

REGULAR MEETING, TOWN OF LIVONIA

February 7, 2013

A regular meeting of the Town Board of the Town of Livonia, County of Livingston and the State of New York was held at Livonia Town Hall, 35 Commercial Street, Livonia on February 7, 2013.

PRESENT: Eric Gott, Supervisor
Andy English, Councilmember
Matt Gascon, Councilmember
Angela Grouse, Councilmember
Frank Seelos, Councilmember
Colleen West, Clerk
Jim Campbell, Attorney, Town of Livonia

OTHERS PRESENT: Several Residents.

The meeting was called to order by Supervisor Gott at 7:00 PM.
George Schuster led the pledge.

PRIVILEGE OF THE FLOOR

Court Clerk Update: Supervisor Gott mentioned that they received 42 applications for the position of Court Clerk. Pat Terho has decided to leave at the end of March, instead of the end of April. Supervisor Gott, along with the judges, Cal Lathan and Councilmember Grouse will look over the applications next week on Thursday. They want to hire someone as soon as possible so that they can train with Pat before she leaves.

Judge Kemp: Supervisor Gott stated that a year ago, he reported that Judge Kemp was out of town for the winter. Since then, Judge Kemp has addressed the issue and has done a great job. He stayed in town this winter and has handled several arraignments. Both judges work hard and have brought the court back to the level where it used to be.

Fund Balances: Supervisor Gott reported that the books are almost closed for 2012. This town board has been trying to spend down the fund balances. They appropriated more fund balance than ever this year, and still the fund balances grew. Supervisor Gott explained that fund balances are created when revenues, such as our share of sales tax or mortgage tax, exceed projections or when expenses, such as recreation equipment, are lower than budgeted. He will be exploring ways to reduce the fund balances, such as paying back the money that we “borrowed” from ourselves to build this building.

Village Façade Grant: Supervisor Gott shared that there was a meeting on January 29 in Geneseo regarding the façade grants that are available to Livingston County Villages. He was pleased to note that seven downtown merchants from Livonia attended the meeting.

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Merchants can apply for up to \$5,000 for things like windows and doors, but the funds must be matched. The Historical Society is in desperate need of these funds, but they lack the matching funds. Supervisor Gott added that he would hate to see them miss out because they lack the matching funds. Village Trustee Ralph Parker is going to ask the Village Board if they would contribute to the matching funds, and Supervisor Gott asked the Town Board if they would be willing to do that as well. It is not known how much, if any of the grant money will be awarded to the Historical Society, but it could be up to \$5,000. The board discussed this and also discussed whether it was feasible to expect the Historical Society to pay back the matching money to the town. The board agreed that if the Historical Society can raise some money to reimburse the town in all or in part, that would be welcomed, but they did not wish to make that a condition of giving them the money.

RESOLUTION 16-2013

MATCH GRANT UP TO \$5,000

On motion of Councilmember Grouse seconded by Councilmember Seelos the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays - 0

Resolved to provide matching funds up to \$5,000 for the Historical Society should they be successful in their grant application to the county for façade improvements.

CONTINUE DISCUSSION ON PROPOSED LOCAL LAW #1-2013

Supervisor Gott reminded everyone that the Town Board closed the Public Hearing on Local Law #1-2013 at the last meeting. This local law would make changes to Chapters 76 and 150 of the Town of Livonia Code. The board did not act on the law at the last meeting, because they wanted Attorney Campbell to follow up with the County regarding some of their advisory comments.

Attorney Campbell reported that after speaking with the county, we determined that we do not have to make any changes to the law to achieve the results we want. He and Kevin Masterson recommend that if the town board wishes to move forward, then they should do so as it was drafted.

RESOLUTION 17-2013

DECLARE TOWN BOARD OF LIVONIA AS LEAD AGENT FOR TYPE I ACTION UNDER SEQ

On motion of Councilmember Grouse seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)

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Nays – 0

Resolved to declare the Town Board of the Town of Livonia as Lead Agent for SEQR purposes for Local Law #1-2013. Further resolved that this is a Type I action.

FULL ENVIRONMENTAL ASSESSMENT FORM

The Town Board reviewed and completed Parts 1, 2 and 3 of the State Environmental Quality Review Full Environmental Assessment Form in relation to Local Law #1-2013.

RESOLUTION 18-2013

ADOPT FINDINGS OF LONG FORM ENVIRONMENTAL ASSESSMENT FORM

On motion of Councilmember English seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

Resolved to adopt the findings of the Long Form Environmental Assessment Form in regards to Local Law #1-2013.

RESOLUTION 19-2013

DECLARE NEGATIVE DECLARATION AND AUTHORIZE SUPERVISOR TO SIGN LONG FORM EAF

On motion of Councilmember Seelos seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

Resolved to declare a negative declaration based on this board's review of the SEQR Full Environmental Assessment Form as it pertains to Local Law #1-2013. Further resolved to direct the Supervisor to cause the form to be prepared, signed and filed.

RESOLUTION 20-2013

ADOPTION OF LOCAL LAW #1-2013 - A LOCAL LAW TO AMEND AND SUPERSEDE AS APPLICABLE, CHAPTER 76 OF THE CODE OF THE TOWN OF LIVONIA, LIVINGSTON COUNTY, NY TO MODIFY VARIOUS DEFINITIONS AND SUBSTANTIVE PROVISIONS THROUGHOUT CHAPTER 76 AND CHAPTER 150

On motion of Councilmember English seconded by Councilmember Grouse the following resolution was

ADOPTED BY ROLL CALL VOTE

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Supervisor Gott,	Aye
Councilmember English,	Aye
Councilmember Gascon,	Aye
Councilmember Grouse,	Aye
Councilmember Seelos,	Aye

WHEREAS, the Town Board of the Town of Livonia held a Public Hearing on January 17, 2013 to consider the adoption of Local Law #1-2013 – A Local Law to Amend and Supersede As Applicable Chapter 76 of the Code of the Town of Livonia, Livingston County, NY to Modify Various Definitions and Substantive Provisions Throughout Chapter 76 and Chapter 150; and

WHEREAS, this Local Law is adopted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Law, Article 16, and Articles 2 and 3 of the municipal Home Rule Law, to protect and promote public health, safety, convenience, order, aesthetics, prosperity and general welfare of the Town of Livonia; and

WHEREAS, this Local Law implements the provisions of the Comprehensive Plan of the Town of Livonia; and

WHEREAS, the following involved and interested agencies have been informed: the Livingston County Planning Department, the Towns of Avon, Lima, Richmond, Canadice, Geneseo, and Conesus and the Village of Livonia for comment and those comments were taken into consideration; and

WHEREAS, this action is considered a Type 1 action (617.4b) under State Environmental Quality Review and subject to a coordinated review; and

WHEREAS, the Town Board of the Town of Livonia declared itself lead agent for the purpose of the State Environmental Quality Review; and

WHEREAS, the Town Board of the Town of Livonia, after reviewing the Full Environmental Assessment Form declared a negative declaration; now be it therefore

RESOLVED that the Town Board of the Town of Livonia does hereby adopt Local Law #1-2013, A Local Law to Amend and Supersede As Applicable Chapter 76 of the Code of the Town of Livonia, Livingston County, NY to Modify Various Definitions and Substantive Provisions Throughout Chapter 76 and Chapter 150 as follows this resolution; and further

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RESOLVED that a copy of the Negative Declaration be filed with the NYS Department of Environmental Conservation's Environmental News Bulletin and the Livingston County Planning Board; and further

RESOLVED that a copy of this resolution be forwarded to General Code Publishers, Town of Livonia Building and Zoning Department, the Attorney for the Town of Livonia, and the Secretary of State; and further

RESOLVED that notice of adoption of this local law shall be duly published in the Livingston County News.

LOCAL LAW NO. 1 OF THE YEAR 2013

OF THE TOWN OF LIVONIA

A local law to amend and superseded as applicable, Chapter 76 of the Code of the Town of Livonia and Chapter 150 of the Code of the Town of Livonia, Livingston County, New York to modify various definitions and substantive sections throughout Chapter 76 and Chapter 150.

Be it enacted by the Town Board of the Town of Livonia as follows:

SECTION 1. TITLE AND SCOPE

This local law shall be known as "A LOCAL LAW TO AMEND AND SUPERCEDE AS APPLICABLE, CHAPTER 76 OF THE CODE OF THE TOWN OF LIVONIA AND CHAPTER 150 OF THE CODE OF THE TOWN OF LIVONIA, LIVINGSTON COUNTY, NEW YORK TO MODIFY VARIOUS DEFINITIONS AND SUBSTANTIVE PROVISIONS THROUGHOUT CHAPTER 76 AND CHAPTER 150."

SECTION 2. PURPOSE.

A. Authority. This Local Law is adopted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, and Articles 2 and 3 of the Municipal Home Rule Law, to protect and promote public health, safety, convenience, order, aesthetics, prosperity and general welfare of the Town of Livonia, and to implement the provisions of the Comprehensive Plan of the Town of Livonia. This Local Law regulates the location, construction, alteration and use of buildings and structures and the development and use of land within the Town of Livonia.

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B. To these ends, this local law and the Chapters that it amends and supersedes as applicable are designed to:

1. Ensure proper compliance with the New York State Uniform Fire Prevention and Building Code.
2. Enhance the appearance of the Town and to guide and regulate the orderly growth, development and redevelopment of the Town in accordance with a well-considered plan so that the Town may realize its potential as a place to live and work, with the most beneficial and convenient relationships among the agricultural, business, and residential areas within the Town and with due consideration to the character of each district and its suitability for particular uses.
3. Protect and manage the rural, scenic and historic character of the Town.

SECTION 3. CHANGES TO SECTION 76- 11 A - FIRESAFETY AND PROPERTY MAINTENANCE INSPECTIONS.

The current Section 76 - 11 A of the Livonia Town Code is hereby *repealed*. A *new* Section 76 - 11 A is hereby adopted as follows:

- A. Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at the following intervals:
- (1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every 12 months.
 - (2) Fire safety and property maintenance inspections of buildings and structures being occupias as dormitories shall be performed at least once every 35 months.
 - (3) Fire safety and property maintenance inspections of all multiple dwellings not included in Subsection A(1) or (2), and all nonresidential buildings, structures, uses and occupancies not included in Subsection A(1) or (2) shall be performed at least once every 35 months.

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SECTION 4. CHANGES TO SECTION 150-70 NONCONFORMING USES AND BUILDINGS

The current Section 150-70 A (2) of the Livonia Town Code is hereby *repealed*.
A new
Section 150-70 A (2) is hereby adopted as follows:

- (2) No nonconforming building shall be enlarged, extended or increased under any circumstances except pursuant to the restrictions set forth in §150-71.

SECTION 5. CHANGES TO SECTION 150-54 OUTDOOR STORAGE OF MATERIALS AND EQUIPMENT

The current Section 150-54 B of the Livonia Town Code is hereby *repealed*. *A new*
Section 150-54 B is hereby adopted as follows:

- B. Except as otherwise provided for in statute or other regulations, two or more inoperative, unlicensed or uninspected motor vehicles shall not be parked, kept or stored, and no vehicle shall at any time be in a state of major disassembly, repair or in the process of being stripped or dismantled, on any premises, except when housed in a totally enclosed building or in accordance with §150-65, Motor vehicle fueling, service, sales or repair establishments.

SECTION 6. CHANGES TO SECTION 150-5. DEFINITIONS.

The current Section 150-5 of the Livonia Town Code shall be amended to include a new definition as follows:

EXCAVATION - Any man-made cut, cavity, trench or depression in the earth's surface formed by earth removal, not including any cut, cavity, trench or depression made as a result or in furtherance of the extraction from below the surface of any substance which exist naturally in a fluid state, such as water, oil or gas.

SECTION 7. CHANGES TO SECTION 150-30. REGULATIONS.

The current Section 150-30 of the Livonia Town Code is hereby *repealed*. *A new*
Section 150-30 is hereby adopted as follows:

§150-30. Regulations.

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Except as herein provided, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the allowable uses and standards for development set forth for each district by this chapter. All uses not explicitly listed as "Permitted Uses" within the regulations governing a given zoning district classification shall be deemed to be non-permitted uses.

Except as herein provided, no open space contiguous to any building shall be encroached upon or reduced in any manner, except in conformity with the area requirements, off-street parking requirements, landscaping requirements and all other regulations designated in this chapter for the district in which such building or use is located. In the event of any such unlawful encroachment or reduction, the relevant building or use certificate of occupancy shall become void.

SECTION 8. CHANGES TO ARTICLE VII REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS

Article VII shall be amended to include a new section entitled "§150- 41 A" which shall appear as the first section in Article VII and which shall be as follows:

§150- 41 A Uses Not Permitted.

All uses not explicitly listed as "Permitted Uses" within the regulations governing a given zoning district classification shall be deemed to be non-permitted uses. This restriction shall apply to each and every zoning district classification within the municipal bounds of the Town.

SECTION 9. SEVERABILITY.

Should any section or provision of this local law contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the local law as a whole or any part thereof other than the part so explicitly declared to be invalid.

SECTION 10. EFFECTIVE DATE.

This local law shall be effective thirty (30) days after its filing with the Office of the Secretary of State.

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TOWN CLERK'S REPORT

Clerk West gave the following financial report for January 2013:

<i>Paid To</i>	<i>Amount Remitted</i>
Supervisor (General Fund)	\$1,570.74
County Treasurer for Dog Licenses	\$259.00
NYS Comptroller for Games of Chance Licenses	0
NYS Ag & Mkts for Spay/neuter Program	\$108.00
NYS DECALS	\$82.20
State Health Department (Marriage Licenses)	0
Total Disbursements	\$2,019.94

Clerk West will have the January Tax Collection Report at the next meeting.

RESOLUTION 21-2013

APPROVE TOWN CLERK'S REPORT

On motion of Councilmember Gascon seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays - 0

Resolved to approve the January 2013 Town Clerk's Report.

RESOLUTION 22-2013

APPROVE MEETING MINUTES FROM 1/17/2013

On motion of Councilmember Seelos seconded by Councilmember Grouse the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays - 0

Resolved to approve the meeting minutes from January 17, 2013.

RESOLUTION 23-2013

AUTHORIZE SUPERVISOR GOTT TO SIGN AGREEMENT WITH NIXON PEABODY FOR REPRESENTATION ON ZONING RELATED MATTERS

Supervisor Gott mentioned that there is a zoning case being heard by our Zoning Board of Appeals, and our town attorney or his firm has represented this individual before, therefore we need another attorney to represent the town in this case.

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On motion of Councilmember English seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

Resolved to authorize Supervisor Gott to sign an agreement with Nixon Peabody for representation on zoning related matters.

DISCUSS ANONYMOUS LETTER RELATED TO DAVE COTY

Supervisor Gott reported that the Town Board received an anonymous letter relative to Highway Superintendent Dave Coty. Normally, the Town Board's policy is to ignore anonymous letters, but in this case, they agreed to address the complaint.

The individual who sent the letter indicated that he was upset that the Town of Livonia Highway Department put in a culvert pipe for a resident of the Town of Conesus. Supervisor Gott spoke with Dave Coty who explained that there has been a long-standing agreement between the Towns of Conesus and Livonia regarding the roads along the border of the two towns. There are parts of the road where Livonia is on one side and Conesus is on the other. They have divided up the work so that Livonia serves both sides of the road on part of the road, and Conesus serves both sides of the road on another part. This means that sometimes Livonia works on the Conesus side, and sometimes Conesus works on the Livonia side. This works for everyone.

The anonymous letter also complained that the town paved the boat launch road. The fact is that the road was rebuilt with free millings. This saved us money in stone and maintenance costs in the long run.

RESOLUTION 24-2013

APPOINT LIBRARY CLERK

Councilmember Grouse explained that the new hire for the library was brought in to fill gaps in existing hours. When the library changed its hours to offer more consistent service, existing staff members were unable to fill time slots because of other job commitments. Their hours were pulled together to create this new part-time position. Frank Sykes reduced the hours of the existing staff, which had already been budgeted for in the 2013 budget, to create the hours for a new part-time position.

On motion of Councilmember Grouse seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

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Resolved to appoint Moriah Beecher to the position of part-time library clerk as of January 22, 2013 at a rate of pay of \$8.50/hr, increasing \$9/hr after successful completion of a six month probationary period.

RESOLUTION 25-2013

APPOINT TAYLOR MALLABER AS RECREATION COUNSELOR

On motion of Councilmember English seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays - 0

Resolved to appoint Taylor Mallaber as a recreation counselor effective February 8, 2013 at minimum wage to help with dodge ball and floor hockey.

RECREATION BASEBALL

Councilmember English reported that recreation baseball sign-ups were held at the town hall last week. He stated that the numbers are down quite a bit. He thinks that it may be because they held sign-ups so early this year, and there are a variety of other sports available for this age group. Councilmember Grouse added that school enrollment is down as well. Councilmember English reported that we are going to travel this year for the majors and minors, which will be a great opportunity. The committee is also discussing ideas for concessions.

RESOLUTION 26-2013

BUDGET AMENDMENT – LAKEVILLE WATER DISTRICT

On motion of Councilmember Seelos seconded by Councilmember Grouse the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays - 0

Resolved to increase the Lakeville Water District budget \$31,000 for 2012; WL915- Assigned Unappropriated Fund Balance/WL9710.6-Serial Bonds, Principal.

RESOLUTION 27-2013

BUDGET AMENDMENT – LIBRARY FUND

On motion of Councilmember Gascon seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays - 0

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Resolved to increase the Library Fund budget \$44,745 for 2012; L882-Building Improvements Reserve/L9950.9-Transfers to Capital Fund.

RESOLUTION 28-2013

INTERMUNICIPAL AGREEMENT FOR EQUIPMENT SHARING

Supervisor Gott indicated that the county wished to extend the intermunicipal equipment agreement. Nothing has changed in the agreement.

On motion of Councilmember Grouse seconded by Councilmember Seelos the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)

Nays - 0

Resolved to authorize Supervisor Gott to sign the intermunicipal agreement for equipment sharing.

RESOLUTION 29-2013

AUTHORIZE SUPERVISOR TO SIGN AGREEMENT WITH CORNELL COOPERATIVE EXTENSION

On motion of Councilmember English seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)

Nays - 0

Resolved to authorize Supervisor Gott to sign the already approved agreement with Cornell Cooperative Extension.

Supervisor Gott announced that the county is going to help with \$500 directly to Cornell Cooperative Extension to help offset what the Chip Holt Center has to raise.

CORRESPONDENCE

- Letter of recommendation to Town Board from Special Zoning Committee.

PRIVILEGE OF THE FLOOR

A resident complained about the way the Highway Department salts the roads. He stated that they threw salt all over his car. He asked if there was a way they could dial it down or use deflectors so that the salt is not thrown so far into the opposite lane. Supervisor Gott will ask Highway Superintendent Coty about this.

