

MINUTES OF TOWN BOARD MEETING
OF THE TOWN OF BRIGHTON, COUNTY OF
MONROE, NEW YORK, HELD AT THE
BRIGHTON TOWN HALL, 2300 ELMWOOD
AVENUE, ROCHESTER, NEW YORK
June 22, 2016

Present:

Supervisor William Moehle
Councilmember James Vogel
Councilmember Louise Novros
Councilmember Jason DiPonzio

Daniel Aman, Town Clerk
Kenneth Gordon, Attorney for the Town
Mark Henderson, Chief of Police
Tim Keef, Commissioner of Public Works
Suzanne Zaso, Director of Finance

MEETING CALLED TO ORDER AT 7:00 PM

PRESENTATIONS/RECOGNITIONS:

OPEN FORUM:

APPROVAL OF AGENDA:

Motion by Councilmember James Vogel seconded by Councilmember Louise Novros to approve the agenda

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

APPROVE AND FILE TOWN BOARD MEETING MINUTES FOR:

June 8, 2016 Town Board Meeting

Motion by Councilmember Louise Novros seconded by Councilmember Jason DiPonzio to approve and file the aforementioned minutes

PUBLIC HEARINGS:

MATTER RE: Temporary Moratorium Local Law regarding E-Cigarette and Vapor Sales
(see Resolution #1).

(Complete transcript under separate cover)

Motion by Councilmember Jason DiPonzio seconded by Councilmember James Vogel that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 1 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Draft Environmental Impact Statement and Incentive Zoning Application for the proposed project known as Whole Foods Plaza

Note: communications received from:

Various residents of Hampshire Dr., Sunset Drive and Eileen Bode dated June 13, 2016, Mitch Ball dated June 14, 2016, Maria Scott dated June 15, 2016, Penelope Weller and Charlie & Maggie Symington both dated June 16, 2016, Amanda Pkelnicky dated June 17, 2016, Ann Dozier and Guy Martin dated June 20, 2016 and Mick Whittemore, Nunzio Salafia,

Carol Alessi, Ken Warzocha, Betty Lou and Thomas Buckley and Scott Fybush all dated June 21, 2016 and Sam Alessi dated June 22, 2016

(Complete transcript under separate cover)

Matter Held

COMMUNICATIONS:

FROM: Rochelle Cohen Lampert to Supervisor regarding outdoor instrument playing matter relating to existing noise ordinance.

FROM: Alan Brodsky, President Congregation Light of Israel thanking the Supervisor for attending their parade and congregation celebration.

Motion by Councilmember Louise Novros seconded by Councilmember Jason DiPonzio to receive and file the aforementioned communications

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

COMMITTEE REPORTS:

Community Services Committee - Met on 6/15/16; Next meeting 7/20/16 at 9:30 AM at Brookside School.
Finance and Administrative Services – Met on 6/15/16; next meeting 7/6/16 at 8:30 AM in the Stage Conference Room at Town Hall.

Public Safety Services – Met 6/14/16; next meeting 7/12/16 at 8:00 AM in the Downstairs Meeting Room at Town Hall.

Public Works Services – Has not met since last Town Board meeting; next meeting 7/5/16 at 9:00 AM in the Downstairs Meeting Room at Town Hall.

OLD BUSINESS:

NEW BUSINESS:

MATTER RE: Reading and approval of claims

Motion by Councilmember Jason DiPonzio seconded by Councilmember James Vogel that the Supervisor read and approve for payment the claims as set forth in Exhibit No. 2 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Approval to adopt amendment to Working Hours Policy in current Personnel Policies & Procedures (*see Resolution #2 and letter dated June 3, 2016 from Suzanne Zaso, Director of Finance*).

Motion by Councilmember Jason DiPonzio seconded by Councilmember James Vogel that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 3 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize Supervisor to execute all associated documents relating to the County of Monroe's acquisition of temporary and permanent easement, located within the Monroe County Department of Transportation's planned Elmwood Avenue improvement project (*see Resolution #3 and letter dated June 10, 2016 from Timothy Keef, P.E. Commissioner of Public Works*).

Motion by Councilmember James Vogel seconded by Councilmember Jason DiPonzio that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 4 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Approval to accept grant funding totaling \$7,000 and appropriate same to support purchase and install of electrical vehicle charging station to be located on the Town Hall campus (*see Resolution #4 and letter dated June 1, 2016 from Michael Guyon, P.E. Town Engineer*).

Motion by Councilmember Louise Novros seconded by Councilmember Jason DiPonzio that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 5 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize Supervisor to execute an amendment to the agreement with Bayer Landscape and Architecture Inc. for additional services needed for the Brickyard Shared Use Trail project with approval for budget appropriation for funds totaling \$1,860.23 to support same (*see Resolution #5 and letter dated June 1, 2016 from Michael Guyon, P.E. Town Engineer*).

Motion by Councilmember James Vogel seconded by Councilmember Jason DiPonzio that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 6 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize Supervisor to execute change order with DiFiore Construction Co. for additional services needed for the Brickyard Shared Use Trail project with approval for use of funds totaling \$8,139.77 to be appropriated to support same (*see Resolution #6 and letter dated June 1, 2016 from Michael Guyon, P.E. Town Engineer*).

Motion by Councilmember James Vogel seconded by Councilmember Jason DiPonzio that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 7 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize Supervisor to execute agreement with In-Site Architecture to provide grant-writing services to seek funding on behalf of the Town through the NY State Consolidated Funding Application program for the Farmer's Market project (*see Resolution #7 and letter dated June 17, 2016 from Michael Guyon, P.E. Town Engineer*).

Motion by Councilmember Jason DiPonzio seconded by Councilmember James Vogel that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 8 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Officially proclaim the name of the new parkland at 2225 Elmwood Avenue as the Sandra L. Frankel Nature Park.

Motion by Councilmember James Vogel seconded by Councilmember Jason DiPonzio that the Town Board adopt the resolution.

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTERS OF THE SUPERVISOR:

MATTERS OF THE ATTORNEY TO THE TOWN:

MATTERS OF THE TOWN CLERK:

MATTERS OF THE BOARD:

MOTION TO GO INTO EXECUTIVE SESSION:

ADJOURNED AT 11:47 PM:

Motion by Councilmember James Vogel seconded by Councilmember Jason DiPonzio to adjourn at 11:47 PM

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

CERTIFICATION:

I, Daniel Aman, 131 Elmore Road, Rochester, NY do hereby certify that the foregoing is a true and accurate record of the proceeding of the Town of Brighton, County of Monroe, State of New York meeting held on the 22nd day of June 2016 and that I recorded said minutes of the aforesaid meeting of the Town Board of the Town of Brighton, New York.

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 22nd day of June, 2016.

PRESENT:

WILLIAM W. MOEHLE,

Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

WHEREAS, the Town Board duly scheduled a Public Hearing to be held on the 22nd day of June 2016 at 7:00 p.m., to consider the adoption of a proposed Local Law to be known as "Local Law #__ of 2016 - E-Cigarette and Vapor Sales Moratorium Local Law" to protect and promote the public health, safety and welfare of the Town by establishing a moratorium on certain uses in the Town; and

WHEREAS, such public hearing was duly called and held on June 22, 2016 at 7:00 pm and all persons having an interest in the matter having had an opportunity to be heard;

NOW, THEREFORE, on motion of Councilperson _____,
seconded by Councilperson _____,

BE IT RESOLVED, that all written comments provided to the Town at the Public Hearing held on June 22, 2016 regarding the proposed Local Law be received and filed; and

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF BRIGHTON, that pursuant to the provisions of Article 3 of the Municipal Home Rule Law of the State of New York hereby adopts the proposed "Local Law #__ of 2016 - E-Cigarette and Vapor Sales Moratorium Local Law" a copy of which is attached to this resolution and made a part hereof; and it is further

RESOLVED, that the Clerk of the Town of Brighton shall within twenty days after the adoption of the Local Law file one certified copy thereof in

the Office of the Town Clerk and file one certified copy in the Office of the Secretary of State of the State of New York

Dated: June 22, 2016

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____

LOCAL LAW # ___ OF 2016

E-CIGARETTE AND VAPOR SALES MORATORIUM LOCAL LAW

Section 1. Title

This Local Law shall be known as the E-Cigarette and Vapor Sales Moratorium Local Law of the Town of Brighton.

Section 2. Purpose and Intent

The purpose of this local law is to promote and protect the public health, safety and welfare of the Town of Brighton by enacting a local law which establishes a moratorium on certain uses in the Town of Brighton. Pursuant to Town Code and without the adoption of this moratorium, these uses may have been included or construed to be permitted uses.

The Town Board has requested the moratorium be enacted so that it might have sufficient opportunity to evaluate the permitted uses in the Town and to determine whether the permitted uses should be statutorily amended, altered, modified, expanded or repealed. This moratorium will provide an opportunity for the Town Board to evaluate the changes needed without the possibility of new businesses opening that might conflict with the legislation being

developed. The Town Board has determined a moratorium be established prohibiting certain permitted uses. In establishing this moratorium the Town Board has also considered:

The protection of community health particularly for children.

The need for conserving the value of buildings and land and the need to encourage the most appropriate use of land.

The need to attract retail business of such a character as to encourage, foster and promote the revitalization of commercial districts.

New regulations issued by the Food and Drug Administration related to the use and sale of e-cigarettes and similar products and accessories.

Section 3. Moratorium

During the term of the moratorium adopted pursuant to this Local Law and any amendment or extension thereof, no building permit, certificate of compliance, or certificate of occupancy shall be issued within the Town of Brighton, pursuant to Chapter 225, Article I of the Town Code, no conditional use permit, pursuant to Chapter 217, Article II of the Town Code, no zoning variance shall be issued pursuant to Section 219-2 of the Town Code, no temporary and revocable permit shall be issued pursuant to Section 219-4 of the Town Code, and no person shall commence

construction or renovation of or for any building or property whose business operation includes, whether as its primary use or as an ancillary use, the smoking of or selling of electronic cigarettes or any vapors, liquids or other substances that are smoked through the use of an electronic cigarette or used in connection with the smoking of electronic cigarettes, including but not limited to establishments known variously as vape stores, vape bars or vape lounges; or includes, whether as its primary use or as an ancillary use, the smoking of tobacco or other substances through one or more hookah pipes (also commonly referred to as a hookah, waterpipe, shisha or narghile) or the sale of any such hookah pipes, including but not limited to establishments known variously as hookah bars, hookah lounges or hookah cafes.

Section 4. Supersession of Provisions of State Law

This Local Law supersedes the provisions of Section 267, 267-a and 267-b of the Town Law relating to the issuance of zoning variances, Article 18 of the Executive Law, directing the formulation of a Uniform Fire Prevention and Building Code (Uniform Code), and the provisions of the Uniform Code, as they may relate to the issuance of building permits, certificates of compliance and/or certificates of occupancy.

Section 5. Term of Moratorium

This Local Law and the Moratorium established hereunder shall expire six months from their effective date, unless sooner extended by action of the Brighton Town Board.

Section 6. Hardship

- (a) The Town Board shall have the power to grant exceptions to the Moratorium created under this Local Law.
- (b) Waivers may be granted by the Town Board upon a showing by the applicant that the Moratorium has caused the applicant unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Town Board that it has suffered specific hardship due to the application of the Moratorium, including specifically that:
 - (i) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible or, in the case of a property owned by an entity certified under Section 501(c)(3) of the Internal Revenue Code, whether the Moratorium would unreasonably interfere with the applicant's charitable purpose;
 - (ii) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (iii) The alleged hardship has not been created by the applicant.
- (c) No such waiver shall be granted by the Town Board without first holding a public hearing, notice of which hearing, including the substance of the application for waiver under this Local Law, shall be given by publication in the official newspaper of the Town and posting upon the Town Clerk's bulletin board, and by mailing to the owners of all properties within 1000 feet of the property in question, in each case, at least ten (10) days prior to such hearing.

Section 7 Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State.

Section 8. Severability

If any clause, sentence, phrase, paragraph or any part of this Local Law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this Local Law would have been adopted had any such provision been excluded.

CLAIMS FOR APPROVAL AT TOWN BOARD MEETING

June 22, 2016

THAT THE CLAIMS AS SUMMARIZED BELOW HAVING BEEN APPROVED BY THE RESPECTIVE DEPARTMENT HEADS AND AUDITED BY THE CHAIR OF THE FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE ARE HEREBY APPROVED FOR PAYMENT.

A - GENERAL	\$	<u>301,913.22</u>
D - HIGHWAY		<u>219,711.35</u>
H - CAPITAL		<u>8,434.26</u>
L - LIBRARY		<u>49,249.87</u>
SF - FIRE DIST		<u>426.34</u>
SP-PARKS DISTRICT		20.00
SS - SEWER DIST		<u>165,149.69</u>
TA - AGENCY TRUST		<u>37,417.08</u>
TE - EXPENDABLE TRUST		<u>512.56</u>
	TOTAL \$	<u>782,834.37</u>

UPON ROLL CALL MOTION CARRIED _____

APPROVED BY: _____
SUPERVISOR

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

TO THE SUPERVISOR:

I CERTIFY THAT THE VOUCHERS LISTED ABOVE WERE AUDITED BY THE CHAIR OF THE FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE AND APPROVED BY THE TOWN BOARD ON THE ABOVE DATE AND ALLOWED IN THE AMOUNTS SHOWN. YOU ARE HEREBY AUTHORIZED AND DIRECTED TO PAY TO EACH OF THE CLAIMANTS THE AMOUNT OPPOSITE HIS NAME.

DATE

TOWN CLERK

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 22nd day of June, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

BE IT RESOLVED, that correspondence dated June 3, 2016 from Director of Finance Suzanne Zaso regarding a request to authorize the amendment of the Working Hours policy for non-represented employees of the Town, be received and filed; and further

BE IT RESOLVED, that the Town Board hereby amends the Working Hours policy for non-represented employees of the Town to allow for deviation from core working hours only when approved by the department head and only where it can be shown that such deviation will not cause significant public service or administrative problems.

Dated: June 22, 2016

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 22nd day of June, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

BE IT RESOLVED, that correspondence dated June 10, 2016 from Commissioner of Public Works Timothy E. Keef, P.E. regarding a request to authorize the Supervisor to execute an easement agreement and related documents to grant to the County of Monroe permanent and temporary easements at the DPW Operations Center, 1941 Elmwood Avenue for the purpose of making certain improvements along Elmwood Avenue to improve safety at the Lac De Ville intersection, and correspondence dated May 26, 2016 from Amy E. Grange, Monroe County Real Estate Specialist, together with attachments hereto, be received and filed; and further

BE IT RESOLVED, that the Town Board hereby authorizes the Supervisor to execute an easement agreement and related documents to grant to the County of Monroe permanent and temporary easements at the DPW Operations Center, 1941 Elmwood Avenue, as shown in the attachments to the correspondence from Monroe County referenced above, for the purpose of making certain improvements along Elmwood Avenue to improve safety at the Lac De Ville intersection.

Dated: June 22, 2016

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 22nd day of June, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

BE IT RESOLVED, that correspondence dated June 1, 2016 from Town Engineer Michael E. Guyon, P.E. regarding a request to accept grant funding totaling \$7,000.00 and appropriate the same as set forth in said correspondence to support the purchase and installation of electrical vehicle charging stations to be located on the Town Hall campus, be received and filed; and further

BE IT RESOLVED, that the Town Board hereby accepts grant funding totaling \$7,000.00 and appropriates the same as set forth in the above referenced correspondence to support the purchase and installation of electrical vehicle charging stations to be located on the Town Hall campus.

Dated: June 22, 2016

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 22nd day of June, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

BE IT RESOLVED, that correspondence dated June 1, 2016 from Town Engineer Michael E. Guyon, P.E. regarding a request to authorize the Supervisor to execute a \$1,860.23 amendment to the agreement with Bayer Landscape and Architecture, Inc. for additional services performed in connection with the Brickyard Shared Use Trail Project and to authorize the appropriation of funding to pay for the additional expense, be received and filed; and further

BE IT RESOLVED, that the Town Board hereby authorizes the Supervisor to execute a \$1,860.23 amendment to the agreement with Bayer Landscape and Architecture, Inc. for additional services performed in connection with the Brickyard Shared Use Trail Project and further authorizes the appropriation of funding as specified in the above referenced correspondence to pay for the additional expense.

Dated: June 22, 2016

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 22nd day of June, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO
Councilpersons

BE IT RESOLVED, that correspondence dated June 1, 2016 from Town Engineer Michael E. Guyon, P.E. regarding a request to appropriate \$8,139.77 to fund a change order with DiFiore Construction Co., Inc. for additional services performed in connection with the Brickyard Shared Use Trail Project, be received and filed; and further

BE IT RESOLVED, that the Town Board hereby authorizes appropriation of funding as specified in the above referenced correspondence to pay for the additional expense.

Dated: June 22, 2016

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 22nd day of June, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

BE IT RESOLVED, that correspondence dated June 17, 2016 from Town Engineer Michael E. Guyon, P.E. regarding a request to authorize the Supervisor to execute an amendment to the agreement with In.Site Architecture for additional services to be performed in connection with the Winter Farmers Market for the preparation of a Consolidated Funding Application, be received and filed; and further

BE IT RESOLVED, that the Town Board hereby authorizes the Supervisor to execute an amendment to the agreement with In.Site Architecture for additional services to be performed in connection with the Winter Farmers Market for the preparation of a New York State Consolidated Funding Application, at a cost not to exceed \$7,900.00

Dated: June 22, 2016

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____