

Deputy Supervisor Condon called the regular meeting to order @ 7:00PM.

Everyone was asked to sign in on the attendance sheet, cell phones were requested to be turned off and any private conversations or interviews to be conducted in the hallway outside. Emergency exits were pointed out.

Also noted the meeting room is equipped with the induction loop hearing assistance system, explaining conversations can be heard through the microphones on hearing aids with a t-switch. Emergency exits were pointed out. The meeting was also live streamed via YouTube with text commenting available to the public.

Flag Salute

PRESENT: Deputy Supervisor Condon
Councilman Guinan
Councilman Kahovec
Councilman Cusimano

ABSENT: Supervisor Marren

ALSO PRESENT: Karen Bodine, Town Clerk; Frank Pavia, Attorney; Mark Years, Highway Superintendent; Rich O'Donnell, Finance Director; Keith Maynard, Storm Water Manager; Suzy Mandrino, IT; Steve Metzger and Wes Pettee, LaBella Associates; David Nankin; Alexis Ogra; Marsha Senges; Tammy and David VanBuren; Dave Anderson

DEPUTY SUPERVISOR'S ANNOUNCEMENTS:

- Declare Supervisor Marren necessarily absent.

PUBLIC HEARING BEGINS @ 7:00PM *(Clerk read the notice aloud)*

- ❖ Proposed Local Law to Amend R-1, R-2 & R-3 Residential Zoning Districts and Limited Development District of the Victor Town Code relating to accessory structures
 - ✓ Deputy Supervisor Condon thanked the Codes Department for working on this.*No public comment.*

MOTION TO CLOSE THE PUBLIC HEARING @7:02PM

On motion of Councilman Cusimano, seconded by Councilman Guinan the Public Hearings were closed and the regular meeting reconvened. Motion carried.

4 Ayes (Condon, Kahovec, Cusimano, Guinan) 0 Nays

APPROVAL OF MINUTES

On motion of Councilman Cusimano, seconded by Councilman Guinan, the February 27, 2023, Regular Town Board meeting minutes were approved as presented. Motion Carried.

3 Ayes (Condon, Cusimano, Guinan) 1 Abstain (Kahovec)

PAYMENT OF BILLS

On motion of Councilman Kahovec, seconded by Councilman Guinan Manifest #5 in the amount of \$338,684.26 was approved. Motion carried.

4 Ayes (Condon, Kahovec, Cusimano, Guinan) 0 Nays

Documentation for these expenditures can be found on vouchers filed by numbers #20230435-20230546.

General Townwide	\$159,162.74
General Outside Village	17,586.86
Highway Townwide	139,879.45
Lighting Districts	358.21
SS Consolidated Sewer Fund	12,593.75
Trust & Agency	8,891.25

Deputy Supervisor Condon reviewed the following expenditures for Manifest #5 that were in the range of or exceeded \$5,000.00.

- ✓ American Rock Salt – Road salt for winter - \$66,557.59
- ✓ Edmunds GovTech- Software - \$5,101.95
- ✓ Guardian Insurance – March Dental - \$5,101.30
- ✓ Integrated Systems – March Host & Server Upgrades - \$8,603.07
- ✓ Labella Associates PC – Professional Services for January – \$58,977.94
- ✓ (Chargeback to developers \$8,891.25, cost to the Town \$50,086.69)
- ✓ MVP Health – March Healthcare employees/retirees - \$74,000.72
- ✓ Nocco Energy – Diesel Fuel for February - \$14,228.29
- ✓ NYS Controllers Office – January Court Fees - \$18,990.00
- ✓ Red Truck Painting – Town Hall Painting - \$14,970.00
- ✓ Tracey Road Equipment – Trailer for Highway - \$24,046.00

PRIVILEGE OF THE FLOOR:

Hold Harmless, Victor Square Expansion - Keith Maynard explained they are putting on an addition on the southside of the Victor Square building and extending curbing and sidewalk into our Sanitary Sewer easement.

Sewer Master Plan – Wes Pettee from LaBella Associates explained in April of 2021, a Public Hearing was held pertaining to the DRAFT Sewer Master Plan and it was referred to the Town Planning and the County Planning Board and comments were received at that time. Wes explained they incorporated some of the language and comments in this current draft. At the April 26, 2021 Town Board meeting, the Supervisor commented his desire was to hold off on the adoption of the Sewer Master Plan for a couple of reasons. He was looking for feedback from the Town Board, specifically regarding Pump Station 7 which was coming up in terms of needing some capital improvements. Pump Station is at the corner of East Victor Road and Route 96, and at that same time there were at least two requests from developers to change the residential density overlay zoning district. This would have an impact on Pump Station 7. The applications that were made for changing the residential zoning overlay map were Southgate 2 and Southgate 3, which changed from residential A, 0.33 units per acre to residential B, half a unit per acre. The Stonebrook

subdivision changed from residential A to residential C, which allowed for a maximum of one unit per acre. This zoning map (residential overlay district) has been amended. Any of the policies in the 2023 update for the Sewer Master Plan remains unchanged. What has changed is the way some of the narrative reads because at the time this was initially drafted, the 2018 nine-million-dollar capital project; the sewer trunk line that goes down the Auburn Trail was not yet online and operational. Some of the graphics have changed because of the subsequent sanitary sewer district extension that did happen on Willis Hill Road to accommodate the Anderson Subdivision and some of the maps have been updated to reflect the new roads that have been added in different areas, such as the Piper Meadows Subdivision, Blumont Rise, and Anderson subdivision. This document reflects consideration of what had happened with that nine-million-dollar capital project. The primary goal of this document is to correlate and coordinate the information, recommendations and the requirements in the studies that have been done previously, namely the 2016 Farmington/Victor joint sewer study that MRB and LaBella also participated in, as well as the 2015 Comprehensive Plan. It pulls all of that information together so when the Town Board receives an inquiry or potentially even a district application to extend the sewer district, this document will help guide through the decision making. Wes suggested the Board consider holding a public hearing on this, noting it has been two years and now there is a refreshed document. LaBella has a lot of this information already prepared; the set public hearing resolution, preliminary classification is Type one action and any subsequent draft resolutions.

Counsel weighed in and noted it is at the Board's discretion to hold another public hearing.

Deputy Supervisor Condon asked if this Draft Master Plan should be shared with the Town of Farmington. Wes explained that they did not provide a copy to them as it really relates to potential district expansions in the Town of Victor. He felt it would make sense to provide them with a copy of the draft.

Counsel suggested sending a copy of the updated draft to Ontario County Planning.

The Board agreed that holding another public hearing on the updated Sewer Master Plan makes sense.

Public Comments or Concerns: *No comments.*

Report of Town Officials:

- Economic Development/VLDC
- Parks & Recreation
- Supervisor – Victor traffic
- Victor Fire Department

Deputy Supervisor Condon commented on the emails from Brian Emelson regarding the CE-200 form that contractual vendors need to fill out for their programs.

The Town Clerk was asked to reach out to some of the surrounding towns like Perinton and Brighton to see if they use a one page form or what they may do differently for these programs. Counsel will then review to make sure we have the same coverage.

VICTOR TOWN BOARD MEETING MONDAY, MARCH 13, 2023

Councilman Cusimano commented the last couple of Zoning Board meetings have been lengthy. The chairman, members and staff have done a very diligent job and he appreciates the hard work they are putting into the considerations at the meetings.

Councilman Kahovec gave an update on the monument project in the Veterans Memorial Garden. There is a delay between the granite and the emblems but anticipate late spring for completion.

Deputy Supervisor Condon noted that bringing brush to the transfer station still requires a permit.

BUSINESS:

RESOLUTION NO. 92

AMEND 2022 BUDGET TO INCLUDE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS
EXPENSES

On motion by Councilman Kahovec, seconded by Councilman Cusimano, the following resolution was adopted: 4 ayes (Condon, Kahovec, Guinan, Cusimano) 0 nays

WHEREAS, the Town Board approved the utilization of the Community Development Block Grant (CDBG) per Resolution No. 155 dated April 25, 2022; and

WHEREAS, the Town of Victor was awarded a Community Development Block Grant (CDBG) in the amount of Five Hundred Thousand dollars (\$500,000.00) from the NYS office of Community Renewal to assist local businesses impacted by COVID-19 (CDBG Project #1179CVSB25-21); and

WHEREAS, the businesses listed below met the established criteria required by NYS Homes and Community Renewal (OCR) and each business was awarded a grant not to exceed Thirty-Five Thousand dollars (\$35,000.00) upon final approval from NYS; and

WHEREAS, a Public Hearing was advertised by the Town Clerk and held on the 27th day of December 2022 at the Victor Town Hall, 85 East Main Street, Victor, NY for the purpose of delivering the final report on the funded businesses and closing out this grant; and

WHEREAS, the Town Finance Director created separate (CDBG) expenditures lines items separate from the Town's annual budget; and

WHEREAS, funds in the amount of Four Hundred Two Thousand Three Hundred and Ninety-Seven dollars (\$402,397.00) need to be appropriated in the 2022 Budget to reflect the expense distribution pass thru in (A.6420.400.CDB) for the current year; and

Now, therefore, be it;

RESOLVED that the Victor Town Board approve appropriation of the CDBG funds in the amount of Four Hundred Two Thousand Three Hundred Ninety-Seven dollars (\$402,397.00) appropriated in the 2022 Budget to reflect the expense distribution pass thru in (A.6420.400.CDB); and

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RESOLVED that a copy of this resolution be forwarded to the Finance Director, Economic Development Director, and the Town Clerk.

**Offered as a Block by Councilman Kahovec, seconded by Councilman Cusimano, Resolutions 93-97.*

RESOLUTION NO. 93

AGREEMENT – TOM WILLETTE (JUMBO SHRIMP)

On motion by Councilman Kahovec, seconded by Councilman Cusimano, the following resolution was adopted: 4 ayes (Condon, Kahovec, Guinan, Cusimano) 0 nays

WHEREAS, it is the intention of the Department of Parks and Recreation to enter into agreement with Tom Willette (Jumbo Shrimp) for a concert at its Sid Partington Memorial Concert in the Park event on July 13, 2023 at Victor Municipal Park; and

WHEREAS, the Contractor has provided the Town with all the appropriate documents to support the proposed service agreement; now, therefore, be it

RESOLVED that the Town Board authorizes the Town Supervisor and the Director of Parks and Recreation to enter into agreement with Tom Willette (Jumbo Shrimp) under the terms and conditions as provided for in the contract kept in the subject matter file in the Town Clerk's Office for a fixed fee of Nine Hundred dollars (\$900.00) to be paid from the 2023 Budget Line item A.7550.400 Celebrations Contractual; and further

RESOLVED that this resolution is conditioned upon receiving approvals from the Town's Insurance Broker, or an insurance waiver from the Town Board, and the Attorney for the Town; and further RESOLVED that a copy will be forwarded to the Director of Parks and Recreation, Finance Director, Town Clerk, and Tom Willette.

RESOLUTION NO. 94

AGREEMENT – IAN COHEN (JUMBO SHRIMP)

On motion by Councilman Kahovec, seconded by Councilman Cusimano, the following resolution was adopted: 4 ayes (Condon, Kahovec, Guinan, Cusimano) 0 nays

WHEREAS, it is the intention of the Department of Parks and Recreation to enter into agreement with Ian Cohen (Jumbo Shrimp) for a concert at its Sid Partington Memorial Concert in the Park event on July 13, 2023 at Victor Municipal Park; and

WHEREAS, the Contractor has provided the Town with all the appropriate documents to support the proposed service agreement; now, therefore, be it

RESOLVED that the Town Board authorizes the Town Supervisor and the Director of Parks and Recreation to enter into agreement with Ian Cohen (Jumbo Shrimp) under the terms and conditions as provided for in the contract kept in the subject matter file in the Town Clerk's Office for a fixed fee of Nine Hundred dollars (\$900.00) to be paid from the 2023 Budget Line item A.7550.400 Celebrations Contractual; and further

RESOLVED that this resolution is conditioned upon receiving approvals from the Town's Insurance Broker, or an insurance waiver from the Town Board, and the Attorney for the Town; and further RESOLVED that a copy will be forwarded to the Director of Parks and Recreation, Finance Director, Town Clerk, and Ian Cohen.

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RESOLUTION NO. 95

AGREEMENT – WILLIAM EBERTS (THE BREAKFAST CLUB)

On motion by Councilman Kahovec, seconded by Councilman Cusimano, the following resolution was adopted: 4 ayes (Condon, Kahovec, Guinan, Cusimano) 0 nays

WHEREAS, it is the intention of the Department of Parks and Recreation to enter into agreement with William Eberts (The Breakfast Club) for a concert at its Sid Partington Memorial Concert in the Park event on June 15, 2023 at Victor Municipal Park; and

WHEREAS, the Contractor has provided the Town with all the appropriate documents to support the proposed service agreement; now, therefore, be it

RESOLVED that the Town Board authorizes the Town Supervisor and the Director of Parks and Recreation to enter into agreement with William Eberts (The Breakfast Club) under the terms and conditions as provided for in the contract kept in the subject matter file in the Town Clerk's Office for a fixed fee of One Thousand, Five Hundred dollars (\$1,500.00) to be paid from the 2023 Budget Line item A.7550.400 Celebrations Contractual; and further

RESOLVED that this resolution is conditioned upon receiving approvals from the Town's Insurance Broker, or an insurance waiver from the Town Board, and the Attorney for the Town; and further

RESOLVED that a copy will be forwarded to the Director of Parks and Recreation, Finance Director, Town Clerk, and William Eberts.

RESOLUTION NO. 96

AGREEMENT – NATE COFFEY

On motion by Councilman Kahovec, seconded by Councilman Cusimano, the following resolution was adopted: 4 ayes (Condon, Kahovec, Guinan, Cusimano) 0 nays

WHEREAS, it is the intention of the Department of Parks and Recreation to enter into agreement with Nate Coffey for a concert at its Taco Tuesday at Dryer Road Park event on July 18, 2023; and

WHEREAS, the Contractor has provided the Town with all the appropriate documents to support the proposed service agreement; now, therefore, be it

RESOLVED that the Town Board authorizes the Town Supervisor and the Director of Parks and Recreation to enter into agreement with Nate Coffey under the terms and conditions as provided for in the contract kept in the subject matter file in the Town Clerk's Office for a fixed fee of Three Hundred dollars (\$300.00) to be paid from the 2023 Budget Line item A.7550.400 Celebrations Contractual; and further

RESOLVED that this resolution is conditioned upon receiving approvals from the Town's Insurance Broker, or an insurance waiver from the Town Board, and the Attorney for the Town; and further

RESOLVED that a copy will be forwarded to the Director of Parks and Recreation, Finance Director, Town Clerk, and Nate Coffey.

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RESOLUTION NO. 97

AGREEMENT – ETHAN ROBBINS (COLD CHOCOLATE)

On motion by Councilman Kahovec, seconded by Councilman Cusimano, the following resolution was adopted: 4 ayes (Condon, Kahovec, Guinan, Cusimano) 0 nays

WHEREAS, it is the intention of the Department of Parks and Recreation to enter into agreement with Ethan Robbins (Cold Chocolate) for a concert at its Taco Tuesday at Dryer Road Park event on June 20, 2023; and

WHEREAS, the Contractor has provided the Town with all the appropriate documents to support the proposed service agreement; now, therefore, be it

RESOLVED that the Town Board authorizes the Town Supervisor and the Director of Parks and Recreation to enter into agreement with Ethan Robbins (Cold Chocolate) under the terms and conditions as provided for in the contract kept in the subject matter file in the Town Clerk’s Office for a fixed fee of One Thousand, Two Hundred dollars (\$1,200.00) to be paid from the 2023 Budget Line item A.7550.400 Celebrations Contractual; and further

RESOLVED that this resolution is conditioned upon receiving approvals from the Town’s Insurance Broker, or an insurance waiver from the Town Board, and the Attorney for the Town; and further

RESOLVED that a copy will be forwarded to the Director of Parks and Recreation, Finance Director, Town Clerk, and Ethan Robbins.

RESOLUTION NO. 98

REQUEST FOR CERTIFICATE OF LIABILITY INSURANCE WAIVERS

On motion by Councilman Cusimano, seconded by Councilman Kahovec, the following resolution was adopted: 4 ayes (Condon, Kahovec, Guinan, Cusimano) 0 nays

WHEREAS, the Town Board adopted the Resolution No. 234 – Town of Victor Contract Procedures on June 13, 2016; and

WHEREAS, per the Contract Process, contractors and vendors who cannot obtain a Certificate of Liability Insurance which is in accordance with the Town’s insurance requirements in order to perform their contracted service for the Town of Victor may appeal to the Victor Town Board for a Waiver of the Certificate of Liability Insurance; and

WHEREAS, the Town wishes services to be provided by the following vendors, who are requesting the waiver of providing a Certificate of Liability Insurance to the Town of Victor:

<u>Vendor</u>	<u>Activity / Event</u>	<u>Location of Event</u>	<u>Amount of Contract</u>	<u>Duration of Contract</u>	<u>Reason for Exemption</u>
Ethan Robbins (Cold Chocolate)	Summer Concert	Dryer Road Park	\$1,200.00	December 31, 2023	Insufficient Coverage
Nate Coffey	Summer Concert	Dryer Road Park	\$300.00	December 31, 2023	Insufficient Coverage

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William Eberts (The Breakfast Club)	Summer Concert	Victor Municipal Park	\$1,500.00	December 31, 2023	Insufficient Coverage
Ian Cohen (Jumbo Shrimp)	Summer Concert	Victor Municipal Park	\$900.00	December 31, 2023	Insufficient Coverage
Tom Willette (Jumbo Shrimp)	Summer Concert	Victor Municipal Park	\$900.00	December 31, 2023	Insufficient Coverage

Now, therefore, be it

RESOLVED that the Town Board grants the Certificate of Liability Insurance Waivers for the following service provider:

<u>Vendor</u>	<u>Activity / Event</u>	<u>Location of Event</u>	<u>Amount of Contract</u>	<u>Duration of Contract</u>	<u>Reason for Exemption</u>
Ethan Robbins (Cold Chocolate)	Summer Concert	Dryer Road Park	\$1,200.00	December 31, 2023	Insufficient Coverage
Nate Coffey	Summer Concert	Dryer Road Park	\$300.00	December 31, 2023	Insufficient Coverage
William Eberts (The Breakfast Club)	Summer Concert	Victor Municipal Park	\$1,500.00	December 31, 2023	Insufficient Coverage
Ian Cohen (Jumbo Shrimp)	Summer Concert	Victor Municipal Park	\$900.00	December 31, 2023	Insufficient Coverage
Tom Willette (Jumbo Shrimp)	Summer Concert	Victor Municipal Park	\$900.00	December 31, 2023	Insufficient Coverage

And be it

RESOLVED that a copy of this resolution be sent to Director of Parks and Recreation, Town Clerk, Ethan Robbins, William Eberts, Nate Coffey, Tom Willette and Ian Cohen.

RESOLUTION NO. 99

AUTHORIZATION FOR THE PURCHASE OF SIGNAGE FOR THE AUBURN AND LEHIGH VALLEY TRAILS FOR DEPARTMENT OF PARKS AND RECREATION

On motion by Councilman Cusimano, seconded by Councilman Guinan, the following resolution was adopted: 4 ayes (Condon, Kahovec, Guinan, Cusimano) 0 nays

WHEREAS, the Department of Parks and Recreation has the need to purchase custom printed, high intensity aluminum signage to replace the existing signage on the Auburn and Lehigh Valley Trails; and

WHEREAS, these items are available for purchase from Elderlee, Incorporated at a cost of Two Thousand and Forty-Three dollars and Sixty cents (\$2,043.60) per the attached price proposal; and

WHEREAS, funds are available in the 2023 Budget line item A.7110.400 Parks and Trails - Contractual for the purchase of replacement signage for the Auburn and Lehigh Valley Trails; now therefore, be it

RESOLVED that the Town Board authorizes the Director of Parks and Recreation to purchase custom printed, high intensity aluminum signage from Elderlee Incorporated at a cost of Two

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Thousand and Forty-Three dollars and Sixty cents (\$2,043.60), and said funds are available in the 2023 Budget line item A.7110.400 Parks and Trails - Contractual; and further

RESOLVED that a copy of this resolution be forwarded to the Director of Parks and Recreation; Town Clerk; Director of Finance; and Elderlee, Incorporated.

RESOLUTION NO. 100

2023 INTERMUNICIPAL AGREEMENT FOR SHARED SERVICES BETWEEN THE LIVINGSTON COUNTY WATER & SEWER AUTHORITY (LCWSA) AND TOWN OF VICTOR

On motion by Councilman Guinan, seconded by Councilman Cusimano, the following resolution was adopted: 4 ayes (Condon, Kahovec, Guinan, Cusimano) 0 nays

WHEREAS, pursuant to Article 5-G of the General Municipal Law, Victor and LCWSA are authorized to enter into an intermunicipal cooperative agreement for the provisions of shared services, as set forth herein; and

WHEREAS, LCWSA owns that certain portable sewer flow meter equipment (collectively the "Equipment"); and

WHEREAS, Victor desires to use certain equipment owned by LCWSA.

NOW, THEREFORE, in consideration of the mutual covenant and agreements and other good and valuable consideration, the amount, sufficiency and receipt of which is hereby acknowledged and contained herein, the parties agree as follows:

1. Until December 31, 2023, LCWSA will allow Victor to use, on a shared basis, the Equipment.
2. LCWSA will install the Equipment at the Auburn Creek Apartments manhole to assist Victor with collecting sewer flow data. LCWSA will read the meter every two weeks and provide the data to Victor for the duration of the Agreement. At the conclusion of the Agreement LCWSA will recover the Equipment. Victor staff will assist LCWSA with Equipment installation and recovery as needed. LCWSA will charge Victor \$1,500 for this service.
3. At the end of the term of the Agreement, as aforesaid, Victor will return the Equipment in a clean and working order, reasonable wear and tear excepted.
4. During the use of the Equipment, Victor will be responsible for any necessary maintenance and/or repair.
5. In the event that any portion of the Equipment is damaged beyond repair, Victor will replace said damaged Equipment on an in-kind basis.
6. Victor hereby agrees to indemnify and hold LCWSA harmless from all claims, losses, costs and damages arising out of any activities of Victor pursuant to the terms and conditions of the Agreement, including costs of settling any action and reasonable attorney's fees for defense, except to the extent caused by or arising out of the negligent acts or omissions of LCWSA. Each party will provide the other with timely notice of any claims and shall fully cooperate with each other to defend the same.

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7. This Agreement may not be assigned by either party, in whole or in part, without the prior written consent of the other party. Any assignment in violation of the foregoing shall be deemed void.
8. This Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto and their successors and permitted assigns.
9. This Agreement and any transactions between the parties hereunder shall be governed by, construed and interpreted in accordance with the Laws of the State of New York.
10. There are no other agreements or understandings, either oral or written, between the parties affecting this Agreement. No changes, additions or deletions of any portion of this Agreement shall be valid or binding upon the parties hereto unless the same is approved in writing by both parties.

RESOLVED that a copy of this resolution be forwarded to the Finance Director, Town Clerk, Stormwater Program Manager, and the Livingston County Water & Sewer Authority.

RESOLUTION NO. 101

RESOLUTION AUTHORIZING THE TOWN OF VICTOR TOWN BOARD TO SCHEDULE A PUBLIC HEARING AND COMMENCE THE PROCESS THROUGH THE TOWN OF VICTOR'S EMINENT DOMAIN POWERS OF ACQUIRING CERTAIN REAL PROPERTY

On motion by Councilman Kahovec, seconded by Councilman Guinan, the following resolution was adopted: 4 ayes (Condon, Kahovec, Guinan, Cusimano) 0 nays

WHEREAS, the Town of Victor, County of Ontario (the "Town") is a municipal corporation with the authority to acquire property within its boundaries for any municipal purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, hold, manage and control such property as its interests may require; and

WHEREAS, the Town desires to acquire certain "real property" (as that term is defined in the New York Eminent Domain Procedure Law (the "EDPL")) comprising approximately 8.4 acres located at 700 Eastview Mall Drive, Victor, New York, Tax Parcel No. 6.00-1-12.60 formerly occupied by Lord & Taylor and now owned by HBC Victor, LLC (the "Parcel") for purposes of facilitating a "public project" (as that term is defined in the EDPL; hereinafter, the "Project"); and

WHEREAS, the Town may exercise its power of eminent domain for the public purposes of advancing the general prosperity and economic welfare of the residents of the Town by returning the vacant and underutilized Parcel to productive use thereby promoting employment and increasing the property tax base within the Town; and

WHEREAS, in order to complete the Project, it may be necessary for the Town to exercise its power of eminent domain if a voluntary transfer of all or some of the Parcel is not consummated; and

WHEREAS, the Town of Victor Town Board (the "Town Board") desires to adopt a resolution authorizing the Town Board to commence condemnation proceedings in compliance with the EDPL; and

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WHEREAS, the Town desires to adopt a resolution authorizing the commencement of all steps necessary for the acquisition of the Parcel pursuant to the EDPL; and

WHEREAS, no alternative locations exist in the Town or are being considered for the Project; and

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN BOARD OF THE TOWN OF VICTOR AS FOLLOWS:

Section 1. The Town Supervisor and the Town Board (with assistance from the Town Attorney) are hereby authorized to commence the EDPL proceedings and consider proceeding with the condemnation of the Parcel in connection with the Project, as well as undertake all other action as permitted or required by law in connection with the condemnation or voluntary acquisition of the Parcel.

Section 2. The Town Board shall conduct a public hearing pursuant to the applicable requirements of the EDPL on April 24, 2023 at 7:00 pm at the Town of Victor Town Hall located at 85 East Main Street, Town of Victor, County of Ontario, and that all interested parties shall be invited to attend the public hearing and be afforded an opportunity to comment on the Project and the proposed condemnation.

Section 3. The Town Supervisor and the Town Board are hereby authorized and directed for and in the name and on behalf of the Town to do all acts and things required, and to execute and deliver all certificates, instruments and documents, to pay all fees, charges and expenses and to do all further acts and things as may be necessary or, in the opinion of the Town Supervisor and the Town Board, desirable and proper to effectuate the purposes of this Resolution and to cause compliance by the Town with all of the terms, covenants and provisions of any documents executed for and on behalf of the Town for purposes of effectuating any of the foregoing including, without limitation, negotiating and entering into an Acquisition Agreement upon the advice of the Town Attorney.

Section 4. This Resolution shall take effect immediately.

RESOLUTION NO. 102

AFTER PUBLIC HEARING - PROPOSED LOCAL LAW TO AMEND CHAPTER 211 ZONING, SECTIONS R-1, R-2 & R-3 DISTRICT REGULATIONS AND LIMITED DEVELOPMENT DISTRICT REGULATIONS OF THE VICTOR TOWN CODE

On motion by Councilman Cusimano, seconded by Councilman Kahovec, the following resolution was adopted: 4 ayes (Condon, Kahovec, Guinan, Cusimano) 0 nays

Roll Call Vote: Deputy Supervisor Condon aye Councilman Kahovec aye
Councilman Guinan aye Councilman Cusimano aye

WHEREAS, a resolution was duly adopted by the Town Board on February 27, 2023 calling for a public hearing to be held by the Town Board on March 13, 2023 to hear all interested parties on a proposed local law to amend Town Code language in Chapter 211 Zoning, Sections 211-19 R-1,

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211-20 R-2 & 211-21 R-3 District regulations and 211-21.1 LD District regulations related to accessory uses; and

WHEREAS, a public hearing was advertised by the Town Clerk and held on March 13, 2023 at Victor Town Hall at which time all interested parties were given an opportunity to speak on behalf of or in opposition to said proposed local law; and

WHEREAS, the Town Board, after due deliberation, finds it in the best interest of the Town to adopt said local law; now therefore be it

RESOLVED that the Victor Town Board hereby adopts said local law as follows:

LOCAL LAW TO AMEND CHAPTER 211 ZONING, SECTIONS 211-19 R-1, 211-20 R-2 & 211-21 R-3 AND 211-21.1 LD DISTRICT REGULATIONS

BE IT ENACTED, by the Town Board of the Town of Victor, Ontario County, State of New York, as follows:

Section I. Authorization

The adoption of this Local Law is in accordance with New York Municipal Home Rule Law Section 10.

Section II. Title and Purpose

This law shall be known as and may be cited as Local Law No. 3-2023 to amend Chapter 211 Zoning, §211-19 R-1 District regulations, §211-20 R-2 District regulations, §211-21 R-3 District regulations and §211-21.1 Limited Development District regulations. The purpose of this Local Law is to update the accessory uses language.

Section III. Legislative Finding

The Town Board of the Town of Victor finds and hereby determines that the Town Code needs to be amended to incorporate language regarding accessory uses.

Section IV. Amendment

Chapter 211 Zoning, § 211-19 R-1 District regulations shall be amended as follows:

§ 211-19. R-1 District regulations.

C. (1) Accessory uses shall not be installed in violation of restrictions on real property, including, but not limited to, easements, rights-of-way, bylaws, regulations, statutes, or other Town Code provisions. All restrictions and potential restrictions shall be disclosed to the Town at the time the

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building permit is submitted. Failure to disclose said restrictions to the Town can result in permit denial or revocation.

Chapter 211 Zoning, § 211-20 R-2 District regulations shall be amended as follows:

§ 211-20. R-2 District regulations.

C. (1) Accessory uses shall not be installed in violation of restrictions on real property, including, but not limited to, easements, rights-of-way, bylaws, regulations, statutes, or other Town Code provisions. All restrictions and potential restrictions shall be disclosed to the Town at the time the building permit is submitted. Failure to disclose said restrictions to the Town can result in permit denial or revocation.

Chapter 211 Zoning, § 211-21 R-3 District regulations shall be amended as follows:

§ 211-21. R-3 District regulations.

E. (1) Accessory uses shall not be installed in violation of restrictions on real property, including, but not limited to, easements, rights-of-way, bylaws, regulations, statutes, or other Town Code provisions. All restrictions and potential restrictions shall be disclosed to the Town at the time the building permit is submitted. Failure to disclose said restrictions to the Town can result in permit denial or revocation.

Chapter 211 Zoning, § 211-21.1 LD District regulations as follows:

§ 211-21.1. LD District regulations.

C. (1) Accessory uses shall not be installed in violation of restrictions on real property, including, but not limited to, easements, rights-of-way, bylaws, regulations, statutes, or other Town Code provisions. All restrictions and potential restrictions shall be disclosed to the Town at the time the building permit is submitted. Failure to disclose said restrictions to the Town can result in permit denial or revocation.

Section V. Validity and Severability

Should any word, section, clause, paragraph, sentence, part or provision of this local law be declared invalid by a Court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

Section VI. Repeal, Amendment and Supersession of Other Laws

All other ordinances or local laws of the Town of Victor which are in conflict with the provisions of this local law are hereby superseded or repealed to the extent necessary to give this local law force and effect during its effective period.

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Section VII. Effective Date

This Local Law, after its adoption by the Town Board of the Town of Victor, shall take effect immediately upon its filing with the Office of the Secretary of State of the State of New York.

RESOLVED that the Town Clerk of the Town of Victor be and hereby is directed to enter said Local Law into the minutes of this meeting and to give due notice of the adoption of said Local Law to the Secretary of State of the State of New York.

RESOLUTION NO. 103

ACCEPT LETTER OF CREDIT – VICTOR SQUARE EXPANSION

On motion by Councilman Cusimano, seconded by Councilman Guinan, the following resolution was adopted: 4 ayes (Condon, Kahovec, Guinan, Cusimano) 0 nays

WHEREAS, Benderson Development Co. LLC received Planning Board approval for Victor Square expansion with the condition that a form of surety be submitted to cover the cost of improvements and infrastructure; and

WHEREAS, the Town Engineer reviewed the developer’s estimate of construction costs which includes contingencies, developer’s assurance, and Town Engineering fees, and in his letter dated December 7, 2022, recommends a surety in the amount of Twenty-Four Thousand Seven Hundred Forty-Two dollars and Sixty-Eight cents (\$24,742.68); now, therefore, be it

RESOLVED that the Town Board accepts the M&T Bank Irrevocable Letter of Credit dated February 28, 2023 in the amount of Twenty-Four Thousand Seven Hundred Forty-Two dollars and Sixty-Eight cents (\$24,742.68), with the condition that it shall be deemed automatically extended without amendment for one year from the present or any future expiration date of the letter of credit unless at least thirty (30) days prior to such expiration date the Town of Victor is notified that applicant elects not to consider this letter of credit renewed for such additional period; and, be it further

RESOLVED that a copy of this resolution be forwarded to Planning and Building, LaBella, Town Clerk, and Benderson Development.

RESOLUTION NO. 104

ACCEPT LETTER OF CREDIT – DELTA SONIC

On motion by Councilman Kahovec, seconded by Councilman Guinan, the following resolution was adopted: 4 ayes (Condon, Kahovec, Guinan, Cusimano) 0 nays

WHEREAS, Delta Sonic Car Wash Systems, Inc. received Planning Board approval for Delta Sonic Car Wash, Victor, NY with the condition that a form of surety be submitted to cover the cost of improvements and infrastructure; and

WHEREAS, the Town Engineer reviewed the developer’s estimate of construction costs which includes contingencies, developer’s assurance, and Town Engineering fees, and in his letter dated

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January 17, 2023, recommends a surety in the amount of Three Hundred Forty-Two Thousand Ninety-Four dollars and Seventy cents (\$342,094.70); now, therefore, be it

RESOLVED that the Town Board accepts the M&T Bank Irrevocable Letter of Credit dated February 28, 2023 in the amount of Three Hundred Forty-Two Thousand Ninety-Four dollars and Seventy cents (\$342,094.70) with the condition that it shall be deemed automatically extended without amendment for one year from the present or any future expiration date of the letter of credit unless at least thirty (30) days prior to such expiration date the Town of Victor is notified that applicant elects not to consider this letter of credit renewed for such additional period; and, be it further

RESOLVED that a copy of this resolution be forwarded to Planning and Building, LaBella, Town Clerk, and Benderson Development.

RESOLUTION NO. 105

LICENSE AND HOLD HARMLESS AGREEMENT, 4-20 COMMERCE DRIVE TO ALLOW ENCROACHMENT INTO A SANITARY SEWER EASEMENT

On motion by Councilman Kahovec, seconded by Councilman Guinan, the following resolution was adopted: 4 ayes (Condon, Kahovec, Guinan, Cusimano) 0 nays

WHEREAS, Benderson Development Company, LLC is the record owner (the "Owner") of the properties at 4-20 Commerce Drive – Tax Map #6.02-2-47.100 in the Town of Victor; and

WHEREAS, the Town is the owner of a sanitary sewer easement situated running east of New State Route 96 and is located south of Victor Square as shown on Map #CA100 filed in the Ontario County Clerk's Office, Liber 1023, page 779.

WHEREAS, the Owner of the property is proposing pavement and concrete curbing on the southern side of the Victor Square building in the Sewer Easement; and

WHEREAS, the Town Board wishes to enter into a License and Hold Harmless Agreement ("Agreement") to allow the proposed pavement and concrete curbing to encroach into the Easement, said License and Hold Harmless Agreement to be recorded with the Ontario County Clerk's Office; and

WHEREAS, the Agreement would permit the pavement and concrete curbing to be constructed, but would require the Owner to remove and/or repair said pavement and curbing, hold the Town harmless, and return the Property within the Easements to its pre-alteration condition should the Town need to exercise its rights relating to the Easement in a manner which would require removal of the portion of pavement and concrete curbing, and the Town was induced into entering into the Agreement based on said representations; and

WHEREAS, the Town Building Department and Town Engineer have reviewed the proposed pavement and concrete curbing and have indicated that the aforementioned proposed encroachment into the Easement would not materially adversely affect the integrity, purpose, or

function of the Easement, or be a hindrance in gaining access to any facilities or other infrastructure located within the Easement to effect repairs, maintenance, and/or improvements, and have no objection to the Town Board entering into the Agreement; now, therefore, be it

RESOLVED that the Supervisor is authorized to execute the License and Hold Harmless Agreement with Benderson Development Company, LLC in a form approved by the Attorney for the Town, to allow the proposed pavement and concrete curbing to encroach into the Easement, and any other document reasonably necessary to effect said Agreement; and further be it

RESOLVED that upon filing with the Ontario County Clerk's office, a copy of the License and Hold Harmless Agreement with Benderson Development Company LLC will be provided by the Town Clerk; and further

RESOLVED that a copy of this Resolution be provided to the Town Planning and Building Department, the Town Clerk, and the Owner.

Public Comments or Concerns:

Dave Anderson, 359 Meadlowlark Lane, addressed the Board with concerns of a very busy intersection on High Street by New York Beer Project which is near his home.

There are three entrances into the plaza. There is a right-in and right-out turning lane and that seems to work well because there is a median on Route 96 that would prevent someone from going out of that entrance the wrong way. Across from Valentown Road, there is a signal light there and that is the only way you can legally exit the plaza and go south on Route 96. The right-in, right-out intersection does not allow access to get back to the traffic light on 96. This is 320 feet away from Route 96. This area gets congested with people going to NY Beer Project, the bank, and other businesses. Mr. Anderson noted there is a sign that says no access to 96, but by the time you see it you can't really back up. Viewing it from across the street (by Northface) you can see that there is also a Do Not Enter sign. He showed several videos of cars leaving and going in the wrong direction. Vehicles coming out of the plaza are unlikely to see the signalized intersection in the rear of the plaza on High Street and Valentown Road. Therefore, customers unfamiliar with the area might think that intersection is the only way in and out and leave in the direction they came in.

He discussed the commercial district development and noted the diligence of the boards to allow the development to be within the town's vision, zoning and codes. He feels this should be reevaluated especially in terms of public safety. He is asking the Town Board to intervene and agree to find a solution to this before someone gets hurt. He has been discussing this since 2019 and has met with many agencies and officials.

Deputy Supervisor Condon believes in more signage and enforcement, noting that the people that are making a left hand turn are breaking the law. He informed the audience that the Town of Victor pays for an additional police patrol. They are aware and will be informed again of the illegal turns coming out of that plaza. We will also notify the state police. The planning board and engineers will be asked to look into whether or not it can be better. Deputy Supervisor Condon thanked Mr. Anderson for his time and effort with this.

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Councilman Cusimano noted the curb was added later as a mechanism to attempt to ensure people made a right-hand turn. He feels those making a left hand turn out of there know they are violating the right-hand only. There is signage leading you to the Valentown exit. He empathizes and agrees with a lot of what is being said. Anything should be explored to increase the safety factor but also noted the developer has attempted to do the proper thing. And said it is users that are not following the law.

Attorney Pavia agreed with Deputy Supervisor Condon to send this to the planning board and notify property owner, Mr. Fred Rainaldi.

Tammy VanBuren, 365 Meadowlark Lane also addressed the Board with concerns that this intersection is not safe and does not want anyone to get hurt. She feels a NO LEFT turn sign may help.

Wes Pettee, LaBella Associates followed-up that they were charged with looking up crash data and submitted a foil request to Ontario County for crash data for that intersection from the dates 2016 to May of 2022. The response was two accidents in the vicinity but not at this intersection. One was near Rolling Meadows and Franlee and the other was on High Street Extension at the intersection of State Route 96. There were reports of crashes in the parking lot. The curb was installed around 2017/2018. Prior to site plan approval of the NYBP this intersection had one lane allowing cars into the plaza and two lanes exiting the plaza; one directing traffic to the right on High Street and other directing traffic to turn left toward 96. The planning board and the developer were trying to create something that was a little bit more safe than the previous condition. There was discussion of a raised median as one potential engineering solution.

ADJOURNMENT:

With no further business to come before the Board tonight, a motion was made by Councilman Guinan, seconded by Councilman Cusimano to adjourn the regular Town Board meeting at 7:54PM.

Respectfully submitted,

Karen C. Bodine
Town Clerk