

**TOWN BOARD MEETING**  
**Monday April 5, 2021**  
**6:00 PM**  
**TOWN BOARD MEETING ROOM/ZOOM**

**ELECTED OFFICIALS PRESENT:** Supervisor Darren O'Connor, Deputy Supervisor Mark Hammond, Councilwoman Cynthia Young, Councilman Tim Dunn (via Zoom), Councilman Craig Warner, Councilman John Hartzell, Superintendent of Highways Roger Crandall (via Zoom) and Town Clerk Jennifer Holmes

**OTHERS PRESENT:** Town Comptroller Kevin King, Town Attorney Steve Gottmann, Town Assessor Rae-Lyn Dussault (via Zoom), Parks & Recreation Director Alyssa Benway (via Zoom), Floria Huizinga Stormwater Management, Leah Everhart Building & Planning Attorney, and Jaime O'Neill the Building & Planning Coordinator, Roseanne Clavin

**PUBLIC PRESENT:** Ted Willette, Steve Boisvert (McFarland), Zachary Zwiffler (Scannell), Teresa Bakner (WHO), Brendon Chudy (GlobalFoundries), Ray Liuzzo (CT Male), Stuart Mesinger (Chazen), James Crawford and Darren Persons. The following attended via Zoom. Warren Cressman, Peter Lilholt, Donald Young, Anthony Pino, John Viola, Barbara Conner, Patricia Mc Kay, Bob Conner, Dan Martin, Greg Connors, Daniel Hubbell, Bernhard Schiel, Patricia Burns, Marian Crandall, David Rosenberg, Amy O'Brien, Rob Rosborough, Gerard Moser, Kathleen Eitzmann, Daniel Fogarty, Brian Whitley, James Poitras, Bryan Gorman, Ann Klotz, Heather Fitzpatrick, Juliann & Kurt Woodward, Kevin Jessa Salmon, Peter Klotz, John Dietz, Lizbeth Crawford, Rorie Mastropietro, Gary Putman, Travis Fealy, Kevin Carpenter, Laura Kohler, Ed Cameron, Melissa Buechner, Don Adams, Helen Endres, Stephanie Ferradino and Kelley Winslow

**SALUTE TO THE FLAG & SILENT PRAYER**

**ACCEPT TOWN CLERK MINUTES 3/1/2021 & 3/15/21:**

Motioned by: Councilwoman Young      Seconded: Councilman Hartzell

Vote: Ayes-5 Nays-0

**PRESENTATION:**

*I. 203 Ruhle Road South (former Rod & Gun Club) Presentation (Yates Scott Lansing)*

Mr. James Crawford addressed the Board saying good evening members of the Malta Town Board. My name is James Crawford and I have been a resident of Malta for 27 years. I live on Anna Lane with my wife and children. My daughter's attended school locally at Chango Elementary. I am here this evening to discuss the current situation associated with a piece of property I own located off exit 11 at the dead end of South Ruhle Road. The property I speak of is commonly referred to as the Round Lake Rod and Gun Club. The Rod and Gun Club is rich in local history and even made it to our Malta landmarks listed as item number 56. The Round Lake Rod and Gun Club dates back to 1956 when Harry Ruhle sold 86 acres to 51 local sportsmen who formed the club, it is my understanding that the Rod and Gun Club operated for approximately 30 years. I purchased the property September of 2014. On the property was a house, a beautiful

pavilion, a carport and a social gathering area. I intended to use the property for recreational purposes and storage for my personal belongings and landscape maintenance equipment. After I took possession of the Rod and Gun Club, I became aware of how the property had been abused over the years. The land served as an informal dump to area residents, a party and a drinking spot, a site for vandalism and other illegal activities including drug dealing. I have found and removed household garbage, construction debris, and even major appliances dumped down the ravine. The illegal dumping continues to this day. In 2015 I began noticing patterns of bad behavior like people breaking into the house and stealing my property. I reported the incidents to the police and placed padlocks on all the doors. Following the police report and adding security I returned to the Gun Club only to find the windows broken and the doors kicked in and more property stolen and vandalized. I again reported the incident to the police. They investigated and said it is hard to keep a building secure when nobody lives there. The police have told me the trespassers come in off of the Zim Smith trail and the power lines in the back of the property's boundaries. They come on foot, motorcycles and four wheelers. The no trespassing signs I put up are constantly torn down. Now I must put them up with a high ladder so that they are out of reach. In addition to the theft on this property, it is also a local party spot. In the fields I am constantly finding empty alcohol containers, bonfire spots and shell casings. Down by the creek I find broken bottles, they like to smash them on the rocks, it is so bad that I keep a pail hidden to make it easier for cleanup of all the glass shards. In the winter of 2015 going into 2016 I stored my landscape maintenance equipment in the pavilion. On March 5, the building was set on fire and everything was lost. The fire was ruled arson by the fire department. I had no insurance on the property and I lost everything I had on the property in the fire which included my front-end loader, riding mowers, trailer and brush hog. The state police investigators told me it would be unlikely that they would be able to catch the arsonist due to more significant crimes in need of their attention. The case is still open at this time and I have posted a reward for any information leading to the conviction of the person or people involved. Over the last seven years I have contacted the police on multiple occasions because of the issues I previously discussed. The alcohol-fueled parties knocked down my fencing, police identified gang graffiti, theft, trespassing, spray painted racial slurs, and the driving of motorized vehicles on my property. I spent thousands of dollars and countless hours cleaning up the dump sites smashed glass and vandalized parts of the buildings. I have rebuilt what was left to the house only to have the trespassers destroy what I repair. In addition to what's going on on my property, there was a wellknown and highly publicized sexual assault that occurred September 26, 2020 of a woman in that area. The assault occurred while the woman was jogging on the Zim Smith trail very near my property. The alarming incident hits close to home for me because I live only one mile away. My wife and two daughters regularly access the Zim Smith trail from the spot where the attack occurred. This area needs change. My proposal is to change the 10.36 acres of land formerly occupied by the Rod and Gun Club from a land conservation to an R1 residential one or a Planned Development District that utilizes the R1 use and the area requirements. As part of the proposed zone change, a portion of the parcel could be used for a public trailhead and parking area. This public benefit would be important to our exit 11 neighborhood and surrounding area as it would provide a well-lit parking lot and picnic area on the west side of the dead-end road. As part of the zone change, I would propose to donate the land and build the parking lot at no expense to the town of Malta. The specific benefit is necessary for our area because it would give the community a safe place to park their cars while using the Zim Smith trail and visiting the Lenticular Bridge spanning the Ballston Creek. People would not be

forced to park on the public road or on somebody's private property. Making sure it is well lit will benefit anyone who work out, runs a little late and darkness sneaks up on them. Having picnic tables and some green space would be great for kids playing and will provide families and individuals with a safe place to enjoy the area. On the east side of the deadhead road, I would like to see a small residential development. I have shared this idea with other members of the community and it has been positively received. Many people express that they to feel these changes are what the area needs to be safe while keeping the integrity of the natural beauty. The dead end of South Ruhle Road has so many wonderful attractions like the historic lenticular metal truss bridge, the Zim Smith trail and the beautiful Ballston Creek. It is a destination spot that needs a parking area, a safe and well-lit parking area and a picnic spot so people can better enjoy the area's offerings. With people living and taking care of the land on the side of the road, it would be a great way to be proactive, and stop all the bad behavior that goes on there and prevent any more people from getting hurt. The property's continued abuse had been so bad for such a long period of time that the Department of Environmental Conservation ordered its cleanup. I am proud to say that with all the hard work and financial investment I made to the Rod and Gun Club that the Department of Environmental Conservation removed it from its cleanup list and has given the property a clean bill of health. I was also concerned about the possibilities of lead contamination so I have hired Sterling Environmental out of Albany to perform an extensive environmental site assessment. Initial testing indicates that the site is within acceptable limits and is appropriate for a residential development. Lastly, I have started a Facebook website that has over 70 members now, the members are concerned local citizens who have been made aware of the problems my property is facing and are monitoring the attempts I am making to remedy the problem. We have submitted letters from the local community and law enforcement supporting and asking for the change that I am bringing to your attention. I would also like to invite you to go out to the location so you can see for yourselves why this area needs this change. I appreciate your time and attention to this important public safety matter. Thank you and does anybody have any questions for me before I refer you to Mr. Scott Lansing?

Councilman Hartzell said yes, sir. Can you help us I'm not able to see what is in the DEC letter? Can you tell us more specifically what that says? I don't know that I have it up here.

Scott Lansing responded I can jump in on that, there was a dump site off on the kind of the northeast corner of the site and Mr. Crawford had gone and he had cleaned up the debris that was in there a lot of larger items he dragged all those items out of there clean that up and Sterling Environmental work with the DEC to get a clearance for that particular area. So, clearance was provided. I don't have a copy of that letter with me John, but I'd be more than happy.

Councilman Hartzell asked so, it wasn't it wasn't an oil spill or super fund site. So, you know, it's just trash.

Scott Lansing said it's just trash basically and quite a bit of it quite honestly. I mean, it was one concentrated area. But then there were other areas where it was kind of scattered, where people more or less just dumped it off the edge of the bank and Mr. Crawford again, he did clean up not only the concentrated area, but the entire site and the lead.

Councilman Hartzell said we had been asked as a Town whether we were interested in it and at the time, there was a concern about the spent ammunition there on the site. That's what kept us away from it.

Scott answered sure that's a definite concern there. We did have testing for Sterling Environmental performed testing out there on behalf of the applicant. They did test pits around the site and the

levels came back as, as acceptable levels unrestricted for residence. There was one spot where it was slightly elevated that's in the berm or the bank where they use that as a as a backstop that is outside of the area of the proposed residential development, which I'll get to in a minute. But that was outside of that area and might require some mitigation, something that will, we're going to do additional testing on the site if things advance additional testing on the site just to be doubly sure that things are okay. But that one area would need attention and we just haven't gotten to that yet because we're hoping to advance. I want to go through the site characteristics zoning and the proposed next steps for the parcel and I hate to be redundant on some of this but I do think it's important to stress some different items as far as existing conditions on the parcel this is a has a lot of historical attractions on the parcel we have the Round Lake Rod and Gun Club, which Mr. Crawford went through about a 30 year occupancy on the site, the Ruhle Road ventricular metal bridge, and there's also recreational environmental features as well. We have the Zim Smith trail which is a paved 11.5 mile multi use trail connects Ballston and Mechanicville through Ballston Malta, Clifton Park, Round Lake and Mechanicville it is very large trail system that having a connection point at the end of Ruhle Road I think is a good benefit to the community also at the end of Ruhle Road is the Ballston Creek that is a six mile creek that originates at the north end of Ballston Lake and it exits at Round Lake so a long waterway that would be a benefit to the public to have access as well. As far the parcel itself, the overall parcel is approximately 33.14 acres. This map here hopefully everybody can see that okay, but along the northern boundary of the parcel is the Ballston Creek, the entire northern boundary is the Ballston Creek and there is a light blue area shaded area around that Ballston Creek that is the floodplain and then the red area shown on the map those are slopes over 15% so you can see there are areas of the parcel that are environmentally constrained and deem protection there's also woods on the parcel the woodland areas I think are pretty visible on this aerial photo, they're basically underneath the red that shown and then to the north of the red, but what I would like to draw one's attention to is the cleared area, which is the former occupation of the Rod and Gun Club also within that area of the Rod and Gun Club is our water and sewer utilities along the Zim Smith trail. There are main lines for both water and sewer, but cutting through the area portion of the area where the former Rod and Gun Club is our water and sewer lines that extend to serve other areas of the town. So, utilities are available right on this parcel and is not something where this is an extremely extended parcel out of the reach of water and sewer utilities are right on the parcel. As far as challenges of this parcel. I'm sorry, here is a picture of the water and sewer on site. This is a picture of the field where the former range was for the Rod and Gun Club. As far as the challenges for Ruhle Road South obviously this is a long dead-end street. This is, it's tough to see, but basically, we have the dead end of Ruhle Road to the south about 5300 feet about a mile is the intersection of Miller Road so quite an extension in in from around Lake Road itself is about at 8100 feet. So, it's a long stretch for a deadend road. As far as the challenges on the parcel. I think they have been expressed by Mr. Crawford trespassing, illegal dumping, graffiti, drug use, dealing, assault, arson, and a lack of a formal trailhead or parking area at the end of the roadway. This is kind of tough to see but at the end of Ruhle Road, there's not really a formal turnaround, it's just the road pretty much just stops with the pavement, there's some gravel off on the edge but nothing real formal in this area either for parking or for turning around of vehicles. I think a lot of the challenges that this parcel this area seeing are derived from the fact that it is a long dead-end roadway it's a place where kids would want to go to party because it's not an active area. There's no supervision nobody driving by and I when I think of the illegal activities, the crime that's going on out there. Now for the most

part, I think criminals are cowards they want to be in an area where it's desolate where people can't see them where they're not monitored. Obviously, we won't have as much crime in an area live right outside this Town Hall because of people driving by these people monitoring the people that will call the police or authorities and have things taken care of so the I think the potential is much higher in an area like this area. We're going to jump to the zoning for the parcel. This is the overall town zoning map there is a box kind of in the lower left area. That is the area that we're zooming in here. This is where the Ruhle Road parcel is you can see the red outline, hopefully you can see where the red outline is. Based on the existing conditions that we looked at before, the good majority of the parcel is zoned land conservation. I think it's on that way for a good reason. We looked at on the previous map, there are areas of slopes and streams and floodplains things that do require conservation. But there is approximately 10.36 acres of the parcel that are completely out of the unconstrained lands. That is the area that was occupied by the Rod and Gun Club. This is a there are other areas on the parcel that are unconstrained but this is the largest contiguous areas, so very difficult to see on this particular drawing. But there is a yellow line around the area right around this area, where the area of the 10.36 acres is, and that area is flat void of woodlands formerly occupied for 30 years public utilities on site, the water and the sewer. In our opinion that 10.36 acres is inappropriately zoned as land conservation and might be more appropriately zoned as R1, which is the existing zoning immediately to the to the south. As far as the proposed zoning, what we are suggesting is that perhaps that small area that 10.36 acres of the overall 33-acre parcel be considered for rezoning to R1 to match the zoning immediately to the south. Again, we feel that's appropriate based on prior occupied use the land formation and the fact that it does not contain any constraint lands, we feel that with this change of this particular area, maintaining the LC zone on the balance of the parcel, the goal would be to activate the area formalize trail access to the Zim Smith, the lenticular bridge and the Ballston Creek. We feel that the residents would create activity in this area. So increased activity and accessibility, in our opinion correlates to increase safety. So, what we came up with was, are some sketch plans of what could possibly be put in this spot, if just that area is zoned as R1, if you run through the density calculations, would yield approximately 11 single family homes in that 10.36 acres, perhaps at the end of that would be a formal cul-de sac. So, you'd have a formal turnaround area for the highway department for emergency services for residents for people within the community. On the west side, we're suggesting that you know, perhaps there is a formal parking area, something that could include a small picnic and park area, perhaps a kiosk with the history of the Rod and Gun Club, and the lenticular bridge. And what we've done or just provided some sketches of what that could possibly look like. So that is essentially it for what we are proposing. What we'd like to discuss with the board is, is how that could possibly be done. If the Board is amenable to this, this change could be perhaps an amendment to the zoning map, something that's the R1 zone could possibly include this 10.36 acres could be a Planned Development District for the parcel. We want to get the Board's feedback basically, on thoughts on this proposal first off, and then how we could possibly do it if we feel it is a good idea. We feel it is appropriate zoning adjustment, appropriate development, provides trail head public benefits, activates this area provides an increase in security on many different levels.

So, with that, if there any questions or comments from the board?

Councilman Warner said Scott, I have a question. Your water sources coming from where?

Scott answered water is Clifton Park Water Authority. That's what services basically that entire area.

Deputy Supervisor Mark Hammond said Scott, I may have missed it in the beginning. What year did Mr. Crawford purchase this property? How long ago? Mr. Crawford answered I purchased it 2014.

Deputy Hammond asked do you remember what the zoning was when you purchase it? Was it also LC at that time?

James answered I believe so. Yes.

Deputy Hammond asked and were you aware of what the zoning regulations were for LC?

James answered I was, well, yeah, I looked it up. I didn't have a problem with that. I thought it was a nice piece of property I could use for recreational purposes and storage of my personal property and my maintenance equipment and stuff like that. Then after I found out about the land, conservatory and the fact that all my stuff was being burned down, I lost everything. That's when the land conservatory became a problem for me because I wouldn't be able to stay out there, protect my property, protect the land. I understand that was something I wasn't aware of that I wouldn't be able to do.

Deputy Hammond said right, I understand that. But you were aware that it was LC at that time?

James answered yes.

Deputy Hammond responded okay. How many acres 10 that you're looking to develop?

Scott answered roughly about 10.36 overall parcels about 33 acres. If I could just make a brief statement on the zoning itself. I think when zoning maps are put together, they're put through with kind of broad strokes of these general areas. I'm not sure when a zoning map is put together, they necessarily look at each individual parcel and upland unconstrained or areas that require land conservation. So, in my opinion, I am not sure that when this was put together, they looked at the former use that was that occupied the parcel for 30 years. So that's one of our thoughts or things that we want to bring to the Board's attention is that, yes, it is zoned LC. But we think there is an area that might have been inappropriately zoned on this, this particular parcel, and we see a benefit for the potential rezoning of that parcel for everyone.

Deputy Hammond said and Scott, also, while you're, you're there, you mentioned there were other unconstrained lands, in addition to the 10 acres. What does that total?

Scott answered I apologize. I don't have that handy. I think it's roughly double that. So, we have about 10 acres. I know we had done some layouts A while back, and it was a 20-lot subdivision for major 20 lots, so roughly 20 acres of the 33 acres. I can double check and get an exact number for you on that.

Deputy Hammond said so it can't be ruled out. You'd be looking for more if this were approved in with a zoning change, and you would put more homes in at a later date. Would you would you consider putting more homes in at a later date since you had those unconstrained losses you've described?

No, I guess the way we're, we're envisioning this possibly happening is just the 10.36 acres being zoned as R1. And it's just that 10.36 is rezone is R1 the density calculations were permit a maximum of 11 lots on that particular area.

Deputy Hammond said but you won't rule that out. Correct?

Scott asked putting more homes on in the future? Um, well, I don't think that'd be something allowed. If it is something that Town Board wanted more homes on there, that would be something that would be entertained, but that's not something that the applicants asking for.

Supervisor O'Connor asked Scott, when was zoned LC Do you know?

Scott answered I don't know on that. I'm not sure if Jamie or Floria perhaps know that. I think it was some time ago, quite some time ago.

Councilwoman Young said I will say I have actually parked down there probably trespassing on your land to park to have access to the Zim Smith when there's no other parking is available. When you're trying to leave, it's kind of dangerous if the trail is busy. You know, people really shouldn't be parking there as it is, it looks like the parking that you're proposing is on Ruhle Road, the other side. So, you wouldn't be coming out onto the trail, like you do.

James said I think when the I think when the Rod and Gun Club was fully active, there's a parking area on the left-hand side of the road that where I would like to reestablish the parking area, it has preexisting culverts in there. It's a flat surface. It's got hard ground in there. I think it used to be a parking lot when they had activity at the Rod and Gun Club.

Councilwoman Young said It's like it's a little unnerving, especially if there's a lot of bikes, you know, you try to cross you basically are crossing the trail to get back on a Ruhle Road. Councilman Hartzell asked under this proposal, who's going to retain ownership of the, you know, the residue LC lands?

Scott answered that's open for discussion. I would imagine the parking area would be something that the Town would want dedication for. I, there's you know, there could be something as in, in a homeowner's association that could be dedicated to the Town that could be attached within the Town.

James said I just like to add that I if this goes through, I would like to live there, I would like to have a house there. As part of that property I would like for the property that is we're going to save then we're going to conserve to be part of that so I can be a steward and take care of it. Ultimately, what I'd like to do is go out there and be able to take care of the creek like I have been doing. I've been working with environmental conservation and trying to stock brook trout in there. If there's some nice shady areas where I think that the brook trout will thrive. I'd like to reestablish it as a nice healthy piece of property. I would take that remaining property and put that or attach it to my property where I lived, and I would be the steward of it.

Scott said that is a common one of the common practices for allocating open space land you can have it divided into a whole bunch of lots and have a line back always on those lots and the area behind that line is deed restricted. Or you could take all one lot and have the balance that land connected that one lot but then again have a line where's deed restricted, so it sounds like Mr. Crawford's leaning towards having perhaps one lot with a deed restricted all that land being deed restricted, so cannot be further subdivided or developed in any way.

Councilwoman Young asked can you consider just building your house down there and just you live there?

James answered I would love to Yeah, but I don't know, this is all new to me, I don't know what so I've got Scott, and Jack's helping me navigate through this, I thought I had to provide a public benefit in order to change the status of the land. So, I needed to come up with a vehicle in order to be able to pay for the parking lot that I got, when I don't have a lot of money lost quite a bit, owning this property. I'm looking for options. Scott has provided me with options.

Scott said on that, you know, one house would be great. But if that 10.36 acres is rezone as R1, which is the adjoining land, we I feel that's a fair amount of loss to keep activity in that area, I think, I think you really need activity on the roadway, people driving by just lights on a home, I think that will deter the negative activities that have been happening in that area. So, I, I would almost say the more homes the better, but 10 or 11, on that 10.36 acres seems like a reasonable

number to keep activity in that area and it marries up perfectly with the 10.36 acres that was formerly occupied as flat is cleared is not environmentally constrained, it just it just seems appropriate, and a bunch of different avenues to achieve the goals we're looking for.

Supervisor O'Connor said thanks, Scott. Okay, I mean, I think it's very interesting idea. I remember this way back years ago, when, you know, the same kind of thing was proposed, and the Planning Board actually did a site visit and walked around the Ballston Creek etc. You know, on the one hand this is a very persuasive case that you're making, on the other hand, it's hard for the Town to get land conservation. We've had some experiences recently where we tried to make land conservation, and then it doesn't work out all that well. There's one already having been land conservation, and introduces that element of kind of preserving open space for the Board. But, you know, I think there are, I think you make a decent case, and I think it's something the Board may want to consider. I don't know if any other Board Members have any questions.

Councilman Hartzell said I've got an open mind about it. Scott, honestly, I'd want to have it in the research department a little bit. But I've got an open mind about it. I just think that, you know, we need to take care about sending a message that all of a sudden that this, the safety of Zim Smith trail is going to increase dramatically, maybe this will help, but let's not oversell that point. Councilwoman Young said there's, you know, you've called the police several times, and they've come down for investigating things there. I mean, Darren has anybody reported the Sheriff's department or anybody reported any criminal activity down there to, to the Town?

Supervisor O'Connor asked to the Town? I don't think so. Yeah, obviously, that incident, you know, right. A while back, I was, you know, well, no news. Other stuff? I, you know, I've been aware of it from talking, I think, to Mr. Crawford. And in other parts, you know, we have issues. I mean, we have issues at Steeplechase, we have issues down there in Round Lake, we, you know, we've had issues in other areas and stuff. So, it does happen now. It doesn't, it doesn't rise to the level of arson that was experienced at the Rod and Gun Club. But in terms of well, you have the letter from the captain, in terms of this particular issue. It's not as if we we've had a huge amount of input on it. I don't know. Jamie, do you have any other information on Cynthia's question?

Jaime said I don't have any knowledge exactly about people reporting to the Town. I will say the zoning question that was asked. The best I can tell, from an old map, that showed this general area as being zoned LC in 1966.

Councilwoman Young said I guess, here I'm reluctant to give up LC anywhere in Town because of course that's important. But on the other hand, I also see the value of this I see the value of a nice little parking and picnic area. You know, that's, that's at least a plus for me.

Councilman Warner said I'm open minded on it. So, at this point, I'm not going to say no, but I'm not going to say yes either.

Supervisor O'Connor said alrighty, so I think the Board was really given a proposal but not willing to give a firm answer tonight. Okay, I'm certainly open to the proposal,

Councilwoman Young said I'll go down or take another look at the area and try to get a little more feel for it.

Scott Lansing asked as far as next steps I could ask is, is something the Board wants to go out to take a look at the site and provide us with feedback? Or would you like us to make a formal application? How does the Board feel? If they do want us to make a formal application? Would you rather consider a Planned Development District or an adjustment to the mapping? Or what are the Boards thoughts on that?



Councilman Hartzell responded well, we don't have the ability to force you to do a parking lot, right, without a PDD. I don't think that's the rub of it is I don't like doing PDDs anymore. I PDD'd out after my first eight years 10 or whatever it was. So, but that said, I don't know how else we get a legal obligation to build a parking lot.

Scott said I don't know, I guess that might be more of a legal question. And how that could possibly be incorporated into a zone change? Or? I don't know, that's a good question. I don't know.

Supervisor O'Connor responded yeah, I'm not aware of any. But we can address that with our Town Attorney and everything and see whether that can be accomplished through a rezoning it seems to me that to get the benefit. It's the PDD process that provides for that to happen, not a rezoning. Okay.

Councilwoman Young said can I just ask one last question it back at the map, people coming and going from the development? Do they have to cross the trail to get Ruhle Road?

Scott said they would yes.

Councilwoman Young said because that, you know, might be problematic.

Scott responded I think there are crossings of the Zim Smith trail and in many different places. So, I think much more major roads in this way. So, I think there's an avenue.

Councilwoman Young acknowledged saying that there is definitely one on East High Street by Curtis Lumber there.

Scott said the good thing here is that there's a fair number of homes but not too many. So, I think it's something that you could even do stop sign control on each side of the trail, I don't think would be that inconvenient for motorists to stop at the trail and then look both ways, make sure nobody's coming in and go and likewise, stop signs on the trail as well.

Councilwoman Young said yeah, I would think there'd have to be the lighted beacons, like there is on Eastline Road.

Deputy Hammond said Darren if I could just get one just a closing remark about this? While I feel for Mr. Crawford with the loss he's had down there with his property and such. I also understand from a safety standpoint, that we'd like more in a way of lighting more in a way of people being down here to police it so to speak. I just, I would caution that we use that as a driver, especially if we're looking at possibly changing the zoning of LC, for anything, that's my biggest concern. We have other areas in the town that are back roads, whatever you want to call them, that people don't trash, they do other things as well. I would hate to throw in a development every time we have those areas, just for the sake of under safety, or whatever you have. So, I just think we should be mindful of that, rather than just rush to this. Because there is public benefit. I get that. But there's also public concerning as well.

Scott said I understand the only thing I would like to emphasize or add to that, again, is we have 10.36 acres that is flat and has utilities is not wooded is not constrained land. So, I understand completely what you're saying. But in concert with that we have an area that doesn't really need conservation is a nice developable piece of property. And I think that perhaps, maybe it was looked at real close when that LC swath was more or less put through that particular area. So, in concert with what you're saying, I do think that there are safety benefits to this, but that's not the primary emphasis that I'm trying to convey. At least it's definitely an added benefit. But the primary thing is that it's good buildable land that doesn't require conservation, and was formerly occupied for 30 years as a use.

James added sir, an answer to your question about or your comment about this being a vehicle for other people to try and develop a piece of property. I can tell you that my family's afraid to go

down there. I mean, I own the property my wife and two daughters, they won't go down there unless I go with them. They're scared because they know what's going on. They hear me talking about it. And then in the advent of the September 26, sexual assault that was right there. I mean, that was the end, for me. That's when I knew that I had to approach you here at the Board and just let you know, it is a wild west area down there, I can't emphasize that enough. There is not one single time that I go down there that I don't find evidence of somebody doing some kind of malicious activity, whether it's smashing the building that I just put some new drywall up on or the windows or they knock down the doors. They deal drugs down there, they smash bottles, they, there's racism, they're spray painting. I mean, it is really about as bad as you can consider a piece of property being I think a lot of it has to do with the fact that there are so many different entrances to the property. You got the Zim Smith trail that has hundreds of people going by my property every single day. And then you got the power lines in the back. And people, I wasn't aware of this, but people follow these power lines on their four wheelers.

Supervisor O'Connor said I'm going have to ask you to bring your conclusion and your comments. We have a long agenda really got to get moving.

James continued I just wanted to make sure that you understood that. Okay. There's a fear factor involved and it's real. It's not. It's not an attempt to develop.

Supervisor O'Connor asked anything else before we move on?

Councilman Hartzell said just quickly, Scott, what vehicle are you going to be racing this weekend when the Speedway opens up?

Scott responded oh, I'm actually on vacation. Starting tomorrow morning at five o'clock in the morning. We're catching a flight out so I'm going miss opening day unfortunately. Councilman Hartzell asked is your car ready?

Scott replied yes, it's ready to fill the field.

Supervisor O'Connor said alrighty, thank you very much. Thank you, the Board will seriously consider this. Thank you so much. Okay, next item. Do we have any comments or announcement from Town Board members?

Councilwoman Young said I have one thing I'd like to mention Saturday was turned out to be a decent day. Probably 70 kids participated in the socially distant and COVID protocol, Easter Egg Hunt, we did it at the Malta Community Park and Barb did a great, great planning. Good job planning the event that was safe and fun was had by all.

Deputy Hammond joked but I noticed that you were taking some eggs, Cynthia, just in case you didn't think I didn't observe I did in fact see that while I was there. So just for the record. Cynthia responded not a one.

Supervisor O'Connor said thank you, Cynthia. Any other comments from Town Board members?

Okay, just one really quick, just to remind everybody in Malta, that we have the rubbish collection, the containers, the dumpsters will be placed at the complex here on June 5, and June 12. From 9am to 3pm. Last year, a lot of our residents made use of it, we think is a good program. So, the Board during budget time, put it into place again this year. So, we hope to see you then. Department Heads any comments or ideas from Department Heads. I mean, we have your reports, but anything else at this point?

Jaime O'Neill said I just have one I broke my own rule about not talking into the microphone. That's why Tim couldn't hear. Stormwater, the annual stormwater report will be up online starting on the seventh which I think is what Wednesday for public review and comment.

Supervisor O'Connor said alrighty, thank you, Jamie. Anyone else? Okay, Comments or questions from Town residents.

Ted Willette said My name is Ted Willette. I live on 358 Brownell, in discussion about LC zoning. I guess this would be a question to the Board or perhaps Jamie could help out. It doesn't preclude development. There are some things that are able to develop an LC zone. Could the Board refresh my memory?

Supervisor O'Connor said I can't can you Jamie. Jaime responded agriculture.

Ted continued and in agriculture, that is all buildings, barns?

Jaime said it could be buildings, yes.

Ted said so I would say to the gentleman that you do have options, I don't think agriculture would be, at least what I picture as agriculture, would be something that would be of benefit to the neighborhood or to the local residence. So, it might be one of these things careful what you wish for.

Supervisor O'Connor said thank you. Brendan, did you want to talk? I'm going to go through the room here first, and then we'll move to a zoom. I see there several people with hands up, so we will definitely get to you.

Brendon Chudy took to the podium saying good afternoon, Board. Thank you very much. Very briefly, I'm Brendan Chudy here representing an employee of GlobalFoundries, the Director of their Global Real Estate Department. We have other folks from GlobalFoundries that are currently on the call as well, Greg Connors and some of our consultants are here. So again, very briefly, our company through me submitted a letter today with some questions and some items, and I believe the Town Board has received it, I've received a few comments back and forth. But just to reiterate, I'd like that to be made part of the record for this for Scannell application. More specifically, to one of the points that was raised in my letter from today is that GlobalFoundries has a \$15 billion investment in the both of Forest Tech Park. It's my understanding that for consideration today from the Town Board is a potential to vote on whether or not to accept the current document that was put forth by Scannell in order to scope their environmental process. Supervisor O'Connor, we went back and forth a bit today by email, wanted everybody to know that we are trying to review that document as quickly as we can. But the first part of that document only came to us after last Monday's Board meeting, we've only had that for less than a week. The second portion of that with the all-important traffic portion of that scoping only came to us Thursday afternoon, we believe in order to be consistent with the Town's past practices that we be allowed, as an interested party to make input into those documents, we have not been able to fully digest them and to get our consultants aligned in order to make that happen in such a short timeframe. Again, the final document came across Thursday afternoon. It's a holiday weekend, it's only been a day or two. But again, we asked for, I set forth in my letter, for any vote that pertains to an accepting or a scoping document put forth by Scannell be postponed. We suggest for 30 days, give or take. I think there's a Board meeting on May 3, we think that would be an appropriate period to allow GlobalFoundries and anybody else to give input to the Town and to Scannell with regards to the scoping of their SEQRA process. And again, wanting to reinforce that with you here today. So, thank you. The letter requested to be included into the record follows:



400 Stone Break Road Extension  
Malta, NY 12020  
Tel : (518) 305-1167  
www.globalfoundries.com

April 5, 2021

Delivery Via Email:

Darren O'Connor, Supervisor  
Town of Malta  
2540 Route 9  
Malta, New York 12866

Re: Scannell PDD Amendment Application for LFTC

Dear Darren:

I am writing to you in connection with that portion of the Town Board's agenda for Monday, April 5, 2021 that deals with the "LFTC PDD #46 Proposed Amendment (Draft Supplemental EIS/Scoping Document)".

As you will recall, Greg Connors and I attended the Town Board workshop of Monday, March 29, 2021. At the end of the workshop it was not clear to Greg and me whether (i) the agenda item contemplated a specific discussion of the proposed scope at the next (April 5) Town Board meeting or (ii) whether the Town Board contemplated action on a proposed scope which could include adoption of a resolution approving the scope. The purpose of this letter is to request that the Town Board not take any action Monday evening approving the scope, rather to adopt a resolution to fix a time within which interested parties may have the opportunity to provide meaningful comment on the proposed scope.

As you are aware, GLOBALFOUNDRIES was provided with a copy of the proposed scope on Thursday, April 1 at 3:40PM. While the document was disbursed to our reviewing team (environmental, engineering, traffic, and legal) on that same day, I trust you will agree that it is not possible for us to provide any meaningful comment to the Town Board by this evening.

We are confident the Town Board and its professional staff, legal team, and engineering consultants are fully aware of NYCRR 617.8(d): *Scoping must include an opportunity for public participation. The lead agency may either provide a period of time for the public to review and provide written comments on a draft scope or provide for public input through the use of meetings, exchanges of written material, or other means.*, as well as NYCRR 617.8(e) permitting the lead agent up to 60 days to provide a final written scope to agencies and individuals who have expressed an interest, in writing.

From our standpoint, we can provide the most productive comments on the draft scope to you if the Town Board were to fix **Monday, May 3, 2021** (a Town Board meeting date) as the date by which comments from interested parties must be received. This period of roughly 30 days will allow our team to conduct the depth of analysis that would be in keeping with the "hard look" undertaking of the Town Board.



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As it happens, the 30-day comment on the draft scope has been used by the Town Board in similar circumstances in the past. You'll recall that GLOBALFOUNDRIES predecessor presented a PDD amendment application and SDEIS to the Town Board during the first quarter of 2008 (note: the application provided a full SDEIS rather than just a scope), but the Town Board deferred action on the SDEIS for more than 30 days.

May I ask that you call me/Greg Connors in advance of Monday evening's meeting so our team can have an understanding of how the Town Board wishes to proceed.

As our team begins to work on comments to the draft scope, we continue to be puzzled by the Town Board's acceptance of the application in the first instance. Chief among our reservations is the applicant's response to question #1 on page 2 of the PDD Development District Application submitted by Scannell to the Town. That question poses the basic inquiry as follows: "is the proposed PDD in general compliance with the Town Comprehensive Plan?" Scannell checks the "yes" box opposite the question indicating that they are answering in the affirmative. Question #1 then provides for an explanation of the applicant's answer, to which Scannell responds "the application proposes to amend the existing PDD." There is no need for us to attempt to decipher this response.

As we understand it, Scannell takes the following position regarding the Comprehensive Plan:

- (i) since the Town Board is in the process of updating it's Comprehensive Plan, and
- (ii) since an economic development committee appointed by the Board made recommendations last fall regarding the goal to "continue to work with and support Luther Forest Technology Campus through a streamline application process, fee structure, and flexible zoning within the Campus" and further that the LFTC PDD should allow a range of uses within the campus consistent with the Town's goals for the Comprehensive Plan, and
- (iii) notwithstanding the foregoing Scannell may nevertheless proceed with the application based upon the Town Board's acceptance of it notwithstanding this fatal defect.

Interestingly enough, we have yet to find any evidence in the record where Scannell affirmatively argues that they are in compliance with the Comprehensive Plan. Of course, the absence of compliance with the Comprehensive Plan places a heavy, perhaps insurmountable burden on Scannell to overcome long established legal principles on zoning amendments.



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We wish to thank you for your consideration to the points raised in this correspondence and I look forward to talking with you as soon as you are able to do so.

Sincerely,

s/ *Brendan Chudy*  
Brendan Chudy  
Director, Global Real Estate

cc: Craig Warner (via email)  
John Hartzell (via email)  
Timothy Dunn (via email)  
Cynthia Young (via email)  
Jamie O'Neill (via email)  
Zachary Zweifler (via email)  
Teresa Bakner (via email)  
Mark Schachner (via email)

Supervisor O'Connor said thank you, Brendan. Anyone else in the room want to address the Board? Okay, I'm looking at the screen and I see the first one on my screen is Travis Fealy, Travis. Travis said yes, thank you. Thank you for the opportunity to speak. I just wanted to highlight a couple things that I was able to be a part of over the past couple of weeks. The military Vet Malta Veterans Appreciation Program, which I'm sure a lot of you are already familiar with have been doing amazing work. I came to the meeting a little late so I apologize if this has already been spoken about. But I'm currently working on a home for a veteran down in Malta, Malta Gardens, and every Saturday 8:30am anybody that's available to provide labor parts, money, food would be greatly appreciated. Then also this past weekend. Unfortunately, I couldn't hang out with the Easter Bunny. But I was over on Dunning Street helping some folks out with the Rotary Club to pick up some trash, filled up several bags there. So, a lot of good things going on in Malta, and I just want to make sure the Board and the community was aware. Thank you. Councilwoman Young asked did you guys find anything interesting?

Travis replied so there is one thing that's fairly interesting, it was a bottle of Gatorade. Not filled with Gatorade. So probably on a long trip, they decided to get rid of it. But that's probably that and a car bumper. That's it. That's the two most interesting things.

Supervisor O'Connor said alrighty, thank you very much, Travis. Yeah, the Veterans Program is dynamite. We really appreciate all the volunteers lending their working hands and hammers and everything else to that goal. Thank you very much. Bob Conner, you're the next one on my screen. Bob Conners said yes proposed Ruhle Road development. I guess I heard Mr. Hammond and Mr. Willette talk earlier. I think they raise valid concerns. I'm, I'm a regular user of that Zim Smith trail, I've never seen any parking problems. The Shenentaha Park is just very short distance away,

there is no need for, in my view, for picnic areas. I suppose if the applicant was willing to sell the parking lot to the Town that might be useful. But I don't see any public benefit. I do see substantial public loss if this development is allowed to go forward. That, first of all, and when people talk about 10.3 acres is not constrained and it's buildable. I dispute that it is constrained because it is zoned now land conservation. And its zoned land conservation various, in my mind, good reasons that any development is going to increase runoff into the Ballston Creek, every tree have chopped down, every driveway you pave, every house you build is going to degrade the environment potentially just as it will around Saratoga Lake or anywhere else, the more we develop in sensitive environmental areas, the worse off for the environment is going to be. There's also, as I said last week, a huge aesthetic loss to users of the Zim Smith trail who are large, many of them, including me a town resident, that there is now a beautiful view, from the trail down the hill to the Ballston Creek of this lovely wild forest. That's going to be destroyed for to put up 11 houses. That is going to be a loss for the people of the town of Malta. And the purpose of the zoning the previous the action of the zoning is to benefit the people of the town of Malta, I am sorry about the applicant's situation that the law enforcement problem that's a real issue. But I don't see that we should address law enforcement problems through changing land conservation zoning, and I think it will diminish the credibility of this Board in this government. If land conservation doesn't mean anything, it's just something to be thrown aside when the owner of the property chooses to change it, even though he bought it knowing it was land conservation. So, it's not the equivalent of Hearn Road or other places where you have potential legal problems. I really think it would be a huge mistake. And it would send a signal that Malta is open to bad development to environmentally unsustainable development and that the protections that previous Town Boards and town governments have put in place are not really there and or the Town is just prepared to ignore them for what I regard is no good reason.

Supervisor O'Connor responded okay, thanks very much, Bob. I don't know, you know, maybe the board when it's thinking about this will, you know, want to get some input from the OATS committee, but, you know, maybe the members will consider that or something like it. Thank you very much. Kathy, you're the next one with the hands up. Kathy Eitzmann.

Kathy said hello. Okay, so I think I have everything going now. Right? Um, yeah, so first off with a different hat on living on Round Lake Road, that beacon on the corner of the bank and Hearthwood, Cedarwood, Hearthwood is out. People were crossing and the car going west, actually zoomed around them to head on west. So, although they had turned the beacon on, on the south side of the road, because it wasn't functioning on the north side of the road, people figured they didn't have to pay attention to the people in the road. So that needs to be fixed. I know that's a County thing but Kevin is so good about that, Kevin. So maybe Kevin King can follow through on that for us. That would be awesome. As residents down here. Then with the Malta senior hat on. I want to say thank you Mark Hammond. was generous enough to offer a ride for senior who just heard about us and wanted to come to our meeting. Unfortunately, she was ill this morning. But I did pigeonhole Mark into giving seniors a little synopsis of what's happening in Malta, which they appreciate very much. So, thank you for that. We had 33 seniors listening, how to stay senior strong, and it was a great presentation. So that's pretty much all that's happening. Thank you.

Supervisor O'Connor said thank you very much, Kathy, appreciate that. Okay. Dan Hubbell. Dan, you're next up.

Dan Hubbell said great, good morning, good afternoon. Earlier today on behalf as you know, I represent Highpointe at Malta Homeowners Association. Earlier today, I forwarded in a letter to

you on behalf of them in regards to the vote that's happening tonight on the amendment to the Town Code, which would remove the exemption from the sidewalk maintenance. Last week, Supervisor O'Connor you had mentioned the idea of creating \$100,000 fund will be given over the last over the next three years to carry some of the costs for the ongoing maintenance and repairs that need to be done. I know that this issue has been talked about greatly. The one thing I wanted to highlight my letter for the public here is what that would result what that offer would result in to the Highpointe community. Currently, right now the Highpointe community has association fees of roughly \$325 per year, based on your offer in what you would, the Town would cover \$100,000 of the roughly \$300,000 I'm sorry, \$400,000 potential work that needs to be done out there. That would result in an increase of 130% to the association fees. It's about \$250 per home per year. In the letter I talked about the uniqueness of the Highpointe community, how it was created, the fact that the town received land donated to it for the Community Center that all residents benefit from. In a footnote in my letter a highlight what the change in taxable value would be if the Town was to follow through with the apparent agreement of made with the developer and the Highpointe community when the PDD was established. The cost there will be about \$10.80 per year based on an assessed value of \$360,000. home. You know this issue has been around for a while. It's been talked about repeatedly. I know it's been talked about probably more than you'll care talked about during the past year. But really the concern here is what Chairperson of what a Councilperson Hartzell echoed, spoke about last week. But this really is unfortunately, a situation that was created by the Town by prior Town Boards. Now to come up with a partial solution. The fear of Highpointe and its residents is that it will put them in a position that they'll never be able to recover from. So, in terms of the action that the board may take tonight, I really wanted to be able, Highpointe really wanted to be able to quantify for you exactly what the economic impacts would be based on that action in the event that \$100,000 doesn't cover the costs which we believe it will not.

Supervisor O'Connor said thank you very much, Dan. I'm not seeing any other hands raised. Kelly Winslow, your next up? I'm not hearing you Kelly. So, I don't know if you're muted or what. Alright, why don't you hold on Kelly and we're going with Brian Whitley.

Brian said Thank you, Supervisor and I first of all, I want to start things off by confirming I did send an email to each individual member of the Town Board a couple of days ago. I just wanted to quickly ask and confirm whether you all received and were able to read that letter regarding the Highpointe sidewalk issue. Yeah, yes. Okay. I, you know, I don't want to beat a dead horse here. You obviously understand that at this point my feelings on it. But again, in front of the Town in front of the Town Board, I want to reiterate my opposition to Supervisor O'Connor's proposal. I do not feel in the slightest that it's significant enough to address all the problems that are in place. I sincerely hope that you do not go forward with that proposal. And I'll just leave it at that. Supervisor O'Connor said all righty, thank you, Brian. Julian and Kurt, I don't know which one of you is on, but whoever wants to speak your next.

Julian said it's Julian, thank you appreciate the opportunity to speak Supervisor O'Connor. I also sent an email earlier this week to you to share with the Board, sharing my sentiments regarding the sidewalk issue. I'm a homeowner, and my husband and I are homeowners here in Highpointe. I think just to try to hit a couple of the bullet points and what I had sent just to reiterate on that, I feel like we're being put in an unfair position with the decision that seems to be upon us, having come into this development, appreciating the modest HOA fees that afforded, you know, a certain value to our homes and to some common spaces, never imagining the potential increase that's



upon us. You know, I know, you could argue that everybody has the benefit of the use of the sidewalks. But, you know, a little bit of hard data on my point, indicated that, you know, it's 93 out of the 150 residents actually have the sidewalks in front of their homes, in terms of direct day to day benefit of using them whether it's kids on the sidewalks or people who need that kind of access. So, and there was a vote. I know, it wasn't any kind of binding vote, but they were trying to take a pulse on the community to see how the residents felt. We were given the opportunity repeatedly to cast a ballot indicating how we felt about this issue. Two thirds of the people approximately two thirds, the residents responded with the majority, not a vast majority, but still numerically a majority in favor of removal over what might result in a significant increase in our HOA fees. So, all of that being said, if you know, I think some consideration should be given to what the masses have said.

Supervisor O'Connor said alright, thank you, Julian, appreciate that. James Poitras.

James said I appreciate you listening to me. I'm a resident of Highpointe. I'm also a Board member of the HOA, I want to touch on a couple things I wrote down and I'm not going to repeat a lot of stuff I don't like beating a dead horse. First thing I like to say is making repairs to certain areas of the sidewalk is nothing more than a band aid because so far, that's been what's discussed. using asphalt again, is a short-term fix, even if the entire system was replaced, since as far as a first shorter lifespan than concrete. I understand safety is important for some residents. But we have other avenues that can be taken to slow down the speed of traffic. There's plenty of places in here that could use a stop sign to slow down the high speeds that we're seeing in a couple locations. Dan touched on the finances. Highpointe will never recover from having to repair replace the sidewalks going forward. Especially now that it's they're owned by the Town and that there's no question that they're in the Town right away. The Town took possession of them when they put the exemption in their new Zoning Code back in 2004. To have them turn over sidewalks to us, which don't even meet State, Federal and Local Code is kind of absurd, because you're putting the onus back on the HOA to make repairs that the Town should have made while they were in possession and they own the sidewalks. I understand the Town is also about protecting open spaces. Not to change the subject here but they can find money to buy land to preserve open spaces so there's no development, but yet they can't find money to make repairs to the sidewalks that they currently own. When you have a development built, you put a bond on the developer, so everything is done. If nothing, the bond is not returned until that repairs are up to the Planning Board Code when they did their PDD for the development. I don't understand how the Town can require that a developer, but yet not follow that same rule when they want to turn sidewalks over from the Town to the Highpointe, HOA. There's no way that Highpointe can actually recoup these costs ever. I know of two or three people have already stated. If these sidewalks stay in the current conditions, they will sell their houses because they don't want to stay here for they're going to cost them 2,3,4 thousand dollars a year in association dues that respectfully ask the Board to consider the effects of their actions, if they choose to make minimal steps to adjust the sidewalk issue and then turning them over to the HOA Still in dire need of future repairs. That to me, is not acting in good faith towards the residents of the community of Malta at all.

Supervisor O'Connor said thank you. Okay, thank you, James. If the people commenting and public comment could you know try to make their comments quick, we do have a long agenda tonight. So that being said, Anthony, you're the next one up Anthony Pino.

Anthony said you've had a couple of years in knowing my position. I'm a homeowner here in Highpointe and I do have a sidewalk in front of my home, I feel that you're done the two options,

nothing in the middle will suffice for either majority of the residents here, you need to repair them to the appropriate standard, where they're durable and will be long lasting or take them out. I also asked you to remind you that when the PDD was signed and ratified, the options that were leveraged by the Town within that, also part of that PDD are for commercial properties that include 1 Bayberry, 2 Bayberry, 26 Rockrose and 30 Rockrose. Those properties are not being discussed or mentioned. Obviously one of those is a Community Center. So, any assessment that you plan to put that potentially put in or decisioning must include all of those properties that are part of that PDD, including the Town itself, the commercial property across the street from the Community Center, and the two commercial properties on Rockrose. Thank you for your time. Supervisor O'Connor said thank you, Anthony. Jamie, I'm not seeing any other hands up do you? Okay. There no other comments, we'll move to the next item on the agenda. Thank you very much. Kevin King said Darren, can I just respond to Kathy? Kathy. It's had a question about the beacons up at Round Lake Road and I believe Rogers department has already got the parts numbers and so forth to order those. So, it's an as far as I know, it's in process. I will check on it and see where it stands. But they're aware of it. I think I've seen that they removed the top pole structure isn't even on the street anymore. So, I think it's back in the highway garage. It's on their agenda to take care of.

## **DISCUSSION ITEMS**

### **1. Ambulance District Update**

Supervisor O'Connor said thank you, Kevin. The next item on our agenda tonight is an Ambulance District update. I think the Town Board has discussed this many times, gone back and forth. I think the Town is one of the only Towns perhaps the only Town without an Ambulance District and the County. So, there's been a request by our EMS company to establish an Ambulance District. The Town Board is considering that and we've been dealing with a number of legal issues that that go forward with it. One being, whether if the Board members want to refer this out for a vote, ordered by the Town Board as opposed to being based on a petition from a number of residents. The question is, whether in Article 12A it is a vote voted on by the property owners, or whether it is a vote voted on by the residents of the actual voters in the Town. So, it's an interesting question. Some Towns have gone both ways. In my opinion, I think that the law is invalid under the Constitution to the extent it prohibits some Town residents from voting on a matter that involves the entire Town, such as an Ambulance District, since ambulances there for all residents of the Town not necessarily nonresidents, property owners. So, in my opinion, to the extent article 12 A requires a vote only by property owners to the exclusion of some residents. It's violative of the State and Federal Constitution and I think there's support for that position. So, if the Town Board chooses to adopt the idea and send it out for a vote, then my recommendation would be putting it on the vote on November 2 in the General Election for the residents. That being said we looking at schedules our first item would be to file the Map Plan and Report that that's been, it's been comprised, we're waiting to hear from the Village as to whether the Village Trustees are going to opt in or opt out of a proposed district if it happens. I think and I know Gary's on the line, and I think the Village Trustees are meeting on Wednesday. So hopefully, we'll be able to establish that one way or the other. By the way, Round Lake, we hope you join us if we if we go this direction, we would file the Map Plan and Report, we publish notice in the public hearing, we'd have the public hearing, perhaps and our May agenda meeting, and at the end of May, if the public hearing persuades the Board to pass it, then we could adopt a resolution and setting a

referendum in June. So that is a tentative schedule, at least and that is the update on the Ambulance District.

Councilman Hartzell said Darren question, please. I printed out but really didn't have a chance to look at the document you circulated. Most recently, in the last several days are there changes. It's been so long since I looked at a working document for the Map Plan and Report. Is this basically substantially what we've previously seen or what's what, if anything is different in this document we received last week.

Supervisor O'Connor said it's the numbers, basically, the numbers and numbers. And since the last version, otherwise, it's the same document. That differences between Round Lake joining or Round Lake not joining we have different scenarios

Councilman Hartzell asked with those addressed in this document that's still addressed in this document?

Councilwoman Young said and there's some other changes to the numbers. The other one was prepared in what 2018? So, some of those numbers have changed. He doesn't have we don't have all the recommendations because they addressed most of those.

Kevin said right. So, going through this, you know, we updated all the terms reflect current year information. The last report was done in probably 2018 data so we've got two more years of data in this report and all the comparisons are brought up to speed into the current. There were discussions between the members of Malta Ambulance Board and members of the Town Board. So, we updated the report for the for 2019, 2020 data. Members of the Town Board, a couple members of Town Board, couple members of a Malta Ambulance Corps. along with Executive Director discussed current operations, anticipated operations, effect of the COVID pandemic, and changes in the healthcare industry. Tentatively within this draft report, a number was put forth of \$470,000 which would be for 2022, which would be the first year that the district would be in place. Also proposing more or less maybe a three-year agreement in which 2023 would be at \$470,000 and then in 2024, the number would drop down to roughly \$410,000 because at the end of 2023 the mortgage of the Ambulance Corp on their building is repaid. So therefore, we brought down the dollar amount. The mortgage is roughly \$120,000 But at that point in time, they are going to start to invest money into a building reserve, the start to facilitate monies for future repairs. That was the thought and then we go through and we based upon the 2020 final assessment roll. The 2021 roll is not complete, these numbers would get changed. Once that report is once that roll is finalized currently, on these \$470,000 of assessed value House of \$250,000 would have Ambulance district tentative tax at \$44.58. Then the financial information of the Corp for the last three years is presented in the report as well.

Councilman Hartzell said thanks very much. Darren, to your point, if we are going to go forward, I favor as you've suggested that the Board on its own motion vote to put it on the ballot for the voters to decide. Okay, that's one man's point of view.

Supervisor O'Connor asked is that this sense of other Board members?

Councilwoman Young said it is mine. Yeah.

Councilman Dunn said I agree.

Councilman Warner said I agree.

Councilwoman Young asked when is this document available to the public? Tonight?

Supervisor O'Connor as soon as we file it, as soon as the board decides to file it, which we have tentatively on the agenda for May 3. Okay. All right. That's the ambulance district.

## NEW BUSINESS

Supervisor O'Connor said okay, next item on the agenda is Hearn Road rezoning and we'll just give ourselves a moment here. Okay, we have had a protest filed by three neighbors of the property at 12 Hearn Road. That protest is under to Section 265 of the Town Law, that section requires a vote of four members of the Town Board as opposed to a simple majority of three, if it's signed by 20% of the adjacent properties within 100 feet of the property that is being rezoned. So, we have our lawyers who have advised us about the impact of that, and what it means from a legal point of view. The owners have submitted a survey and an analysis by Environmental Design Partnership, stating that under 265, the 20% limit is not reached. That is the determination of the information that's been given to us by the surveyor. So, I think the first order of business from the Town is to decide are we moving forward with this, with that vote, if the Board is comfortable with what it's been provided for today, we can move together to move forward with the vote. If the Board wants to subject it to any further review, I think we could subject it to verification by Building and Planning and our Town engineers.

Councilman Hartzell said so, Darren, I'm exactly with you on that point. I mean, I saw this at like, 5:15 this afternoon, I think, it is very close. It's 2100. So, you know, about two tenths of an acre, you know, would trigger the 20%. Under that circumstance, in particular, I think we owe it to the petitioners to have our own counsel and engineer, if necessary, make the you know, calculation to determine whether the 20% is you know, is achieved.

Councilwoman Young said I'd like to hear from Leah and Steve, as to whether or not they think the numbers are valid.

Leah Everhart said we took a look at the proposed excuse me, we took a look at the petition. The petition on its face asserts that the owners and their three properties for six owners that the owners make up 20%. But it's really only that statement, there are no there's no data included in the petition that would help a reader know for sure whether those petitioners make up the 20, the necessary 20% or more of adjacent property owners. The owner of the property went a step further and over the weekend had their surveyor provide what materials you've just been provided with. So obviously, you know, the timing situation we all have here is not as a result of anyone dragging their feet. It's just you know, the way it all happens. We've taken a look at relevant law, including opinions of the Attorney General that have been issued over the past several decades. We've taken a look at the petition itself and we've taken a look at the materials provided. We've issued you a memorandum that kind of outlines what we believe the proper methodology is but we're not in a position to tell you what the calculation comes out to. That's really not our that's not our area, we can tell you that in reviewing the materials that the owner provided, it certainly appears that well close, we're under the 20% threshold. From our perspective, no matter how close you get to 20%, if you're under 20%, there's no supermajority requirement. From our perspective, it does appear that we don't have a valid protest petition. But obviously, that, you know, those are objective facts, we're looking at exactly what you're looking at. We know nothing more than the calculation that EDP is provided to us. It does appear that it's based upon a survey, which means from our perspective, we think a survey is the most accurate means of calculating these figures. If the Town Board wishes to provide Planning staff an opportunity for further review, certainly you can do so. But we doubt the Planning staff, and please, you know, Jamie, cut me off if you disagree. But we doubt that given the formalities involved in a survey and the materials provided by EDP, that our

planning staff would really be in a position to contradict a survey or were engineers opinions as to the area of land involved.

Councilman Hartzell responded that said, we have chosen that we pay regularly for this type of work, why wouldn't we have them independently make the calculation?

Leah said Councilman Hartzell do you mean, review the materials provided? Or do you mean undertake a survey of its own out on the property?

Councilman Hartzell answered not necessarily survey, you know, this is significant. I think we as a Town need to make our own independent evaluation as to whether the statute is satisfied. I'm very hesitant to take the word of somebody who's paid by the property owner, you know, we were supposed to be objective in our analysis of our conclusions. We have the capability to do the same sort of evaluation that they did. They certainly didn't go out and survey property over the weekend. Right. They didn't survey that's the three property owners, parcels that make a calculation, you know, some sort of reasonable, independent inquiry to evaluate whether the 20% has been achieved. That's what I'm comfortable with.

Councilman Dunn said I'm comfortable relying on the professional guidance of our attorneys and staff here and proceeding with the option one that's been proposed.

Supervisor O'Connor said Steve, if we proceed with option one, which is the blue line, the horizontal line? Can we make the resolution subject to verification by our building and planning department in consultation with our town engineer?

Steve Gottman, Town Attorney answered Darren, I think you certainly could do that. I think the review of the case law would authorize that. And that would fulfill the Town's obligation to address the sufficiency of the 20% test that we're talking about.

Councilman Dunn with that qualifier, I would move option one, the resolution and requests a second.

## **RESOLUTION NO 81 APRIL 5, 2021**

### **LOCAL LAW of 2021 REZONING A PORTION OF 12 HEARN ROAD**

**Motion by:** Councilman Dunn      **Seconded:** Councilwoman Young

**Discussion:** Supervisor O'Connor said okay, discussion on the motion and this motion is to adopt option one, which is the blue line, the horizontal line. And added to that would be that this resolution is subject to verification by the Town of Malta Building and Planning Department in consultation with the Town of Malta engineers.

Councilman Hartzell asked if it's determined that it is 20%, where does that leave us?

Supervisor O'Connor said then we the Town Board revisits this issue moves to the other option.

Councilman Hartzell asked so that if the Board adopts this by, let's say, a three to five vote, and it's determined that the 20% is achieved, where does that leave us?

Supervisor O'Connor answered then the resolution fails.

Councilman Hartzell said okay and that determination of whether the 20% is achieved or not, is it going to happen when and how, how's that termination going to be finalized?

Supervisor O'Connor answered it would be verified by our building and planning department and you know, we'd have to get the basically the verification by the engineers, Chazen.

Councilman Hartzell said I oppose doing it this way. I think in fairness, we ought to know ahead of time what the vote requirement is before we vote on something but with that said, I move to amend the local law to replace the designation of C7 with R8 and respectfully request a second. Councilman Warner seconded.

Supervisor O'Connor responded okay, discussion on the motion to amend. Okay, I mean, for reasons that we've discussed many, many times when the Board has addressed this issue, I oppose this motion to amend because I think that the rezoning something commercial to entirely residential is too dramatic a change. I think that the modification to zone the vast majority of this property as land conservation to keep it as land conservation, mixed with a portion of it being commercial is in conformity with the Town's vision for that area. Even though it obviously has some problems I think those problems can be ironed out at the Planning Board level if they come to so I oppose this motion to amend.

Councilman Dunn said I agree.

Councilwoman Young said I agree, I oppose also.

Supervisor O'Connor polled the Board okay, all in favor? Councilman Hartzell aye. Councilman Warner aye.

Supervisor O'Connor asked, opposed?

Supervisor O'Connor no.

Councilwoman Young, no.

Councilman Dunn, nay.

Supervisor O'Connor said okay, Jenn, that motion to amend fails by the three to two vote. Okay, we're back on to the original motion, which is to adopt the horizontal blue line subject to verification by the Planning and Building and Town of Malta engineers. Any other discussion on the primary motion?

Councilman Hartzell said yes, please. I mov to amend the local law to move the line dividing the C7 from the LC so that runs parallel north to south 500 feet distant from the US 9 margin, and respectfully requests the second. Councilman Warner seconded.

Supervisor O'Connor asked for discussion.

Councilwoman Young asked I don't understand going back to the diagonal line or?

Councilman Hartzell responded no, 500-foot line setback from Route 9 just like we have all the way up and down Route 9, 500 feet back is commercial to be consistent with our zoning practice throughout that commercial corridor. The first 500 feet back from Route 9 would be commercial C7. The residue in the back would be land conservation.

Supervisor O'Connor said I opposed that motion to amend and also because I don't think it is in conformity with the natural contours of the land. There's a lot of that 500 feet is in a zone around the creek, etc. that is inappropriate for commercial. I believe that the horizontal line is more appropriate line.

Councilwoman young said I agree.

Councilman Dunn said I agree.

Supervisor O'Connor said any other discussion on John's second motion to amend. All in favor? Councilman Hartzell aye. Councilman Warner aye.

Supervisor O'Connor asked opposed?

Supervisor O'Connor nay.

Councilwoman Young nay. Councilman  
Dunn no.

Supervisor O'Connor said okay, that motion to amend fails, we're back to the primary motion. Any other discussion on that motion?

Leah Everhart said Supervisor O'Connor. I apologize for interrupting, I just didn't want to miss an opportunity I think that the Board previously considered SEQRA review when it was considering a diagonal line. We would recommend that SEQRA review be conducted before the Board acts on the proposed local law this evening. Now if the answers to the questions are all the same, that the Board previously concluded, during a related review effort, you know, there might not be a need to go through each of the questions and answer each of those questions. But we would recommend that the Board address SEQRA in some way either going through the EAF form and answering the questions in Part 2, or acknowledging for the record that the answers previously given apply equally to this proposed line as they did to the diagonal line.

Supervisor O'Connor responded thank you, Leah and while I believe that the answers to the first one definitely applies into the same way, I think It's probably better practice to go through it. So first, let me just summarize some of the points made and the resolution. You know that this doesn't exceed the thresholds of the original supplemental GEIS. So, the advice we've gotten is that there is no further SEQRA review necessary that was standing that I think the Board has decided to just, out of an excess of caution perhaps, move forward consider this as in accordance with Type 1 procedures and go along with Part 2 of the EAF. The future development on the property is purely speculative at this point, we have no basis to evaluate a certain structure or proposal. So, this is limited to rezoning. This idea is that this action by the Board wouldn't be less protective of the environment. There are no other agencies involved. This has been referred to the Saratoga County Planning Board, they've responded that in the same way, no matter where the actual line is placed. So, with those kinds of ideas, what we can do is go through the Part 2 of the Environmental Assessment Form. Now, I apologize for what might be boring, but, and we've gone through these items before, but why don't we just do it again, just to make sure and be cautious. Number one, the impact on land? Again, as we've discussed several times in the past the proposed action does not involve any construction. So, there's nothing other than speculation that the Board could refer to that's item one. Impact on geological features the same answer, impacts on surface water again, this land is going to be the same right now, after the Board decides this motion, if it approves it, as it is right now. Number four is impact on groundwater. You know, the same result, impact on flooding the same result. Impacts on air, same plants and animals. Again, since there isn't any specific proposal before the Board, I'm not seeing any impact on that. Or number eight agricultural resources. aesthetic resources, the same answer, impact on historic or archaeological resources, since there is no specific item before us. Same answer impact on open space and recreation. Same answer. I don't think critical environmental areas are involved and if so there's not an impact on them. Again, since there's no proposal before the Board, the impact on transportation is no. Same with impact.....

Councilman Hartzell said I respectfully disagree with that.

Supervisor O'Connor said okay, understood. impact on energy, my view is the same, not an impact, impact on noise, odor and light. same result, impact on human health, the same result that there is no impact consistently with community plans, you know, the resolution talks about that. We think it basically, it is consistent with a comprehensive plan and this property was zoned entirely commercial for a long time. So, this is certainly consistent with the comprehensive plan, especially as updated in 2016, with the North commercial corridor. My sense is that this horizontal blue line strikes the proper balance between land conservation and observing the rights of the property owners, etc. And the character of the area in number 18, so....

Councilman Hartzell said I respectfully disagree. This is going to blow I mean, this is going to blow a major hole in the landscape, let's not kid ourselves, of Malta Ridge, you know, let's be honest. Whatever is built there is going to blow a major hole in the side of that hill.

Councilman Warner said and that hole is going to magnify the drainage issue that it is on. It happens over and over. The whole drainage coming from that hill, ends up down on Silver Beach. I have several actual photographs of houses being flooded out and to only do something else, worse is going to increase the problem. We have never addressed it yet. We have to do something. Supervisor O'Connor said thank you, Craig and John. Any other discussion on this motion? All in favor?

**Vote:** Supervisor O'Connor-Aye                      Councilman Dunn-Aye  
          Councilman Hartzell-Nay                      Councilman Warner-Nay  
          Councilwoman Young -Aye

**WHEREAS**, the Town Board of the Town of Malta previously adopted Local Law 9 of 2018, which changed the zoning classification of certain lands within the Town to the Land Conservation (LC) zoning district; and

**WHEREAS**, one of the parcels affected by Local Law 9 of 2018 is commonly referred to as 12 Hearn Road (tax map parcel 217.-2-55); and

**WHEREAS**, by Local Law 6 of 2020, the Town Board modified the zoning of 12 Hearn Road to reclassify the northern portion of the parcel to the Commercial-7 (C-7) zoning district, leaving the remaining lands in the LC zoning district; and

**WHEREAS**, the owner of 12 Hearn Road has since raised a number of objections concerning the Town Board's review effort that culminated in adoption of Local Law 6 of 2020; and

**WHEREAS**, the Town Board revisited its previous review effort and began considering a proposed Local Law which was substantially similar to Local Law 6 of 2020; and

**WHEREAS**, the Town Board conducted a Public Hearing concerning that proposed Local Law on February 1, 2021 and March 1, 2021; and

**WHEREAS**, the Town Board has taken no action on that proposed Local Law and began considering changing the location of the division line between the C-7 and LC zoning districts at the property; and



**WHEREAS**, this new location was treated as a material change to that which was previously considered and, as such, the Town Board began an entirely new zoning amendment process beginning with the filing of new and different proposed Local Law and zoning map in the Office of the Town Clerk and the Town Board further determined that a new Public Hearing was likewise necessary; and

**WHEREAS**, the Town Board held a Public Hearing on adoption of proposed Local Law \_\_\_\_ of 2021 on March 29, 2021 at 6:00 PM, at the Town Hall of the Town of Malta, 2540 Route 9, Malta, New York 12020, which meeting was also conducted remotely via the zoom platform, and all persons wishing to provide comment at that time were given the opportunity to do so; and

**WHEREAS**, the property owner made both verbal and written comments supporting adoption of proposed Local Law \_\_\_\_ of 2021; now, therefore be it

**RESOLVED**, that the Town Board hereby makes the following findings, determinations and conclusions:

1. The Town of Malta adopted a Supplemental Town-Wide Generic Environmental Impact Statement (SGEIS) in November 2016, which established development thresholds throughout the Town of Malta. Activities occurring subsequent to adoption of the SGEIS are subject to further SEQRA Review only if such activities fall outside the thresholds of the SGEIS. At the time the SGEIS was adopted, the property at issue was zoned commercial. After thorough analysis, the Town Board has identified no aspects of the proposed rezoning that exceed the thresholds of the SGEIS and trigger additional SEQRA review.

2. In an abundance of caution and out of a desire to avoid even the appearance of any perceived procedural irregularities, and absent any objection by the landowner, the Town Board has nonetheless determined to undertake additional SEQRA review. The Town Board has classified this Action as a SEQRA Unlisted Action. The Town Board has taken the additional step of determining to undertake review of this Action in accordance with SEQRA Type I procedures, including preparation of a Full Environmental Assessment Form.

3. The property owner has made clear public statements to the effect that no development is currently proposed at the property and the Town Board takes note that the owner is not currently proposing any development and is not currently pursuing any land use approval to allow development at the site. While the rezoning at issue may have an impact upon future site layout and design, any potential future development at the property is purely speculative at this time. It remains unknown to what use this property may be put in the future, the intensity of such use, the total land area to be disturbed, the manner of disturbance, the precise location of development, the total amount of impervious surfaces to be added and numerous other details of development. Therefore, the Town Board determines that the scope of this Action is limited to rezoning of the property as potential future development is entirely speculative at this time and its potential environmental impacts are not perceptible to meaningful review at this time.

4. While this does not constitute SEQRA “segmentation”, the Town Board nonetheless finds that considering the impacts from rezoning without considering impacts from potential future development will not be less protective of the environment. To the extent development is ever proposed at the site, that development would be subject to Malta Planning Board review. At that time, the Planning Board would have to make a determination as to whether development exceeds the thresholds established by the SGEIS. If not, then SEQRA will have already been complied with through the SGEIS process. However, if potential future development exceeds the thresholds of the SGEIS, then that development would be subject to project specific SEQRA review. The Planning Board would then be in a far better position to evaluate the potential environmental impacts that may arise from site development than is the Town Board presently, as the details of that future development will be known to the Planning Board at that time.

5. While the Town Board has elected to undertake review in accordance with SEQRA Type I procedures, there are no other Agencies having any discretionary authority to fund, approve or directly undertake any portion of the Action at issue other than the Town Board. As such, there are no other Involved Agencies with which to coordinate this SEQRA Review.

6. By letter dated February 1, 2021, the Saratoga County Planning Board found that there would be no County-wide impacts resulting from a split zoning district (C-7 and LC) along this property and it further made clear that its findings are applicable and can be relied upon regardless of the exact location ultimately established for the division line between these two districts over and across this property.

7. After a thorough and detailed review of the Full EAF, the Town Board hereby finds that no significant adverse environmental impacts will result from adoption of the proposed Local Law and hereby adopts a SEQRA Negative Declaration.

8. The subject property is located within Neighborhood 9 in the Town Comprehensive Plan. The vision articulated in the 2005 Comprehensive Plan for this area emphasizes the need to protect vital habitat areas and water bodies, but also emphasizes that this neighborhood includes “a mix of land uses that will allow offices and residential development, providing opportunities for workers to reside close to their place of employment.” The Comprehensive Plan included the following list of recommendations for the lands at issue and other proximate lands “shared access and access roads . . . cluster development that will protect open space, agricultural resources, wetlands & steep slopes . . . encourage utility extensions”. While the 2005 Comprehensive Plan proposed significant limitations on future commercial development along Route 9, that portion of the Comprehensive Plan has since been replaced by the 2016 updated Route 9 North Commercial Corridor planning document. Consistent with this updated portion of the Comprehensive Plan, the Town has shifted its focus from limiting commercial projects along Route 9 to rezoning lands in order to utilize commercial zoning along the corridor and focus on development that may result in extension of sewer and water. A split zoning district along this subject property to allow commercial uses as proposed is consistent with the Town Comprehensive Plan and the 2016 Route 9 North Commercial Corridor update.

9. The proposed zoning division line strikes the proper balance between commercial development along the Route 9 Corridor with protecting vulnerable natural resources located on and around the site; and be it further

**RESOLVED**, that subject to verification by the Town Building and Planning Department and the Town Engineer of the conclusions drawn in the April 5, 2021 letter from Environmental Design Partnership, LLP, that the petition submitted under section 265 of the Town Law by adjoining property owners Hammond, Raymond and Devore does not satisfy the 20 percent requirement of section 265, proposed Local Law \_\_\_\_ of 2021 is hereby adopted and the Town Clerk is directed to file the same with New York State Secretary of State forthwith; and be it further

**RESOLVED**, that the Town Attorney, Town Engineer, Town Building and Planning Department, and Town Clerk are further authorized and directed to take any and all further action necessary to effectuate the terms of this Resolution.

## *Local Law Filing*

NEW YORK STATE DEPARTMENT OF STATE  
41 STATE STREET ALBANY, NY 12231

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Text of law should be given as amended. Do not include matter being, eliminated and do not use italics or underlining to indicate new matter.

**County**

**City**

**Town of**

**Village** Malta

**Local Law No. \_\_\_\_ of the year 2021:**

**A local law Rezoning a Portion of 12 Hearn Road.**

**Be it enacted by the Town Board of the**

**County**

**City**

**Town of**

**Village** Malta **as follows:**

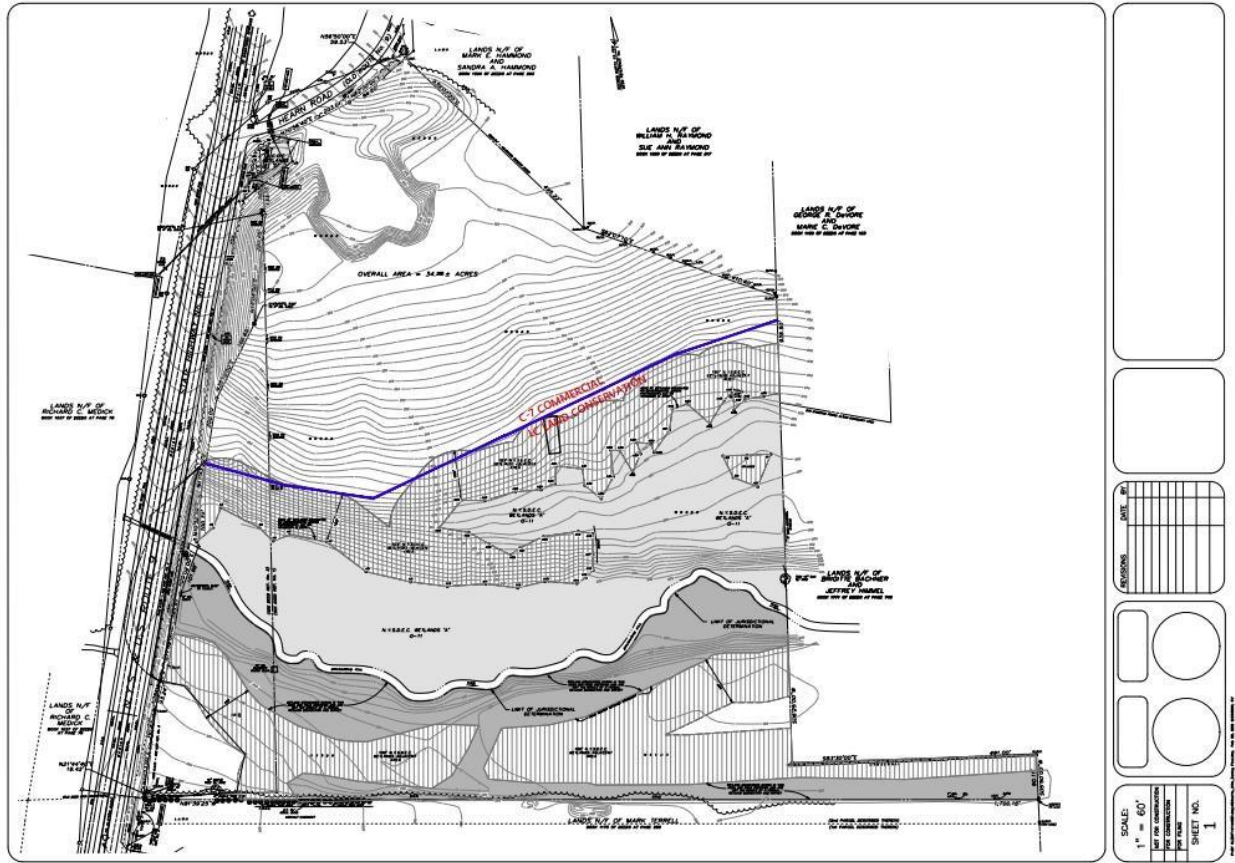
**Section I. Name:** This Local Law is titled "Local Law Number \_\_\_\_ of 2021 Rezoning a Portion of 12 Hearn Road"

**Section II. Zoning Amendment:** The Zoning Map of the Town of Malta provided for at §167-4 is hereby amended to rezone the northern portion of property commonly known as 12 Hearn Road (tax map parcel 217.-02-55) to the Commercial-7 (C7) zoning district. The southern portion of this property which is not affected by this Local Law will remain within the Land Conservation (LC) zoning district. The line dividing the two zoning districts as they traverse property known as 12 Hearn Road (tax map parcel 217.-2-4.12) shall be as set forth in the attached amended zoning map.

**Section III. Supersession:** This local law is hereby adopted pursuant to the provisions of §10 of the New York State Municipal Home Rule Law and §10 of the New York State Statute of Local Governments. It is the Town Board's intent that this Local Law supersede and stand in the place of Local Law 6 of 2020 and it is further the intent of the Town Board that this Local Law supersede any and all contrary or inconsistent Laws.

**Section IV. Savings Clause:** If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any Court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment, order and/or decision shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation of the clause, sentence, paragraph, worked section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section V. Effective Date:** This local law shall take effect upon its filing with the New York State Secretary of State.



Supervisor O'Connor said the next item on the agenda is Highpointe. Let's give it a moment to get Mark back up here. Already, just preliminarily on these two motions to, you know, adopt the amendment to chapter 139. And to approve the high point sidewalk project, I look at these two resolutions. together. I don't think one can or should be passed without the other one being passed. So, my votes on these will be conditioned on that, basically. That being said, the first item is to adopt the amendment to chapter 139. You want to discuss before you want to make a motion to somebody want to move that?

**RESOLUTION NO. 82 APRIL 5, 2021**

**ADOPT CHAPTER 139 STREETS & SIDEWALKS AMENDMENT**

**Motion by:** Councilman Dunn      **Seconded:** Councilwoman Young

**Discussion:** Councilman Dunn said I think as I've said before, you know, there are no good options here, we have a bunch of bad options, unfortunately. And we've been putting into a very, very difficult position, the homeowners have been put into a very difficult position. I don't like this, I, this is not what I would like to have happen. But, you know, we really have been put in a terrible position here. I wish there was a clear and convincing consensus from the neighborhood in one direction or the other. But unfortunately, this, as I said before, I think is the best option we have available to us at this time.

Supervisor O'Connor responded yeah, I mean, that's the way I see it. I agree, this is a very difficult situation. But it's something that I think the Town has to resolve, after a long, long, long time of considering it. Considering all input and positions on all sides of the equation. Any other discussion?

Councilwoman Young said I spent some time today on this beautiful day, walking around Highpointe actually, specifically, I walked all the trails in Thistle, there were a lot of people out, you know, kids are off from school. So, it was, you know, a lot of kids out playing and, and parents, watching them so I took the time to speak to people. I overwhelmingly most of them were concerned because they had heard the removal option. Once I told them that, that it's our intention to actually repair some of the critical parts and make them ADA compliant. They were mostly relieved. So, I myself am committed to that, that we were actually going to make like repairs to make them safe. I agree, while it's a difficult situation, I think that having it be the only neighborhood in the entire Town of Malta, where the Town is responsible for the sidewalks, creates an inequity. The other thing I heard from several people someone else mentioned tonight, remember who that particularly on the streets that go through Bayberry and Thistle where other streets come in, it could slow the traffic down to have some stop signs. So, you know, I don't know if that's something we can explore. I don't know what has to be done to make that happen. But I can see how that would at least help alleviate some of the some of the traffic issues.

Councilman Hartzell said one of the, you'll forgive me for because I'm old, right. So, I've been around a lot. As a traffic engineer of which we have one in our room here will tell you that if you install traffic signs in locations that are not consistent with the manual Uniform Traffic devices and accepted engineering practices, you actually create liability. So, whenever you do install a sign, you want to make sure that you have an engineer recommending that you do it. Otherwise you actually can increase liability to the Town. I won't surprise anybody in this room that occasionally I found myself in life facing a big mess. One of which was my decision to go to Law School, and the way I was raised is that when you're in that situation, you do what you have to do to fix it, you don't slough it off. I've created several of my own messes in, in recent years even. When I found myself in that situation, I didn't like it, I lost sleep over it, but I took care of it. I think that's what the Town should do in this situation as well. we're not, we're just dumping it off dumping a problem that we created off on the homeowners because we have the power to do it and that's just not how I was raised.

Councilwoman Young said I don't feel like we're doing that, John, I mean, we're making an effort, and I'm committed to making the effort to make repairs. Most of them are not in that bad condition. They're safe and simply because they're asphalt, I don't think that makes them less concrete and now we're expecting concrete, but at the time, we didn't so.

Supervisor O'Connor responded yeah, I agree with that. An asphalt walkway where 200 pounds of a person are walking on it, and bicycles are riding on it and not dump trucks or cars or anything like that. I don't know that they're subject to the same standards or should be in terms of sub base as roadways. We have other asphalt sidewalks in the Town. Foxglove is one and there are others. They seem perfectly fine. I don't see why this asphalt sidewalk can't be put in a safe condition by the Town now. I think that's possible and for the audience we're not in a public hearing section right now. So, this is just Town Board discussion. So yeah, I'm in favor of this motion, even though I believe it's a very difficult situation and I emphasize that I'm in favor of this motion, because I'm also in favor of the next motion to devote money to put these sidewalks into acceptable condition that doesn't include concrete, but would be to put them in acceptable condition.

Councilwoman Young said If I can just make one other observation. I think when this process is done, and we've actually done the repairs, I would like to see us investigate the possibility to prepare a Map Plan Report and investigate the possibility of a sidewalk district for the neighborhood. I think they can be maintained probably more efficiently that way. Then it wouldn't be you know, the HOA, taking an extra 200 bucks on top of the already expensive HOA. Councilman Warner said having walked it often, the problem isn't the asphalt the problem is the roots from the trees that we planted, and they're starting to heave the asphalt that asphalt can last a long time. There's no question about it. So, to take the trees out the roots out the asphalt, replace it with concrete, I don't think is a fair answer. It should end up as asphalt as they bought the house. and had agreed upon. Thank you.

Supervisor O'Connor said I agree with that. Any other comments before we take a vote on this motion discussion being handed, all in favor

**Vote:** Supervisor O'Connor-Aye      Councilman Dunn-Aye  
          Councilman Hartzell-Nay      Councilman Warner-Aye  
          Councilwoman Young-Aye

**WHEREAS**, the Town Board of the Town of Malta finds that the existing exemption of the Highpointe Homeowners' Association from responsibility to clear and maintain sidewalks within that development as currently provided in §139-10 of the Town Code of the Town of Malta, and wishes to amend §139-10 to remove that exemption and also to remove the specific reference to Highpointe in §139-9 (the "Project"); and

**WHEREAS**, the Town Board of the Town of Malta designated itself Lead Agency for purposes of administration of the State Environmental Quality Review Act (6 NYCRR 617.6(b)) with respect to the Project; and

**WHEREAS**, that the Town Board finds that the action is a Type II Action pursuant to 6 NYCRR 617.5(c) and, accordingly, no further action is necessary to comply with the State Environmental Quality Review Act (6 NYCRR 617.5(a)) with respect to the Project; and

**WHEREAS** that the Town Board of the Town of Malta held a public hearing pertaining to proposed amendments to Town Code §§ 139-9 and 139-10 (Sidewalks) on the 1st day of March, 2021, at 6:00 o'clock P.M. at the Town Hall of the Town of Malta, 2540 Route 9, Malta, New York 12020, at which hearing all persons desiring to be heard thereon were heard; now, therefore be it

**RESOLVED** that the Town Board hereby adopts Local Law 1 of 2021; and it is further

**RESOLVED** that Town Clerk of the Town of Malta is directed to file this local law with the NYS Secretary of State forthwith.

# Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE

41 STATE STREET ALBANY, NY 12231

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(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being, eliminated and do not use italics or underlining to indicate new matter.

**County**

**City**

**Town of**

**Village** Malta

Local Law No. \_\_\_\_ of the year 2021: A local law Amending Chapter 139 re Responsibilities of Homeowners' Associations.

Be it enacted by the Town Board of the

**County**

**City**

**Town of**

**Village** Malta as follows:

**Section I. Name:** This Local Law is titled “Local Law Number 1 of 2021 Amending Chapter 139 (Streets and Sidewalks) of the Malta Town Code with Respect to the Responsibilities of Homeowners’ Associations”.

**Section II. Substantive Law:**

- A. §139-9 (Responsibility of homeowners, business landowners and business operators) is amended by removal of the parenthetical: “(including those within Highpointe)”.
- B. §139-10 (Responsibility of homeowners’ associations) is amended by removal of the Sentence: “Homeowners’ associations for Highpointe at Malta PDD are exempt from this article.”

**Section III. Supersession:** This local law is hereby adopted pursuant to the provision of §10 of the New York State Municipal Home Rule Law and §10 of the



New York State Statute of Local Governments, it being the intent of the Town Board to supersede any and all contrary or inconsistent State Laws.

**Section IV. Inconsistency:** All other local laws and ordinances of the Town of Malta, if any, that are inconsistent with the provisions of this local law are hereby repealed: provided, however, that such repeal shall only be to the extent of such inconsistency and in all other respects this local law shall be in addition to such other local laws or ordinances, if any, regulating and governing the subject matter covered by this local law.

**Section V. Savings Clause:** If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment, order and/or decision shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation of the clause, sentence, paragraph, worked section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section VI. Effective Date:** This local law shall take upon its filing with the New York State Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2021 of the ~~(County)~~(City)(Village)(Town) of Malta was duly passed by the Town Board on April 5, 2021 in accordance with the applicable provisions of law.

**~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer<sup>2b</sup>.)~~**

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 of the ~~(County)~~(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the on \_\_\_\_\_, 20\_\_ and was (approved)(not approved) (repassed after  
(Name of Legislative Body)  
disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_, 20\_\_.  
(Elective Chief Executive Officer<sup>2b</sup>)~~

~~In accordance with the applicable provisions of law.~~

**~~3. (Final adoption by referendum.)~~**

~~I hereby certify that the local law annexed hereto, designated as local No. \_\_\_\_\_ of 20~~

of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the  
on \_\_\_\_\_ 20\_\_\_\_ and was (approved)(not approved)(repassed after  
(Name of Legislative Body)  
disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was submitted  
(Elective Chief Executive Officer\*)  
to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of  
the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in  
accordance with the applicable provisions of law.

**4. ~~(Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~**

I hereby certify that local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20  
of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the  
\_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved)(repassed after  
(Name of Legislative Body) disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local  
law was subject to  
(Elective Chief Executive Officer\*)  
permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in  
accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county, elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or Village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. ~~(City local law concerning Charter revision proposed by petition.)~~**

I hereby certify at the local law annexed hereto, designated as local law No \_\_\_\_\_ of 20 \_\_\_\_ of the  
City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of  
section (36)(37) of the Municipal Home Rule Law, and having received the affirm majority of the  
qualified electors of such city voting thereon at the (special)(general) election held \_\_\_\_\_ 20\_\_\_\_,  
became operative.

**6. ~~(County local law concerning adoption of Charter.)~~**

I hereby certify that the local law, designated as local law No \_\_\_\_\_ of 20\_\_\_\_  
of the County of \_\_\_\_\_ State of New York, having submitted to the electors at the General Election of  
November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivision 5 an section 33 of the Municipal Home Rule Law, and  
having received the affirmative vote of a majority of the qualified electors of the cities as a unit and a majority of the  
qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same  
is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner  
indicated in paragraph \_\_\_\_ 1. \_\_\_\_\_ above.

Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body

(Seal)

Jennifer Holmes, Malta Town Clerk

Date: April 5, 2021

(Certification to be executed by, ~~County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney, of locality.~~)

STATE OF NEW YORK \_\_\_\_\_  
COUNTY OF SARATOGA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Steven H. Gottmann, Malta Town Attorney

~~County~~  
~~City~~  
~~Village~~  
Town of Malta

Date: April 5, 2021

Supervisor O'Connor said the next item is the paired-up resolution for paying for Highpointe walkway repairs to make the Town responsible for designating a sum of money.

**RESOLUTION NO 83 APRIL 5, 2021**

**APPROVE HIGHPOINTE WALKWAY REPAIRS**

**Motion by:** Councilman Dunn                      **Seconded:** Councilman Warner

**Discussion:** Supervisor O'Connor said one of the items that I'll just throw out the Board for discussion is whether it wants to put a little bit more money on this than the 100,000 at least to accommodate a little bit more. One of the items talked about is whether it might be increased to \$125,000 to just kind of make sure that engineers and workers can get this in a safe and acceptable condition. I don't know how does the Board feel about that?

Councilman Dunn said I'm fine with that. Most important thing is getting it done correct.

Councilwoman Young responded yeah. Does Kevin think we can scrape that together then?

Yes, I'm in support of that.

Councilman Hartzell said I'd like to see it be 400,000.

Supervisor O'Connor replied understood.

Councilman Dunn said so, based on your recommendation, Mr. Supervisor, I would move that the resolution be amended to a sum not to exceed \$125,000 in the resolved paragraph and request a second.

**Motion by:** Councilman Dunn                      **Seconded:** Councilman Warner

**Vote:** Supervisor O'Connor-Aye              Councilman Dunn-Aye  
          Councilman Hartzell-Aye                Councilman Warner-Aye  
          Councilwoman Young-Aye

**WHEREAS**, under section 139-10 of the Town Code, homeowners' associations are obligated to maintain all sidewalks located within the boundary lines of the association property and privately-owned property of their members;

**WHEREAS**, section 139-10 provides that the homeowners' association for Highpointe at Malta ("Highpointe HOA") is exempt from this requirement;

**WHEREAS**, the Town Board has eliminated that exemption and treats all homeowners' associations in the Town of Malta the same with respect to the maintenance of sidewalks, but the Town Board also recognizes that the residents belonging to the Highpointe HOA have relied upon the exemption in section 139-10 for some years;

**WHEREAS**, the walkways within the Highpointe HOA are in need of certain repairs caused in part by tree roots breaking apart the surface;

**WHEREAS** the Town Board designated \$14,000 for repairs to the Highpointe HOA sidewalks during calendar year 2019, but was not able to find contractors willing to undertake the project; now, therefore, be it

**RESOLVED** that the Town Board intends to appropriate amounts not to exceed \$125,000.00 within the next three years (2021 through 2023) to complete the following work:

remove all trees identified by the Town Engineer as causing or potentially causing bulging or breaking of the walkway surface; remove the sections of walkways damaged by the trees removed; cut away the offending roots; repave the sections of walkway removed with asphalt; repair deficiencies at the intersections of the walkways and roadways (including the installation of tactile warning surfaces where required); and address other safety hazards on the walkways identified by the Town Engineer.

Supervisor O'Connor said the next item on the agenda tonight is the PDD proposed amendment Scannell, we have a draft scoping document, a resolution that requires the preparation of a Draft Supplemental Environmental Impact Statement. Do we have a motion?

### **RESOLUTION NO 84 APRIL 5, 2021**

#### **RESOLUTION REQUIRING PREPARATION OF A DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT IN REFERENCE TO THE LFTC PDD AMENDMENT APPLICATION**

**Motion by:** Councilman Dunn      **Seconded:** Councilwoman Young

**Discussion:** Councilman Hartzell said this process, folks, in no way resembles what we went through with GlobalFoundries. It's being rushed, and it's nowhere near as thorough and that really is a shame. Because at the end of the GlobalFoundries process, we had a great partner. We had an unprecedented investment in our community of 15.2, or \$15,000,000,000 and 3,000 jobs, they didn't rush us. We sat through meeting after meeting after meeting, they made sure we were comfortable, they gave us straight answers, they didn't hide the ball, they stepped up. When we requested something, or required something, they satisfied it. We would meet as often as needed to keep that process going forward. This is nothing like that. I'm very uncomfortable to the point where I just cannot, you know, I've spent hours and hours reading this stuff, sending detailed written comments back, most of which has been ignored. Comments that in the last process would have all been responded to. So, the whole board could have gotten satisfied with their questions and concerns. None of that is going on so far. In view of that, I am not able to support this project until the questions that I keep asking, and concerns I keep raising and mistakes I keep pointing out or addressed. I'm just not going to support it. So, you know, this is a difficult spot, we have to create a future for the Tech campus. I guess we're lucky to have this problem and that we've got potentially to pass forward, but having that option doesn't mean that we can just throw caution to the wind and not get serious questions answered about what this is really going to mean for our community. We're still in I don't know how many versions of the PDD language, the development fee languages are highlighted still, as if that's still not, you know, you're keeping your options open that you're not going have to pay what GlobalFoundries paid the investment in having a good faith relationship, a partnership like we have with GlobalFoundries and have is not there. So, I'll oppose this resolution. I mean, I have a specific I had a list of specific questions on the scope that I emailed out. You know, I'd be glad to hear it, you know, answers to these. The first couple on traffic. You know, I don't understand how the traffic study relates to development in NYSERDA. Because GlobalFoundries is now looking at NYSERDA as the location of its build. I'm concerned about making the two pods that are left after this PDD amendment, essentially worthless because there'll be no traffic capacity to support any activity on their site. The aesthetics and lighting the scope, as it now reads calls for an assessment strictly at the property boundary, I

think we need to look at light impacts off, you know, flowing off the site as well. The noise, scope language, when you read it in connection with the PDD revision. To me, it looks like it's going to be a self-determining process. That whatever noise they make is what noise it's going to make, and that's going to be a regulation we're not setting some kind of ambient noise standard that we're going to know in advance is going to be what the regulation is going to be. Archaeological and cultural, we have a letter from our Town Historian this afternoon, I believe that needs to be considered. Recreation, recreational resources, you know, when I ask a question about whether there's trails on a particular part of the area being developed, and I instead of getting a real answer, I get a well, there's no official trail. Well, I think what that tells me is, there's a trail on there, and people are using it, but you just won't give me a straight answer. The reasonable alternatives, rest of Town Board heard from me over the weekend or late last week, I think it's not responsible to have a single, reasonable alternative of a 10% reduction. When you're looking at an increase in the total build of 233% over what's allowed now. This is not rezoning to allow warehouse use. This is rezoning to allow a mega warehouse in the middle of a Tech campus. This is 233% of the buildable capacity that's now allowed is what the developer wants. I think it's not responsible to not consider smaller alternatives than 233% or 210%. I think a 10% reduction down to 3,150,000 when you got 1.5 is the current building there. That's not a fair look at the reasonable alternatives that I think SEQRA requires or that we owe to our Town residents. So that's the end of my speech. Thank you. Councilman Warner followed I got something. So, there is no way that I'm going to support this tonight. We have got to take a step back and we got to really look at this carefully. As John has stated, we haven't done that. I don't know what the big hurry is to get this done so soon. It's a big major decision for this Town and whatever we do on it is going to reflect in this Town for years. We better get it right. We also got to give Global the respect to evaluate the draft ahead of time and to comment on it. Thank you.

Supervisor O'Connor said thank you, Craig and John. Okay. I mean, this is certainly not the end of the Town Board's examination of this whole issue. It's not even close to ruling, passing on the application for an amendment. I see this resolution as furthering the search for information. Specifically, on the traffic, I mean, we've increased the scope to require a full traffic impact study. That's going to give us a lot of information as to the feasibility of this, both with and without GlobalFoundries 8.2. So, we want to make sure that the door as I've stated before, to 8.2 remains firmly open. I see this scoping document and resolution, as you know, furthering the goal of getting the Town Board the information that it is going to need to resolve this. I think it's fine to move forward with this now. I'm certainly interested in hearing what GlobalFoundries has to say. Whenever it can provide us specific information as to the categories of things that it doesn't like, why it doesn't like it, what impact it's going to have on GlobalFoundries because we have been in a great partnership with GlobalFoundries over the years and we absolutely want that to remain. So, I definitely want to hear all the input from GlobalFoundries. I don't see a problem with moving forward now to get the information as to the threat as to the impact on traffic, which I believe is foremost in the minds of our residents in Malta as to what impact this is going to have. So, that's why I'm in favor of this motion.

Councilwoman Young added as I understand it, if there are two ways we can proceed in this, either we can adopt a scoping document on our own, or we can open it up to the public, if we say we're going to wait the 30 days and give GlobalFoundries the time. Then that means all of the interested parties will participate in the scoping document. So, two ways to do it. I do see some value in that but I know that this was developed by our Town engineers and our Planning Staff.

Obviously, I'm just a lay person, but it's basically that these are the questions that we need answered. The fact that John isn't necessarily getting his answers, I'm assuming that those, maybe I'm wrong, but that those answers will come with this Environmental Impact Statement.

Councilman Hartzell said that's not correct. I mean, many, many of them really aren't within the scope of the EIS. The problem, Cynthia, is that we keep getting revised PDF, or excuse me, revised PDD language. Some of it is I don't understand, and I read the law for a living. I've asked questions that I don't get answers to and like I said, when we did this with GlobalFoundries, this is my, you know, this is several times for me, questions were asked, the entire Town Board got their questions answered. This, like Craig said, this is transformative for the Town. You know, I feel a particularly heightened sense of responsibility myself, to read all this stuff, to ask, read it twice, to sit down and carefully ask questions about the details. When the developer gives me a chart that supposedly describes all of the changes they made in their last changed version of the PDD and I go through it, and I find eight examples, which I've listed for the entire Town Board of where they didn't include a description on their chart that they changed something and the reason for it. To me, that's illustrative that it's particularly important that we slow down, take our time and look at all the details very carefully and we're not we're not doing that. We're just not.

Councilwoman Young said if I can finish my remarks, John.

Councilman Hartzell responded yeah, go ahead, Cynthia.

Councilwoman Young continued first of all, that's key, I do not want this project to just process to be rushed. It's important that we maintain our relationship with GlobalFoundries. I, for one, don't want to rush this, but with this particular document, I guess what I want to ask is, are our staff and our consultants comfortable with, with the scope that we've developed?

Stuart Mesinger, Chazen Companies said you're right, John, we're moving pretty quickly. I think. last Monday, the Board asked us to revise a scope to include a traffic study for this meeting. So, we work back and forth with the applicant and I think we got that to you on Thursday afternoon. That's not a lot of time. I got some comments from John, very specific comments, about the scope this afternoon. I think some of them are worth discussing. I think some of John's comments are fairly easily addressed. He's asked for some specific changes to the scope. For example, the inclusion of another alternative. So, I think, you know, that's worthy of consideration. I think Cynthia, perfectly summarized the choice that you have, which is, I guess there's actually a third choice, a sub choice, choices are adaptive scope, as it is tonight. It would I think it addresses or at least in the SEQRA process, would address the issues John's raised. I'm going to think it covers construction traffic. I think at the end of the day, if you recall the memo I sent you discussing traffic. The 2018 Creighton Manning, memo, set forth what's left in capacity in the Tech Park and you'd get that out of this. With respect to lighting, the standard is typically at the property line, so if you don't have glare at the property line, you wouldn't expect to have glare past that. I read the noise amendment that they're making to say that they don't have to monitor, but that they have to comply with the prior set of regulations.

Councilman Hartzell said I think the language I don't think bears that out. But I could have been misread.

Stuart continued and that's why you're right. We're doing this, you know, fairly quickly without studying in detail together. But we read it slightly differently. I think with respect to the archaeological and cultural, I don't think there's an issue there. I think with recreational, I think, perfectly easy to address that you've asked for, I think the smaller alternative is, is substantive, substantive comment, the way we try to write the scope with respect to the alternatives, is to have

the traffic study, potentially back into an amount of development that doesn't blow up the network. So, we added an alternative that those....

Councilman Hartzell said with that Stu, if you do that, aren't you going to have to go back into each of the other impact areas? If you identify an alternative that doesn't blow up the traffic capacity aren't you going to have to go circle back through all of the other impacts, and potentially reevaluate them as well?

Stuart responded it's hard for me to see where there are significant impacts for this set of zoning amendments other than traffic. Noise, but that's measurable, and you can solve it. Lighting, I think that's I mean, it's really a site plan issue at the end of the day. I think this is about traffic.

Councilman Hartzell said isn't the SEQRA scope, and the PDD revisions, don't live, you know, independent existences. They're tied to one another. Right? So, the evaluation that you're going to conduct and SEQRA is a function of the PDD language that is under consideration. Right. So, you know, the question that we should be asking ourselves is, is all this PDD language that's in the latest draft that we got on the 29th acceptable to all of us? Because that's, what's reflected there is going to drive the assumptions, which drive the impact analysis.

Stuart responded I don't disagree with any of that. But I think that's your decision as to whether the proposed legislation is right to move forward. To finish my thought about the Councilwoman's comments, I think you have, you have three choices, you can adopt the scope as it's been presented tonight, you can decide to engage in a public scoping process, as requested by Global and I think this John is suggesting. The third choice, I suppose, would be, we could amend this to delay John's comments to address John's comments and then bring it back to you.

Councilwoman Young asked do you think so that there's I mean, I could accept that option that if there are other comments that, that you think John's made comments that are that have validity. I could accept that. So again, like John, I don't want to rush this process and I don't think anybody is well served by rushing the process. But I also agree, the single biggest the elephant in the room is the traffic.

Councilman Hartzell said that doesn't mean that the rest of it doesn't matter. Because there's a lot of details in here that will affect what this project is, if it happens. A big one for me, the 400 foot versus 250-foot buffer. There's one for me, and you can go through I mean, I've made all my thoughts known you know, maybe people read them or not, you know, I've done my job.

Councilwoman Young confirmed I read them.

Councilman Hartzell said yeah, so I don't know, maybe I'm the only one that cares about this stuff. If that's the case, the Board can proceed and, you know, I'll chime in once in a while.

Supervisor O'Connor replied okay, I totally reject that comment that you're the only one who cares about this stuff. That's completely uncalled for...

Councilman Hartzell said I don't know if I...

Supervisor O'Connor responded oh, John, we haven't... Councilman Hartzell interjected on the....

Supervisor O'Connor interrupted wait a minute, wait, wait, I'm going recognize Tim, he hasn't had a chance to talk on this. So, Tim, did you want to address the issue?

Councilman Dunn said yeah, I think it's important that that we move forward with this scoping document because the biggest issue with this project, as we all know is traffic and the better that we can have clear informed data on traffic to properly assess this project, the better. To suggest that somehow this process is being rushed or fast tracked is, is frankly false. I mean, these were six months. This project review was six months in the first time, we had a presentation on this



was in November of 2020. We're being, we're all being, as dutiful and thoughtful as possible with this and reviewing the information as quickly and efficiently as possible. I don't think that it's fair to characterize the applicant as trying to, you know, hide information, or be less than forthcoming. Every question that I have asked, I feel confident, has been addressed, I feel that the questions that have been asked have been, has been answered. This is not approving the project tonight, this is approving a scoping document, so that we can move forward and we get the improved the appropriate information, we need to make an informed decision for our residents and that's what we should be doing in a responsible manner this evening.

Councilman Hartzell said all I can tell you is that, you know, I've listed all these questions. I don't have answers to a lot of them yet. I haven't seen a list of questions from anyone else, I don't know, I feel like I'm, I'm out here on my own. I don't hear a discussion about issues that I'm raising, like, is everybody in agreement with the 400 foot versus 250-foot buffer? Right, we don't talk about it. We don't talk about any of these concerns. So anyways, you have a vote on the scope. You know, at this point, I wouldn't support it tonight. I think the request, you know, to allow some further look at the scope until our meeting in May is a reasonable request and that's what I'm comfortable with.

Councilman Warner added I'm not going to support it either. I have an issue on the rocket site and it has to be addressed. I feel it is happening too fast. We got to get more of a public input on this also, I have gotten some and that's how I'm voting tonight.

Councilwoman Young said I guess I didn't get really a definitive answer to my question. Are our consultants and our staff comfortable with the scoping document? What did you think? Do you think we I mean, you arguably said you said it was rushed? Do you feel like you would be more comfortable with the document given the extra time?

Stuart answered honestly, I don't think it would change significantly. As I say the important thing, here is the traffic. We've modeled the scope exactly what we did in 8.2. I understand John's concerns. That's up to you folks. I understand what Global is saying about wanting time to look at it. But to directly answer your question this scope, you know, there's some differences and counting and so on which we had to go into dynamics and time to do it, but it's the same. It's the same traffic scope as you previously approved and that's what's appropriate here. The whole idea here, remember initially was the applicant wanted to just compare their traffic with prior thresholds and when we pulled all the filings and, frankly, stepped up the door and looked around what's happened over the years, we needed a new traffic study. We needed to do two things, we needed to look at this project if there is no 8.2 and we need to look at this project with 8.2 and this project, and this rezoning happens and the resulting project is built. That's a lot of traffic and we're going to have to see what it says but I think the scope will get you the information you need to address that. If we don't do any further amendments, and you adopt the scope tonight, I think that all of John's comments will be addressed in the process because they can always be addressed as part of the comment

Councilman Hartzell said just so we're clear, though about this point. That is that the intention, if this goes forward, without further consideration, is that the scope will be defined by maxing out the traffic capacity, it will max it out, which does not allow this Town Board to look at lesser iterations of development. This is 233%. This is a mega warehouse complex. This is a rezoning to allow a warehouse use.

Stuart added in their alternative John, 4.4 that's what we added is to back into a ....

Councilman Hartzell right said we would max out.

Stewart said well I don't know if this is the maximum amount of development under this proposal without 8.2 maximize you out. I don't know if this is more or less.

Councilman Hartzell responded I don't either. That's why we should look at our alternatives. Right?

Councilman Warner said that's why we're hesitant.

Stuart responded well, but that's what the scope is asking you to. That's what the scope asks to find. Now, the only way to find out the answer is to do the study.

Councilman Hartzell said well, no, no, you can you can study, don't allow any increase building beyond what's allowed now and change the use.

Stuart said you can get there in this scope.

Councilman Hartzell said you won't, unless it's so happens that the traffic maximum happens to be what the current allowed build is, which would be an extraordinary coincidence. Why not just ask it's set that as a reasonable alternative to begin with rezone the uses and, you know, evaluate that instead of allowing 233% more build?

Stuart answered well, but what the scope does is it asks for trip generation from the range of uses allowed, so it does that. So, in other words, we're not just looking at what a giant warehouse might be, we're also looking at the other uses allowed by the right to.

Councilman Hartzell responded but the current zoning allows a million and a half square feet of those uses. That's what I'm saying a reasonable alternative is.

Stuart said and I think I said substantively, I thought the one comment that we might end if you wanted to amend the scope would be to include your alternative, which is the 2.5 million square feet. I think that's a data point that might be useful to have. But I think we can get I frankly, think we can get through 4.4.

Councilman Hartzell said that's the first time anybody has said anything that agrees with me all night tonight. Thank you, Stu.

Councilman Warner said I have a question. When Global goes back through reviews this when were their comments going to get implemented.

Stuart responded If you have a public scoping period, then they will have whatever time you allow for public scoping, which is a minimum of 30 days.

Leah Everhart joined saying there is no provision in the regulations for it, but it's 60 days, if the applicant went ahead and proposed that scope a few weeks back.

Councilman Warner said I just want to make sure that their concerns are addressed here. They have that chance. They asked for it now twice. In a letter they showed up here tonight, I think to be fair, they should have an input.

Stuart responded so if you if the Board, the majority of the Board, would agree with that, I think you would set a public scoping period. Because while they have said they want the input, they haven't given us anything specific and this mechanism that SEQRA provides is the public scoping period.

Supervisor O'Connor said okay and we understand from Leah that, you know, we're not required to do any public scoping period, because we've gone through this before. Is that correct Leah? Leah responded okay, yeah. It is because this is an SEIS this a supplemental is not an original EIS that there's no scoping session required. To answer the question earlier that I was trying to answer, but I don't think Councilman Dunn was able to hear me, the regulations don't set out as explicit timeframe that you have to impose for scoping. If you want to open this up to public scoping. You

could do so and you could select your own amount of time, the regulations do have a 60-day period when an applicant provides a draft scope to the Board for consideration and you undertake the scoping. It's supposed to be concluded within 60 days, that's not exactly the situation we're in. But 60 days, 30 days, that sort of timeframe would be typical.

Councilman Hartzell asked didn't you say that because this is an SEIS the formal scoping provisions of the regs that don't even apply, right? So, this is really informal as what we're doing. Leah responded right the alternative to scoping session, is the Board simply identifying the scope that it wants to impose upon the EIS process.

Councilman Hartzell asked those deadlines, 30-60 days, they don't apply because this is an SEIS right?

Leah answered I only mentioned the 60 days to help identify what the typical time would be in an analogous situation.

Supervisor O'Connor said I mean, my sense is, I would like to move forward, I want the information. Traffic is a huge part of this to me. Stu, what would be the impact if we, if the Board amended for Section 4.4 after the word evaluated to put a comma and say, including a reduction to 2.5 million square feet?

Stuart answered we could do that or we could do it in a separate but when you think about that for a second.

Councilman Dunn said I'm not clear where the 2.5 million square feet number has become. That's not what, you know, was requested here, right? I'm not sure what where that how that number has now become relevant here.

Stuart responded John has suggested that as an alternative, if you wanted to include separate 4.4, and remember 4.4 to 4.5, because 4.4 has a specific purpose that is not the same.

Councilman Dunn added I feel like the two and a half million is rather arbitrary and I would be more open to, you know, other less restrictive. Now putting a number on it and leaving it open, rather than prescribing a somewhat arbitrary number.

Supervisor O'Connor said and that's, I think, what 4.4 does correct me if I'm wrong, Stu. That's the intent of Section 4.4.

Stuart answered that's the intent of Section 4.4.

Supervisor O'Connor continued okay. Anything else? Cynthia, did you want to address anything else?

Councilwoman Young responded no, I don't think so

Supervisor O'Connor asked okay any other discussion.

Councilman Hartzell said just one final comment. You know, to my way of thinking GlobalFoundries has been here since 2009, spent \$15 billion, hired 3000 employees, funded the GlobalFoundries-Malta Foundation, and many other things for this community. They've earned the right to have another few weeks to comment on this thing, to my way of thinking. I think this sends the wrong message to them, as I've told them myself, it may be that this project ultimately, in some form, or fashion makes sense for the Town and if it does, I'm going to support it. But these, this isn't just pie in the sky, we might do this, we might do that these guys have spent \$15 billion. There are 3,000 folks over there, they've earned the right for a few weeks extra time to comment on this thing, in my humble opinion. Thank you.

Councilman Warner echoed and I agree with that.

Councilwoman Young said but again, if we do that, then we are in essence having a public scoping document where every, when I mean I'm not opposed to that either.

Leah Everhart said we would not recommend opening scoping up to one distinct class of entity of neighbor. For a number of reasons, if the Board feels strongly about opening this up to comment, we would suggest using the process it set forth in the SEQRA regulations. Otherwise, we would suggest that the Board adopts the scope itself. Obviously, nothing prevents anybody from coming in here and giving comments during the beginning of a Town Board meeting and certainly anybody that wants to do so could do so. But that's not the same as an open scoping session.

Councilman Hartzell asked what are the risks? If we do that, that we allow them to comment? What are the legal risks of the Town?

Leah answered well, you know, there may not be any identifiable legal risks, and Stu can jump in if he has experience in these sorts of matters. But here we have a number of involved agencies that are actually involved in the coordinated review process with this Board, who wouldn't then be given the opportunity to comment on the scope while GlobalFoundries would be provided that opportunity? It seems like that's not in keeping with the spirit of the regulations.

Councilman Hartzell said why don't we just table this for, you know, a month, and we won't officially ask them for comments. If they come forward with comments. We can hear what they say and go forward at that time.

Supervisor O'Connor answered well, that would be that would be postponing it until the end of April, the agenda meeting for the May session there in time for giving Stu a chance to address questions that have been raised in either revising or not revising the scoping document not to open this up to any kind of formal SEQRA scoping. Yeah, I think that's the, Cynthia does it, am I right?

Councilwoman Young responded I can support that, although, you know, Stu also said that he wasn't expected to change much. But more importantly, it would give some time to incorporate some of John's comments. I really think I feel like some of them are sort of addressed anyway. But Supervisor O'Connor asked so is that how you'd like to proceed, Cynthia, because it's kind of key what you want to do here.

Town Attorney Steve Gottman said before you get to that, Stuart, Leah, I mean, what it sounds to me is they're talking about not scheduling and public scoping, but a journeying in a sense, this review of this scope document to include other concerns of the Board members. Could that'd be done in a special meeting that we wouldn't need to wait on if there was sufficient time for the Board to do that to ensure that.

Stuart answered that would absolutely be a way to do it, it's just so special meeting. That will give us time to address the comments John has delivered today and any other comments who might happen to really receive by the time this special meeting, I don't see a problem with that.

Supervisor O'Connor said okay, so you want to do that. Then either I could call a special meeting or two members of the Board could call a special meeting. I think that's the rule. But whatever the rule is, that's what we'd follow. It would depend on us whether you're able to do the revisions, if necessary, or answer the questions in connection with the scoping document. Although we wouldn't be opening it up to any more scoping, we would certainly take into account anything anybody wants to say, as we always do, I mean, we get emails on a daily basis that we consider. Councilman Dunn said so fair, I mean, everything that we've done thus far has been very public. GlobalFoundries has spoken out a number of times on this. There's been a significant amount of information exchange, where we're trying to approve a scoping document so that we can get more data and information. Our engineering consultants have told us delaying that approval of that

scoping document will not change the document. Yet, we're we want to push this out another month. That to do what? I don't understand. I mean, nothing's precluding GlobalFoundries from offering their opinion as, as has been noted, in the many times that they have offered their opinion on this project well, in Town Board meetings and by email. So, I'm not comfortable with pushing this out without a good reason. I mean, we're, we're trying to get a review in place so that we actually have real information and real data, information that we would have had, if we had some of these traffic studies done previously, we don't have that information at our fingertips. The longer we wait, the longer we go without information along with the public goes without this information. So, I would strongly encourage us to move forward to get this information. I'm sure there's nothing stopping us as a Town Board, from slamming the brakes on if we get information, if we don't feel like there's adequate information to proceed, we can slam the brakes on this, this is an approving a project, we're approving a scoping document so that we can get information and have clear, accurate data for the applicants and the applicant and the residents as well as GlobalFoundries. So, I would strongly encourage us to move forward with so that we can have that data and do so in a public and transparent manner.

Councilman Hartzell responded we're talking about that this is an evaluation effort, the SEQRA process is to evaluate impacts of something. We don't even have the something yet. We don't have the something from the outset the EAF was blank. It was blank in eight or ten critical areas. It said, Oh, it'll be disclosed in the SEQRA process, will the SEQRA process is supposed to evaluate the impact of what it is you're doing. You're not telling us what you're doing. Let's you know, this is like Alice in Wonderland, this discussion, you know, this isn't what we did with GlobalFoundries, GlobalFoundries came in, they showed us what we were doing. They wanted to do. We had long discussions about it, we then went forward to evaluate the impact of what they told us specifically they wanted to do and what we agreed we were prepared to consider doing that's not going on here. Councilman Dunn countered with that's why we need to do this scoping document to start this traffic study and know exactly what we're talking about kicking the can down the road and other months, doesn't give us any better information. It just gives us another month without data. Supervisor O'Connor added yeah, I mean, that's the way I see it, you know, after hearings Stu say, he doesn't think that this is going to change the scoping document. Yeah, I'd be fine with moving forward with the obvious caveat that we'll accept any information from anybody at any time bearing on this issue. So, I don't know, Cynthia, how do you feel? Councilwoman Young responded I can move forward.

**Vote:** Supervisor O'Connor-Aye                      Councilman Dunn-Aye  
                 Councilman Hartzell-Nay                      Councilman Warner-Nay  
                 Councilwoman Young-Aye

**WHEREAS**, the Malta Town Board received an Application to amend Zoning Law Section 167A-52 "Luther Forest Technology Campus Planned Development District No. 46" (Application); and

**WHEREAS**, the Luther Forest Technology Campus Planned Development District was originally enacted in 2004 following conclusion of environmental review pursuant to the State Environmental Quality Review Act and related Regulations (SEQRA); and

**WHEREAS**, that review was conducted by the Malta Town Board in its capacity as SEQRA Lead Agency, which review culminated in adoption of a Final Generic Environmental Impact Statement and Statement of Findings; and

**WHEREAS**, the Applicant now seeks to modify the provisions of Town Zoning Law Section 167A-52 to expand the allowed uses to permit warehouses, distribution facilities and/or last mile centers and to make other related changes; and

**WHEREAS**, the Applicant provided Part 1 of a Full Environmental Assessment Form (EAF) along with its other Application materials; and

**WHEREAS**, by Resolution dated December 28, 2020, the Town Board re-established and confirmed its Lead Agency status and thereafter provided notice to all potential Involved Agencies of its intention to continue to serve as Lead Agency; and

**WHEREAS**, no potential Involved Agency objected to the Town Board's re-establishment as SEQRA Lead Agency and the time in which to make such objection has expired; and

**WHEREAS**, formal Scoping is not required in connection with the preparation of Supplemental Environmental Impact Statements, but the Applicant has prepared a draft Scoping Document in consultation with Town consultants, which draft is attached to this Resolution;

**NOW, THEREFORE, BE IT RESOLVED**, that the Application constitutes modification of a previously reviewed SEQRA Type I Action; and be it further

**RESOLVED**, that the Town Board hereby finds and determines that there will be new and different potentially significant environmental impacts resulting from the proposed modifications that were not previously reviewed, analyzed and/or mitigated and that further SEQRA Review is therefore warranted and necessary; and be it further

**RESOLVED**, that the Applicant is therefore required to prepare a Draft Supplemental Environmental Impact Statement in connection with review of this Application, and be it further

**RESOLVED**, that the Town Board determines not to conduct formal Scoping and hereby adopts the Scoping Document attached to this Resolution as the Scope of the Supplemental Environmental Impact Statement.

Supervisor O'Connor said okay, thank you very much. Moving to the next item is setting a public hearing date for code revisions to chapter 115 and chapter 88. This is a motion that would apply during states of emergencies where restaurants and retail establishments are prohibited from going to their capacity indoor and having to limit the number of patrons they can have inside. This would apply in emergency situations and it would make slight changes to the noise regulation and the fees for constructing a tent so that they can increase the ability to serve their patrons

**RESOLUTION NO 85 APRIL 5, 2021**

**SET DATE FOR PUBLIC HEARING - CHAPTER 115 & CHAPTER 88 CODE**

**AMENDMENT REGULATORY RELIEF DURING PANDEMIC**

**Motion by:** Councilwoman Young **Seconded:** Councilman Dunn

**Discussion:** Councilman Warner said I have a question on this. Will the code ordinance be addressed afterwards to kind of clean it up afterwards? Are the 65 decibels going to increase to something higher? Because 65 is not reasonable. I think ours is it 65, at 65 decibels at nine o'clock in the evening, Route 9 is 65 decibels. So that ordinance is not reasonable to have it is 65. I'm saying that it is not in this resolution, but we have to change our noise ordinance in the future. So, 65 is increased because 65 is not reasonable.

Supervisor O'Connor said think that's a good point. Yeah, this increases it to 75 for the emergency. Yeah, but you're saying that afterwards, we should change it to 75. Permanently?

Councilman Warner responded that is it what exactly.

Councilman Dunn said I think you know, what we were looking for here, what I Craig what I was hoping for here is, you know, given that the noise ordinance is got a lot to work through. This is just a matter of during this time of crisis, kind of giving these bars and restaurants a chance to do outdoor music and things like that. Yeah, but I do agree with you, I think at some point, and I we do need to look at

Councilman Warner said I understand that, what I am saying is that after this crisis is over we got to go back and clean up how it is in the future.

Deputy Hammond asked Darren did we actually have complaints? Before with noise? Were there businesses that were violating?

Supervisor O'Connor stated yes.

Councilman Warner added that's when I headed out there and I got this 65, 65 decibels are the cars going by on Route 9 at nine o'clock in the evening. That's I maxed allowed time, that makes no sense.

Deputy Hammond asked was it with all businesses?

Councilman Warner said it was right out on Route 9, I was getting 65 decibels at nine o'clock in the evening. That's our max right now. It makes no sense.

Supervisor O'Connor responded yeah. I mean, I agree, Craig, that we have that problem and other problems with our noise ordinance. I mean if you apply it, literally, you basically wouldn't be able to play a musical instrument in your house because the people next door could hear lyrics or be able to identify the music or something like that. So yes, it's an issue. I agree. But that that's not an argument to defeat this one.

Councilman Warner said it doesn't affect this. Yeah, I support this. But what I'm also saying is after the situation we got to go back and clean that up.

Supervisor O'Connor said alright. I agree with that. Any other discussion on this motion?

**Vote:** Supervisor O'Connor-Aye                      Councilman Dunn-Aye  
          Councilman Hartzell-Aye                    Councilman Warner-Aye  
          Councilwoman Young-Aye

**WHEREAS**, the Town Code Section 115 provides for certain limitations on noise levels;

**WHEREAS**, the COVID-19 pandemic and ongoing restrictions imposed as a result thereof, have posed a substantial and ongoing burden on business within the Town of Malta due to the

inability to open at 100% capacity, including but not limited to Restaurants, bars, breweries and entertainment venues;

**WHEREAS**, the Town Board wishes to amend the noise ordinance provisions in the event of the declaration of State of Emergency to limit the negative impacts on business impacted by any State of Emergency;

**NOW, THEREFORE, BE IT RESOLVED**, that Town Board hereby schedules a Public Hearing on adoption of amendment to Section 115 (Noise) and Section 88 (Fees and Costs) as proposed Local Law \_\_\_ of 2021 to be conducted on the 26<sup>th</sup> day of April, 2021 at 6:00 PM, at the Town Hall of the Town of Malta, 2540 Route 9, Malta, New York 12020;

**RESOLVED** that the Town Supervisor, Town Clerk, Town Building and Planning Coordinator and Town Legal Counsel are hereby authorized and directed to take any and all further action necessary to effectuate the intent of this Resolution.

**PUBLIC NOTICE  
TOWN OF MALTA**

**PUBLIC NOTICE IS HEREBY GIVEN**, that the Town Board of the Town of Malta will hold a public hearing pertaining to the amendments to Malta Town Code §115-2 and §88-3 as it pertains to regulatory relief during pandemic, on the 26th day of April, 2021, at 6:00 o'clock P.M., at the Town Hall of the Town of Malta, 2540 Route 9, Malta, New York 12020., and at which hearing all persons desiring to be heard thereon will be heard

Dated: April 5, 2021

BY ORDER OF THE TOWN  
BOARD OF THE TOWN OF MALTA  
JENN HOLMES, TOWN CLERK

**Code Changes Regarding Need for Outdoor Accommodations During an Emergency**

**Section 115-2(A)(5).**

Sound reproduction. No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound loudly enough for a person to be able to distinguish lyrics, words and/or instruments by a person dwelling on adjacent real property, without that person's consent, **provided that if a restaurant, bar, brewery or entertainment venue is prevented from operating at full indoor capacity as a result of an emergency declared by the State of New York, County of Saratoga, or Town of Malta, this prohibition shall not apply to outdoor music from 7:00 AM to 9:00 PM every day of such emergency.**

**Section 115-2(B).**

In addition to the foregoing prohibited activities, no person shall operate, or cause or permit to be operated, any source of sound in such a manner as to create a sound level which exceeds 50 decibels between the hours of 9:00 p.m. and 7:00 a.m., or 60 decibels between the hours of 7:00 a.m. and 9:00 p.m., when measured at or beyond the property boundary of an adjacent property, **provided that if a restaurant, bar, brewery or entertainment venue is prevented from operating at full indoor capacity as a result of an emergency declared by the State of New York, County of Saratoga, or Town of Malta, this prohibition shall not apply to outdoor music measured at fewer than 75 decibels from 7:00 AM to 9:00 PM every day of such emergency.**

**(1)**



Measurement of sound:

**(a)**

The measurement of noise or sound shall be made by the Enforcement Officer or his designee with a sound-level meter meeting the standards prescribed by the American National Standards Institute SI4 or an instrument with the metering characteristics and A-weighted frequency response prescribed for sound-level meters.

**(b)**

Except where otherwise prescribed, the slow meter response of the sound-level meter shall be used in order to determine that the average of three readings taken over a fifteen-minute period does not exceed the limiting sound levels set forth in this section.

**(c)**

Measurement of noise levels shall be taken at least four feet from ground level.

**Section 88-3. Variations prohibited; exceptions.**

No person, department or board of or within the Town of Malta may grant any variation in the amount of fees or reimbursements of costs and expenses, except that the Town Board may vary or waive the same at a duly noticed public meeting or hearing for a not-for-profit or charitable organization; **provided that if a commercial establishment is prevented from operating at full indoor capacity as a result of an emergency declared by the State of New York, County of Saratoga, or Town of Malta, the fee for the construction of temporary facilities to accommodate an otherwise normal flow of customers is waived. Such waiver does not dispense with the obligation to obtain a permit, as required by this code, for the construction of temporary facilities.**

**RESOLUTION NO 86 APRIL 5, 2021**

**AUTHORIZE CLOSING HIGHWAY ADMINISTRATIVE OFFICE CAPITAL PROJECT**

**Motion by:** Councilman Dunn                      **Seconded:** Councilwoman Young  
**Vote:** Supervisor O'Connor-Aye              Councilman Dunn-Aye  
                 Councilman Hartzell-Aye                      Councilman Warner-Aye  
                 Councilwoman Young-Aye

**WHEREAS** the Town Board of the Town of Malta has previously established the Highway Administrative Offices Capital Project to complete the administrative portion of the new highway garage at an estimated total project cost \$615,445; and

**WHEREAS** the construction of the project has been completed and Town Board of the Town of Malta desires to close the Highway Administrative Offices Capital Project; now, therefore, be it

**RESOLVED** the Town Board of the Town of Malta authorizes the Highway Administrative Offices Capital Project to be closed with the remaining funds of approximately \$2,400 to be transferred into the Highway Department highway garage equipment appropriation account (A5132.2).

**RESOLUTION NO 87 APRIL 5, 2021**

**APPROVE SERVICE AWARD PROGRAM – ROUND LAKE HOSE CO**

**Motion by:** Councilman Warner      **Seconded:** Councilman Dunn  
**Vote:** Supervisor O’Connor-Aye      Councilman Dunn-Aye  
          Councilman Hartzell-Aye                      Councilman Warner-Aye  
Councilwoman Young-Aye

**WHEREAS** the Round Lake Fire Department has certified that the attached\* is a list of all 2020 active members of the Round Lake Fire Department and indicates which members earned a year of service credit for 2020 under Town of Malta Volunteer Firefighter Service Award Program Point System adopted and approved by the Town Board of the Town of Malta; and

**WHEREAS** the Town of Malta’s Comptroller has performed a limited review of the Round Lake Fire Department Service Award Program’s Records for the year ended December 31, 2020 of active members qualifying for the program based on 2020 service and issued a report thereon, a copy of which is attached; and

**WHEREAS** the Town Board of the Town of Malta must approve the Round Lake Fire Department - Volunteer Firefighter Service Award Program list of all 2020 active volunteer firefighters for posting in the fire stations for a period of at least 30 days for review by members; now, therefore, be

**RESOLVED** that the Town Board of the Town of Malta hereby approves the Round Lake Fire Department - Volunteer Firefighter Service Award Program list of all 2020 active volunteer firefighters (as on file with the Town Comptroller) for posting in the fire stations for a period of at least 30 days for review by members, with such list to be returned to the Town Board of the Town of Malta after the expiration of the 30 day period with all changes to the listing fully documented.

\* will be on file in the Town Clerks Office

**RESOLUTION NO 88 APRIL 5, 2021**

**APPROVE SERVICE AWARD PROGRAM – MALTA RIDGE VOLUNTEER FIRE COMPANY**

**Motion by:** Councilman Warner      **Seconded:** Councilman Dunn  
**Vote:** Supervisor O’Connor-Aye      Councilman Dunn-Aye  
          Councilman Hartzell-Aye                      Councilman Warner-Aye

Councilwoman Young-Aye

**WHEREAS** the Malta Ridge Volunteer Fire Company has certified that the attached\* is a list of all 2020 active members of the Malta Ridge Volunteer Fire Company and indicates which members earned a year of service credit for 2020 under Town of Malta Volunteer Firefighter Service Award Program Point System adopted and approved by the Town Board of the Town of Malta; and

**WHEREAS** the Town of Malta's Comptroller has performed a limited review of the Malta Ridge Volunteer Fire Company Service Award Program's Records for the year ended December 31, 2020 of active members qualifying for the program based on 2020 service and issued a report thereon, a copy of which is attached; and

**WHEREAS** the Town Board of the Town of Malta must approve the Malta Ridge Volunteer Fire Company - Volunteer Firefighter Service Award Program list of all 2020 active volunteer firefighters for posting in the fire stations for a period of at least 30 days for review by members; now, therefore, be

**RESOLVED** that the Town Board of the Town of Malta hereby approves the Malta Ridge Volunteer Fire Company - Volunteer Firefighter Service Award Program list of all 2020 active volunteer firefighters (as on file with the Town Comptroller) for posting in the fire stations for a period of at least 30 days for review by members, with such list to be returned to the Town Board of the Town of Malta after the expiration of the 30 day period with all changes to the listing fully documented.

\* will be on file in the Town Clerks Office

Supervisor O'Connor said the next item on the agenda is to appoint a lovely young lady Katia Uveges as a full-time maintenance custodian worker. I'll just say that I had the opportunity to meet Katia and Terry went through a process to find a person who could replace the fabulous Matt. He's done that and the person of Katia Uveges. So yes, I'm in favor of this motion and I would like to welcome her to the Town.

**RESOLUTION NO 89 APRIL 5, 2021**

**APPOINT BUILDINGS & GROUND MAINTENANCE/CUSTODIAN**

**Motion by:** Councilman Dunn                      **Seconded:** Councilwoman Young  
**Vote:** Supervisor O'Connor-Aye              Councilman Dunn-Aye  
            Councilman Hartzell-Aye                  Councilman Warner-Aye  
            Councilwoman Young-Aye

**WHEREAS**, Matt Glogowski has resigned as full-time maintenance/custodian; and

**WHEREAS**, the Town has posted said opening and conducted interviews; now therefore

**BE IT RESOLVED** the Town Board of the Town of Malta hereby appoints *Katia Uveges* to the position of Full-Time Maintenance/Custodian Worker effective April 5, 2021 at an hourly rate of \$17.00 which has a standard work week of 40 hours per week with said appointment subject to a probationary period of not less than eight weeks and not more than fifty-two weeks.

**OTHER BUSINESS:**

**ADDITIONAL COMMENTS:** Supervisor O'Connor asked any other business tonight? Additional comments from Town residents or any other residents, anybody on line or in the room here to address the Board on any subject? Okay, next I, let's see, Mark, you had an issue that about property I think, you know, Mark had an issue about property transaction cost that I think that's an appropriate topic for Executive Session. Is that right? A possible opportunity for the Town to purchase property and prices?

Attorney Gottman said provided it's not public information, right? No. Then yes, it is an appropriate conversation for Executive Session, provided it's not a widely known project or already out in the public.

Supervisor O'Connor answered it isn't. So, I'd ask that we go into Executive Session. **8:30 pm**  
**Motioned by:** Supervisor O'Connor     **Seconded:** Councilman Warner

Supervisor O'Connor said We have no other comments to make. I'm going to recognize you, Kathy in a moment.

Attorney Gottman said Darren, before you get to that, with respect to the motion that you're going in there. I do. The only thing I would add is that we weren't overly specific to the public to say what you just said as property transaction, I think you need to give the public more information that the Board is considered what they're considering. Supervisor O'Connor responded I think the issue is...

Councilman Hartzell said the statute says the discussion of the acquisition, real estate of public discussion might affect the value there are or something. So, this clearly falls within I would move that we go into Executive Session to discuss possible acquisition of real estate which might affect the value thereof, and respectfully request a second?

**Motioned:** Councilman Hartzell     **Seconded:** Councilman Warner

**Discussion:** Supervisor O'Connor said all right for the discussion and I'll say that after this motion, I'll recognize you Kathy, if you still want to talk and then I'll say that that would end our business for tonight. So, there's no reason why people on zoom need to stay because we're not going to have any other discussions worthy of attention, except to adjourn after the executive session. That being said, all in favor of executive session.

**Vote:** Supervisor O'Connor-Aye     Councilman Dunn-Aye  
         Councilman Hartzell-Aye     Councilman Warner-Aye  
         Councilwoman Young-Aye

Supervisor O'Connor said Kathy, did you want to address the board, quickly?

Kathy Eitzmann said I just want to tell Kevin, thank you so much for checking on that and we look forward to having the crossing beacon installed. Thank you, guys. Have a good night.

**ADJOURN FROM EXECUTIVE SESSION: 8:53 pm**

**Motioned by:** Councilman Hartzell      **Seconded:** Councilman Warner

**Vote:** Ayes-5 Nays-0

**ADJOURN: 8:54 pm**

**Motioned by:** Councilwoman Young      **Seconded:** Councilman Dunn

**Vote:** Ayes-5 Nays-0

Respectfully Submitted,

Jennifer Holmes  
Malta Town Clerk