

Town of Grand Island – Regular Meeting #3

A regular meeting of the Town Board of Grand Island, New York was held at the Town Hall, 2255 Baseline Rd., Grand Island, NY at 8:00p.m. on the 3rd of February, 2020.

Present:	John C. Whitney	Supervisor
	Michael H. Madigan	Councilman
	Jennifer L. Baney	Councilwoman
	Peter Marston Jr.	Councilman
	Thomas A. Digati	Councilman
	Patricia A. Frentzel	Town Clerk
	Peter C. Godfrey	Town Attorney

Supervisor John C. Whitney called the meeting to order at 8:00p.m.

Pastor Matt Pfeil from Cornerstone Church gave the Invocation.

Councilwoman Jennifer L. Baney led the Pledge of Allegiance.

PUBLIC COMMENTS:

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

Speakers: None

PUBLIC HEARINGS:

Create Lighting District #66 – Grand Park Vue Phase VIII

A Public Hearing was held on Monday, February 3, 2020 at 8:00p.m. for the purpose of hearing anyone who wants to comment on the creation of Lighting District #66 – Grand Park Vue Phase VIII.

Speakers: None

Supervisor John Whitney declared the Public Hearing closed.

A motion was made by Councilman Marston, seconded by Councilman Digati to adopt the following resolution creating Grand Park Vue Phase VIII Lighting District No. 66:

WHEREAS, the Town Board of the Town of Grand Island (the “Town Board”), received a petition, signed and acknowledged in the manner required by law by sufficient number of property owners (the “Petition”), together with a map, plan and report for the creation of the Grand Park Vue Phase VIII Lighting District No. 66 in the Town of Grand Island (the “Lighting District”), the boundaries of the Lighting District are set forth below, and the improvements proposed or services provided consist of an electric street lighting system serving the Lighting District; and

WHEREAS, pursuant to an Order adopted by the Town Board on January 21, 2020, reciting the filing of the map, plan and report, the improvements proposed, the method of financing, the boundaries of the proposed creation and all other matters required to be stated by law, the Town Board held a duly noticed public hearing at the Town Hall, 2255 Baseline Road, Grand Island, New York at 8:00 p.m. on February 3, 2020, to consider the creation of the Lighting District, including the environmental significance, if any, thereof, and to hear all persons interested in the subject thereof,

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concerning the same, and for such other further action on the part of the Town Board, with relation to the proposed district.

NOW THEREFORE BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF GRAND ISLAND as follows:

1. The Establishment of the Lighting District is an approval related to the Grand Park Vue subdivision approval; the Town Board has previously determined that this action will not have a significant adverse impact on the environment and therefore a Negative Declaration of Environmental Significance was issued. The Town Board hereby determines that there have been no project changes, changes in circumstances, or new information that would warrant rescission or amendment of the Negative Declaration.

2. That the Petition is signed and acknowledged or proved or authenticated as required by law, and is otherwise sufficient.

3. That the notice of public hearing was duly published and posted as required by law, and is otherwise sufficient.

4. That all properties and property owners benefitted by the improvements are included in the Lighting District.

5. That all properties and property owners included in the Lighting District are benefitted thereby.

6. That it is in the public interest to create the Lighting District.

7. That in the opinion of the Town Board, none of the properties included in the Lighting District will be unduly burdened by the creation of the Lighting District.

8. That creation of the Lighting District as set forth in the map, plan and report is approved, that the performance of supplying electrical street lighting service be contracted for by the Town Board acting for and on behalf of the Lighting District for the illumination of streets or highways in the Lighting District pursuant to the provisions of New York Town Law § 198(6), with an estimated first year annual total charge not to exceed \$1,004.01 with an expected annual cost to the typical property in the proposed Lighting District (which typical property is a single family home) of approximately \$77.23, which said expense shall be levied and collected from the several lots and parcels of land within said Lighting District on a benefit basis in just proportion to the amount of benefit conferred upon the same, except as otherwise provided by law.

9. The boundaries of the proposed district are bounded and described as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Grand Island, County of Erie and State of New York, being part Lot 113 of said Island, bounded and described as follows:

Beginning at the south east corner of Lot 118 as shown on Map filed in the Erie County Clerk's Office under Cover N-37801, said point also being a point on the west line Castlewood Court;

Thence along the west line of Castlewood Court, S 1°45'54" E a distance of 70.00 feet to the north east corner of Lot 106 as shown on above mentioned Map;

Thence S 88°14'06" W a distance of 283.96 feet to a point of curve;

Thence along an arc 50.59 feet to the left, having a radius of 70.00 feet, the chord of which is S 67°31'49" W for a distance of 49.50 feet to a point of reverse curve;

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Thence along an arc 321.09 feet to the right, having a radius of 70.00 feet, the chord of which is N 1°45'54" W for a distance of 105.00 feet to a point of reverse curve;

Thence along an arc 50.59 feet to the left, having a radius of 70.00 feet, the chord of which is S 71°03'37" E for a distance of 49.50 feet to a point of tangency;

Thence N 88°14'06" E a distance of 283.96 feet to the POINT OR PLACE OF BEGINNING.

The above described parcel contains ± 0.856 acres (37297 sq. ft.)

10. Within ten days after adoption the Town Clerk shall file one certified copy of this Resolution with the State Comptroller and record one certified copy of this Resolution in the Office of the Erie County Clerk.

11. This Resolution is effective immediately.

APPROVED Ayes 5 Madigan, Baney, Marston, Digati, Whitney
Noes 0

Local Law Intro #13 of 2019-Amend the Zoning Code Regarding Principal Uses on the Same Lot

A Public Hearing was held on Monday, February 3, 2020 at 8:00p.m. for the purpose of hearing anyone who wants to comment on Local Law Intro #13 of 2019 – Amend the Zoning Code Regarding Principal Uses on the Same Lot.

Speakers: Dan Drexilius, Regina Guenther

Supervisor John Whitney declared the Public Hearing closed.

A motion was made by Councilman Marston, seconded by Councilwoman Baney to adopt Local Law #1 of 2020 to amend the Zoning Code Regarding Principal Uses on the Same Lot as follows:

Section 1: Section 407-10 of the Town of Grand Island Code is hereby amended by replacing the definition of USE, PRINCIPAL, to read in its entirety as follows:

USE, PRINCIPAL

The primary function of a site, building or facility.

Section 2: Section 407-167.3 of the Town of Grand Island Code is hereby added, to read in its entirety as follows:

§ 407-167.3 Multiple Uses.

Multiple principal uses on one lot is prohibited in all zoning districts with exceptions as follows:

In the Town Center Districts (NBD, CBD, and SBD), M-1 Light Industrial and Research District, and M-2 Industrial District, multiple principal uses are permitted.

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In B-1 General Business District, B-2 Waterfront Business District, and B-3 Hamlet Business District, multiple principal uses are permitted only with the issuance of a special use permit through the process set forth in Article XXV, Special Use Permits.

Substantive requirements for lots containing more than one principal use.

All substantive requirements set forth in the Code are applicable except as otherwise indicated herein.

Parking. Determining minimum parking on a lot containing multiple principal uses shall begin with a baseline of 150% of the parking required of the most intensive use, where intensive refers the use with the highest number of parking spaces required. Then, from that baseline, the figure shall be adjusted either up or down based upon the characteristics and needs of the specific site and uses, as recommended by the Planning Board and approved by the Town Board. Determining the appropriate number of parking spaces shall be based upon the specific characteristics of the uses on the site.

Signage. The aggregate area of all signs on the lot may not exceed 125% of the maximum area of signage otherwise permitted by Chapter 295 of the Code. All other requirements of this Chapter are applicable as written.

Section 3. Severability Clause. If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this local law. The Town Board of the Town of Grand Island hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses, or phrases may be declared unconstitutional or invalid.

APPROVED Ayes 5 Madigan, Baney, Marston, Digati, Whitney
 Noes 0

Local Law Intro #4 of 2020 – Aggressive Solicitation Law

A Public Hearing was held on Monday, February 3, 2020 at 8:00p.m. for the purpose of hearing anyone who wants to comment on Local Law Intro #4 of 2020 – Aggressive Solicitation Law.

Speakers:

Ralph Lommer, Natalie Neumann, Deborah
Marinaccio, Pat Proctor, Diane Phillips, Tricia
Palmeri, Tina Taylor, Rob Davisson, Dan Drexilius

Supervisor John Whitney declared the Public Hearing closed.

A motion was made by Councilman Digati, seconded by Councilman Marston to adopt Local Law #2 of 202 regulating certain types of panhandling on public property as follows:

SECTION I. ENACTMENT OF CHAPTER 297, "SOLICITATION", OF THE TOWN CODE

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Be it hereby enacted by the Town Board of the Town of Grand Island that a new section of the Town Code, numbered Chapter 297, titled “Solicitation” shall be added as follows:

§ 297-1: LEGISLATIVE INTENT

The Town Board finds that legislation is necessary in order to protect persons from threatening, intimidating or harassing behavior, to keep public places safe and attractive for use by all members of the community and to maintain and preserve public places where all of the community can interact in a peaceful manner. This legislation is also intended to provide for the free flow of pedestrian and vehicular traffic on streets and sidewalks in the Town of Grand Island, to promote tourism and business and preserve the quality of life. The Town Board finds that aggressive acts associated with solicitation tend to interfere with the free flow of pedestrian and vehicular traffic and intimidate persons in public places, and can lead to disruption and disorder in public places. Aggressive acts can also cause persons to avoid public places and lead to declining patronage of commercial establishments and tourism. The Town Board further finds that solicitation in certain public places is inconsistent with the use of those places, is inherently intimidating, targets persons who are captive audiences or constitutes an invasion of privacy as persons are not able to simply move on if they do not wish to speak to the person soliciting. Solicitation in proximity to bank entrances or check-cashing businesses or automated teller machines is inherently intimidating and should be restricted. This legislation is intended to promote the health, safety and welfare of the citizens and visitors to the Town of Grand Island.

§ 297-2: DEFINITIONS

For the purposes of this chapter, the following terms shall have the following meanings:

A. AGGRESSIVE MANNER

1. Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation, or approaching within arm's length of the person, except with the person's consent; or
2. Following the person being solicited, if that conduct is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation; or
3. Continuing to solicit within five feet of the person being solicited after the person has made a negative response, if continuing the solicitation is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to or is likely to intimidate the person being solicited into responding affirmatively to the solicitation; or
4. Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation; or
5. Intentionally or recklessly using words intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a

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criminal act upon property in the person's possession, or intended or likely to intimidate the person into responding affirmatively to the solicitation; or

6. Approaching the person being solicited in a manner that is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession or intended to or is likely to intimidate the person being solicited into responding affirmatively to the solicitation.

B. **AUTOMATED TELLER MACHINE:** A device, linked to a financial institution's account records, which is able to carry out transactions, including but not limited to account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

C. **AUTOMATED TELLER MACHINE FACILITY:** The area comprised of one or more automated teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

D. **BANKING ORGANIZATION:** All banks, trust companies, private bankers, savings banks, industrial banks, safe deposit companies, savings and loan associations, credit unions and investment companies as defined in § 2 of the New York State Banking Law.

E. **LICENSED CASHER OF CHECKS:** Any individual, partnership, unincorporated association or corporation duly licensed by the New York State Superintendent of Banks to engage in business pursuant to the provisions of Article IX-A of the New York State Banking Law.

F. **PARKING AREA:** An off-street area used for the temporary storage of self-propelled vehicles and available for public use, whether free, for compensation or as an accommodation for clients or customers. Parking areas shall also include parking garages, parking ramps, and municipal parking lots.

G. **PUBLIC PLACE:** Any area or building owned, leased, operated or controlled by or on behalf of any government, municipality, public authority or public corporation in the Town of Grand Island that is generally accessible by the public, including but not limited to any street, including the sidewalk portion thereof, bridge, tunnel, park, playground, recreation area, path, trail, cemetery, school, or school grounds, building, facility, driveway, parking area, and the doorways and entrances to buildings and dwellings.

H. **SOLICIT:** Shall include, without limitation, the spoken, written, or printed word or such other acts or bodily gestures as are conducted in furtherance of the purposes of immediately obtaining money or any other thing of value.

§ 297-3: PROHIBITED CONDUCT

- A. No person shall solicit in an aggressive manner in a public place.
- B. No person shall solicit in an aggressive manner in a parking area as defined in this chapter.
- C. No person shall solicit within 20 feet of an automated teller machine or an entrance or exit of an automated teller machine facility during the time the automated teller machine is available for customers' use; or

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within 20 feet of an entrance or exit to a banking organization or a licensed casher of checks during its business hours.

- D. No person shall solicit when either the person soliciting, or the person being solicited is in a bus shelter or at a bus stop.
- E. No person on a sidewalk or alongside a roadway shall solicit from any occupant of a motor vehicle that is on a street or other public place.

§ 297-4: PENALTIES FOR OFFENSES

A violation of this chapter shall be classified as a "violation" as that term is defined in the Penal Law. A person convicted of violating this chapter shall be fined not less than \$25 nor more than \$250 and, in addition for a second conviction within 12 months of a preceding conviction, may be imprisoned for a term not longer than 15 days. In lieu of a fine, the court may impose an appropriate alternative sentence; provided, however, that an alternative sentence shall not be an unconditional discharge.

SECTION II. SEVERABILITY

If any clause, sentence, paragraph, or part of this chapter or application thereof to any person or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof or the application thereof to other persons and circumstances, but shall be confined in its operation to the clause, sentence, paragraph or part thereof and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered.

SECTION III. AUTHORITY

This Local Law is adopted pursuant to the authority vested in the Town pursuant to the Constitution of the State of New York, the New York State Municipal Home Rule Law, and the New York State Town Law, Article 9, Section 130.

SECTION IV. EFFECTIVE DATE

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

APPROVED Ayes 5 Madigan, Baney, Marston, Digati, Whitney
 Noes 0

MINUTES:

A motion was made by Councilwoman Baney, seconded by Councilman Madigan to approve Minutes of Workshop Meeting #3, January 21, 2020 and Minutes of Regular Meeting #2, January 21, 2020.

APPROVED Ayes 5 Madigan, Baney, Marston, Digati, Whitney
 Noes 0

CONSENT AGENDA:

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1. Meeting Minutes – Historic Preservation Advisory Board – November 15, 2019, December 20, 2019 & January 17, 2020
2. Meeting Minutes – Board of Architectural Review – December 17, 2019
A motion was made by Councilman Madigan, seconded by Councilman Marston to approve the consent agenda as distributed.

APPROVED Ayes 5 Madigan, Baney, Marston, Digati, Whitney
 Noes 0

COMMUNICATIONS – TOWN BOARD:

COUNCILWOMAN JENNIFER L. BANEY:

Traffic Safety Advisory Board – Southpointe Residential Development Project

For information purposes. No action by the Town Board.

COMMUNICATIONS – OTHER TOWN OFFICIALS:

DEPARTMENT OF ENGINEERING & WATER RESOURCES – ROBERT H. WESTFALL:

Request Authorization to Advertise for Bids – Towerwood/Bronson/South Parkway Waterline Replacement – Job # M-220

A motion was made by Councilman Marston, seconded by Councilman Madigan to authorize the Town Engineer to advertise the Towerwood/Bronson/South Parkway Waterline Replacement – Job # M-220 on Friday, February 7, 2020 and to receive bids on Wednesday, March 4, 2020 at 10:00a.m. local time.

APPROVED Ayes 5 Madigan, Baney, Marston, Digati, Whitney
 Noes 0

Request Authorization to Advertise for Bids – Water System SCADA Project – Job #M-230

A motion was made by Councilwoman Baney, seconded by Councilman Marston to authorize the Town Engineer to advertise for the Water System SCADA Project – Job #M-230 on Friday, February 7, 2020 and to receive bids on Wednesday, March 4, 2020 at 10:00a.m. local time.

APPROVED Ayes 5 Madigan, Baney, Marston, Digati, Whitney
 Noes 0

Request Permission to Advertise for Laborer Positions – Water and Wastewater Departments

A motion was made by Councilman Madigan, seconded by Councilman Digati to authorize the Town Engineer to advertise for Laborer positions in the Water Department and the Wastewater Department. Union required internal postings expire in early February.

APPROVED Ayes 5 Madigan, Baney, Marston, Digati, Whitney
 Noes 0

Award Bid – Highway Garage Roof Replacement – Job # M-28-2019

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Town Engineer Robert Westfall reported that on November 27, 2019 bids were opened by The Garland Company for the Removal and Replacement of the Highway Garage Roof (M 28-2019) with the following results:

Grove Roofing Services	\$435,706.00
Progressive Roofing, Inc.	\$446,037.00
Jameson Roofing, Co., Inc.	\$450,442.00
Elmer W Davis, Inc.	\$517,323.00

After careful review it was recommended that the Highway Garage Roof Removal and Replacement bid be awarded to The Garland Company/Grove Roofing Services in the amount of \$435,706.00.

A motion was made by Councilman Marston, seconded by Councilman Digati to accept the recommendation of the Town Engineer and award the Removal and Replacement of the Highway Garage Roof (M 28-2019) to The Garland Company/Grove Roofing Services in the amount of \$435,706.00.

APPROVED Ayes 5 Madigan, Baney, Marston, Digati, Whitney
Noes 0

JUSTICE COURT – MARK J. FRENTZEL & MARK S. NEMETH:

JCAP Grant – Request for Additional Funds

A JCAP (Justice Court Assistance Program) Grant application was requested in the amount of \$19,643.00. The NYS Unified Court System awarded the Town \$12,002.83 for the construction of inner court walls for the Clerk of Justice Court, with a deficit of \$7,640.17.

A motion was made by Councilman Marston, seconded by Councilman Madigan to authorize the additional funds in the amount of \$7,640.17 for the inner court wall construction.

APPROVED Ayes 5 Madigan, Baney, Marston, Digati, Whitney
Noes 0

TOWN ASSESSOR – JUDY M. TAFELSKI:

Authorize Supervisor to Submit PO-17 – Real Property Appraiser

A motion was made by Councilman Digati, seconded by Councilwoman Baney to authorize the Supervisor to request a PO-17 for the title of Real Property Appraiser.

APPROVED Ayes 5 Madigan, Baney, Marston, Digati, Whitney
Noes 0

REPORT OF THE AUDIT COMMITTEE:

A motion was made by Councilwoman Baney, seconded by Councilman Digati to pay

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Vouchers #130396 - #130563

General \$ 205,786.69

Highway \$ 97,561.52

Sewer \$ 68,323.72

Water \$ 64,688.97

Trust & Agency \$ 3,716.39

Capital \$ 685,677.14

Total \$1,125,754.43

APPROVED Ayes 5 Madigan, Baney, Marston, Digati, Whitney

Noes 0

PUBLIC COMMENTS:

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

Speakers: Nancy Killian, James Walters

FROM THE BOARD:

- Golden Age Open House – Feb. 5th 5pm-7:30pm
- Grand Island Alumni Association Comedy Night – February 29th – Elden’s
- Town’s new Facebook page
- Advisory Board vacancies

ADJOURNMENT:

A motion was made by Councilman Marston, seconded by Councilman Madigan to adjourn the meeting at 8:40p.m.

APPROVED Ayes 5 Madigan, Baney, Marston, Digati, Whitney

Noes 0

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

Thomas Slaiman	Arnold Colbert
Angela Parisi	Charles Markarian, Jr.
Richard Green	Stephen Fleming
Kenneth Brodie	Elizabeth Brie
Tiffany Hayes	Joan Pax

Respectfully submitted,

Patricia Anderson Frentzel
Town Clerk

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