

## Official Minutes

A regular meeting of the Town Board of the Town of Lima, County of Livingston and the State of New York was held at the Town Hall, 7329 East Main Street, Lima, New York, on the 1st day of December 2020 at 6:00 P.M. Notice was printed in the Mendon-Honeoye Falls-Lima Sentinel.

PRESENT: Supervisor, Michael Falk  
Councilperson, Leta Button  
Councilperson, Bruce Mayer  
Councilperson, Jon Belec  
Councilperson, Bill Carey  
Town Clerk, Jennifer Heim  
Highway Superintendent, John Sokolofsky  
Town Attorney, James Campbell

GUESTS: Blake Benson  
Aaron Naber  
Ed Blodgett  
Marty Gardner  
Cathy Gardner  
Mike Neenan  
Charlie Floeser

### **Call the Meeting to Order**

Supervisor Falk called the meeting to order at 6:00 P.M. followed by the Pledge of Allegiance.

### **Open Public Hearing Regarding a Proposed Amendment to Chapter 250 and Article IV of the Zoning Ordinance**

Upon motion by Councilperson Carey to open the public hearing, seconded by Councilperson Mayer, the vote was unanimous.

Supervisor Falk mentioned receipt of Livingston County Planning Board comments and the County Planning Board recommended “approval with modifications”. Supervisor Falk mentioned receipt of a letter from Dennis Neenan of the Agriculture Advisory Committee Board requesting and extension to January to review and consider the proposed local – per his

request said letter follows the minutes. Last, George Gotcsik, Chairman of the Planning Board, also asked for an additional month.

Town Attorney Campbell mentioned the proposed changes to the amend Chapter 250 Article III and Article IV of the Zoning Ordinance of the Town of Lima, specifically to modify one or more definitions in Section 250-9 of such Chapter and to modify Section 250-11R. To add new permitted uses and uses permitted with a special use permit.

Councilperson Mayer made a motion to leave the public hearing open until February to receive comment by both the Ag Board and Planning Board. Supervisor Falk stated the public hearing does not need to be closed at tonight's meeting.

Supervisor Falk asked if the Board had comment. No discussion. Supervisor Falk asked if any guests attending would like to speak.

Ed Blodgett asked what Special Use Permit entails if a garage were to open. Attorney Campbell explained it is would still be a use permitted in the zoning district but is deemed to be one that might need a little more detail than a regular site plan review and Special Use Permits are usually issued with some conditions, such as time restricts due to noise, no outdoor storage for certain material, etc.

Blake Benson asked if there is a row of equipment will they need a special use permit to keep same on their property. Attorney Campbell said if in a certified Ag District and a farming operation; under the definition covered by the NYS Ag and Markets, they are protected regardless of what the Town's regulations might be.

Marty Gardner introduced himself and stated he was interested in trying to understand what the pressures are or needs to allow more use in the ag zone as well as what parameters will be considered for these commercial operations. Supervisor Falk mentioned at this time brewing and distilling is very popular in our area, and town code already permits wineries as a special use in the Ag District and changing the language to include distilleries or breweries under the same restrictions would be good business as Livingston County does not have a distillery. Marty Gardner has worked at Wegmans for 38 years and one other thing he does is manages beer in the stores and stated that business is kind of moving past that, however, cider is becoming as important as any distillery.

Gardner went on to ask, what are the parameters and size of these buildings located next to residents in agricultural areas and hours of operation. Supervisor Falk stated he does not know if size was specified with restrictions. Town Attorney Campbell said those specifics are generally part of a site plan review process and/or special use permit. Attorney Campbell said this would be a Planning Board decision and these specifics are not often codified in the code because different situations might warrant different applications. Attorney Campbell said the Town can certainly discuss these specifics and this draft local law will be reviewed by the Planning Board for comment and suggestions about the specifics, in question by Gardner. Marty Gardner went on to say they lease land to farmers and to take farmland out of productivity is not in the best interest of Lima.

Cathy Gardner introduced herself and explained that she initiated the application for a \$25,000 grant to develop Lima's Agricultural and Farmland Protection Plan, the first such local plan in Livingston County and one of the first in NY, and that this plan was adopted as part of Lima's comprehensive plan. She stated that she came to learn more about the proposed law, that she would like the County Planning Board comments on the draft law to be reviewed with the board and shared with those in attendance and that she wants to review comments from Lima's planning board and agricultural advisory committee when they are available.

She explained that Lima worked with the American Farmland Trust and George Franz, agricultural consultant associated with Cornell to develop Lima's Ag Plan. One of the most important recommendations from these consultants to maintain and limit fragmentation of the land base available for farming is to limit activities permitted in the agricultural zoning district to agricultural related uses. Lima was advised to eliminate numerous commercial uses that were permitted at the time the plan was completed and did so. Gardner stated that in order for farming to be viable, the town must have both farmers who want farm the land and enough productive land to make this possible. While Lima, like the County, is fortunate to have an abundance of highly productive soil, there is not enough land available in town for Lima farmers even now. As a result, many also own and or lease more land outside of Lima.

Gardner stated that permitting sales of equestrian goods and adding breweries and distilleries seems suited to the agricultural zoning district. Firewood production since it involves processing a renewable resource might fit too, but it may be advisable to specify conditions related to production so that the type and size of operation is suitable in the ag zoning district.

She does not agree that opening up the agricultural zoning district to commercial uses of vehicle repair and welding and fabrication is appropriate, considering Lima's Ag Plan. She said that the proposed law is written in very general terms, for example does vehicle repair mean a shop for two cars or a large operation with fifty bays to repair tractor trailers? She asked if there is an alternative way to allow the one pre-existing, non-conforming business referenced to expand without rezoning the entire agricultural zoning district to allow it. Could the town recognize that this one business has been operating since before the town implemented zoning and issue a special permit that recognizes this and allows for expansion?

Attorney Campbell replied that a use must be allowed in order for a special use permit to be granted and that a variance might be possible but it would have to meet variance tests. He said there may be other ways such as extending the time that a non-conforming use can be expired and restart that could be looked into.

Gardner said she does not support opening up the entire agricultural zoning district to allow these commercial uses to locate anywhere. They belong in areas zoned for business and industrial use. Not only would it be against guidance from Lima's ag planning process but for all intents and purposes Lima's agricultural zone is also the town's residential zone. She asked the board to consider the reasons that residents choose to live in Lima's rural residential area, and whether the proposed commercial businesses belong among residences.

She does not disagree with finding a way to allow one long-standing business to expand, but she does not agree with this proposal as a way to accomplish that objective.

**Supervisor’s Report**

Supervisor Falk mentioned receipt of said report. On a motion by Councilperson Carey to accept the Supervisor’s report, seconded by Councilperson Mayer, the vote went as follows:

CARRIED:           Ayes: 5       Falk, Mayer, Carey, Button, Belec  
                          Nays: 0

**November 3rd Minutes**

Minutes were approved upon motion by Councilperson Button, seconded by Councilperson Carey, the vote went as follows:

CARRIED           Ayes: 5       Falk, Mayer, Carey, Button, Belec  
                          Nays: 0

**November 17th Joint Town and Village Minutes**

Minutes were approved upon motion by Councilperson Button, seconded by Councilperson Carey, the vote went as follows:

CARRIED           Ayes: 5       Falk, Mayer, Carey, Button, Belec  
                          Nays: 0

**Audit of Claims/Abstracts**

Resolved that the bills contained on Abstract #12 have been reviewed by the Town Board and are authorized for payment in the following amounts:

|                        |                     |              |
|------------------------|---------------------|--------------|
| General Funds:         | No. 342 through 365 | \$ 88,759.37 |
| Water Funds 1, 2, & 3: | No. 44 through 48   | \$ 4,362.01  |
| Highway Funds:         | No. 174 through 192 | \$ 8,739.50  |

On a motion by Councilperson Mayer, seconded by Councilperson Carey, the vote went as follows:

CARRIED           Ayes: 5       Falk, Mayer, Carey, Button, Belec  
                          Nays: 0

**Building Inspector/Code Enforcement Officer Report**

Charlie Floeser discussed his report.

**Town District Operator Monthly Water Report**

Highway Superintendent Sokolofsky explained the water report.

**Water District #2 Village Project Costs**

Supervisor Falk has not received an update from the Village on their project costs after a request at the joint meeting on November 17<sup>th</sup>.

**Agreement to Spend Highway Funds**

Highway Superintendent John Sokolofsky requested board approval to spend highway funds, per the Agreement below. Upon motion by Councilperson Carey to approve said Agreement, seconded by Councilperson Mayer, the vote went as follows:

CARRIED:           Ayes: 5       Falk, Mayer, Carey, Button, Belec  
                          Nays: 0

AGREEMENT TO SPEND TOWN HIGHWAY FUNDS  
For the year 2021

Town of Lima  
County of Livingston

Pursuant to the provision of Section 264 of the Highway Law, we agree that moneys levied and collected for the repair and improvement of highways, shall be expended as follows:

1. GENERAL REPAIRS. The sum of \$175,300.00 may be expended for general repairs upon 38.48 miles of town highways, including sluices, culverts and bridges having a span of less than five feet and boardwalks or the renewals thereof.
2. IMPROVMENTS . DB 5112.2 The following sums shall be set aside to be expended for the improvement of town highways:
  - a. Starting at 5 & 20 and going north on York street for 1 mile. On Egan Rd from Dalton Rd to Heath Markham Rd. on Clay street from Chase Rd to Briggs Rd.
    - i. \$90,000.00 will be spent on Improvements.

No moneys set aside for such improvements shall not be expended, nor shall any work be undertaken on such improvements until the Town Superintendent approves the plans, specifications and estimates for such construction.

This agreement shall take effect when it is approved by the Town board.  
Executed in duplicate this 1st day of December 2020

|                        |                                      |
|------------------------|--------------------------------------|
| _____<br>Supervisor    | _____<br>Councilperson               |
| _____<br>Councilperson | _____<br>Councilperson               |
| _____<br>Councilperson | _____<br>Town Highway Superintendent |

Note: This Agreement should be signed in duplicate by a majority of the members of the Town Board and by the town Highway Superintendent. One copy must be filed

in the Town Clerk's office and one in the County Highway Superintendent's office.  
COPIES DO NOT HAVE TO BE FILED IN ALBANY

### **Purchase Laptop for Highway Superintendent**

Superintendent Sokolofsky asked for board approval to purchase a laptop. He would like to move the desktop computer to the shop for crew members to complete mandatory annual training since classes are not being held due to COVID-19. Upon motion by Councilperson Carey to purchase the high-end mobile workstation, seconded by Councilperson Mayer, the vote went as follows:

CARRIED                      Ayes: 5              Falk, Mayer, Carey, Button, Belec  
   Nays: 0

### **Elevator Project**

Supervisor Falk informed the board this project is ongoing and should be completed in February.

### **Planned Development Districts - Entertainment**

Still being developed. Attorney Campbell is currently working on the language for planned development districts to be sure same will fit in the current Town codes. Once finished he will send out to the board for discussion.

### **Water District #5**

Supervisor Falk mentioned discussion was had with the Village Board regarding formation of water district #5. This topic is on hold pending two (2) engineering firms. Water District #5 would connect to water district #2 at the intersection of 15A and Heath Markham Road, along with the intersection of 15A and Gale Road. Service would be for Heath Markham, Dalton, Gale and Egan Roads. It was mentioned that part of the township has difficulty on my properties with water due to the gravel pit blasting and many homeowners came forward requesting water. If all the connections are made it would add 114 homes and 7 farms.

### **Bond Anticipation Note for Water District #2**

Supervisor Falk mentioned the Town is still waiting for the \$40,000 grant reimbursement for the Towns portion of the pumphouse project. The BAN for water district #2 is necessary to reimburse the village and without the up-to-date cost sheet the town is not able to move forward with the BAN. Attorney

Campbell mentioned Bond Counsel is ready to move forward however, we cannot authorize borrowing under public finance law without substantiating specifically what it is for. A public hearing will be held when all is in place.

### **Year-end Meeting**

The board agreed to have the end-of-year meeting on December 29<sup>th</sup> at 10AM.

### **2021 Meeting Dates**

The Town Board reviewed the Town Board dates below and agreed meet at said dates starting at 6:00 PM unless otherwise noted. January 4<sup>th</sup> 10 AM – Organizational, January 5<sup>th</sup>, February 2<sup>nd</sup>, March 2<sup>nd</sup>, April 6<sup>th</sup>, May 4<sup>th</sup>, June 1<sup>st</sup>, July 6<sup>th</sup>, August 3<sup>rd</sup>, September 7<sup>th</sup>, October 5<sup>th</sup>, November 2<sup>nd</sup>, December 7<sup>th</sup>. End-of-Year meeting to be determined. Joint Town & Village Meetings (4 per year) will be posted when dates are agreed upon.

### **Tupelo Trail Dedication – Resolution #10 of 2020**

Upon motion by Councilperson Carey to accept dedication of Tupelo Trail, seconded by Councilperson Button, the vote went as follows:

CARRIED            Ayes: 5        Falk, Mayer, Carey, Button, Belec  
                             Nays: 0

TOWN BOARD  
TOWN OF LIMA  
COUNTY OF LIVINGSTON

### **RESOLUTION                      #10 of 2020**

At a regular meeting of the Town Board of the  
Town of Lima, Livingston County, State of New York,  
held at the Lima Town Offices on December 1, 2020

**WHEREAS**, Ridgecrest Properties, LLC is the record owner of certain lands and property located within the Town of Lima, constituting the parcel which is the right-of-way of Tupelo Trail (originally shown to be named “Brittany Jane Drive”) of the Salerno Subdivision, as shown on an instrument survey map of said subdivision prepared by Fraser-Willey & Associates, P.C. and later amended by Willey Land Surveying, PLLC, entitled “Salerno Subdivision”, said map being filed in the Office of the Livingston County Clerk as Microfilm Map No.: AO 9880; and



**WHEREAS**, the record owner of the Salerno Subdivision, after filing of the above referenced map, determined to change and did change the name of the proposed right-of-way from “Brittany Jane Drive” to “Tupelo Trail”; and

**WHEREAS**, Tupelo Trail (originally shown to be named “Brittany Jane Drive”) has been improved and completed, and it has been determined by the Town of Lima Highway Superintendent that the condition of said road or right-of-way now known as Tupelo Trail (originally shown to be named “Brittany Jane Drive”) of the Salerno Subdivision, to the extent shown on said filed map, is of a condition that is deemed acceptable by the Town Highway Superintendent and the Town Board; and

**WHEREAS**, Tupelo Trail serves all lots located within the Salerno Subdivision and such right-of-way is open to public use as a public highway; and

**WHEREAS**, Ridgecrest Properties, LLC has offered to the Town Board to dedicate to the Town of Lima the fee title interest in and to the portion of Tupelo Trail of the Salerno Subdivision as shown on said subdivision map (originally shown to be named “Brittany Jane Drive”); and

**WHEREAS**, Ridgecrest Properties, LLC will offer to the Town of Lima an executed warranty deed, and related forms TP 584 and SBEA 5217 to complete the tender of dedication; and

**WHEREAS**, the Town of Lima has consulted instrument survey maps of the subdivision in its possession, and those filed of record in the Office of the Livingston County Clerk, as well as other title materials related to the subject property; and

**WHEREAS**, the Town is satisfied that Ridgecrest Properties, LLC is possessed of good and marketable title to convey to the Town the fee title parcel known as the right-of-way of Tupelo Trail (originally shown to be named “Brittany Jane Drive”) of the Salerno Subdivision, as shown on said subdivision map; and

**WHEREAS**, the Town Board has reached the conclusion that the acceptance of said fee premises is in the best interest of the Town of Lima and its residents;

**NOW, THEREFORE**, upon motion by Councilperson Carey, seconded by Councilperson Button, it is hereby

**RESOLVED**, that the Town Board of the Town of Lima hereby accept dedication of the fee interest in and to that portion of the right-of-way of Tupelo Trail (originally shown to be named “Brittany Jane Drive”) of the Salerno Subdivision, as shown on an instrument survey map of said subdivision prepared by Fraser-Willey & Associates, P.C. and later amended by Willey Land Surveying, PLLC, entitled “Salerno Subdivision”, said map being filed in the Office of the Livingston County Clerk as Microfilm Map No.: AO 9880; and

**RESOLVED**, that the Town Supervisor of the Town of Lima shall be authorized and empowered to execute any and all documentation that may be reasonably required to memorialize the tender and acceptance of dedication of said land, and shall cause said documentation, including the deed of dedication, to be recorded in the Office of the Livingston County Clerk.

Dated: December 1, 2020

|                    |                 |     |
|--------------------|-----------------|-----|
| Vote of the Board: | Michael J. Falk | Aye |
|                    | Leta Button     | Aye |
|                    | Bruce Mayer     | Aye |
|                    | Bill Carey      | Aye |
|                    | Jon Belec       | Aye |

**BY ORDER OF THE TOWN BOARD  
OF THE TOWN OF LIMA**

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Jennifer Heim, CMC, RMC  
Town Clerk

Supervisor Falk asked if anyone would like to speak regarding the public hearing. Benson asked if after the Ag Committee meets if the information will be public and posted. Supervisor Falk mentioned it will be posted to the website. This public hearing will remain open.

**Move To Executive Session – Confidential Contract Negotiations**

Upon motion by Councilperson Carey to move into executive session at 7:21PM, seconded by Councilperson Mayer, the vote was unanimous.

Upon motion by Councilperson Carey to move out of executive session at 7:29PM, seconded by Councilperson Mayer, the vote was unanimous.

Motion to adjourn at 8:10PM by Councilperson Mayer, seconded by Councilperson Carey, the vote was unanimous.

Respectfully Submitted by:

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Jennifer Heim, CMC/RMC  
Town Clerk

All documents mentioned in the Town Board Minutes can be reviewed at  
Town Hall.

**Dennis Neenan**  
**2275 Clay Street**  
**Lima, NY 14485**

Town of Lima  
Town Board  
7329 East Main Street  
Lima, NY 14485

November 30, 2020

Dear Supervisor Falk, Deputy Supervisor Button, Councilman Belec, Councilman Carey, and Councilman Mayer:

I respectfully request that the Agriculture Advisory Committee be granted an extension to January to review and consider the proposed local law to amend the Town of Lima zoning ordinance as pertains to the Agricultural Use District.

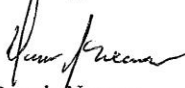
It is within the committee's assigned powers and duties to review any proposed law or policy reasonably affecting agricultural land or agricultural operations within any Town agricultural zoning district. The committee takes this responsibility seriously, however with the uncertainty of meeting safely brought on by the Covid-19 situation; I have not yet convened the committee to consider this proposal. I appreciate the offer of help with a Zoom meeting and may take advantage of that.

As this review does not pertain to an application of time sensitive nature requiring a prompt determination, but rather to a proposal for changes to zoning regulations, additional time for review is reasonable and important. Given this, and the unusual circumstances of this year, please consider holding the public hearing open until the February Town Board meeting to accommodate this request.

I distributed the draft law to committee members, and some have questions about the proposed changes. With the time permitted by this requested extension, we will gather information that committee members request and will present advisory findings by the end of January.

Please include my letter in the December 1, 2020 minutes concerning the public hearing for the proposed changes to agricultural zoning regulations.

Sincerely,



Dennis Neenan  
Chairman  
Town of Lima Agriculture Advisory Committee