

## Town Board Minutes of June 14th, 2022

The 6<sup>TH</sup> meeting of the Wales Town Board was held on the 14<sup>th</sup> day of June 2022 at the Wales Community Center, 12345 Big Tree Road, Wales Center, New York.

The meeting was called to order by Supervisor Tim Howard at 7:13 pm EST.

**ROLL CALL:** Supervisor Tim Howard aye  
Councilman Kyle Barry aye  
Councilman Jeff Gawronski aye  
Councilman Rickey Venditti aye  
Councilman Donald Butcher aye

present: Attorney Ronald Bennett, GHD Engineering, and Building Inspector (26) Residents whose names are on file.

**INVOCATION:** led by Councilman Butcher

**PLEDGE OF ALLEGIANCE:** led by Councilman Gawronski

**ADOPTION OF AGENDA:** MOTION # \_\_\_\_ by Councilman Butcher, second by Councilman Venditti, approving the agenda with the addition to item #7 under new business. Carried ayes-5 noes-0

**ACCEPTANCE OF MINUTES:** MOTION # \_\_\_\_ by Councilman Barry, second by Councilman Butcher, approving the Town Clerk's minutes of public hearings and board meeting from May 10th, 2022. Carried. ayes-5 noes-0

### **PUBLIC COMMENTS:**

Jordan kompoltz Olean Rd Hoping tonight to finally see a favorable resolution to his Special Use permit for horses, thank you.

Dorthy Carlone Hunters Creek Road, I have two comments, as far as the Special Use Permit for the horses, I can understand and appreciate both sides. I believe Mr. Gietler's biggest concern is his well, so I would suggest getting the well tested and having it documented as to the well now and deciding who's going to take liability if it gets contaminated. The research we did, we found that you can't insure your well and it's not covered by your homeowner's insurance, and it's not covered by your umbrella policy. If the wells contaminated it can't be cleaned, there's no way to clean the aquafer. Will the Town if they pass the Special Use Permit, will they accept the liability if his well is contaminated? I think that's his only concern is the contamination of his water source. We all understand that because none of us have access to public water. That's why we have been so concern for years about contamination of our water. I would suggest to the court whether Town law, County law or State law is the Doctrine of Unclean Hands applies and several of the others, even though some of the attorney's don't consider that a doctrine, I consider it. That's my comment.

Mark Gietler 6861 Olean Road, I'll be very brief, you know my position on everything. I just wanted to comment on and have a side discussion on a dispute whether regulations applied to this case. I think it's very clear that it's not large enough. That's what the board is considering at this moment, and I wanted to get it on record. I agree with her about not being able to insure the wells. It has been tested and you have all the documentation. Again, that is my biggest concern. I'm not asking for a cut off of the whole property but just around the house near the low sided property.

Russ Scheerer I'm grandfathered in the master plan, it's in the book. I'm tired of Rick Venditti telling everyone that it is agricultural, it is not. It's commercial, yes I'm using it under a Special Use Permit to use it, it is a commercial property. Second, the trailers aren't hurting anybody, they are helping me. They are behind a berm that I built which was very expensive and it doesn't happen overnight. I built the berm so no one can see these trailers. Rick the first day he became Supervisor came down and said to me I'm your new Supervisor and I don't think your business fits our community. For 19 years, I have had 9 court cases dismissed and I had a supreme court case where the town sued me and their own variance board for making a decision that they thought was right. We compromised because I was forced to compromised. I'm a business and I can't afford to go out of business especially the environmental that I had put into that place. I've been here 22 years. My neighbors aren't complaining about me, none of them, they are my friends, we all work together. It's Rick Venditti, period, all by himself, making trouble. If Rick wants my trailers move, I will promise you I will close the marketplace by Christmas. It's essential to have places to put things that aren't essential every day. You cannot fill buildings with things that you don't use every day and store them. It's struggling as it is, it's had struggles since the time I opened it. The antique mall, I applied for a permit in 2020, Rick Venditti refused to let it to go to the board. And you as a board could of made a decision like you are doing now instead that was two years ago. I was accused at the last meeting of not being able to respect the town, by operating a business without a permit. Rick Venditti refused to let it go to the town board. Councilman Venditti said it was on the town agenda. The town board decided to table it. Russ Scherrer said it wasn't on any agenda. Councilman Venditti said yes it was. Russ Scherrer said it wasn't on the agenda. Councilman Venditti said it was on the agenda, I looked it up. Supervisor Howard said please don't make it personal. Please state what is further on your agenda and if you wish to make a complaint about a past. Russ Scherrer says I believe you should pass the Antique Mall, it's operating, it's creating employment, it's collecting sales tax and doing everything it should. If you are going to make violations against me because of trailers in my backyard, go right ahead. You need to do it for everyone else in this town. I don't believe in selective enforcement, so if you are going to apply enforcements to me, you better enforce them to everyone. I have been the only business to be singled out and I'm tired of it. I hope you read what I have given you, read it and I hope you understand it because many of you weren't here when it was put in place. Read it and

abide by it, the law, it does not say you cannot have trailers. . It's saying nothing about trailers, so you can have trailers. If you want to write a new law that says you can't have trailers, fine then you should write a new law but I would be grandfathered. That all I have to say, Thank you.

Susan King- Engineer-Auctions International read an email from the Building Inspector dated June 7<sup>th</sup>, 2022 Please be advised that Auctions International has no outstanding violations. All permits have been inspected and given a Certificate of Completion.

**OLD BUSINESS:**

1.Application received for Special Use Permit to house horses at 6841 Olean Road.

Councilman Barry made a motion to approve the special use permit with special conditions. The proposal was, the fence line was 135 feet from Mark Gietler's well, finish beam and add trees, fill in wet spots, manicure plan in place-dated 3/31/22 and one last thing go down to three horses from the original 4 that were requested.

MOTION#\_\_ by Councilman Barry and second by Councilman Butcher to approve the special use permit with all the special conditions- the fence line would be 135 feet from neighbor Mark Gietler's well, finish beam and add trees, fill in wet spots, manicure plan -dated 3/31/22 and only three horses.

Roll Call Vote Supervisor Tim Howard aye

Councilman Kyle Barry aye

Councilman Jeff Gawronski no

Councilman Rickey Venditti aye

Councilman Donald Butcher aye Carried ayes-4 noes-1 Councilman Gawronski

2.Auctions International Application to amend Special Use Permit to convert rear warehouse to antique Mall

MOTION#\_\_ by Councilman Butcher and second by Councilman Barry to forward the amended special use permit to all applicable boards Carried ayes-4 noes-1 Councilman Venditti voted no

3.Auctions International Application to amend Special Use Permit to build 5 new buildings

Councilman Venditti – I feel we are violating our own local law by even accepting it. I don't think this Application should be accepted because it's violating our own local law right from the start. Councilman Butcher – I believe the board of appeals will have to get back to us on this. I believe we need some guidance on this, Ron? Attorney Bennett said if he is seeking a variance, he can go to the ZBA. Councilman Venditti made a motion to reject the SUP and m, seconded by Councilman Gawronski. Attorney Bennett said the ZBA will consider his application for seeking a variance on 50,000 ft. Supervisor Howard said this is for the addition construction, the zoning board of appeals will hear the appeal if we deny it and the applicant appeals it to the board. The board does not otherwise speak otherwise proactively speak for the zoning board.

Attorney Bennett said the town board has the right to deny it or refer it to the ZBA. Councilman Barry asked if we should table this and refer to the ZBA for further information. Supervisor Howard said we did this 30 days ago. Attorney Bennett said for clarification, the normal procedure for the ZBA is when the building inspector denies something, and it's referred for a variance. The town board also holds the authority when considering this matter to refer it to the ZBA for the request in regard to variance. So it's up to you.

Supervisor Howard asked does "facility" mean more than one building? The quickest way if for us to deny the application. Councilman Gawronski said the best way is to table it and refer to Zoning Board of Appeals. Supervisor Howard supports tabling it and asking for interpretation from the Zoning Board of Appeals. Ron will write it for us.

MOTION#\_ Councilman Venditti and seconded by Councilman Gawronski to table till and refer to the Zoning Board of Appeals to interpret the town code referring to the 50,000 square feet per facility. Carried ayes – 5 noes – 0

4.Update on Broadband Infrastructure Agreement

Supervisor Howard stated the prior agreement with Marilla seemed to include some areas that already have service and a few residents who don't So, this will be taken off the agenda till Spectrum reviews what residents in our town who don't have service at the road and come up with a new agreement, then we'll put it back on the agenda to discuss.

5.Appointment of Conservation Board Member to a 4-year term

MOTION # \_\_\_\_ by Councilman Gawronski, second by Councilman Butcher appointing Brian Keicher to the Conservative Board, this is a 4-year term. Carried ayes-5 noes-0

6.Appointment of Chairman to Conservation Board

MOTION # \_\_\_\_ by Councilman Butcher, second by Councilman Venditti appoint Kenneth Brown as Chairman to Conservation board. Carried ayes-5 noes-0

7.Review proposals for services for The Agricultural Farmland Protection Plan

Supervisor Howard said, Mark Gaston gave his recommendations early, at the workshop. Councilman Butcher asked to make a recommendation to pick La Bella since they worked on Marilla's Agricultural Protection plan and Erie County's plan too. The cost is also lower.

MOTION # \_\_\_\_ by Councilman Butcher, second by Councilman Barry approving Labella Associates to create an Agricultural Farmland Protection plan at a cost of \$24,850. Carried ayes-5 noes-0

## NEW BUSINESS

### 1. Opening for the Zoning Board of Appeals, with resignation of Glen Goerke

Received resignation from Chairman Glen Goerke, the posting for the open position will be in the East Aurora Advertiser, applicants have 30 days to submit letter of intent and resume to Town Clerk.

WALES RESIDENTS ONLY  
OPENING FOR MEMBER OF THE ZONING BOARD OF APPEALS  
APPLY BY SENDING LETTER OF INTENT AND RESUME  
TO THE  
WALES TOWN CLERK  
PO BOX 151  
WALES CENTER, NY 14169

### 2. Appointment of new Chairman to Zoning Board of Appeals

Supervisor Howard stated the Zoning Board members all feel Ed Wilkolaski, he has step in as acting chair when Glen was unable to attend meetings. Mr. Wilkolaski has also agreed to take on the position as chairman.

MOTION # \_\_\_\_ by Councilman Gawronski, second by Councilman Venditti Edward Wilkolaski as Chairman of the Zoning Board of appeals. Carried. ayes-5 noes-0

### COMMUNICATIONS:

Dorothy Carlone said they moved the dedication ceremony to the upper part because of the issue with too many cars and motorcycles and they thought it would be dangerous. It's still on for the 23<sup>rd</sup>. I was looking to have the trees that are blocking the sign on 78 trimmed. Councilman Butcher stated that it's a state road. Supervisor Howard said having worked for the county and having done work for the Sheriff's office that belonged to other county workers resulted in years of the court cases. That work belongs to New York State Department of Transportation on 78. Going through the Senators office you can request the State and if they want to request the town to do it for them, then we could do it. We have been working on this since 2012, so here we are 10 years later, finally got it signed. Supervisor Howard states that if private individuals choose to go and do their work, that's between them and I'm not authorizing it, I'm just saying.

Kiwanis Club Evening in the park 5-8pm in town park music and food trucks

### REPORTS OF DEPARTMENT HEADS:

Received- Highway, Building Inspector and Town Clerk

Supervisor Howard stated the Court Clerks audit was completed.

Still need to complete Town clerk/Tax Collector and Bookkeeper

### SECOND PUBLIC COMMENTS:

Unknown individual asks a question about the succession that was mentioned in a PR in Cheektowaga, and it mentioned that the Town of Marilla that had requests made from the county about some budgeting issues and concerns about binaries and highway and things like that. Did you guys receive anything like that?

Supervisor Howard said yes that it has been received since 5/24. I think the Supervisor from Marilla would have told me, so I think the request for information came through the State of how much sales tax that was being returned to Erie County under different sections that have not been received yet.

Unknown individual asks what are limitations on it 30 days? 60 days? Supervisor Howard says you don't have to be at the end of the special report, and they were trying to isolate it by town. I think usually it's about 30 days, but they are never on time. Unknown individual asks if there is there a contingency plan if they don't get it back from the state regarding that? Supervisor Howard says who ever filed it there is a procedure for challenging it, those go to the state which may prolong how long it takes.

Dorothy Carlone said she had a question about the 50,000 square foot, have we previously denied other people going above this 50 and if in fact we have, and it was grandfathered to someone else, and we don't follow the town code where that leaves us legally with liability and it's my understanding that we have denied other people going above 50,000 and they aren't happy with that. I'm just asking the question, not only is the town going to be liable but if they get a smart lawyer every town resident will be liable. Supervisor Howard states that the challenge wasn't previously brought up, this maybe the first time it is brought up. In fact, if some earlier attorney didn't bring it up because they knew what it meant, it is a new event, this is a new challenge so we will leave it to the Zoning Board of Appeals until we get an answer from them. Ron Bennett says just to clarify that motion was to send it to the Zoning Board for clarification. Supervisor Howard says the interpretation of if it is the building or the entire property. We need clarification of that, if no building can be bigger than 50,000 square feet or the collection of buildings on the property commutatively cannot exceed 50,000 square feet.

### REVIEW AND ACTION ON SUPERVISOR'S REPORT:

MOTION # \_\_\_\_ by Councilman Butcher, and second by Councilman Venditti, approving the May Supervisors Monthly Report with transfers. Carried ayes-5 noes-0

### REVIEW AND ACTION ON TOWN CLERK'S REPORT:

MOTION # \_\_\_\_ by Councilman Butcher second Councilman Barry, approving the Town Clerk's monthly report for May 2022 as presented. Carried ayes-5 noes-0

### GENERAL FUND BILLS:

MOTION # \_\_\_\_ by Councilman Barry, second by Councilman Venditti, approving payment of the 2022 General Fund Abstract # 006 voucher # 163-198 total of \$49,646.93 Carried ayes-5 noes-0

**HIGHWAY FUND BILLS:**

MOTION #\_\_ by Councilman Venditti, second by Councilman Barry, approving payment of the 2022 Highway Abstract # 006 voucher #060-075 total amount \$91,429.57 Carried ayes-5 noes- 0

**ADJOURNMENT:**

Motion#\_\_ by Councilman Butcher and seconded by Councilman Venditti to adjourn the meeting at 8:02pm Carried ayes-5 noes- 0

Respectfully submitted, Melinda Eaton, Wales Town Clerk

DRAFT