 8:00p.m. on the 7<sup>th</sup> of November, 2011.

Present:	Peter A. McMahon	Supervisor
	Mary S. Cooke	Councilwoman
	Richard W. Crawford	Councilman
	Gary G. Roesch	Councilman
	Raymond A. Billica	Councilman
	Patricia A. Frentzel	Town Clerk
	Peter C. Godfrey	Town Attorney

Supervisor Peter McMahon called the meeting to order at 8:00p.m.

Reverend Sam Venne from St. Stephen R.C. Church gave the Invocation.

Councilwoman Mary S. Cooke led the Pledge of Allegiance.

### **PROCLAMATIONS:**

**Eagle Scout – Evan William Shaw**  
**American Legion Membership Month**

### **PUBLIC COMMENTS:**

This is an opportunity for residents to comment on any matter regarding the meeting agenda items only.

Article I. *Speakers:* None

### **PUBLIC HEARINGS:**

#### **Local Law Intro #4 of 2011 – Grand Island Right to Farm Law**

A Public Hearing was held at 8:00p.m. for the purpose of hearing anyone who wants to comment in favor or in opposition to Local Law Intro #4 of 2011 – Grand Island Right to Farm Law.

*Speakers in Favor:* Hans Mobius, William Schultz, RJ Wynne, George DeGlopper, Tracy Schultz, Scherrie Boerschig, Elaine Cook, Jeff Smith, Ray Fisher, Calvin VanderMey

*Speakers in Opposition:* None

Supervisor McMahon declared the Public Hearing closed.

A motion was made by Councilman Roesch, seconded by Councilwoman Cooke to adopt Local Law #5 of 2011 – Grand Island Right to Farm Law as follows:

Be it hereby enacted by the Town Board of the Town of Grand Island, as follows:

#### **Section 1. Legislative Intent and Purpose**

The Board recognizes that farming is an essential enterprise an important industry which enhances the economic base, natural environment and quality of life in Grand Island. Therefore, the Town Board of Grand Island finds and declares that this Town encourages its agriculture and urges understanding of and cooperation with the necessary day to day operations involved in farming.

It is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in Grand Island it is necessary to limit the circumstances under which farming may be deemed to be a nuisance and allow agricultural practices inherent

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to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

### Section 2. Definitions

1. "Farmland" shall mean land used in agricultural production, as defined in subdivision four of Section 301 of Article 25AA of the State Agriculture and Markets Law.
2. "Farmer" shall mean any person, organization, entity, association, partnership, limited liability company, or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock.
3. "Agricultural products" shall mean those products as defined in Section 301(2) of Article 25AA of the State Agriculture and Markets Law, including but not limited to:
  - (a) **Field crops, including corn, wheat, rye, barley, hay, potatoes and dry beans.**
  - (b) **Fruits, including apples, peaches, grapes, cherries and berries.**
  - (c) **Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.**
  - (d) **Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.**
  - (e) **Maple sap.**
  - (f) **Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.**
  - (g) **Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.**
  - (h) Nothing in this Section shall be read as authorizing any agricultural activity not permitted by the Town Code
4. Farm woodland includes land used for production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.
5. "Agricultural practices" shall mean those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop protection methods, and construction and use of farm structures and fences.
6. "Farm operation" shall be as defined in Section 301(11) in the State Agriculture and Markets Law.

### Section 3. Right-to-Farm Declaration

Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this Town at all such times and all such locations as are reasonable necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.

Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:

1. reasonable and necessary to the particular farm or farm operation,
2. conducted in a manner which is not negligent or reckless,
3. conducted in conformity with generally accepted and sound agricultural practices,

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4. conducted in conformity with all local state and federal laws and regulations,
5. conducted in a manner which does not constitute a threat to public health and safety or cause injury to health or safety of any person, and
6. conducted in manner which does not unreasonably obstruct the free passage or use of navigable waters or public roadways.

Nothing in this local law shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to a failure to follow sound agricultural practices, as outlined in this section.

### Section 4. Notification of Real Estate Buyers and Prospective Neighbors:

In order to promote harmony between farmers and their neighbors, the Town requires land holders and/or their agents and assigns to comply with Section 310 of Article 25AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows: "It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products and also for its natural and ecological value. This notice is to inform prospective residents that farming activities occur within the Town. Such farming activities may include, but not limited to, activities that cause noise, dust, smoke, and odors."

A copy of this notice shall be included as an addendum to the purchase and sale contract at the time an offer to purchase is made.

In addition, this notice shall be included in building permits and on plats of subdivision submitted for approval pursuant to Town Law, section 276.

### Section 5. Resolution of Disputes

- a) Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation between the parties involved, either party may submit the controversy to a dispute resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action and prior to a request for a determination by the Commissioner of Agriculture and Markets about whether the practice in question is sound pursuant to Section 308 of Article 25AA of the State Agriculture and Markets Law.
- b) Any controversy between the parties shall be submitted to the committee within thirty (30) days of the last date of occurrence of the particular activity giving rise to the controversy or the date the party became aware of the occurrence.
- c) The committee shall be composed of three (3) members selected from the county including one representative from the County Agricultural and Farmland Protection Board, one person from local government, and one person mutually agreed upon by both parties involved in the dispute.
- d) The effectiveness of the committee as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.
- e) The controversy shall be presented to the committee by written request of one of the parties within the time limits specified. Thereafter, the committee may investigate the merits of the matter and within five (5) days of the meeting render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each considers to be pertinent facts. No

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party bringing a complaint to the committee for settlement or resolution may be represented by counsel. The time limits provided in this subsection for action by the committee may be extended upon the written stipulation of all parties in the dispute.

- f) Any reasonable costs associated with the functioning of the committee process shall be borne by the participants.

### **Section 6. Severability Clause**

If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not effect the remainder of this local law. The Town hereby declares that it would have passed this local law and section and subsection hereof. Irrespective of the fact any one or more of these sections, subsections, sentences, clauses or phases may be declared unconstitutional or invalid.

### **Section 7. Precedence**

This Local Law and its provisions are in addition to all other applicable laws, rules and regulations.

### **Section 8. Effective Date**

This Local Law shall be effective immediately upon filing with the Town of Grand Island and the Secretary of State pursuant to Section 27 of Municipal Home Rule Law.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### **APPROVAL OF MINUTES:**

A motion was made by Councilman Billica, seconded by Councilman Crawford to approve Minutes of Workshop Meeting #71, October 14, 2011, Minutes of Workshop Meeting #72, October 17, 2011, Minutes of Regular Meeting #19, October 17, 2011, Minutes of Workshop Meeting #73, October 21, 2011, and Minutes of Workshop Meeting #74, October 31, 2011.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### **CONSENT AGENDA:**

1. Meeting Minutes – Board of Architectural Review – September 20, 2011
2. Meeting Minutes – Grand Island Memorial Library – September 8, 2011
3. Meeting Minutes – Zoning Board of Appeals – September 1, 2011
4. Golden Age Center – Vehicle Usage – October 2011
5. Golden Age Center – Facility Usage – October 2011

A motion was made by Councilman Roesch, seconded by Councilwoman Cooke to approve the consent agenda as distributed.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### **COMMUNICATIONS –TOWN BOARD:**

#### **SUPERVISOR McMAHON:**

##### **Appointment – Golden Age Driver**

A motion was made by Councilman Crawford, seconded by Councilwoman Cooke to appoint Tammy Violanti to the position of Golden Age Driver, part-time at Grade 2, Step A, starting at \$10.38 per hour, effective October 19, 2011, subject to the initial 8 week probation period.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

##### **Tree Replacement – 3202 Baseline Road**

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A six-inch tree in the front yard of 3202 Baseline Road was destroyed in an accident with a Grand Island Police Department car.

A motion was made by Councilman Billica, seconded by Councilwoman Cooke to authorize the Supervisor to have the tree replaced with a five-inch caliper tree of the same species at a cost of \$950.00.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### **Authorize Supervisor to Sign Collective Bargaining Contracts**

A motion was made by Councilman Crawford, seconded by Councilman Roesch to authorize the Supervisor to execute new Collective Bargaining Agreements with AFSME, Teamsters, CSEA incorporating the terms of their prior collective bargaining agreements as modified by the tentative agreements.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### **COMMUNICATIONS – OTHER TOWN OFFICIALS:**

#### **Grand Island Little League – Name Diamond #1 at Veteran’s Park**

A motion was made by Councilman Crawford, seconded by Councilman Billica to accept the recommendation of the Parks and Recreation Advisory Board and name Diamond #1 at Veterans Park after John McGowan. A formal recognition will take place on Opening Day of the 2012 baseball season.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### **TOWN ATTORNEY – PETER GODFREY:**

#### **Grand Park Vue – Section VI – Road Dedication**

A motion was made by Councilwoman Cooke, seconded by Councilman Billica to adopt the following resolution accepting the Road Dedication for Grand Park Vue – Section VI – of a portion of Havenwood Lane and Castlewood Drive:

WHEREAS, Upon submission of the annexed deed of dedication of John W. Stickl Construction Co., Inc. dedicating and releasing the necessary lands for a proposed town highway as set forth in the annexed legal description in the Town of Grand Island, County of Erie, State of New York, to be known as part of Havenwood Lane and Castlewood Drive; now therefore, it is

NOW, THEREFORE, BE IT RESOLVED, that, in accordance with the provisions of Section 171 of the Highway Law of the State of New York, consent is given that the Highway Superintendent of the Town of Grand Island make an Order accepting and laying out the aforesaid town highway to be known as Pin Oak Circle and Castlewood Drive, the Town highway to consist of the lands described in the deed of dedication, subject to the approvals of the Town Engineer, Highway Superintendent, and the attorneys for the Town, and it is further

RESOLVED that, subject to the approvals of the Town Engineer and the attorneys for the Town and the Order of the Highway Superintendent laying out the aforesaid town highway to be known as Havenwood Lane and Castlewood Drive, the Town Board hereby accepts the annexed deed of dedication, provided it is filed by the attorney for John W. Stickl Construction Co., Inc., or its representative, in the Erie County Clerk’s office and the attorneys for the Town are provided with a certified copy thereof documenting such satisfactory filing.

RESOLVED that, the Town Supervisor and Town Clerk are hereby authorized to

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execute such documents and enter into such agreements as are necessary or appropriate to accepting and laying out the aforesaid town highways.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### **Grand Park Vue – Section VI – Accept Easements**

A motion was made by Councilwoman Cooke, seconded by Councilman Roesch to adopt the following resolution accepting the easements for Grand Park Vue – Section VI – of a portion of Havenwood Lane and Castlewood Drive:

WHEREAS, John W. Stickl Construction Co., Inc. has offered for dedication lands for a proposed town highway to be known as part of Havenwood Lane and Castlewood Drive; and

WHEREAS, the plans submitted by John W. Stickl Construction Co., Inc. in connection with such proposed town highways include sanitary sewer, public drainage and temporary turnaround easements in favor of the Town of Grand Island; and

WHEREAS, John W. Stickl Construction Co., Inc., has offered such sanitary sewer, public drainage and temporary turnaround easements to the Town of Grand Island;

NOW, THEREFORE, BE IT RESOLVED, subject to the approvals of the Town Engineer, Highway Superintendent, and approval of the attorneys for the Town, the Town Board does hereby accept from John W. Stickl Construction Co., Inc., the owner of Grand Park Vue Subdivision Section VI, a Permanent Easement for Sanitary Sewer and Public Drainage, and a Temporary Turnaround Easement, as such easements are annexed hereto as attachment A, provided they are filed by the attorney for John W. Stickl Construction Co., Inc. or his representative, in the Erie County Clerk's office and the attorneys for the Town are provided with a certified copy thereof documenting such satisfactory filing; and be it further

RESOLVED that, the Town Supervisor and Town Clerk are hereby authorized to execute such documents and enter into such agreements as are necessary or appropriate to accepting and laying out the aforesaid town highways.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### **DEPARTMENT OF ENGINEERING & WATER RESOURCES – JOHN WHITNEY:**

#### **Delinquent Water and Sewer Accounts for 2012 Taxroll**

A motion was made by Councilman Crawford, seconded by Councilwoman Cooke to adopt the resolution from the Department of Engineering & Water Resources Department Head, John Whitney as follows:

WHEREAS, the Department Head, Department of Engineering & Water Resources did notify consumers within the respective water and sewer districts on Grand Island by having the wording "IF NOT PAID BY OCTOBER 31, ARREARS WILL BE ON TAX ROLLS" printed on water bills sent out quarterly.

Now therefore, be it resolved that the following approximate amount be applied to the Taxroll of 2012:

Water	\$207,497.49
Sewer	\$302,327.43
Out of District Sewer	\$ 746.56
Meters	\$ 1,950.00
Misc. Charges	<u>\$ 215.00</u>
Total	\$512,736.48

Be it further resolved, that the Town Clerk is hereby directed to accept no payments of such delinquent accounts after the said last day of October 2011.

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APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### **Change Order No. 1 – Bituminous Resurfacing of Various Town Roads – Job No. M-14-2011**

The 2011 Highway Resurfacing Contract has been completed. At the time the work was being done, additional resurfacing was added to the project at the request of the Highway Superintendent. The additional work involved the placing of one-inch of top on Bedell Road from West River Service Road to the Thruway overpass.

This additional work resulted in a net increase to the contract of \$66,275.30. The funds are available within the Highway Capital Project bond and the Highway Budget.

A motion was made by Councilwoman Cooke, seconded by Councilman Roesch to accept the recommendation of the Town Engineer and approve Change Order No. 1 – Bituminous Resurfacing of Various Town Roads – Job No. M-14-2011 in the amount of \$66,275.30.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### **Request Authorization to Advertise for Bids – Wastewater Treatment Plant Polymer**

A motion was made by Councilman Billica, seconded by Councilman Crawford to authorize the Town Engineer to advertise for bids for Wastewater Treatment Plant Polymer. The bids will be opened at 10:00a.m. on Wednesday, November 23, 2011.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### **RECREATION DIRECTOR – LINDA TUFILLARO:**

#### **Part-time Winter Hires**

A motion was made by Councilman Roesch, seconded by Councilwoman Cooke to approve the following Recreation Attendant Part-time (up to 19 hours per week) hires, effective November 9, 2011 subject to the completion of the necessary paperwork:

Chris McDonnell \$8.25	Codie Thomas \$8.00
Alex Killian \$8.00	Sarah Williams \$8.00
Justin Frentzel \$8.00	Patricia Kostenbauder
Morgan Green \$8.00	(life guard stand by) \$15.00
Jessica Oyer \$8.00	Jonathan Goc (life guard) \$8.50
Liam Dodd \$8.00	Andrew Donahue (life guard) \$8.50
Kelsey Mash \$8.25	Seth Carey (life guard) \$8.50
Evan Shaw \$8.00	

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### **COMMUNICATIONS – GENERAL:**

#### **Resignation – Engineering Department**

A motion was made by Councilman Crawford, seconded by Councilwoman Cooke to accept the resignation of Jessie Petit from the Engineering Department effective October 17, 2011 with regret. A certificate of appreciation will be sent to Mr. Petit.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### **Golden Age Center – Request Permission to Advertise – Part-time Recreation Attendant**

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A motion was made by Councilwoman Cooke, seconded by Councilman Billica to authorize the Golden Age Director to advertise for a Part-time Recreation Attendant for kitchen help up to 19 hours per week.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### REPORT OF THE AUDIT COMMITTEE:

A motion was made by Councilwoman Cooke, seconded by Councilman Roesch to pay Vouchers #102656 – 102859

General	\$ 50,366.26
Highway	\$ 38,433.47
Sewer	\$ 26,516.56
Water	\$ 8,093.14
Capital	\$336,460.33
Garbage	<u>\$ 3,365.00</u>
Total	\$463,234.76

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

### PUBLIC COMMENTS:

This is an opportunity for residents to comment on any matter regarding Town government on any subject.

Speakers: None

### FROM THE TOWN BOARD:

**Councilwoman Cooke:** Veteran's Day Memorial Service – 11:00am – Friday, November 11, 2011 – Veterans Park

**Supervisor McMahon:** National Emergency Alert System Test – Wednesday, November 9, 2011 at 2:00p.m.

**All:** Election Day – Tuesday, November 8, 2011 – 6:00a.m.-9:00p.m.

### ADJOURNMENT:

A motion was made by Councilman Roesch, seconded by Councilwoman Cooke to adjourn the meeting at 8:34p.m.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Billica, McMahon  
Noes 0

A moment of silence was observed in memory of the following:

Jack Dempsey	Delphine Garrison
Jane Soares	Lisa Turck
Tim Jordan	Walter Orton III
Myrna Boerschig	

Respectfully submitted,

Patricia A. Frentzel  
Town Clerk

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