

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
November 22, 2016

Present:

Supervisor William Moehle
Councilmember Louise Novros
Councilmember Jason DiPonzio
Councilmember Christopher Werner

David Marcus, Town Clerk
Kenneth Gordon, Attorney for the Town
Robert Cline, Captain of Staff Services
Tim Keef, Commissioner of Public Works
Suzanne Zaso, Director of Finance

MEETING CALLED TO ORDER AT 7:05 PM:

PRESENTATIONS/RECOGNITIONS:

OPEN FORUM:

Ted Wolfley – 2500 Elmwood Ave
Linda Stockmaster – 244 Edgemoor Rd

APPROVAL OF AGENDA:

Motion by Councilmember Christopher Werner seconded by Councilmember Jason DiPonzio to approve the agenda

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

APPROVE AND FILE TOWN BOARD MEETING MINUTES FOR:

October 26, 2016 Town Board Meeting

Motion by Councilmember Christopher Werner seconded by Councilmember Jason DiPonzio to approve and file the aforementioned minutes

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

PUBLIC HEARINGS:

MATTER RE:

Adopt Speed Limit Local Law to reduce speed limits on particular Town roads
(see Resolution #1 and proposed Local Law).

(Complete transcript under separate cover)

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. 1 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

BIDS:

COMMUNICATIONS:

COMMITTEE REPORTS:

Community Services Committee – Met 11/16/16; next meeting 12/21/16 at 9:30 AM at Brookside School.
 Finance and Administrative Services – Met on 11/15/16; next meeting 12/7/16 at 8:30 AM in the Stage Conference Room at Town Hall.

Public Safety Services – Has not met since last Town Board meeting; next meeting 12/13/16 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 12/6/16 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 Christopher Werner 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: Set January 11, 2017 as Public Hearing date for proposed tree removals located at #124 and #130 Seminole Way determined to be of poor health (*see Resolution #2 and letter dated November 17, 2016 from Timothy Keef, Commissioner of Public Works*).

Motion by Councilmember Christopher Werner 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. 3 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Reappointment of Coleridge Gill as a member of the Parks and Recreation Advisory Board, effective January 1, 2017 through December 31, 2019 (*see Resolution #3*).

Motion by Councilmember Christopher Werner seconded by Councilmember Louise Novros 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: Reappointment of Justin Delvecchio and Wayne Goodman as members of the Historic Preservation Board effective January 1, 2017 through December 31, 2020 (*see Resolution #4*).

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: Reappointment of Chris Jahn and Brian DeWaters to the Architectural Review Board effective January 1, 2017 through December 31, 2019 (*see Resolution #5*).

Motion by Councilmember Jason DiPonzio seconded by Councilmember Louise Novros 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: Reappointment of David Fader as a member of the Planning Board effective January 1, 2017 through December 31, 2023 (*see Resolution #10*)

Motion by Councilmember Christopher Werner seconded by Councilmember Louise Novros 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: Reappointment of Erinn Ryen, Shubhangi Gandhi and Ronald Wexler as members of the Sustainability Oversight Committee effective January 1, 2017 through December 31, 2018 (*see Resolution #8*)

Motion by Councilmember Christopher Werner 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. 8 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Approval to hire a particular person to fill existing Clerk III position within the Police Department effective December 12, 2016 (*see Resolution #6 and letter dated November 10, 2016 from Police Chief Mark Henderson*).

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. 9 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Approval for \$3,000 2016 Budget transfer to support purchase of wireless access equipment at Town Hall (*see Resolution #7 and letter dated November 9, 2016 from Susan Wentworth, Coordinator of Data Processing*).

Motion by Councilmember Jason DiPonzio seconded by Councilmember Christopher Werner that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 10 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize Supervisor to execute agreement with the Burke Group to provide actuarial services for the valuation of Other Post-Employment Benefits for fiscal year ending 12/31/16 (*see Resolution #9 and memorandum dated November 15, 2016 from Suzanne Zaso, Director of Finance*).

Motion by Councilmember Jason DiPonzio seconded by Councilmember Christopher Werner that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 11 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Receive and file Planning Board Advisory report regarding proposed Local Law for the regulation and control of E-cigarette and/or Vapor Sales establishments (*see Resolution #11 and letter dated November 17, 2016 from Ramsey Boehner, Planning Board Secretary*).

Motion by Councilmember Christopher Werner seconded by Councilmember Louise Novros that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 12 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTERS OF THE SUPERVISOR:

Expenses and Revenue for month ending October 31, 2016

Motion by Councilmember Jason DiPonzio seconded by Councilmember Louise Novros that the Town Board receive and file the aforementioned report.

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTERS OF THE ATTORNEY TO THE TOWN:

MATTERS OF THE TOWN CLERK:

MATTERS OF THE BOARD:

MOTION TO GO INTO EXECUTIVE SESSION AT 7:55 PM:

Motion by Councilmember Louise Novros seconded by Councilmember Jason DiPonzio to go into executive session to discuss employment of a particular person and litigation.

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MOTION TO EXIT EXECUTIVE SESSION AT 8:53 PM:

Motion by Councilmember Jason DiPonzio seconded by Councilmember Christopher Werner to come out of executive session.

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

ADJOURNED AT 8:54 PM:

Motion by Councilmember Christopher Werner seconded by Councilmember Louise Novros to adjourn at 8:54 PM

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

CERTIFICATION:

I, David Marcus, 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 November 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 November, 2016.

PRESENT:

WILLIAM W. MOEHLE,

Supervisor

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 November 2016 at 7:00 p.m., to consider the adoption of a proposed Local Law to be known as "Speed Limit Local Law of 2016"; and

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

WHEREAS, based on the testimony and submission at such Public Hearing, the Town Board hereby determines that it is advisable to adopt such Local Law.

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

BE IT RESOLVED, that any and all written comments provided to the Town at the Public Hearing held on November 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, Chapter 185-36 of the Town Code be amended in accordance with the proposed Local Law annexed hereto and made a part of this resolution adopting such Local Law which was the subject of the above public hearing; 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: November 22, 2016

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

LOCAL LAW OF 2016

SPEED LIMIT LOCAL LAW OF 2016

Section 1. Title

This Local Law shall be known as the Speed Limit Local Law of 2016 of the Town of Brighton.

Section 2. Purpose and Intent

It is the purpose and intent of this Local Law to modify the existing speed limits currently in place along specific town roads to promote vehicle and pedestrian safety.

Section 3. Amendments to the Town Code

Section 185-36 is hereby amended to add the following streets to Schedule II for each street's entire length and to set the speed limit for each below listed street at 25 miles per hour:

NAME OF STREET	SPEED LIMIT	LOCATION
Audley Way	25	(Penhurst Road to Holloway Road)
Campden Way	25	(Penhurst Road to Dorking Road)
Epping Way	25	(Penhurst Road to Holloway Road)
Hertford Way	25	(Penhurst Road to Dorking Road)
Holloway Road	25	(Islington Way to North Landing Road)
Islington Way	25	(Penhurst Road to Dorking Road)
Stratton Road	25	(Epping Way to North Landing Road)
Tyburn Way	25	(Penhurst Road to Stratton Road)

Section 4. 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.

Section 5. Effective Date

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

CLAIMS FOR APPROVAL AT TOWN BOARD MEETING

November 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>101,296.65</u>
D - HIGHWAY		<u>85,695.66</u>
H - CAPITAL		<u>53,065.59</u>
L - LIBRARY		<u>63,199.56</u>
SB - BUSINESS IMPROVM		<u>216.00</u>
SD - DRAINAGE DIST		<u>140.00</u>
SF - FIRE DIST		<u>212,721.08</u>
SP-PARKS DISTRICT		<u>240.00</u>
SS - SEWER DIST		<u>20,027.38</u>
TA - AGENCY TRUST		<u>2,701.11</u>
TE - EXPENDABLE TRUST		<u>23.97</u>
TOTAL	\$	<u>539,327.00</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 November, 2016.

PRESENT:

WILLIAM W. MOEHLE,
 Supervisor
 LOUISE NOVROS
 CHRISTOPHER K. WERNER
 JASON S. DIPONZIO
 Councilpersons

BE IT RESOLVED, that correspondence dated November 17, 2016 from Commissioner of Public Works Timothy E. Keef, P.E. regarding a request that the Town Board set a public hearing pursuant to Chapter 175 of the Town Code to consider the removal of a 39 inch Silver Maple located in front of 124 Seminole Way and 31" inch Silver Maple located in front of 130 Seminole Way together with correspondence dated September 14, 2016 from Secretary of the Brighton Tree Council Rick DiStefano and Tree Hazard Evaluation Forms regarding said trees, be received and filed; and be it further

RESOLVED, that the Town Board hereby sets a public hearing for January 11, 2017 to be held at the Brighton Town Hall, 2300 Elmwood Avenue, Town of Brighton, County of Monroe, State of New York for 7:00 p.m. or as soon thereafter as the matter may be heard pursuant to Chapter 175 of the Brighton Town Code to consider the removal of the above referenced trees, and be it further

RESOLVED, that the Commissioner of Public Works shall provide notice of said hearing and proposed removal in accordance with the provisions of Section 175-8 of the Town Code.

Dated: November 22, 2016

William W. Moehle, Supervisor	Voting	_____
Louise Novros, Councilman	Voting	_____
Christopher K. Werner, Councilman	Voting	_____
Jason S. DiPonzio, Councilman	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 November, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

BE IT RESOLVED, that the Town Board hereby re-appoints Coleridge Gill of 55 Fairmeadow Drive as a member of the Parks and Recreation Citizens Advisory Board effective January 1, 2017 for a term ending December 31, 2019.

Dated: November 22, 2016

William W. Moehle, Supervisor	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 November, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

BE IT RESOLVED, that the Town Board hereby re-appoints Justin DelVecchio of 3 Westland Avenue and Wayne Goodman of 75 Dartford Lane to the Historic Preservation Board for term effective January 1, 2017 through December 31, 2020.

Dated: November 22, 2016

William W. Moehle, Supervisor	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 November, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

BE IT RESOLVED, that the Town Board hereby re-appoints Chris Jahn of 274 Avalon Drive and Brian DeWaters of 284 Susquehanna Road to the Architectural Review Board effective January 1, 2017 for a term ending December 31, 2019.

Dated: November 22, 2016

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

EXHIBIT NO 7

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 November, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

BE IT RESOLVED, that the Town Board hereby re-appoints David Fader of 960 Crittenden Road to the Planning Board effective January 1, 2017 for a term ending December 31, 2023.

Dated: November 22, 2016

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

EXHIBIT NO 8

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 November, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

BE IT RESOLVED, that the Town Board hereby re-appoints Erinn Ryen of 87 Edgemoor Drive and Shubhangi Gandhi of 115 Stoneybrook Drive as members of the Sustainability Oversight Committee and Ronald Wexler of 15 Chadbourne Road as a member and chairperson of the Sustainability Oversight Committee, effective January 1, 2017 through December 31, 2018.

Dated: November 22, 2016

William W. Moehle, Supervisor	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 November, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

BE IT RESOLVED, that correspondence dated November 10, 2016 from Chief of Police Mark Henderson regarding a request to approve the hiring of Ms. Linda S. DeJohn as a Full Time (35 hour per week) Office Clerk III in the Police Department, at Step 1 of Group III, effective December 12, 2016, on a probationary basis, subject to a 26-week probationary period, be received and filed; and further

BE IT RESOLVED, that the Town Board hereby authorizes the employment of Ms. Linda S. DeJohn as a Full-Time (35 hour per week) Office Clerk III in the Police Department at Step 1 of Group III, effective December 12, 2016, on a probationary basis subject to a 26-week probationary period.

Dated: November 22, 2016

William W. Moehle, Supervisor	Voting	_____
Louise Novros, Councilwoman	Voting	_____
Christopher K. Werner, Councilman	Voting	_____
Jason S. DiPonzio, Councilman	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 22th day of November, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that correspondence dated November 9, 2016 from Coordinator of Data Processing, Susan Wentworth regarding a request to authorize the budget transfer of \$3,000.00 from the Finance Department telephone account (A.FINCE.1680 4.22) to the Finance Department computer equipment account(A.FINCE.1680 2.13) to provide available funds for the purchase of Wireless Access equipment, be received and filed; and be it further

RESOLVED, that the Town Board hereby authorizes budget transfer of \$3,000.00 from the Finance Department telephone account (A.FINCE.1680 4.22) to the Finance Department computer equipment account(A.FINCE.1680 2.13) to provide funding for the purchase of equipment to support Wireless Access Points within Town Hall.

Dated: November 22, 2016

William W. Moehle, Supervisor	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 November, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that a memorandum dated November 15, 2016 from Finance Director Suzanne Zaso regarding a request to authorize the Supervisor to execute an agreement with the Burke Group to provide actuarial services for the valuation of Other Post-Employment Benefits(OPEB) in accordance with GASB 45 Accounting Standards, for fiscal year 2016 be received and filed; and be it further

RESOLVED, that the Town Board hereby authorizes the Supervisor to execute an agreement with the Burke Group to provide actuarial services for the valuation of Other Post-Employment Benefits(OPEB) in accordance with GASB 45 Accounting Standards, for fiscal year 2016 for a cost of \$4,000.00.

Dated: November 22, 2016

William W. Moehle, Supervisor	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 November, 2016.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO
Councilpersons

WHEREAS, the Town Board previously directed the Town Planner at the November 9, 2016 Town Board Meeting to refer the proposed "E-Cigarettes and/or Vapor Sales Local Law" to the Planning Board for its review and preparation of an Advisory Report; and

WHEREAS, a Public Hearing to consider the adoption of proposed "E-Cigarettes and/or Vapor Local Law" is currently scheduled for December 14, 2016, it is now therefore

RESOLVED, that the Town Board hereby receives and files the Planning Board Advisory Report dated November 16, 2016 from Executive Secretary of the Planning Board Ramsey A. Boehner, concerning the proposed "E-Cigarettes and/or Vapor Sales Local Law", and be it further

RESOLVED, that the Town Board hereby includes said Planning Board Advisory Report as part of the official record to be included at the December 14, 2016 Public Hearing for this matter.

Dated: November 22, 2016

William W. Moehle, Supervisor	Voting	_____
Louise Novros, Councilwoman	Voting	_____
Christopher K. Werner, Councilman	Voting	_____
Jason S. DiPonzio, Councilman	Voting	_____

1 LOCAL LAW NO. _____
2

3 TOWN OF BRIGHTON, MONROE COUNTY, NEW YORK STATE
4

5 A Local Law to Amend Chapter 202, Adult Use and Entertainment Establishments, and
6 Chapter 222, Administration and Enforcement, of the Code of the Town of Brighton
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8 Be it enacted by the Town Board of the Town of Brighton as follows:
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10 **Section 1.** This Local Law shall be known as the "E-Cigarettes and/or Vapor Sales
11 Local Law."
12

13 **Section 2.** The Title of Chapter 202 and Section 202-1 of Chapter 202, which read,
14

15 Chapter 202. Adult Use and Entertainment Establishments
16

17 §202-1. Title.

18 This chapter shall be known as the "Adult Use and Entertainment
19 Establishments Regulation Law" of the Town of Brighton and shall
20 amend the Comprehensive Development Regulations of the Town.
21

22 are hereby amended to read in their entirety as follows:

23 Chapter 202. Adult Use and Entertainment Establishments and E-
24 Cigarettes and/or Vapor Sales Establishments
25

26 §202-1. Title.

27 This chapter shall be known as the "Adult Use and Entertainment
28 Establishments and E-Cigarettes and/or Vapor Sales Establishments
29 Regulation Law" of the Town of Brighton and shall amend the
30 Comprehensive Development Regulations of the town.
31

32 **Section 3.** Section 202-2, Legislative intent, is hereby amended to add subsection E;
33 Section 202-2 to read in its entirety as follows:
34

35 §202-2. Legislative intent.
36

37 It is the purpose of this chapter to regulate the creation, opening,
38 commencement and/or operation of adult use and entertainment and E-
39 cigarettes and/or Vapor Sales Establishments, as herein defined, in order to
40 achieve the following:
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42 A. To preserve the character and the quality of life in the Town of Brighton's

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neighborhoods and business areas.

- B. To control such documented harmful and adverse secondary effects of adult uses on the surrounding areas as decreased property values, attraction of transients, parking and traffic problems, increased crime, loss of business for surrounding non-adult businesses and deterioration of neighborhoods.
- C. To restrict minors' access to adult uses.
- D. To promote and protect the public health, safety and welfare of the Town of Brighton and its residents.

Section 4. Section 202-3, Definitions, of Chapter 202 is hereby amended to add the following definition of E-Cigarette and/or Vapor Sales Establishment

§202-3. Definitions.

E-CIGARETTES AND/OR VAPOR SALES ESTABLISHMENT

A business operation that includes, whether as its primary use or as an ancillary use:

- the selling of any vapors, liquids, or other substances that are smoked through the use of an electronic cigarette, electronic pipe or other electronic device or used in connection with the smoking of electronic cigarettes, electronic pipes or other electronic devices; or
- the selling of electronic cigarettes, electronic pipes or electronic devices intended to be used in connection with vapors, liquids or other vaporizing substances

Section 5. Section 202-4, Allowed zoning districts, is hereby amended to read in its entirety as follows:

§202-4. Allowed zoning districts.

All adult use and entertainment establishments and e-cigarettes and/or vapor sales establishments as defined herein may only be created, opened, commenced or operated in accord with the requirements imposed upon permitted uses within the Light Industrial (IG) Zoning District, including but not limited to § 203-93.1, Administrative review, § 203-94, Off-street parking and loading; § 203-95, Signs; § 205-8,

86 which contains bulk regulations; and Chapter 207, Article IV, Access
87 Control. If there are any inconsistencies between the requirements
88 cited in this section and those requirements imposed elsewhere in this
89 chapter, then the more restrictive requirements shall apply.
90

91
92 **Section 6.** Section 202-5, Location within allowed zoning districts, is hereby amended
93 to read in its entirety as follows:
94

95 **§202-5. Location within allowed zoning districts.**
96

97 **A. Adult use and entertainment establishments and e-cigarettes and/or vapor**
98 **sales establishments shall be allowed only in the allowed zoning district**
99 **set forth in § 202-4 hereof and, within such a district, shall not be**
100 **allowed:**

- 101 1. Within 500 feet of the boundary of any residential zoning district in
102 the town;
- 103 2. Within 500 feet of the property line of a parcel used for residential
104 purposes in the town;
- 105 3. Within 500 feet of the property line of a parcel containing a church,
106 school, day-care facility, park or playground, within the town;
- 107 4. On the same parcel as another adult use and entertainment
108 establishment or e-cigarettes and/or vapor sales establishment; or
109 5. Within 1,000 feet of the property line of another adult use and
110 entertainment establishment or e-cigarettes and/or vapor sales
111 establishment, whether or not such other establishment is located in
112 the town.
113

114 **B. The above distances of separation shall be measured from the nearest**
115 **exterior wall of the portion of the structure containing the adult use and**
116 **entertainment establishment or e-cigarettes and/or vapor sales**
117 **establishment.**
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119 **C. Any or all of the above requirements may be waived, at the sole**
120 **discretion of the Zoning Board, upon:**
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1. The receipt of a petition, signed by at least 51% of the residents and 51% of the owners of properties within 500 of the property line of the proposed establishment requesting such waiver; and
2. A finding by the Zoning Board that the waiver will not result in the adverse secondary impacts identified in § 202-2 of this chapter.

Section 7. Subsection C is hereby added to Section 222-15, Termination of Nonconforming Uses, of Chapter 222, Administration and Enforcement, Article III, Nonconforming Uses. Section 222-15 is to read in its entirety as follows:

§222-15. Termination of Nonconforming Uses.

Each of the nonconforming uses specified in this section is deemed sufficiently objectionable, undesirable and out of character in the district in which such use is located to depreciate the value of other property and uses permitted in the district and blight the proper and orderly development and general welfare of such district and the community to the point that each such nonconforming use must be terminated, which period of time is specified for the purpose of permitting the amortization of the remaining value, if any, of such use:

- A. In any residential district, any nonconforming use of open land, including but not limited to such uses as a parking lot, trailer, junkyard or open storage yard for materials or equipment, may be continued for three (3) years after the effective date of the Comprehensive Development Regulations, provided that, after the expiration of that period, such nonconforming use shall be terminated.
- B. Any sign that is now nonconforming by reason of a previous ordinance shall be terminated by January 1, 1998.
- C. Any nonconforming use of land as an e-cigarettes and/or vapor sales establishment, as defined herein, shall be terminated by January 1, 2022.

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

170 or action in which such judgment shall have been rendered. It is hereby
171 declared to be the legislative intent that the remainder of this Local Law would
172 have been adopted had any such provision been excluded.
173

174 **Section 9. Effective Date:**

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