

TOWN OF NIAGARA  
TOWN BOARD MEETING  
7105 Lockport Road  
Niagara Falls, NY 14305

MINUTES

Tuesday, December 12, 2023  
6:30 PM

**PUBLIC HEARING**

None

**OPEN MEETING (Pledge, Prayer, Roll Call)**

Supervisor Lee Wallace called the meeting to order with the Pledge of Allegiance. Deputy Supervisor Teixeira recited a prayer. Attached is a Memorial Page of all the deceased Town residents who passed away recently.

**Roll Call:**

Present: Supervisor Lee S. Wallace (by telephone), Charles F. Teixeira, Deputy Supervisor, Councilman Marc M. Carpenter

Absent: none

Excused: Councilman Samuel Gatto.

Also present Sylvia Virtuoso, Town Clerk

**PRIVILEGE OF THE FLOOR (Announce changes to agenda, if any)**

(§50-3 Privilege of the floor. Only members of the public sector are allowed to speak at this time and may address any agenda or non-agenda item.

(3-minute limit)

Bryan Lambert, 8604 Third Avenue has a lighting issue, too bright at Towne Storage goes right into his home all night long, 45 wall lights and the expansion area is not up yet.

**APPROVAL OF MINUTES**

1. Town Board Meeting of November 14, 2023

Motion to approve by Councilman Carpenter, second by Councilman Teixeira.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion approved.

**PAYMENT OF BILLS**

General Fund prepay vouchers [A] \$16,266.43

General Fund vouchers [A] \$94,607.56

Sewer Fund prepay vouchers [G] \$1,253.21

Sewer Fund vouchers [G] \$7,249.77

Water Fund vouchers [F] \$3,664.11

Water Fund vouchers prepay [F] \$466.09

Highway Fund vouchers [DA] \$9,987.43

Highway Fund prepay vouchers [DA] \$883.37

Fire Protection prepay vouchers [SF]

Fire Protection [S] \$51,399.84

Street Lighting vouchers [SL]

Street Lighting Pre-Pay vouchers [SL] \$9,699.35

Trust & Agency Pre-Pay vouchers [TA]

Trust & Agency vouchers [TA] \$26,542.75

Capital Projects prepay vouchers [H]

Capital Projects vouchers [H] \$28,169.27

Motion to approve by Councilman Teixeira second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

## **AGENDA**

1. Resolution to approve a 1-year contract for 2024 with JG Productions/Gratwick Entertainment and Thursdays on the Water to rental the concert stage for \$1,000.00 per use. (Wallace)

Motion to approve by Councilman Teixeira second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

2. Resolution to allow the Principal Account Clerk to make any and all necessary Budget Transfers and Adjustments in order to close the 2023 budget. (Wallace)

Motion to approve by Councilman Teixeira second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

3. Resolution to post and hire a full time Account Clerk position to the Sewer Dept. (posting start date Wednesday, December 13, 2023). (Beiter)

Motion to approve by Councilman Carpenter second by Councilman Teixeira.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

4. Resolution to appoint Janet Edwards as Deputy Town Clerk, Deputy Tax Collector, Deputy Registrar starting January 2, 2024. (Cerrillo)

Motion to approve by Councilman Teixeira second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

5. Resolution to hire Darleen Sullivan to train in the Assessor Office as needed at the rate of \$23.82 per hour retroactive to December 1 2023. (Bird)

Motion to approve by Councilman Carpenter second by Councilman Teixeira.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

6. Resolution to approve LOCAL LAW NO. 4 OF 2023 Amending the Zoning Code of the Town of Niagara to remove Self Storage Facilities as a permitted principal use in the B-1 General Commercial District and clarifying Self-Storage Facilities as a permitted principal use in the LI Light Industrial District and HI Heavy Industrial District. (Attached) (Auerbach)

Motion to approve by Councilman Teixeira second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

7. Resolution to accept the resignation of Anthony Haag as Town of Niagara Police Officer.(Guiliani)

Motion to approve by Councilman Carpenter second by Councilman Teixeira.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

8. Resolution to approve the attached Contribution Agreement between the Town of Niagara and JB2 Partners LLC to accept a contribution of funds to the Town and authorize the construction of a private lift station as well as to authorize the Town Supervisor to sign the agreement. (Auerbach)

Motion to approve by Councilman Teixeira second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

9. Resolution to approve the special-use permit annual renewal request of Jacob Hamilton agent for Crown Castle GT Company, LLC (Crown Castle) Communication/cell facility 5000 Mayle Court Tax Map# (CT) 131.18-1-5.(Haseley)

Motion to approve by Councilman Teixeira second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

10. Resolution to approve the special-use permit annual renewal request of Jacob Hamilton agent for Crown Castle GT Company, LLC (Crown Castle) Communication/cell facility 10420 Lockport Road Tax Map# (CT) 132.15-1-4.(Haseley)

Motion to approve by Councilman Teixeira second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

11. Resolution to approve the purchase of a 2024 Ford F-250 4x4 Crew Cab for approximately \$52,800.00. (Sirianni)

Motion to approve by Councilman Carpenter second by Councilman Teixeira.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

12. Resolution to approve the transfer of the portion of the abandoned Town right-of-way on First Street between Second and Third Avenues to the adjoining property owners Thomas and Barbara Scozzafava at 7801 Third Avenue, subject to permissive referendum, and authorize the Town Supervisor and Town Highway Superintendent to sign all documents required for the abandonment and transfer of the right-of-way.(Risman)

Motion to approve by Councilman Carpenter second by Councilman Teixeira.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

13. Resolution to declare a Negative Declaration on the SEQRA for the final site plan request of Matt Lester of Caliber Brokerage to erect Starbucks facility at 2700 Military Road, Tax Map # 145.11-1-36 & 37 and 145.15-1.6.1. (Haseley)

Motion to approve by Councilman Teixeira second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

14. Resolution to approve the final site plan request of Matt Lester of Caliber Brokerage to erect a Starbucks facility at 270 Military Road Tax map # 145.11-1-36 & 37 and 145.15-1.6.1. The building department is hereby directed to withhold from issuing all associated building permits until such time as: (Haseley)

1. A written easement agreement between the land owner and the Town of Niagara has been approved by the Town Attorney.
2. The Public Improvement Permit (PIP) is mutually agreed upon by the Town engineers and ultimately approved by the Town Water and Sewer Superintendent.

Motion to approve by Councilman Teixeira second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Carpenter

Noes – none

Abstain – none

Motion carried.

#### **TABLED**

1. Resolution to declare a negative declaration on the associated SEQRA for the minor re-subdivision request of DeAnna Hyche of the Broadway Group LLC 9400 Lockport Road/Tax Map #132.14-1-4. (Haseley)
2. Resolution to approve the minor re-subdivision request of DeAnna Hyche of The Broadway Group LLC 9400 Lockport Road/ Tax map # 132.14-1-4. (Haseley)
3. Resolution to declare a negative declaration on the associated SEQRA for the final site plan request of Michael Rotella of Wayside Nursery, 7431 Porter Road/Tax map #145.12-3-33. (Haseley)
4. Resolution to approve the final site plan request of Michael Rotella of Wayside Nursery 7431 Porter Road/Tax Map #145.12-3-33. (Haseley)

#### **COMMENTS**

Everyone congratulates the outgoing elected officials, a gift is presented to Justice Faso and Highway Supt. Bob Herman. Supervisor Wallace states it was a pleasure to serve the past 9 years but will continue as Events Coordinator for the Town.

#### **ADJOURNMENT**

Motion to adjourn by Councilman Carpenter second by Councilman Teixeira. All in favor.

Meeting adjourned at 6:55pm.

Respectfully submitted for the last time,

*Sylvia Virtuoso*

Town Clerk

[www.townofniagara.com](http://www.townofniagara.com)

In Memoriam

William “Bill” Matyok Jr.

Jeanette F. Martinez

Kurt P. Villani

Monica Villani

*Merry Christmas, Happy New Year!*

Town Hall is closed 12/25-12/26 and 1/2-1/2

*Wishing you all the best in your next chapter of life!!*

*Thank you for your Service and Congratulations to Supervisor Lee Wallace, Judge James Faso and Highway Supt. Bob Herman on their retirements!*

TOWN OF NIAGARA

LOCAL LAW NO. 4 OF 2023

Amending the Zoning Code of the Town of Niagara to remove  
Self-Storage Facilities as a permitted principal use in the

B-1 General Commercial District and clarifying

Self-Storage Facilities as a permitted principal use in the LI  
Light Industrial District and HI Heavy Industrial District

Be it hereby enacted by the Town Board of the Town of Niagara as follows:

Chapter 245 of the Town of Niagara Town Code ("Town Code"), is hereby amended to remove certain provisions from Town Code § 245-22.A and add new provisions clarifying Town Code § 245-24.A and § 245-13 as follows:

**SECTION 1: Purpose, Intent, and Findings.**

As set forth in Town Code § 245-3, the Purpose and Intent of the Town Code is to "encourage the most appropriate use of the land throughout the Town and to conserve the value of property, with due consideration for the character of the zones and their peculiar suitability for particular uses; all in accordance with a comprehensive plan designed to lessen congestion in the streets, to secure safety from fire, flood, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population, to encourage the flexible design and development of land so as to promote the most appropriate use of lands, to facilitate the adequate and economic provision of streets and utilities, to preserve the natural and scenic qualities of our lands and to enhance the quality of the Town."

Self-Storage Facilities are currently permitted in the B-1 General Commercial District under Town Code § 245-22.A(I)(1). While historically permitted in the LI Light Industrial District and HI Heavy Industrial Districts under Town Code § 245-24 and § 245-26 respectively, the term "Self-Storage Facility" was not expressly listed as a permitted principal use.

It is the legislative determination of the Town of Niagara Town Board ("Town Board") that, appropriately sited, Self-Storage Facilities are a beneficial use to the community and provide a necessary service. However, the health, safety, and welfare of the Town requires that such use be limited to zoning districts intended for industrial use. The Town Board has determined that the amendment set forth below will achieve the purpose and intent of the Zoning Code of the Town of Niagara and benefit the community by limiting Self-Storage Facilities to the LI Light Industrial District and HI Heavy Industrial Districts.

This agreement (“Agreement”) is made effective as of December \_\_, 2023 (“Effective Date”), by and between the TOWN OF NIAGARA, a municipal corporation organized and existing under the laws of the State of New York, with offices at 7105 Lockport Road, Niagara Falls, New York 14305 (the “Town”) and JB2 PARTNERS LLC, a limited liability company duly organized and existing under the laws of the State of Georgia and authorized to do business in the State of New York, having an address of 3565 Piedmont Road NE Building 4, Suite 460, Atlanta, GA 30305 (the “Developer”). The Town and Developer may also be individually referred to as a Party or collectively as the Parties.

WITNESSETH:

WHEREAS, on February 15, 2022 the Developer submitted an application (“Application”) to the Town of Niagara Town Board (“Town Board”), Town of Niagara Planning Board (“Planning Board”), and Town of Niagara Zoning Board of Appeals (“ZBA”) to request site plan approval, lot consolidation, and area variances for the construction and operation of an approximately 3,075,950 square foot e-commerce storage and distribution facility for consumer products (“Facility” or “Project”) located at 8995 Lockport Road (former SBLs: 132.18-1-2; 146.05-1-9; 146.06-1-1; 146.06-1-2, consolidated as SBL: 146.01-1-9) (the “Site”); and

WHEREAS, the Project includes 55 loading docks, 415 trailer parking stalls (469 total trailer locations), and 1,755 car parking stalls (including 16 motorcycle parking spaces), two water tanks, two guard buildings, stormwater management basins and improvements, accessory site driveways, lighting, landscaping, signage, and other related improvements, and will employ approximately 1,000 people; and

WHEREAS, at a public meeting held on June 7, 2022 the Town Planning Board recommended approval of the Application to the Town Board and ZBA, including recommendation that the Town Board issue a negative declaration for the Project pursuant to the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, by resolution dated June 21, 2022 the Town Board as lead agency in a coordinated review issued a negative declaration pursuant to SEQRA for the Project (“Negative Declaration”), thereafter on July 12, 2022 the ZBA approved all requested variances for the Project, and on July 19, 2022 the Town Board approved the Application (“Project Approval”); and

WHEREAS, the Project, as approved, includes the construction of sanitary sewers to serve the Facility including, approximately 260 linear feet of 4 inch diameter SDR35 PVC sanitary sewer laterals, 270 linear feet of 6 inch diameter SDR35 PVC sanitary sewer laterals, 2,310 linear feet of 8 inch diameter SDR35 PVC sanitary sewers gravity lines, and a private on-Site sanitary lift station (“Private Lift Station”); and



WHEREAS, upon consideration of the sewer design and all other Application materials, and with input from the Niagara County Sewer District as an Involved Agency in the Project's SEQR review, the Negative Declaration notes "that the sanitary sewer discharge will discharge to an existing sanitary sewer pump station that is undersized currently and was previously targeted for upgrades by the Town, Applicant is working with the Town to contribute an appropriate share of funds to upgrade the pump station based on the Project anticipated flows"; and

WHEREAS, consistent with the Town's review and approval of the Application and to proceed with the construction of the Project, the Developer has agreed to contribute \$500,000 to the Town ( the "Contribution") to fund the design and construction of off-Site infrastructure improvements ("Off-Site Infrastructure Improvements") in the vicinity of the Site, including the potential for improvements to the existing sanitary lift station ("Municipal Lift Station") as described in the Negative Declaration; and

WHEREAS, to facilitate timely construction of the Project, the Developer intends to proceed with construction of the Private Lift Station to fully service the Project's sanitary sewer demands, and to connect the Project's sewer lines to the sewer main in the vicinity of the Site downstream of the Municipal Lift Station such that the Project's sewer flows will not contribute volume to the Municipal Lift Station; and

WHEREAS, the Developer nevertheless desires to make the Contribution to fund the Off-Site Infrastructure Improvements as expressed in the Negative Declaration and consistent with discussions with the Town's representatives; and

WHEREAS, the Town and Developer now wish to memorialize their Agreement with respect to the Contribution for Off Site Infrastructure Improvements.

NOW, THEREFORE, in consideration of the Contribution and the mutual promises and covenants contained herein, the Town and Developer Agree as follows:

1. Recitals. The foregoing recitals are incorporated into the terms of this Agreement.
2. Contribution. The Town consents to the Developer proceeding with the construction of the Private Lift Station and hereby agrees to accept Developer's Contribution in complete fulfillment of the contributions described in the Negative Declaration and/or as otherwise may be required by the Town in connection with the Project Approval.

3. Timing of Contribution. Developer shall provide the Contribution to the Town in two payments: i) one payment of \$250,000 within ninety (90) days of the Effective Date of this Agreement; and ii) one payment of the remaining \$250,000 within six (6) months of the Effective Date of this Agreement.

4. Town Use of Contribution Funds. The Town may utilize the Contribution funds for Off Site Infrastructure Improvements at its sole discretion and without limitation.

5. Ownership. The Town and Developer confirm and agree that all right, title and interest in the Off Site Infrastructure Improvements shall be vested with Town notwithstanding the Contribution

6. Miscellaneous. This Agreement shall be construed in accordance with the laws of the State of New York. This Agreement shall represent the entire agreement between the Parties and shall supersede any prior agreement whether written or oral. Any amendment to this Agreement shall not become effective unless it is in writing, and until the instrument evidencing such change has been duly executed and acknowledged by the Parties, or by their respective heirs, successors and assigns. Any provision hereof that is deemed invalid, illegal or unenforceable by a court of competent jurisdiction shall be stricken and the remaining provisions of this Agreement will remain in full force and effect. The invalid, illegal or unenforceable provision may be replaced by a valid, legal or enforceable provision upon mutual agreement of the Parties. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement not the intent of any provision hereof.

IN WITNESS WHEREOF, the Parties have entered into this Agreement on the day and year first above written.

Town of Niagara

JB2 Partners LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Na  
me: \_\_\_\_\_

Title: \_\_\_\_\_

le: \_\_\_\_\_ Tit

Doc #11533864

SECTION 2: Zoning Code Amendment

Town Code § 245-22

Town Code § 245-22.A(1)(I) currently states:

A. Permitted Principal Uses

(I) Retail business establishments such as, but not limited to, the following:

(I) Self-storage facilities and mailing, mailbox and conference facilities.

Town Code § 245-22.A(1)(I) is hereby amended to strike "self-storage facilities" and read in its entirety as follows:

A. Permitted Principal Uses

(I) Retail business establishments such as, but not limited to, the following:

(I) Mailing, mailbox and conference facilities.

Town Code § 245-24

Town Code § 245-24.A is hereby amended to add a new paragraph (19) to read in its entirety as follows:

A. Permitted Principal Uses

(19) Self-storage facilities.

Town Code § 245-13

Town Code § 245-13 is hereby amended to add a new paragraph defining self-storage facilities as follows:

**SELF-STORAGE FACILITY**

A building or group of buildings divided into separate units or compartments used to meet the temporary storage needs of businesses and residential users.

**SECTION 3: Severability.**

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 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.

**SECTION 4: Effective Date.**

This local law shall be effective immediately upon filing with the office of the New York Secretary of State.

RESOLUTION - TOWN OF NIAGARA

WHEREAS, First Street between Second and Third Avenues is a public right-of-way in the Town of Niagara, and

WHEREAS, that portion of First Street has not been traveled upon or used as a highway for more than six (6) years, and

WHEREAS, the adjoining property owners have requested that the Town abandon that portion of First Street, and

WHEREAS, the Town Highway Superintendent has certified to the Town Board that the public right-of-way has not been traveled or used as a highway for more than six (6) years, and

WHEREAS, Section 205 of the New York State Highway Law authorizes the Town to abandon the public right-of-way based upon the lack of use for more than six (6) years, and

WHEREAS, only one of the adjoining property owners is interested in obtaining title to the abandoned right-of-way, it is

RESOLVED, that the Town Board hereby consents to abandonment of the First Street right-of-way between Second and Third Avenues, and it is further

RESOLVED, that the Superintendent of Highways is hereby directed to file and record with the Town Clerk a written description, consented to and signed by him, of the First Street public right-of-way so abandoned and that upon said filing the same shall thereupon be deemed discontinued and abandoned, and it is further

RESOLVED, that the Town of Niagara is authorized to transfer title to the right-of-way by quitclaim deed to the adjoining property owner, Thomas and Barbara Scozzafava of 7801 Third Avenue, and that the Town Supervisor and Town Highway Superintendent are hereby authorized to sign the deed and any and all legal documents required for the transfer of title to Thomas and Barbara Scozzafava.