

June 24, 2019

A meeting of the Town Board of the Town of Aurora took place on Monday, June 24, 2019 at 7:00 p.m. in the Town Hall Auditorium, 300 Glead Avenue, East Aurora, New York.

Members Present:	Jeffrey T. Harris	Councilman
	Susan A. Friess	Councilwoman
	Jolene M. Jeffe	Councilwoman
	Charles D. Snyder	Councilman
	James J. Bach	Supervisor
Others Present:	Ronald Bennett	Town Attorney
	David Gunner	Highway Superintendent
	William Kramer	Code Enforcement Officer
	William Wheeler	Engineer/GHD
	Shane Krieger	Chief of Police
	Kathleen Moffat	Asst. to the Supervisor
	Chris Musshafen	Recreation/Aquatics Director
	Tony Rosati	ZBA member
	Brian Russ	EAUFSD Superintendent

Supervisor Bach opened the meeting at 7:00 p.m. with the Pledge of Allegiance to the Flag.

Supervisor Bach, on behalf of the Town Board and the residents of the Town of Aurora, thanked Christopher Musshafen, Alex Christie, Kevin Murnock, and Daniel Schweikhard for their quick actions following a near drowning at Community Pool and presented them with the following:

### ***PROCLAMATION***

***WHEREAS***, on the morning of Wednesday, June 12, 2019, an emergency response at the Aurora Community Pool resulted in the rescue of a 12-year-old boy;

***WHEREAS***, the quick action of Christopher Musshafen, Kevin Murnock, Alex Christie and Daniel Schweikhard that morning saved the boy's life; and

***WHEREAS***, the Aurora Community Pool is a valuable asset in our town, and the lifeguards ensure the safety of the swimmers at our pool each and every day, enabling the pool to be enjoyed by hundreds of families;

***NOW, THEREFORE, BE IT RESOLVED:*** that the Aurora Town Board, on behalf of the residents of the Town of Aurora, commends Christopher Musshafen, Kevin Murnock, Alex Christie and Daniel Schweikhard for their quick response and action.

*Signed on this Twenty-Fourth Day of June,  
in the Year Two-Thousand Nineteen.*

*James J. Bach, Supervisor*

\* \* \* \* \*

Councilwoman Friess moved to approve the minutes of the June 10, 2019 Town Board work session and meeting; seconded by Councilman Snyder. Upon a vote being taken: ayes – five noes – none  
Motion carried.

Action #211  
6/10/19 wk  
sess & mtg  
min aprvd

AUDIENCE I: none

UNFINISHED BUSINESS:

Councilman Harris moved to refer the Open Development Area application for 840 Quaker Road back to the Planning Board in order for the applicant to attend the meeting and speak with the Planning Board. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five                      noes – none                      Motion carried.

Action #212  
840 Quaker  
ODA referred  
back to  
Planning Brd

Councilman Snyder moved to approve the following resolution; seconded by Councilman Harris:

**RESOLUTION APPROVING ODA VARIANCE REQUEST**

WHEREAS, in 2018 Sally and Richard Erbe (Applicant) applied for Open Development Area (ODA) approval for property located at 643 Knox Road (SBL#164.00-2-6.21) in the Town of Aurora; and

WHEREAS, the proposed location of the single family dwelling required and was granted a front yard setback variance of twelve (12) feet and a side yard setback variance of fifteen (15) feet; and

WHEREAS, at the May 28, 2019 Town Board meeting, the Applicant expressed the desire to relocate the proposed residence to another area on the property due to the discovery of buried refuse at the original site; and

WHEREAS, an amended Open Area Development approval that did not require variances was granted to the Applicant; and

WHEREAS, after additional consideration of the amended placement of the proposed residence, taking into consideration the steepness of the driveway and steep ravines on both sides of the intended site, the Applicant is requesting a further amendment to the Open Area Development and is requesting to place the residence in an area that will require a front yard setback variance; and

WHEREAS, Chapter 99-31(A)(1) of the Codes of the Town of Aurora requires the front yard setback to be two hundred (200) feet from the boundary line parallel to the street right-of-way; and

WHEREAS, the applicant is requesting a front yard setback variance of seventy three (73) feet to permit the construction of the residence closer to the front lot line than provided for in the Town Code; and

WHEREAS, the petitioner has demonstrated the need for said variance due to the topography and make-up of the soil of the property; and

WHEREAS, the original Open Development variance request was reviewed by the Town Planning Board and said Board recommended that the Town Board approve the front yard and side yard setback variances; and

WHEREAS, §99-37 of Chapter 99 authorizes the Town Board to vary the strict compliance of the regulations that would not cause a concern of public interest.

NOW, THEREFORE, be it

RESOLVED, the Town of Aurora Town Board does hereby grant a seventy-three (73) feet front yard setback variance allowing the single-family residence to be built no closer than one hundred twenty seven (127) feet to the north lot line of the property at 643 Knox Road (SBL#164.00-2-6.21).

Action #213  
ODA  
variance for  
643 Knox  
aprvd.

RESOLVED, this Resolution shall be incorporated by reference into the application and approval of the Open Development Area permit.

Councilwoman Friess moved adopt the following; seconded by Councilman Snyder:

RESOLUTION  
APPROVING AMENDED OPEN DEVELOPMENT AREA PLAN  
643 KNOX ROAD  
TOWN OF AURORA, NEW YORK

WHEREAS, Chapter 99 of the Code of The Town of Aurora establishes standards for landowners who wish to develop or subdivide land that lacks adequate public road frontage for standard lot development (known as “open development area”); and

WHEREAS, in 2018, the Applicant, Sally and Richard Erbe, filed an Open Development Area application for 643 Knox Road (SBL#164.00-2-6.21) and received approval with setback variances to construct a single family residence on the 10.21± acre parcel; and

WHEREAS, in May 2019, the Applicant informed the Town that upon recent inspection of soil conditions, various levels of debris and garbage were found buried on the site exactly where the house was intended to be built; and

WHEREAS, the Applicant desired to move the proposed house to a location on the property that would ensure stable soil conditions and would not require setback variances; and

WHEREAS, the Town Board granted the request and amended the Open Development Area permit to reflect the location change without variances; and

WHEREAS, after on-site inspection and review, the applicant realized that the topography at the second location was not conducive to building a house due to steep ravines and driveway slope; and

WHEREAS, the Applicant has submitted a request to move the proposed house to another location on the property that requires a front yard setback variance; and

WHEREAS, the Applicant has made every reasonable attempt and all necessary effort to comply with specifications of Chapter 99 of the Code of the Town of Aurora; and

WHEREAS, in 2016 the Town Board approved the Open Development Area application to subdivide a forty-one acre parcel into three lots, all of which lack required public road frontage, with one of those lots being 643 Knox Road; and

WHEREAS, a narrative description of the private right-of-way, including but not limited to, ownership of the right-of-way and a maintenance plan for the right-of-way, has been recorded in the office of the Erie County Clerk in Liber 11139 of Deeds at page 9028; and

WHEREAS, this action is considered a Type II under SEQR and no further review under SEQR is required; and

WHEREAS, in June 2019, the Applicant petitioned the Town Board for front yard setback variance to allow the residence to be constructed seventy-three (73) feet closer to the north lot line than allowed by code and the variance was granted; and

WHEREAS, according to Section 99-37 of the Code, the Town Board may modify the specifications and requirements in any Open Development Area Plan, where in the Board’s judgment, such modifications are in the public interest and/or will avoid the imposition of unnecessary hardship on the applicant.

NOW THEREFORE BE IT

RESOLVED, that the Town Board of the Town of Aurora acknowledges that compliance with all other standards, requirements and conditions, including those specified by the Town Board as noted above, is in the public interest and will substantially secure the objectives of the modified standard; and

BE IT FURTHER

RESOLVED, that approval of this amended Open Development Area, with front yard setback variance, by the Town Board of the Town of Aurora, and any future development will be subject to the standards and requirements of Chapter 99 of the Code of the Town of Aurora without modification, variance or waiver; and BE IT FURTHER

Action #214  
Amended  
ODA for 643  
Knox Rd  
aprvd

RESOLVED, that said Open Development Area Plan for 643 Knox Road (SBL#164.00-2-6.21), originally approved in 2018 and first amended in May 2019, is further amended with a front yard setback variance and approved.  
Upon a vote being taken: ayes – five        noes – none        Motion carried.

\* \* \* \* \*

Councilman Harris moved to table the Center Street land donation from Mr. and Mrs. Owens until such time that the Owens' can present a contract to the Town noting conditions, if any. Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five        noes – none  
Motion carried.

Action #215  
Center Street  
land donation  
tabled.

Councilwoman Friess moved to adopt the following resolution; seconded by Councilwoman Jeffe:

**RESOLUTION TO TERMINATE WATER AGREEMENT WITH TOWN OF ELMA**

WHEREAS, the Town of Aurora has approved an Agreement whereby the Erie County Water Authority will assume full responsibility for management of its water systems in accordance with the terms of a Direct Service Agreement, and

WHEREAS, by Agreement dated July 1, 1995 the Town of Aurora and Town of Elma entered into an agreement whereby the Town of Elma on behalf of Elma Water District Number 1 agreed to sell water to the Town of Aurora for Water Districts 12, 14, 235 and a portion of Water District Number 1, and

WHEREAS, paragraph 5 of the Agreement dated July 1, 1995 between the Town of Aurora and Town of Elma provides for the following:

“It is mutually agreed that notwithstanding any other provision of this agreement, said agreement shall automatically terminate when water service is provided to Water District Number 1, 2, 14 and 235 in the Town of Aurora by the Erie County Water Authority.”, and

WHEREAS, the Town of Aurora is entering into a Direct Service Agreement effective July 1, 2019 whereby the water service will be provided by the Erie County Water Authority.

NOW, THEREFORE, be it

RESOLVED, the Town does hereby give notice to the Town of Elma that effective July 1, 2019, the aforesaid Agreement dated July 1, 1995 is hereby terminated in accordance with the terms of such agreement, and be it further

Action #216  
1995 Elma  
water  
agreement  
terminated

RESOLVED, that the Supervisor is authorized to provide proper notice to the Town of Elma terminating said agreement, and be it further

RESOLVED, that a certified copy of this Resolution shall be submitted to the Erie County Water Authority together with a copy of the letter submitted to the Town of Elma terminating the referenced agreement.

Councilman Harris – voting aye; Councilwoman Jeffe – voting aye;  
Councilwoman Friess – voting aye; Councilman Snyder – voting aye;  
Supervisor Bach – voting aye

Duly adopted this 24<sup>th</sup> day of June, 2019.

Councilman Snyder moved to adopt the following resolution; seconded by Councilman Harris:

**RESOLUTION TO TERMINATE WATER AGREEMENT WITH TOWN OF ELMA**

WHEREAS, the Town of Aurora has approved an Agreement whereby the Erie County Water Authority will assume full responsibility for management of its water systems in accordance with the terms of a Direct Service Agreement, and

WHEREAS, by Agreement dated November 25, 2002 the Town of Aurora and Town of Elma entered into an agreement whereby the Town of Elma agreed to lease manage Aurora Water District Number 17, and

WHEREAS, paragraph 5 of the Agreement dated November 25, 2002 between the Town of Aurora and Town of Elma provides for the following:

“Notwithstanding the above set term, this contract may be terminated by the District upon written notice to the Town by the District of its intent to terminate in the event that the Erie County Water Authority agrees to provide direct service of water to, and lease management of, the District.”, and

WHEREAS, the Town of Aurora is entering into a Direct Service Agreement effective July 1, 2019 whereby the water service will be provided by the Erie County Water Authority.

NOW, THEREFORE, be it

RESOLVED, the Town does hereby give notice to the Town of Elma that effective July 1, 2019, the aforesaid Agreement dated November 25, 2002 is hereby terminated in accordance with the terms of such agreement, and be it further

Action #217  
2002 Elma  
water  
agreement  
terminated

RESOLVED, that the Supervisor is authorized to provide proper notice to the Town of Elma terminating said agreement, and be it further

RESOLVED, that a certified copy of this Resolution shall be submitted to the Erie County Water Authority together with a copy of the letter submitted to the Town of Elma terminating the referenced agreement.

Councilman Harris – voting aye; Councilwoman Jeffe – voting aye;  
Councilwoman Friess – voting aye; Councilman Snyder – voting aye;  
Supervisor Bach – voting aye

Duly adopted this 24<sup>th</sup> day of June, 2019.

\* \* \* \* \*

Councilman Snyder moved to approve payment to Warning Electrical Services, Inc., 431 Olean Road, East Aurora, NY, in the amount of \$10,347.39 for emergency services performed at the Highway Garage on March 18-19, 2019, after service lines were pulled from the building by a Town truck. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five          noes – none          Motion carried.

Action #218  
Pymt to  
Warning  
Elec Svc  
aprvd for  
hwy bldg.  
repair

Councilwoman Friess moved to authorize payment to NYE Automotive Group, Oneida, NY, for a 2019 Dodge Ram 1500 pickup truck in the amount of \$18,486.00. The purchase from the NYSOGS Mini-bid site was authorized 1/28/19. Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five          noes – none          Motion carried.

Action #219  
Pymt to  
NYE  
Automotive  
for 2019  
Dodge  
Truck aprvd

NEW BUSINESS:

Councilwoman Jeffe moved to add the following items to tonight's agenda: Action #220  
3 items  
added to  
agenda

- 6I – Recreation request to hire
- 6J – Senior Center HVAC bid opening
- 6K – Highway 284 Agreement – amended

Councilman Snyder seconded the motion. Upon a vote being taken:  
ayes – five                      noes – none                      Motion carried.

Councilman Harris moved to table the rezoning request from Jeffrey McCaskey for vacant land on Olean Road (SBL# 176.00-4-25.1). Councilman Snyder seconded the motion. Upon a vote being taken:  
ayes – five                      noes – none                      Motion carried. Action #221  
V/L Olean  
rezoning  
tabled

Councilman Harris moved to forward the Special Use Permit request for a business at 1089 Davis Road, PO West Falls, from MPG Properties, LLC (Michael Gish) as agent for 4200 California Road, LLC, to the Planning Board for review and recommendation. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five      noes – none      Motion carried. Action #222  
Spec Use  
Permit 1089  
Davis  
referred to  
Plan. Brd

Councilwoman Friess moved to approve Change Order No. 1 to add the Senior Center Façade alternate bid for the Aurora Municipal Center – General Construction and Site Work Contract/Telco Construction: Action #223  
AMC/Telco  
Change order  
#1 aprvd

- Description of Change – Provide all labor, material and equipment for Alternate Bid – Senior Center Façade.
- Contract Summary – Original Contract Amount      \$3,677,000  
   Change Order No. 1                      129,700  
   Revised Contract Amount      \$3,806,700

Councilman Snyder seconded the motion. Upon a vote being taken:  
ayes – five                      noes – none                      Motion carried.

Councilwoman Jeffe moved to approve Change Order No. 1 allowing PVC piping underground in place of cast iron for the Aurora Municipal Center – Plumbing-Fire Protection Contract/Mollenberg-Betz, Inc.: Action #224  
AMC/Mollen  
berg-Betz  
Change order  
#1 aprvd

- Description of Change – Replace cast iron underground piping with PVC.
- Contract Summary – Original Contract Amount      \$492,000  
   Change Order No. 1                      - 8,400  
   Revised Contract Amount      \$483,600

Councilwoman Friess seconded the motion. Upon a vote being taken:  
ayes – five                      noes – none                      Motion carried.

Councilwoman Jeffe moved to authorize the following budget amendment for the Emery and Townline water tank repairs in Water District 18: Action #225  
Budget  
amend re:  
WD18 tank  
repair auth

- Decrease ZE 599 Fund Balance by \$29,500
- Increase ZB 8340.401 Repairs by \$29,500

Councilman Snyder seconded the motion. Upon a vote being taken:  
ayes – five                      noes – none                      Motion carried.

Councilwoman Friess moved to approve payment to the Erie County Water Authority for repairs/modifications made to the Emery and Townline water tanks in Water District 18 in accordance with the 2017 agreement between the Town and ECWA. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #226  
Pymt to  
ECWA for  
WD18 tank  
repair aprvd

Councilwoman Friess moved to authorize the following budget transfer to cover a shortage in the Highway general roadwork overtime line:

- From DB5142.140 Snow removal/payroll \$3,000
- To DB5110.140 General repairs/payroll \$3,000

Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #227  
Hwy budget  
trans auth for  
general road  
work

Councilman Snyder moved to authorize the following budget transfer to cover a shortage in the Highway permanent road work equipment rental line:

- From DB5110.413 General Repairs \$1,650
- To DB5112.413 Permanent Repairs \$1,650

Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #228  
Hwy budget  
trans auth for  
permanent  
road work

Councilwoman Friess moved to amend the 2019 Budget by creating the DA (Highway Town-Wide) Fund to record activity related to the repair and maintenance of bridges located within the East Aurora Village limits.

Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #229  
DA Fund  
created in  
2019 budget

Councilwoman Friess moved to authorize an interest-free interfund loan from the General Fund (A) to the Highway Town-Wide Fund (DA) in the amount of \$35,000 and to authorize the following budget amendment:

- Decrease DA 599 Fund Balance by \$35,000
- Increase DA5120.100 Wages by \$20,000
- Increase DA5120.413 Rental Equipment by \$10,000
- Increase DA5120.433 Materials & Supplies by \$5,000

Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #230  
A to DA  
interfund  
loan and  
budget  
amendment  
authorized

Councilwoman Friess moved to approve the hiring of Miles Klube, Nye Hill Road, as a Recreation Attendant PT Seasonal at a rate of \$11.10/hour. Start date will be the first day worked. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried

Action #231  
M. Klube  
hired as rec  
attendant PT  
seasonal

Councilwoman Friess moved to set Thursday, July 25, 2019 at 10:00 a.m. at the Aurora Town Hall as the date, time and place for a bid opening for the Aurora Senior Center HVAC Replacement project. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #232  
Bid opening  
for SrCtr  
HVAC proj  
set

Councilwoman Jeffe moved to approve the amended Highway 284 Agreement to add \$35,000 for the demolition and removal of the North Grove Street bridge in the Village of East Aurora, and to authorize the Supervisor and Town Board members to sign said agreement. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #233  
Amended  
Hwy 284  
agreement  
aprvd

COMMUNICATIONS & REPORTS – The following communications and reports were received by the Board and filed:

- EAPD – May 2019 report
- NYS Tax Department – 2019 Equalization Rate notice

BUSINESS FROM BOARD MEMBERS AND LIAISONS:

Councilman Snyder thanked the Supervisor, Town Clerk, Town Attorney and Town Engineer for the work they did on the ECWA Direct Service project. Mr. Snyder also stated that NYSEG is changing the existing streetlights to LED fixtures.

Councilwoman Friess stated that the local Sewer Authority Board approved a rate that will equate to an approximate \$12 increase in the sewer bill.

Supervisor Bach stated he attended the meetings for the Erie County plow contract.

AUDIENCE II:

Brian Russ, EAUFSD Superintendent, thanked Chris Musshafen and his team for their quick response to the recent incident at Community Pool, noting that the student involved is back at school.

STAFF REPORTS:

Highway Superintendent Gunner stated that there would not be a cut in CHIPS funding this year. Mr. Gunner noted that the buildings at West Falls Park are being rehabbed and the new pickleball courts are well used.

Bill Wheeler stated the Aurora Mills water lines and sewer pump station have both been tested.

Police Chief Krieger commended Chris Musshafen and his staff for their response to the incident at the pool.

ABSTRACT OF CLAIMS:

The pre-paid Abstract of Claims dated June 14, 2019, consisting of vouchers numbered 772 to 775, was presented to the Board for audit and authorization of payment from the following funds:

General	\$ 1,564.81
Capital/AMC	90,745.96
Special Districts	<u>647.24</u>
Grand Total Abstract	\$92,958.01

The Abstract of Claims dated June 24, 2019, consisting of vouchers numbered 776 to 854, was presented to the Board for audit and authorization of payment from the following funds:

General	\$ 56,279.82
Part Town	510.01
Highway	333,527.63
Capital/AMC	4,434.00
Trust/Agency	9,200.00
Trust/Agency 2	36,431.47
Special Districts	<u>99,228.01</u>
Grand Total Abstract	\$539,610.94

Councilwoman Friess moved to approve the 6/14/19 Prepaid and 6/24/19 Abstracts of Claims, and authorize payment of same. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five  
noes – none Motion carried.

Action #234  
6/14/19 &  
6/24/19  
Abstracts of  
Claims aprvd

Councilwoman Jeffe moved to adjourn at 7:45 p.m.; seconded by Councilman Snyder. Upon a vote being taken: ayes – five  
noes – none Motion carried.

Action #235  
Meeting  
adjourned