

March 18, 2019

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A Public Hearing and the Regular Town Board meeting of the Town of Wheatfield was held March 18, 2019 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, Councilman Larry Helwig, Gilbert Doucet, Curt Doktor, Town Attorney Matthew Brooks, and Town Clerk Kathleen Harrington-McDonell.

**EXCUSED:** Councilman Randy Retzlaff

The Public Hearing on the Witmer Road Subdivision Preliminary Plat opened at 7:00 pm. Tim Zuber of Wendel gave an overview. The parcel of land between Town Hall and Witmer Road which is 34.7 acres of which 10 lots along Witmer Road would be sold/developed. Some residents along Witmer Road were concerned about additional traffic and drainage. There was some discussion and the Public Hearing closed at 7:17 pm.

**PUBLIC INPUT**

There will be a time capsule presentation at the Community Center 3/21

Moved by Councilman Helwig and seconded by Councilman Doucet to approve the minutes of March 4, 2019 as presented.

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

Moved by Councilman Doktor and seconded by Councilman Doucet to approve the March 18, 2019 bill payment for voucher #20190255 – 20190374 in the amount of \$232,177.59 as follows:

General Fund	\$ 120,684.17
Highway	\$ 31,811.12
Water/Sewer	\$ 31,334.66
Fire	\$ 469.00
Trust & Agency	\$ 30,314.00
Pre-paid	\$ 17,564.64

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

Moved by Supervisor MacSwan and seconded by Councilman Doucet to award the Cayuga Drive Extension Bridge Rehabilitation Project, PIN 5762.16, BIN 2257310, Contract 2018-2, to **Patterson-Stevens, Inc.** for their low bid of **\$164,560.00.**

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

Moved by Supervisor MacSwan and seconded by Councilman Doktor;

**WHEREAS**, the Town of Wheatfield has proposed a major subdivision for their Town owned property on Witmer Road (SBL: 162.00-3-6.12), to be known as the Witmer Road Subdivision; and

**WHEREAS**, the subdivision would consist of 10-single family residential lots fronting on Witmer Road and a remaining parcel which will remain the property of the Town of Wheatfield; and

**WHEREAS**, the Wheatfield Town Board referred the Preliminary Plat to the Planning Board and received their input and recommendation, and the Planning Board meetings were open to the public to allow for input; and

Cayuga Dr.  
Ext. Bridge  
Rehab

Witmer Rd.  
subdivision  
Prelim Plat

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**WHEREAS**, the Wheatfield Town Board issued a Negative Declaration on 2/11/19 in accordance with SEQR requirements.

**WHEREAS** the Wheatfield Town Board held the required public hearing on 3/18/19 and received public comment.

**NOW, THEREFORE, BE IT RESOLVED**, that the Wheatfield Town Board approves the Preliminary Plat for the Witmer Road Subdivision.

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

Moved by Councilman Helwig and seconded by Councilman Doucet to appoint Marshal Chapin to a five (5) year term to the Board of Assessment Review. Said term is to expire on September 30, 2023.

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

Assessment Board

Moved by Councilman Doktor and seconded by Councilman Helwig to accept the proposal from Armory Associates, LLC for actuarial services for the Governmental Accounting Standard Board (“GASB”) Statement No. 75 Other Post Employment Benefits Other Than Pensions (“OPEB”) at their proposed cost of \$3,200.00 for the year ending December 31, 2018 and \$1,400.00 for the year ending December 31, 2019 for a total cost of \$4,600.00 and to authorize the Supervisor to sign any applicable agreement or contract subject to the approval of the Town Attorney.

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

Armory Assoc. / GASB

Moved by Councilman Helwig and seconded by Councilman Doucet to **TABLE** the following motion.

**AUTHORIZATION TO ACCEPT CONVEYANCE OF CERTAIN TAX SALE PROPERTY TO THE TOWN OF WHEATFIELD (Property commonly known as 2839 Thornwoods Drive, Town of Wheatfield)**

2839 Thornwoods

WHEREAS, the County of Niagara, by foreclosure of tax liens under Article 11, Title 3 of the Real Property Tax Law of the State of New York (the “Proceeding”) has acquired jurisdiction, by filing a verified Petition (commenced in Niagara County Supreme Court under Clerk’s Index No. 157229) against property assessed under SBL No. 147.16-2-4, commonly known as 2839 Thornwoods Drive in the Town of Wheatfield, New York (the “Property”), owned by Samuel D. Messana - Elayne M.; and

WHEREAS, the Judgment of Foreclosure granted July 26, 2017 by Daniel J. Furlong Supreme Court Justice, in the Proceeding, Kyle R. Andrews, Niagara County Treasurer (as the “Tax Enforcing Officer”) awarded possession of the Property and, among other things, authorized the Niagara County Treasurer/Tax Enforcing Officer to execute and deliver a deed conveying full and complete title to the Property free and clear of all liens and encumbrances; and

WHEREAS, the Town of Wheatfield has notified the County of Niagara of its desire to accept ownership of the Property from the Tax Enforcing Officer in the Proceeding, in consideration of said transfer, the Town of Wheatfield will execute a hold harmless and indemnity agreement; and

WHEREAS, the Niagara County Legislature has determined that the Property is not needed for a County municipal purpose; and

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WHEREAS, conveyance of the Property by the Tax Enforcing Officer to the Town of Wheatfield is in the best interests of both the County of Niagara and the Town of Wheatfield in that it will foster real property development; and

WHEREAS, the terms and conditions under which the Property is to be accepted by the Town of Wheatfield is subject to final review and approval by the Town of Wheatfield Attorney, wherein the Town of Wheatfield will hold harmless and indemnify the County of Niagara from any liability, damage, claims, or judgments arising from the condition or use of the Property, including the condition and use of the Property by the Town of Wheatfield.

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Wheatfield shall accept the conveyance from the County of Niagara, the tax sale property commonly known as 2839 Thornwoods Drive, Town of Wheatfield, subject to review by the Town of Wheatfield attorney, including terms and conditions consistent with the findings and conditions set forth in this Resolution.

**This motion was TABLED.**

Moved by Councilman Doucet and seconded by Supervisor MacSwan to allow Highway Department Superintendent and Deputy Superintendent to attend the Cornell Highway School in Ithaca, June 3-5, 2019, and all the costs related to it, i.e., registration and hotel.

Highway school

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

Moved by Supervisor MacSwan and seconded by Councilman Helwig to authorize and allow the following Highway Department employees to attend the following Local Road Highway School classes:

Highway School

- a. Sign Class, Niagara County; April 4, 2019 – Nick Laffredo and Glen Lauffer;
- b. Drainage Class, Orleans County; April 23, 2019 – Tim Steiner and Jeff DeVantier; and
- c. Paving Class, Erie County; May 16, 2019 – Jim Donner and Bruce Mack).

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

Moved by Councilman Doucet and seconded by Councilman Doktor to hire David Werley for summer seasonal work at the Highway Department, at a rate of pay and job term pursuant to job specifications for the Highway Department, subject to Human Resource Department approval and a Niagara County criminal background check.

Highway summer help

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

Moved by Councilman Helwig and seconded by Supervisor MacSwan to hire Justin Dworzanski for summer seasonal work at the Highway Department, at a rate of pay and job term pursuant to job specifications for the Highway Department, subject to Human Resource Department approval and a Niagara County criminal background check.

Highway summer help

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

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Moved by Councilman Doktor and seconded by Councilman Helwig;

**BOND RESOLUTION OF THE TOWN BOARD OF THE TOWN OF WHEATFIELD, NIAGARA COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE ACQUISITION OF EXISTING STREET LIGHTS THROUGHOUT THE TOWN AND THE INSTALLATION OF ENERGY-EFFICIENT LIGHT-EMITTING DIODE FIXTURES; STATING THE MAXIMUM ESTIMATED COST THEREOF IS \$1,300,000.00; APPROPRIATING SAID AMOUNT THEREFOR; AND AUTHORIZING THE ISSUANCE OF UP TO \$1,300,000.00 IN SERIAL BONDS OF THE TOWN TO FINANCE SAID APPROPRIATION**

Bond for street lights

**WHEREAS**, the Town Board (the "Town Board") of the Town of Wheatfield, Niagara County, New York (the "Issuer" or the "Town") proposes to authorize the issuance of up to \$1,300,000.00 in serial bonds of the Town to finance the acquisition of the existing street lighting and fixtures throughout the Town from the current owner thereof (National Grid) and the acquisition and installation of upgrades and improvements thereto, consisting of energy-efficient, light-emitting diodes (LED), roadway luminaries, including photocells, a wireless control system, shielding and related equipment and accessories, at an estimated maximum cost of \$1,300,000.00; and

**WHEREAS**, the Town Board now wishes to appropriate funds for the Project and to authorize the issuance of the Town's serial bonds and bond anticipation notes to be issued to finance the aforementioned specific object or purpose.

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town (by the favorable vote of not less than two-thirds of all the members of such body), as follows:

**SECTION 1.** The Town is hereby authorized to undertake the acquisition of the existing street lighting and fixtures throughout the Town from the current owner thereof (National Grid) and the acquisition and installation of upgrades and improvements thereto, consisting of energy-efficient, light-emitting diodes (LED), roadway luminaries, including photocells, a wireless control system, shielding and related equipment and accessories (the "Project"). It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$1,300,000.00, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of (i) the issuance of \$1,300,000.00 in serial bonds of the Town authorized to be issued pursuant to this section, or bond anticipation notes issued in anticipation of such serial bonds; and (ii) unless paid from other sources, the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

**SECTION 2.** Serial bonds of the Town (including, without limitation, statutory installment bonds) in the principal amount of \$1,300,000.00 are hereby authorized to be issued pursuant to provisions of Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the "Law") to finance the aforementioned object or purpose.

**SECTION 3.** It is hereby determined that the period of probable usefulness for the aforementioned specific object or purpose is thirty (30) years, pursuant to subdivision 5. of paragraph a. of Section 11.00 of the Law.

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SECTION 4. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Law, for the capital purposes described in this resolution. The Town shall reimburse such expenditures with the proceeds of the bonds or bond anticipation notes authorized by this resolution. This resolution shall constitute a declaration of “official intent” to reimburse the expenditures authorized herein with the proceeds of the bonds and bond anticipation notes authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 5. The final maturity of the bonds herein authorized to be issued shall be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued pursuant to this resolution.

SECTION 6. Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any bond anticipation notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town subject to applicable statutory limits, if any. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal and interest on said serial bonds and bond anticipation notes and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

SECTION 7. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of serial bonds and bond anticipation notes or the renewals of said obligations and of Sections 21.00, 50.00, 54.90, 56.00 through 60.00, 62.10 and 63.00 of the Law, the powers and duties of the Town Board relative to authorizing serial bonds and bond anticipation notes and prescribing terms, form and contents as to the sale and issuance of bonds herein authorized, including without limitation the determination of whether to issue bonds having substantially level or declining debt service and all matters related thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town (the “Town Supervisor”). Such notes shall be of such terms, form and contents as may be prescribed by said Town Supervisor consistent with the provisions of the Law. Further, pursuant to paragraph b. of Section 11.00 of the Law, in the event that bonds to be issued for any of the class of objects or purposes authorized by this resolution are combined for sale, pursuant to paragraph c. of Section 57.00 of the Law, with bonds to be issued for one or more objects or purposes authorized by other resolutions of the Town Board, then the power of the Town Board to determine the “weighted average period of probable usefulness” (within the meaning of paragraph a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town.

SECTION 8. The Town Supervisor is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) and to designate the bonds authorized by this

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resolution and any notes issued in anticipation thereof, if applicable, as “qualified tax-exempt bonds” in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 9. The Town Supervisor is further authorized to enter into a continuing disclosure undertaking with or for the benefit of the initial purchasers of the bonds or notes in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 10. The Town Board hereby determines that the Project constitutes a “Type II” action within the meaning of the State Environmental Quality Review Act and the regulations of the New York State Department of Environmental Conservation thereunder (collectively, “SEQRA”) and that no further action under SEQRA with respect to the Project need be taken by the Town Board as a condition precedent to the adoption of this resolution.

SECTION 11. The intent of this resolution is to give the Town Supervisor sufficient authority to execute those applications, agreements and instruments, or to do any similar acts necessary to affect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of the Town Board.

SECTION 12. Pursuant to subdivision b. of Section 35.00 of the Law, this resolution is subject to a permissive referendum in the manner prescribed by Article Seven of the Town Law of the State of New York (the “Town Law”). The Town Clerk is hereby authorized and directed, within ten (10) days after the date of adoption of this resolution, to post and publish a notice satisfying the requirements of Section 90 of the Town Law, which shall set forth the date of adoption of this resolution, shall contain an abstract hereof, and shall specify that this resolution was adopted subject to a permissive referendum. Such notice shall be published in the official newspaper(s) of the Town for such purpose.

SECTION 13. This resolution shall take effect thirty (30) days after the date of its adoption or, if within such thirty (30) day period there is filed with the Town Clerk a petition subscribed and acknowledged by the number of qualified electors of the Town required by Section 91 of the Town Law and in the manner specified in such Section, until approved by the affirmative vote of a majority of such qualified electors voting on a proposition for its approval.

SECTION 14. The validity of the bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of said bonds may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or
- (b) the provisions of law which should be complied with at the date of the publication of such resolution 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
- (c) such obligations are authorized in violation of the provisions of the constitution.

SECTION 15. Upon this resolution becoming effective, the Town Clerk is hereby authorized and directed to cause a copy of this resolution, or a summary thereof, to be published, together with a notice attached in substantially the form as prescribed in Section 81.00 of the Law, in the official newspaper(s) of

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the Town for such purpose, together with a notice of the Town Clerk substantially the form provided in Section 81.00 of the Law.

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

Moved by Councilman Helwig and seconded by Supervisor MacSwan to approve Modifications to Town of Wheatfield Personnel Manual, as follows:

1. Section IV – Your Benefits: Bereavement Leave, current Page 14, replace in numbered Paragraph 1 the first sentence as follows:

In the event of death of spouse, child (stepchildren, foster children and adopted children), parent (step-parent, brother, sister, mother-in-law, father-in-law, grandchildren, grandparents, daughter-in-law, son-in-law, up to four (4) days with pay.

2. Section VI –Employee Conduct Rules and Regulations: Clothing allowance, current Page 26, replace first sentence as follows:

All full-time employees are allowed, annually, a \$325.00 clothing allowance.

3. Section IV – Your Benefits: Holidays, current Page 16, replace last sentence in Holiday section as follows:

Double (2) time plus the holiday will be paid to full-time employees, when called out on duty on Christmas Day, New Year’s Day, Independence Day and/or Thanksgiving Day.

4. Section IV – Your Benefits: Sick days, current Page 18, replace Paragraph 1 with the following:

Sick days are provided to protect the employee against financial hardship during an illness or injury. Sick leave is allowed for the employee’s illness/injury. An employee may also use sick days for family illness or injury only if the employee must provide direct care to an “immediate family member”, or assist with a medical appointment, for purposes of Family Sick Leave, “immediate family member” will mean the employee’s parent, spouse, or child(ren), including step-child(ren) and foster child(ren). The Department Head may require documented proof for use of sick time for Family Sick Leave.

5. Section IV – Your Benefits: Holidays, current Page 16, add additional last paragraph to the Holiday section as follows:

The floating holiday, if unused in a calendar year, may be carried over to the following calendar year to be added to sick time.

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

Moved by Supervisor MacSwan and seconded by Councilman Helwig to **TABLE this motion;**

Updates to  
Personnel  
Manual

Two fire  
companies  
to respond

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to require two Town of Wheatfield fire companies respond to all fire calls for reported structure fires within the Town.

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

Moved by Supervisor MacSwan and seconded by Councilman Helwig to raise the Town of Wheatfield Zoning Board of Appeals members' salaries to equal that of the Town of Wheatfield Planning Board members', effective July 1, 2019.

Zoning Board salaries

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

Moved by Councilman Doucet and seconded by Councilman Helwig to update the St. Johnsburg Volunteer Fire Co. roster as follows: DELETE: Stan Swogier, Zach Petricone, Shawn Jasper, Tyler Couch, - Adam Difelice, Fred Ohlson, Larry Triechler, Robert Roth, Mark Cole.

St. Johnsburg roster

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

Moved by Councilman Doucet and seconded by Supervisor MacSwan to update the Adams Fire Co. roster as follows: ADD Jennifer Mitchell, Jessica Passino, Daniel Drexelius, Kirsten Ferree.

Adams Fire Co. roster

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

Moved by Supervisor MacSwan and seconded by Councilman Doktor to schedule a Public Hearing at 7:00 pm on April 1, 2019 to discuss a proposed Telecommunication Law.

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

The next meeting is scheduled for April 1, 2019 at 7:00 pm with a Public Hearing to discuss a proposed Telecommunication Law.

**PUBLIC INPUT**

March 30 12-2 Wheatfield promotes Autism and Special-needs Awareness at the Community Center

The DEC will host presentation and results of testing of the Nash Road Landfill March 30 from 11-3 at the Community Center

Moved by Supervisor MacSwan and seconded by Councilman Helwig to adjourn at 8:05 pm.

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

Respectfully submitted,

Kathleen Harrington-McDonell  
Town Clerk