

York Town Board Meeting  
December 28<sup>th</sup>, 2021  
5:00 p.m.

Present: Supervisor Gerald Deming, Council Members: Lynn Parnell, Amos Smith, Norman Gates and Frank Rose Jr.

Absent: None

Others: James Campbell (Town Attorney), Heather & Davies Nagel, Dustin & Christopher Geiger, Carl Peter (Zoning/Code Officer), Sean Hopkins, Tim Boyle, Andrea Rose, Preet Badwan, Gurminder Virk, Greg Burm, Kirk Richenberg, Jason Swede, George Worden Jr (Highway Supt), Becky Lewis, Martha Edmonds, Dr. Arnold Matlin, Thomas Gates Sr. and Molly Cummings.

Supervisor Deming opened the Town Board Meeting at 5:00 p.m. and invited Councilwoman Parnell to lead in the Pledge of Allegiance.

**MINUTES**

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to approve the minutes of the December 7<sup>th</sup> Regular Town Board Meeting. Voted on and approved, Yes-5, No-0.

**BILLS:**

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose to approve all claims brought before the Board. Voted on and approved, Yes-5, No-0.

- General Fund # 363-396 \$ 23,273.37
- Consolidated Water/Sewer # 283-295 \$ 49,070.07
- Highway Fund # 188-202 \$ 22,507.99
- Y-L Youth Fund #4-5 \$ 1,638.00

Supervisor Deming stated at this time he wished to thank Councilwoman Lynn Parnell for her time and effort as a Town Board member the last 22 years with the last 14 as Deputy Supervisor. Mrs. Parnell was instrumental in the creation of the York Valley Fest and Supervisor Deming also commented that Mrs. Parnell has taken it upon herself to make sure our Veterans are remembered each year and hopes she will continue to do so.

Councilwoman Parnell commented it has been an honor to serve the Town of York community.

**HIGHWAY & WATER/SEWER:**

Mr. Worden reported that everything has been running smoothly at both departments.

**OLD BUSINESS:**

1) Proposed Local Law #4 of 2021:

Supervisor Deming asked Attorney Campbell to outline to the Board the changes made to proposed Local Law #4 of 2021.

Mr. Campbell stated that he made a few tweaks based on the recommendations of the Livingston County Planning Board and Town of York Planning Board. With the new wording it does not require going back to Livingston County Planning Board for further review. Attorney Campbell asked if the Town Board wished to proceed with further discussion.

Councilman Smith stated he feels 50 feet may not be enough. After looking at the location, if he had a residence next to what is proposed he feels it is too close.

Councilman Gates agreed with Mr. Smith.

Councilman Rose stated that he has prepared his own comments on the matter:

*“Many of you may be wondering what our thoughts are as Town Board Members. Well, I would like to tell you my personal thoughts. I have learned over the years being on the Town Board that most town issues are split 50/50.*

*I would like to share my experience of 57 years, spending the majority of my days on the corner of 63 & 36. I pretty much grew up on that corner and was taught by my parents to respect that road because of the heavy traffic. And I taught my children that as well. Th Rt. 63 corridor has been and always will be a major route from 390 to Canada.*

*My family has owned and operated a truck stop restaurant, two bars, motel and gas station over the course of 60 years on the corner of 63 & 36. I also ran a trucking company where I parked my 30 tractor trailers next to the school. I have had my CDL since I was 18 years old. I live in the middle of the hill on Rt. 63, trust me when I say I know and understand the traffic.*

*I have also seen the trucking industry improve over the years. Truck safety has improved along with driver regulations becoming stricter with drug and alcohol testing and driving records.*

*As we all know this pandemic has shown the importance of three major occupations, the medical professionals, the farmers and professional drivers. Almost everything you touch is moved by the trucking industry.*

*As commercial properties develop traffic has a tendency to slow down but today's decision is about the Town of York's drive-thru speaker law. I have read and listened to all the comments pro & con. There have been some good ideas that have come from the townspeople. For instance, the need for a public park, I do think that we need one but not on commercially zoned property.*

*When it comes down to the decision making, my decision is based on two main things. The Travel Center project has 11 adjacent properties. There were only 2 or 3 comments from these property owners. There are also two existing drive thru speaker locations, both are banking locations. No adjacent property owners of the current drive-thru's have commented.*

*Commercial property in town is a very small percentage compared to Ag land and residential. Our commercial spaces should be developed to enhance our community while being overseen and approved by the Planning Board which includes requiring additional buffering & blocking of sounds from drive thru speakers.*

*All in all, the Town of York needs a sense of community and the people need to come together for a successful future."*

Attorney Campbell asked the Board if they are comfortable with the wording presented with changes made by way of suggestions from the County and Town Planning Boards. The Board agreed.

Attorney Campbell addressed the Town Board asking if they were ready to proceed with SEQR. The Board then consented to having Mr. Campbell move forward with the SEQR process.

**PART 1-PROJECT AND SETTING:**

Attorney Campbell read aloud the purpose of Part 1, a Local Law to amend Article VI, section 607 C of the Zoning Ordinance of the Town of York with regard to drive thru facilities.

**PART 2- IDENTIFICATION OF POTENTIAL PROJECT IMPACTS:**

Mr. Campbell read aloud to the Board the required 18 questions to which they responded, "no, or small impact may occur" to all.

**PART 3-DETERMINATION OF SIGNIFICANCE:**

Attorney Campbell stated that a Type 1 Action requires additional submittal of documentation to the Environmental Notice Bulletin. Mr. Campbell read aloud the proposed SEQR resolution and asked for any comments, changes or deletions.

(1) Lead Agent:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith designating the Town of York as Lead Agent for SEQR review. Voted on and approved, Yes-5, No-0.

(2) Type 1 Action:

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to declare as a Type 1 Action. Voted on and approved, Yes-5, No-0.

(3) Adoption of Findings:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to Adopt the Findings that were made in the review of PART 2 of the Full Environmental Assessment Form. Voted on and approved, Yes-5, No-0.

(4) Negative Declaration:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose to adopt Negative Declaration based on the findings made in the review of the Full EAF and adopt the SEQR. Voted on and approved, Yes-5, No-0.

Attorney Campbell stated now that SEQR has been adopted, the Board has the opportunity to decide how they want to proceed.

Molly Cummings voiced the objection that no one from the public was allowed to speak this evening.

Attorney Campbell commented that there have been many opportunities for the public to speak including written comments as well, but stated it is up to the Town Board if they want additional comments this evening.

Councilman Smith replied that we have allowed ample opportunity to speak on the topic. There have been multiple times at Town Board meetings as well as the Public Hearing. Many comments have been helpful but several have been redundant.

Davies Nagel commented that he takes objection to Mr. Smith's statement that comments have been redundant. Mr. Nagel added that many things previously promised are no longer on the table such as the Trail Town component.

Heather Nagel referenced Joe Bucci's comment letter submittal where he states that his property will not be part of any trail system which was promised before.

Supervisor Deming asked the Board if they wanted additional comments from the public this evening. The Town Board replied there will not be any additional comments.

(5) Authorization:

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell authorizing Supervisor Deming permission to sign the EAF signifying the Negative Declaration being made and to further authorize Clerk Harris to file such authorization with the Environmental Notice Bulletin. Voted on and approved, Yes-5, No-0.

**TOWN BOARD  
TOWN OF YORK  
COUNTY OF LIVINGSTON**

**SEQRA RESOLUTION**

At a regular meeting of the Town Board of the Town of York, Livingston County, State of New York, held at the York Town Hall on the 28<sup>th</sup> day of December, 2021.

**WHEREAS**, the Town Board of the Town of York has received a request that it consider an amendment to Article VI, Section 607. C. of the Zoning Ordinance of the Town of York; and

**WHEREAS**, if adopted, such amendment will change Section 607. C. such that “Drive-thru facilities with an amplified audio/visual system that are located on property contiguous to residential uses or contiguous to residential districts shall have a minimum setback of 50 feet from contiguous residential uses or contiguous residential districts and such drive-thru facilities shall include features such that the noise generated by the audio/visual system is adjustable to background noise levels. Additionally, the Planning Board, as part of the Site Plan review and approval process, may require other types of noise mitigation measures as it deems appropriate. These may include but are not limited to vegetative or other physical buffering or barriers, requiring the audio/visual system to be oriented in a certain direction so as to minimize impact, or setting a specific maximum output decibel level from the nearest residential use or residential district.”; and

**WHEREAS**, the Town Board has authority to undertake such actions pursuant to Town Law of the State of New York, Article 16, and Articles 2 and 3 of the Municipal Home Rule Law; and

**WHEREAS**, the Town Board of York has conducted a full and comprehensive single agency review of the proposed action pursuant to 6 New York Code Rules and Regulations §617, the New York State Environmental Quality Review Act (hereafter “SEQRA”); and

**WHEREAS**, the Town Board specifically identified the following relevant information with regard to the proposed application for which the SEQRA review was being conducted:

Lead Agency: York Town Board  
Address: York Town Hall  
2668 Main Street  
York, New York 14592

**Title of Action:** “A LOCAL LAW TO AMEND ARTICLE VI OF THE ZONING ORDINANCE OF THE TOWN OF YORK, LIVINGSTON COUNTY, NEW YORK TO MODIFY SECTION 607. C. OF SUCH SECTION CONCERNING DRIVE-THRU FACILITIES.”

**SEQR Status:** Type 1   X    
Unlisted

**Description of Action:**

The action involves the possible adoption of a Local Law that would amend Article VI, Section 607. C. of the Zoning Ordinance of the Town of York to allow Drive-thru facilities with an amplified audio/visual system on property contiguous to residential uses or contiguous residential districts where such systems include features such that the noise generated by the audio/visual system is adjustable to background noise levels and where such drive-thru facilities have a minimum setback of 50 feet from contiguous residential uses or contiguous residential districts. The Local Law would also empower the Planning Board, as part of the Site Plan review and approval process, to require other types of noise mitigation measures as it deems appropriate.

**NOW THEREFORE BE IT RESOLVED**, after due deliberation and consideration of all information received concerning the proposed action and after a thorough review of the regulations contained in 6 New York Code Rules and Regulations §617.4(b)(9), the Town Board of the Town of York hereby RESOLVES:

**FIRST:** The York Town Board designates itself as lead agency for purposes of reviewing the action in accordance with SEQRA;

**SECOND:** The York Town Board finds and determines that the action is a Type 1 action pursuant to 6 New York Code Rules and Regulations §617.4(b);

**THIRD:** The York Town Board finds and determines that even though the proposed action constitutes a Type 1 Action, the Town is not required to do a coordinated review, as the Town Board is the only interested and involved agency and as such, a single agency review is appropriate;

**FOURTH:** The York Town Board, in its review of the proposed action and pursuant to 6 NYCRR §617.7 (c)(2), has considered reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions which are: (i) included in any long-range plan of which the action under consideration is a part; (ii) likely to be undertaken as a result thereof; or (iii) dependent thereon;

**FIFTH:** The York Town Board, in its review of the proposed action and pursuant to 6 NYCRR §617.7 (c)(3), has considered the significance of any likely consequence of the proposed action (i.e., whether it is material, substantial, large or important) and has assessed any likely consequence with regard to (i) its setting (e.g. urban or rural); (ii) its probability of occurrence; (iii) its duration; (iv) its irreversibility; (v) its geographic scope; (vi) its magnitude; and (vii) the number of people affected;

**SIXTH:** The York Town Board has reviewed the proposed action as against the criteria set forth in 6 NYCRR §617.7(c), by completing and adopting findings in Part 2 of the Full Environmental Assessment Form that support that the proposed action will not have any significant adverse environmental impact and the York Town Board hereby determines that the action will not have a significant effect on the environment for the following reasons pursuant to 6 NYCRR 617.7 (c) (1):

i. By adopting the proposed Local Law, there will not be a substantial adverse change in existing air quality, ground or surface water quality or quantity. The York Town Board further finds that the proposed change to the regulations allowing amplified drive-thru facilities adjacent to residential uses or residentially zoned districts will not increase traffic levels, or the noise associated with such traffic.

With regard to the noise from amplified drive-thru facilities that are located adjacent to residential uses or residential districts, the Town Board finds that with the use of smart technology audio-visual systems that adjust to the ambient noise level, and with the provisions incorporated into the Local Law that allow the Planning Board to impose set-back restrictions and other noise mitigation measures as part of its Site Plan review and approval process, any potential negative environmental impact associated with noise from such systems can be adequately mitigated. In making this finding, the Town Board evaluated the potential noise impact according to 6 NYCRR 617.7 (c) (3) as follows:

- [i]. **Setting.** The Town Board further finds that there is minimal likelihood of a significant negative environmental impact from noise associated with such amplified drive-thru systems as it considers the potential setting of such systems: The Town Board has been presented with and has considered various maps of areas that may potentially have such drive-thru facilities and with the provisions accorded to the Planning Board to mitigate such noise, the Town Board finds that there will be no appreciable negative impact to such residential uses or residential districts related to noise levels.
- [ii]. **Probability of Occurrence.** The Town Board finds that the probability of the occurrence of any negative noise impact is negligible given the provisions in the proposed amendment to the Code that will allow the Planning Board to impose set-back restrictions and other noise mitigation measures as part of its Site Plan review and approval process.
- [iii]. **Duration.** The Town Board finds that the potential duration of any negative noise impact is negligible given the provisions in the proposed amendment to the Code that will allow the Planning Board to impose set-back restrictions and other noise mitigation measures as part of its Site Plan review and approval process.
- [iv]. **Irreversibility.** The Town Board finds that any potential noise impact is reversible and can be properly and adequately mitigated by empowering the Planning Board to impose set-back restrictions and other noise mitigation measures as part of its Site Plan review and approval process.
- [v]. **Geographic Scope.** The Town Board has been presented with and has considered various maps of areas that may potentially have such drive-thru facilities and with the provisions accorded to the Planning Board to mitigate such noise, the Town Board finds that there will be no appreciable negative impact to such residential uses or residential districts related to noise levels. The Town Board acknowledges that the maps presented suggest that less than two (2) dozen

properties might qualify to place an amplified audio/visual drive-thru facility on site and that such geographic scope is limited and negligible in the context of the overall size of the Town of York and number of qualifying parcels.

- [vi]. Magnitude. The Town Board finds that with the mitigation powers the Planning Board will have, and the limited probability of occurrence and limited geographic scope, the magnitude of any potential adverse environmental impact associated with noise is of small magnitude.
- [vii]. Number of People Affected. The Town Board finds that with the mitigation powers the Planning Board will have and due to the limited probability of occurrence and limited geographic scope, the number of people affected by any potential adverse environmental impact associated with noise is minimal.

By adopting the proposed Local Law, there will not be a substantial adverse change or a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems.

ii. Adoption of the proposed Local Law will not result in the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources.

iii. Adoption of the proposed Local Law will not result in the impairment of the environmental characteristics of a critical environmental area as designated pursuant to section 6 NYCRR 617.14(g).

iv. Adoption of the proposed Local Law will not result in the creation of a material conflict with a community's current plans or goals as officially approved or adopted. The current Zoning Ordinance of the Town of York allows amplified drive-thru facilities in areas other than those that are adjacent to residential uses or residential districts. While the proposed Local Law, if adopted, will change the Code to allow such amplified drive-thru facilities on properties adjacent to residential uses or residential districts, the advent of new smart technology and the provisions made for the Planning Board to require appropriate mitigation measures will ensure that such change is not in conflict with the Town's current regulations as previously approved. With regard to the Town's Comprehensive Plan as adopted in 2006, the Town Board finds that the proposed Local Law is not inconsistent with such Plan. The proposed Local Law does not purport to change the zoning classification of any property that was previously established by the Town of York Zoning Ordinance as adopted on January 15, 2009, after and in furtherance of the 2006 Comprehensive Plan.

v. Adoption of the proposed Local Law will not result in the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources. The Town Board also finds that for the same reasons identified in paragraphs i. and iv. above, the adoption of the proposed Local Law will not result in the impairment of the character or quality, nor result



in any significant adverse environmental impact to the existing community or neighborhood character.

vi. Adoption of the proposed Local Law will not result in a major change in the use of either the quantity or type of energy.

vii. Adoption of the proposed Local Law will not result in the creation of a hazard to human health.

viii. Adoption of the proposed Local Law will not result in a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. The Town Board finds that the proposed change in the Local Law to allow amplified drive-thru audio/visual systems in areas adjacent to residential uses or residential districts, will not substantially change the use or the intensity of use of land, since all affected parcels are already classified as permitting commercial uses.

ix. Adoption of the proposed Local Law will not result in the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action.

x. Adoption of the proposed Local Law will not result in the creation of a material demand for other actions that would result in one of the above consequences.

xi. Adoption of the proposed Local Law will not result in changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment.

xii. Adoption of the proposed Local Law will not result in two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.

**SEVENTH:** Based on the foregoing, Part 1 of the FEAF, all findings and determinations made on Part 2 of the FEAF and all other materials and comments provided to the Town, and after a thorough review of the proposed action with regard to potential adverse environmental impacts, the York Town Board hereby directs that a negative declaration be prepared consistent with this resolution and in accordance with the requirements of SEQRA.

DATED: December 28, 2021

**VOTE OF THE BOARD:**

Gerald Deming, Supervisor	Aye
Lynn Parnell	Aye
Frank Rose, Jr.	Aye
Amos Smith	Aye
Norman Gates	Aye

**BY ORDER OF THE TOWN  
BOARD OF THE TOWN OF  
YORK**

Christine M. Harris  
Christine Harris, Town Clerk

Supervisor Deming read aloud his comments:

*The Town Board has been going through the review process of proposed Local Law No. 4 of 2021 for a few months now. Proposed Local Law No. 4 would modify section 607. C. of our Zoning Code to allow amplified drive thru facilities contiguous to residential uses or districts with certain restrictions.*

*We asked the Planning Board to review and make recommendations regarding the proposed Local Law. After meeting twice, the Planning Board recommended additional language that would provide the ability to mitigate negative impacts to neighboring residential uses or districts where amplified drive-thru facilities could be constructed. The Town Board appreciates and values those recommendations.*

*The Town Board has received a great deal of public comment regarding the proposed Local Law, much of it verbal at Town Board meetings and at the public Hearing, but has also received many written comments. The comments demonstrate that many people in the community oppose the proposed Local Law and many support adoption of the Local Law.*

*After considering the comments and talking with community members and some of my Board members on an individual basis, I believe that the proposed Local Law makes sense for our community as a whole. I believe that the proposed Local Law is not in conflict with the existing Comprehensive Plan because it does not seek to change where any commercial businesses may be located. It does modify one aspect of where drive-thru facilities can be*

*placed, but it does not create a new use, nor can I see how it will have a negative impact on neighboring properties if the Planning Board has the ability to implement appropriate mitigation measures.*

*I also do not believe that the proposed Local Law, if adopted, will constitute Spot Zoning. As a Town Board member, it is my intention that this proposed change should apply to all properties where drive-thru facilities are otherwise allowed by our Code. I believe this to be a common-sense update to our Code that will benefit the entire community, not a single parcel or owner.*

Supervisor Deming asked if any Board Member has additional comments.

Councilman Smith stated he would like the minimum set back changed.

Attorney Campbell asked if Mr. Smith had a recommendation.

Councilman Smith suggested 100 feet

Councilman Gates suggested 75 feet

Zoning & Code Officer Mr. Peter clarified where the setback starts. Setback is from the edge of the Right of Way not the center of the road.

Councilman Rose stated some of the smaller pieces of land would be restrictive if we make the setback too large and commented he feels 50 feet is sufficient.

Attorney Campbell clarified, 50 feet is a minimum, the Planning Board may require more.

Councilman Smith asked how much area does the driveway consume?  
Some discussion took place but no determination was made.

Supervisor Deming asked the Board what minimum setback should be:

Councilman Smith - 75 feet

Councilman Gates - 75 feet

Councilman Rose- 50 feet

Councilwoman Parnell – 50 feet

Supervisor Deming also recommended 50 feet

Molly Cummings voiced her objection and asked the Clerk to note such objection in the record to pursue legal action.

Clerk Harris stated that her objection has been noted.

Kirk Richenberg asked if any Town Board member may have a potential conflict?

Councilman Rose commented that he feels this may be directed at him and thought about this question previously. In his opinion, he does not feel he has a conflict. If this project goes through, there is no way of knowing how it will affect him as a business owner. He stated he has always tried to be fair and put his own feelings aside for the good of the community and feels he can be objective.

Heather Nagel commented this could be a conflict.

Attorney Campbell replied it is already a permitted use. Mr. Campbell asked if the Board had any questions or clarifications, if not he was going to read aloud the proposed resolution:

TOWN BOARD  
TOWN OF YORK  
COUNTY OF LIVINGSTON

## RESOLUTION

At a regular meeting of the Town Board of the  
Town of York, Livingston County, State of New York, held at  
the York Town Hall on December 28, 2021

WHEREAS, the Town of York (hereafter "Town") has been asked to consider an amendment to Article VI, Section 607. C. of the Zoning Ordinance of the Town of York; and

WHEREAS, the Town Board directed the Attorney for the Town to draft a proposed Local Law in response to such request, which was presented to the Town Board; and

WHEREAS, such draft Local Law was referred to the Livingston County Planning Board pursuant to New York General Municipal Law §239m; and

WHEREAS, such draft Local Law was presented to the Town of York Planning Board for its review and comment pursuant to Section 907. C. of the Zoning Ordinance of the Town of York; and

WHEREAS, the Town of York Planning Board met on two (2) different occasions to discuss the draft Local Law and to propose various modifications to the language; and

WHEREAS, the Town Board held a Public Hearing on November 30, 2021 at which all interested persons were afforded an opportunity to express an opinion either in favor of or against the proposed Local Law; and

WHEREAS, said Public Hearing was continued until December 7, 2021, to allow for written comments and was subsequently closed at the December 7, 2021 Town Board meeting; and

WHEREAS, if adopted, the Local Law as modified by the comments and suggestions of the Planning Board, will change Section 607. C. such that "Drive-thru facilities with an amplified audio/visual system that are located on property contiguous to residential uses or contiguous to residential districts shall have a minimum setback of 50 feet from contiguous residential uses or contiguous residential districts and such drive-thru facilities shall include features such that the noise generated by the audio/visual system is adjustable to background noise levels. Additionally, the Planning Board, as part of the Site Plan review and approval process, may require other types of noise mitigation measures as it deems appropriate. These may include but are not limited to vegetative or other physical buffering or barriers, requiring the audio/visual system to be oriented in a certain direction so as to minimize impact, or setting a specific maximum output decibel level from the nearest residential use or residential

district."; and

WHEREAS, the Town Board has conducted a full and comprehensive single agency review of the proposed action pursuant to 6 New York Code Rules and Regulations \617, the New York State Environmental Quality Review Act (hereafter "SEQRA") and has issue a Negative Declaration as a result of its determinations and findings; and

WHEREAS, the Town Board wishes to memorialize and specify its findings and determination of its approval of the subject Local Law being designated as Local Law No. 4 of 2021.

NOW, THEREFORE, upon motion by Councilman Smith, seconded by Councilwoman Parnell, it is hereby

RESOLVED, that the Town Board of the Town of York, makes the following findings and determination:

1. That during the course of the Public Hearing and multiple meetings before and after such Public Hearing, the Town Board heard many comments from residents, neighbors and interested parties both in favor and in opposition to the possible adoption of the proposed Local Law;
2. That during the period of review of the proposed Local Law, the Town Board received many written comments;
3. That the original draft of the Local Law was referred to the Livingston County Planning Board as required under New York General Municipal Law §239m, and such referral resulted in a recommendation of "approval" by such Board;
4. That the original draft of the Local Law was referred to the Town of York Planning Board as required by the Zoning Ordinance of the Town of York and was reviewed and discussed by them at two (2) separate meetings;
5. That the Town of York Planning Board recommended that language be added to the original draft of the Local Law that states: "Additionally, the Planning Board, as part of the Site Plan review and approval process, may require other types of noise mitigation measures as it deems appropriate. These may include but are not limited to vegetative or other physical buffering or barriers, requiring the audio/visual system to be oriented in a certain direction so as to minimize impact, or setting a specific maximum output decibel level from the nearest residential use or residential district."
6. That the Town Board finds that the additional language recommended by the York Planning Board is appropriate and will help the Planning Board to be better able to address and mitigate any concerns for future projects involving amplified drive-thru facilities that are contiguous to residential uses or residential districts;
7. That the nature of the proposed changes recommended by the York Planning Board allow for more stringent regulation of the placement of amplified drivethru facilities and do not represent a change in the proposed Local Law that would require it to be re-submitted to the Livingston County Planning Board for referral under New York General Municipal Law §239m;

8. That the proposed Local Law (as modified with the Planning Board comments) is in accordance and consistent with the Town of York Comprehensive Plan from 2006, which articulates and specifies various areas for commercial development, which were subsequently designated for such uses by the Zoning Ordinance for the Town of York that was adopted on January 15, 2009;
9. That in evaluating the proposed Local Law (as modified with the Planning Board comments) the Town Board has considered the needs of the community as a whole and that while the proposed Local Law discussion was initiated by a developer/landowner, the Town Board believes that the proposed Local Law (as modified with the Planning Board comments) will benefit the greater community;
10. That the Town Board has considered alternatives to the original proposed Local Law, as evidenced by supporting the proposed changes recommended by the York Planning Board; and
11. That adoption of the proposed Local Law (as modified with the Planning Board comments) will not constitute "Spot Zoning" as the amendment to Section 607. C. will not apply to just one parcel, but to numerous parcels within the Town. Additionally, the use of amplified drive-thru facilities is already permitted pursuant to Section 607. C. The proposed change will only amend one portion of the already existing regulations that allow amplified drive-thru facilities as a matter of right. In doing so, the proposed Local Law (as modified with the Planning Board comments) will not single out a small parcel of land for a use that is totally different from that of surrounding areas, only for the benefit of the owner of that property and to the detriment of other owners. Instead, the amendment will permit the possibility of appropriate amplified drive-thru facilities on more than a dozen parcels that are adjacent to residential uses or residential districts, but with mitigation measures to address any noise impacts to such residential uses or districts; AND BE IT FURTHER RESOLVED, that based on the foregoing findings, the

Negative Declaration issued pursuant to 6 New York Code Rules and Regulations §617 of the New York State Environmental Quality Review Act (hereafter "SEQRA"), and a reasoned and considered review of all materials and comments provided relating to the proposed Local Law, the Town Board of the Town of York does hereby approve Local Law No. 4 of 2021 with the modifications recommended by the Town of York Planning Board such that Article VI, Section 607. C. of the Zoning Ordinance of the Town of York shall be amended to read as follows:

**"C. Drive-thru facilities with an amplified audio/visual system shall be setback a minimum of 30 feet from the property line. Drive-thru facilities with an amplified audio/visual system that are located on property contiguous to residential uses or contiguous to residential districts shall have a minimum setback of 50 feet from contiguous residential uses or contiguous residential districts and such drivethru facilities shall include features such that the noise generated by the audio/visual system is adjustable to background noise levels. Additionally, the Planning Board, as part of the Site Plan review and approval process, may require other types of noise mitigation measures as it deems appropriate. These may include but are not limited to**

vegetative or other physical buffering or barriers, requiring the audio/visual system to be oriented in a certain direction so as to minimize impact, or setting a specific maximum output decibel level from the nearest residential use or residential district."

DATED: December 28, 2021

**VOTE OF THE BOARD:**

Gerald Deming, Supervisor	Aye
Lynn Parnell	Aye
Frank Rose, Jr.	Aye
Amos Smith	Aye
Norman Gates	Aye

BY ORDER OF THE TOWN BOARD OF THE TOWN OF YORK

*Christine Harris*

Christine Harris, Town Clerk

Voted on and approved, Yes-5, No-0.

Local Law #4 of 2021 has been adopted.

**NEW BUSINESS:**

1)Town Hall Custodian:

RESOLUTION offered by Mr. Smith and seconded by Mr. Gates to appoint Louis Miller as the Town of York custodian effective 12/9/21. Voted on and approved, Yes-5, No-0.

2)Year End Transfers:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Gates to approve the following transfers:

TOWN OF YORK

PLEASE APPROVE THE FOLLOWING LINE TRANSFERS AT YOUR NEXT MEETING:

**GENERAL FUND - TOWNWIDE**

<i>Transfer From:</i>	A1410.4	Deputy Town Clerk Serv.	\$	1,900.00
	A1410.2	Clerk Equip. & Cap.	\$	1,500.00
	A1450.1	Elections Pers. Serv.	\$	3,500.00
	A3120.4	Police Contr.	\$	2,000.00
	A5182.4	Street Lighting Contr.	\$	24,000.00
	A5132.2	Garage, Equip. & Cap.	\$	6,000.00
	A7320.4	Joint Youth Contr.	\$	6,700.00
	AUB	Unexpended Balance	\$	48,215.00
			<b>TOTAL:</b>	<b>\$ 93,815.00</b>

<i>Transfer To:</i>	A1010.4	Legislative Board, Contr.	\$	487.00
	A1110.4	Justice Court, Contr.	\$	2,913.00
	A1220.1A	Super. Clerk Pers Serv.	\$	1,322.00
	A1220.4	Super, Contr.	\$	39.00
	A1320.4	Auditor	\$	500.00
	A1420.4	Legal, Contr.	\$	27,893.00
	A1440.4	Engineering, Contr.	\$	6,484.00
	A1450.4	Elections, Contr.	\$	600.00
	A1620.4	Buildings Contr.	\$	40,220.00
	A1680.4A	Data Processing, Contr.	\$	125.00
	A3189.4	Mileage	\$	404.00
	A5010.1C	Highway Clerk, Pers. Serv.	\$	303.00
	A8010.1	Zoning Pers. Serv.	\$	447.00
	A8010.4	Zoning, Contr.	\$	1,843.00
	A8020.4	Planning, Contr.	\$	1,966.00
	A8160.1	Garbage, pers. Serv.	\$	863.00
	A9010.8	Retirement	\$	7,406.00
			<b>TOTAL:</b>	<b>\$ 93,815.00</b>

**HIGHWAY FUND - TOWNWIDE**

<i>Transfer From:</i>	DA5110.4	General Repairs, Contr.	\$	55,450.00
			<b>TOTAL:</b>	<b>\$ 55,450.00</b>

<i>Transfer To:</i>	DA5130.1	Machinery Pers. Serv	\$	4,631.00
	DA5130.2	Machinery, Equip. & Cap	\$	32,201.00
	DA5140.1	Brush & Weeds Pers. Serv.	\$	15,189.00
	DA9010.8	Retirement	\$	2,657.00
	DA9050.8	Unemployment Ins.	\$	772.00
			<b>TOTAL:</b>	<b>\$ 55,450.00</b>



**CONSOLIDATED WATER DISTRICT**

<i>Transfer From:</i>	SW8310.4	Water Admin	\$ 18,000.00
	SWUB	Unexp. Balance	\$ 368,795.00
		<b>TOTAL:</b>	<b>\$ 386,795.00</b>
<i>Transfer To:</i>	SW8320.4	Source of Supply Contr.	\$ 8,138.00
	SW8340.2	Water Trans. Equip & Cap Outlay	\$ 13,333.00
	SW8340.4	Water Trans. Contr.	\$ 365,324.00
		<b>TOTAL:</b>	<b>\$ 386,795.00</b>

**RETSOF SEWER DISTRICT**

<i>Transfer From:</i>	SS8130.2	Sewage Treat. Contr.	\$ 10,000.00
	SS8130.2S	Sewage Share, Separator	\$ 16,800.00
	SSUB	Unexp. Balance	\$ 16,895.00
		<b>TOTAL:</b>	<b>\$ 43,695.00</b>
<i>Transfer To:</i>	SS1670.4	Data Processing Contr.	\$ 6.00
	SS8110.2	Sewer Admin. Equip. & Cap. Outlay	\$ 2,000.00
	SS8110.4	Sewer Admin. Contr.	\$ 26,797.00
	SS8130.4	Sewage Treatment Disp. Contr.	\$ 14,892.00
		<b>TOTAL:</b>	<b>\$ 43,695.00</b>

**SEWER DISTRICT #1**

<i>Transfer From:</i>	SS1-8130.2S	Sewage Share of Separator	\$ 86,400.00
	SS1-UN	Unexp. Balance	\$ 49,603.00
			<b>\$ 136,003.00</b>
<i>Transfer To:</i>	SS1-8110.2	Admin. Equipment	\$ 9,333.00
	SS1-8110.4	Admin. Contr.	\$ 43,871.00
	SS1-8120.4	Sewage Coll. Contr.	\$ 1,018.00
	SS1-8130.4	Sewage Treat. Contr.	\$ 5,039.00
	SS1-8340.4	Trans. & Dist. Contr.	\$ 202.00
	SS1-9010.8	Retirement	\$ 306.00
	SS1-9710.4	Bond Principal	\$ 75,320.00
	SS1-9710.6	Bond Principal	\$ 914.00
			<b>\$ 136,003.00</b>

**SEWER DISTRICT #2**

<i>Transfer From:</i>	SS2-8130.2S	Sewage Share Separator	\$ 13,717.00
			<b>\$ 13,717.00</b>
<i>Transfer To:</i>	SS2-8110.2	Admin. Equipment	\$ 2,000.00
	SS2-8110.4	Admin. Contr.	\$ 8,208.00
	SS2-8120.4	Sewage Coll. Contr.	\$ 1,610.00
	SS2-8130.4	Sewage Treatment Cont.	\$ 1,899.00
			<b>\$ 13,717.00</b>

**OTHER:**

1)Grant status:

Supervisor Deming stated that the Town has received positive information regarding the status of grants applied for. We have received:

- \$54,000 from NYS Smart Growth for Comp Plan Renewal
- \$400,000 from NYSEFC for the Retsof Sewer Replacement project
- \$750,000 from WQIP for Ultraviolet Disinfection System (WWTP)

2)Question:

Supervisor Deming stated that Mr. Richenberg questioned at the November 9<sup>th</sup> and December 7<sup>th</sup> meeting if procedures had been followed pertaining to Route 20 water district which we stated that the establishment format of this district and others had not changed over the years. Supervisor Deming then asked Attorney Campbell to research to verify.

Attorney Campbell stated that he researched a number of cases, spoke with representatives from the Attorney General's office and Association of Towns regarding findings. The result was that it is not uncommon or illegal to have a non-service area(s) in a water district. There is a benefit in the future if an opportunity comes about to obtain town water.

\*\* Mr. Richenberg submitted written comments earlier this evening. The Town Board members received a copy prior to the start of the meeting.

Dear Town of York Board Members;

It is problematic to me that this board is not allowing the citizens of this community to exercise the constitutional right of Freedom of Speech at the December 28, 2021 town board meeting. As it states on the Town of York website, anyone wishing to request speaking privileges of the Town Board must contact the town clerks office by Friday prior to each meeting. I have done this for the December 28, 2021 meeting and I have been denied speaking privileges.

With this denial in mind I remind this board that we live in a country that has a Democratic form of government that has given all people certain rights. One of which is Freedom of Speech.

There certainly are many controversial topics in this town currently that this Town Board needs to hear about. And speaking a public meeting is a place for voices of the people to be heard. Some of the topics, but not the only topics are, changing current Town of York Zoning Law, the Town of York conducting Town business on a Federal Government approved holiday, Town budget concerns of \$18,000 in taxes being shown as collected for one line item and being used for another line item, and the last that I have for now is that I have not seen or heard any motion or Town Board resolution changing the speaking privilege policy at Town Board meetings and no mention of any change to this by the supervisor.

So in conclusion I will state that it is very obvious at most Town Board meetings there is almost always no discussion on resolutions that are passed. I can only imagine where most of the final discussions and decisions are made in this Town. I do not believe we are in any state of emergency in New York State right now, so no executive privileges right now. We live in a Democratic society, not in a society where persons who have been in political office for many years can take away citizens rights.

Kirk Richenberg

*Kirk Richenberg*  
12/28/21

**ADJOURNMENT:**

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to adjourn the Town Board Meeting at 6:10 p.m. Voted on and approved, Yes-5, No-0.

Respectfully Submitted,  
*Christine Harris*  
Christine M. Harris, Clerk