

November 2, 2009

Meeting No. 33

A Regular Meeting of the Town Board of the Town of Lancaster, Erie County, New York, was held at the Town Hall at 21 Central Avenue, Lancaster, New York on the 2<sup>nd</sup> day of November 2009 at 8:00 P.M. and there were

**PRESENT:** JOHN ABRAHAM , COUNCIL MEMBER  
DANIEL AMATURA, COUNCIL MEMBER  
RONALD RUFFINO, COUNCIL MEMBER  
DONNA STEMPIAK, COUNCIL MEMBER  
ROBERT GIZA, SUPERVISOR

**ABSENT:** NONE

**ALSO PRESENT:** JOHANNA COLEMAN, TOWN CLERK  
JOHN DUDZIAK, TOWN ATTORNEY  
JEFFREY SIMME, CODE ENFORCEMENT OFFICER  
GARY STOLDT, CHIEF OF POLICE  
DAVID MARRANO, ASSESSOR  
LOUIS CACCIOTTI, DEPUTY HIGHWAY SUPERINTENDENT  
ROBERT HARRIS, ENGINEER, WM. SCHUTT & ASSOCIATES

**EXECUTIVE SESSION:**

AT 8:23 P.M., UPON A MOTION DULY MADE BY COUNCIL MEMBER AMATURA, SECONDED BY COUNCIL MEMBER ABRAHAM AND CARRIED, the Town Board entered into Executive Session to deliberate on the announced purpose of discussing a contractual matter.

At 8:30 P.M., the Town Board reconvened with all members present. The Town Clerk reported that no official actions were taken by the Town Board in Executive Session.

**PERSONS ADDRESSING TOWN BOARD:**

**Chowaniec, Lee**, spoke to the Town Board on the following matter:

- Heritage Trail
- Preliminary Budget
- Lancaster Rural Cemetery
- 

**Fronczak, Mike**, spoke to the Town Board on the following matter:

- Police/Court Facility
- sump drain issue at a Town House Complex
- Senior Apartments on Pavement Road

**PUBLIC HEARING SCHEDULED FOR 8:30 P.M.:**

At 8:30 P.M., the Town Board held a Public Hearing to hear all interested persons upon the 2010 Special District Budget.

The affidavits of publication and posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

<b>NAME OF PERSONS ADDRESSING THE BOARD ON THIS SUBJECT</b>	<b>Proponent/ Opponent/ Comments/Questions</b>
Mike Fronczak	Comments

ON MOTION BY COUNCIL MEMBER AMATURA, SECONDED BY  
COUNCIL MEMBER RUFFINO AND CARRIED, the public hearing was closed at 8:35P.M.

Decision on this matter was reserved.

November 2, 2009

**PUBLIC HEARING SCHEDULED FOR 8:30 P.M.:**

At 8:35 P.M., the Town Board held a Public Hearing to hear all interested persons upon the 2010 Preliminary Budget.

The affidavits of publication and posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

<b>NAME OF PERSONS ADDRESSING THE BOARD ON THIS SUBJECT</b>	<b>Proponent/ Opponent/ Comments/Questions</b>
Lee Chowaniec	Comments
Mike Fronczak	Comments
Carmen Hangauer	Questions

ON MOTION BY COUNCIL MEMBER AMATURA, SECONDED BY  
COUNCIL MEMBER RUFFINO AND CARRIED, the public hearing was closed at 8:45 P.M.

Decision on this matter was reserved.

November 2, 2009

**PRESENTATION OF PREFILED RESOLUTIONS BY COUNCIL MEMBERS:**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY SUPERVISOR GIZA, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER RUFFINO TO WIT:

**RESOLVED**, that the Minutes of the Regular Meeting of the Town Board held October 19, 2009, the Minutes of the Special Meeting held October 21, 2009 and the Minutes of the Special Meeting held October 26, 2009 be and are hereby approved.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

November 2, 2009

File: RMIN (P1)

THE FOLLOWING RESOLUTION WAS OFFERED  
BY COUNCIL MEMBER STEMPIAK, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER ABRAHAM, TO WIT:

**WHEREAS, Dale Grace,** has submitted an application for a Special Use Permit for sales, rental, repair and service of new and used trailers in accordance with provisions of Chapter 50-Zoning, Section 20 (B) (1) (j) of the Code of the Town of Lancaster for a Trailer Repair Facility, located at 5071 Transit Road, Lancaster, New York, and

**WHEREAS,** the property is currently zoned CMS - Commercial Motor Service which permits the service and sale of trailers only where a Special Use Permit is granted by the Town Board of the Town of Lancaster after a public hearing, and

**WHEREAS,** §50-46 of the Zoning Code of the Town of Lancaster requires that the Town Board conduct public hearings before the issuance of a Special Use Permit for a use as proposed;

**NOW, THEREFORE, BE IT**

**RESOLVED,** that pursuant to Chapter 50-Zoning, Section 20 (B) (1) (j), entitled “Commercial and Motor Service District (CMS)” of the Code of the Town of Lancaster, a Public Hearing on the proposed Special Use Permit for service and sale of new and used trailers on premises locally known and located at 5071 Transit Road, in the Town of Lancaster, New York, will be held at the Town Hall, 21 Central Avenue, Lancaster, New York, on the 16<sup>th</sup> day of November 2009, at 8:30 o’clock P.M., Local Time, and that Notice of the time and place of such Hearing be published in the Lancaster Bee, a newspaper of general circulation in said Town, and be posted on the Town Bulletin Board and that a copy of such Notice of Hearing be referred to the Erie County Department of Planning, pursuant to Section 239(m) of the General Municipal Law, which Notice shall be in the form attached hereto and made a part hereof.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

November 2, 2009

**LEGAL NOTICE  
PUBLIC HEARING  
SPECIAL USE PERMIT**

**Dale Grace  
Trailer Repair Facility  
5071 Transit Road, Lancaster, New York**

**LEGAL NOTICE IS HEREBY GIVEN**, that pursuant to the authority set forth in Chapter 50-Zoning, Section 20 (B) (1) (j), entitled “Commercial and Motor Service District (CMS)” of the Code of the Town of Lancaster, and the Town Law of the State of New York, and pursuant to a resolution of the Town Board of the Town of Lancaster adopted on the 2<sup>nd</sup> day of November 2009 the said Town Board will hold a Public Hearing on the 16<sup>th</sup> day of November 2009, at 8:30 o’clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, to hear all interested persons upon the application of Dale Grace, for a Special Use Permit for sales, rental, repair and service of new and used trailers on the premises locally known as 5071 Transit Road, in the Town of Lancaster, County of Erie, State of New York.

Full opportunity to be heard will be given to any and all citizens and all parties in interest.

**TOWN BOARD OF THE  
TOWN OF LANCASTER**

**BY: JOHANNA M. COLEMAN  
Town Clerk**

November 2, 2009

THE FOLLOWING RESOLUTION WAS OFFERED  
BY SUPERVISOR GIZA, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER RUFFINO, TO WIT:

**WHEREAS**, Jeffrey H. Simme, Supervising Code Enforcement Officer of the Town of Lancaster received a correspondence on October 5, 2009, from Middle Department Inspection Agency, Inc. indicating their intent to conduct electrical inspections within the Town of Lancaster, and

**WHEREAS**, currently only Commonwealth and Atlantic-Inland, Inc. are accepting new applications for electrical inspections in the Town of Lancaster, thereby causing a strain on local businesses, and

**WHEREAS**, Middle Department Inspection Agency, Inc. has submitted the necessary information to the Town of Lancaster Building Inspector, including the one-time registration fee and the certificates of insurance for both comprehensive liability and workers' compensation as stated in Chapter 16 of the Code of the Town of Lancaster (Electrical Inspections), and

**WHEREAS**, Jeffrey H. Simme, Supervising Code Enforcement Officer has requested, by letter dated October 6, 2009, that Middle Department Inspection Agency, Inc., be permitted to conduct electrical inspections in the Town of Lancaster.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town Board of the Town of Lancaster hereby authorizes Middle Department Inspection Agency, Inc. to conduct electrical inspections in the Town of Lancaster as described in Chapter 16 of the Code of the Town of Lancaster (electrical inspections).

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

November 2, 2009

THE FOLLOWING RESOLUTION WAS OFFERED  
BY SUPERVISOR GIZA, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER STEMPIAK, TO WIT:

**WHEREAS**, the General Crew Chief of the Parks, Recreation, and Forestry Department of the Town of Lancaster, by letter dated October 16, 2009, has requested the appointment of three (3) additional lifeguards, part time for the fall/winter 2009-10 season in the Parks, Recreation, and Forestry Department.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the following individuals be and are hereby appointed to the position of lifeguard, part time for the fall/winter 2009-10 season in the Parks, Recreation, and Forestry Department of the Town of Lancaster, with no benefits, at the following hourly rates:

<b>NAME</b>	<b>RATE</b>
Erin Weigand (rehire) Lancaster, NY 14086 <u>Retroactive to 10/8/09</u>	\$9.25/hour
Chelsea Saxe (rehire) Lancaster, NY 14086 <u>Retroactive to 10/5/09</u>	\$9.00/hour
Bryan Krajewski (rehire) Lancaster, NY 14086 <u>Retroactive to 10/8/09</u>	\$9.00/hour

**BE IT FURTHER,**

**RESOLVED**, that the Supervisor of the Town of Lancaster take the necessary action with the Personnel Officer of the County of Erie to accomplish the foregoing.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

November 2, 2009

THE FOLLOWING RESOLUTION WAS OFFERED  
BY SUPERVISOR GIZA, WHO MOVED ITS  
ADOPTION, SECONDED BY COUNCIL  
MEMBER AMATURA, TO WIT:

**WHEREAS**, Salvatore Balesteri, 1705 Hertel Avenue, Buffalo, New York, 14216  
has applied to the Town Board of the Town of Lancaster for a permit to construct a Public  
Improvement upon real property in the Town of Lancaster within Roseland Subdivision, Phase II,  
and

**WHEREAS**, the Town Engineer has certified on the following permit application  
that he has reviewed the improvement plan and permit application for the installation of the public  
improvement requested, and that it conforms to the Ordinances of the Town of Lancaster.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that Public Improvement Permit Application No.662 of Salvatore  
Balesteri, 1705 Hertel Avenue, Buffalo, New York, 14216 , for the installation of:

P.I.P. No. 662 (Street Lights)	Phase II Roseland Subdivision, installation of 14 street light poles including boring under 14 existing driveways, wire, pipe, head, bulb and eye as per NYSEG print and Town of Lancaster specs.
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be and is hereby approved and the installation of the improvement requested be and is hereby  
authorized.

The question of the adoption of the foregoing resolution was duly put to a vote on  
roll call which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

November 2, 2009

THE FOLLOWING RESOLUTION WAS OFFERED  
BY SUPERVISOR GIZA \_\_\_\_\_, WHO  
MOVED ITS ADOPTION, \_\_\_\_\_ SECONDED BY  
COUNCIL MEMBER RUFFINO, \_\_\_\_\_ TO WIT:

**WHEREAS**, the General Crew Chief of the Parks, Recreation & Forestry Department of the Town of Lancaster, by letter dated October 26, 2009, has recommended the appointment of Anne F. Gangloff to the position of Van Driver, at the Senior Citizens Center of the Town of Lancaster.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that Anne F. Gangloff of Depew, New York be and is hereby appointed to the position of Van Driver, permanent, part time at the Senior Citizens Center of the Town of Lancaster at the rate of \$8.50 per hour, and that this appointment, being a part time position, provides no health insurance, sick days, vacation or other fringe benefits not specifically mandated for part time employees.

**BE IT FURTHER,**

**RESOLVED**, that the Supervisor of the Town of Lancaster take the necessary action with the Personnel Officer of the County of Erie to accomplish the foregoing.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

November 2, 2009

THE FOLLOWING RESOLUTION WAS OFFERED  
BY SUPERVISOR GIZA, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER ABRAHAM, TO WIT:

**WHEREAS**, Bergmann Associates, 28 East Main Street, 200 First Federal Plaza, Rochester, New York 14614, the Consulting Engineers for the Heritage Trail Bike Path for the Town of Lancaster, has submitted Change Order No. 1 in the amount of \$107,718 to the Town Board for their approval, based on the addendum descriptions of additional work to be performed previously provided to the Town Board;

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town Board of the Town of Lancaster hereby approves Change Order No. 1 to Bergmann Associates Consulting Engineers, with respect to Addendum one (1), Addendum Two (2), Addendum Three (3) and No-Cost Addendum Four (4), as outlined on the descriptions previously provided to the Town Board:

**DESCRIPTION OF CHANGE ORDER NO. 1:**

Additional compensation for Additional Engineering Services and on-site inspection.

**CHANGE ORDER NO. 1:**

The original Contract Sum was . . . . .	\$204,848.00
The Contract Sum will be <b>increased</b> by this Change Order in the amount of . . . . .	107,718.00
The new Contract Sum increased including this Change Order will be . . . . .	312,566.00

and,

**BE IT FURTHER**

**RESOLVED**, that the Supervisor be and is hereby authorized to execute this Change Order on behalf of the Town of Lancaster.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

November 2, 2009

THE FOLLOWING RESOLUTION WAS OFFERED  
BY SUPERVISOR GIZA, WHO MOVED ITS  
ADOPTION, SECONDED BY COUNCIL  
MEMBER ABRAHAM, TO WIT:

**RESOLVED**, that the following Audited Claims be and are hereby ordered paid from their respective accounts as per abstract to be filed in the Office of the Town Clerk by the Director of Administration and Finance, to wit:

Claim No. 10795 to Claim No. 10996 Inclusive

Total amount hereby authorized to be paid: \$301,940.07

The question of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

November 2, 2009

File: Rclaims

THE FOLLOWING RESOLUTION WAS OFFERED  
 BY COUNCIL MEMBER STEMPNIAK, WHO  
 MOVED ITS ADOPTION, SECONDED BY  
 COUNCIL MEMBER RUFFINO, TO WIT:

**RESOLVED** that the following Building Permit applications be and are hereby reaffirmed:

**CODES:**

- (SW) = Sidewalks as required by Chapter 12-1B. of the Code of the Town of Lancaster are waived for this permit.
- (CSW) = Conditional sidewalk waiver
- (V/L) = Village of Lancaster

**PREVIOUSLY TABLED PERMITS:**

16415	Grau Builders	11 Logan Ln	Er. Dwlg.-Sin.
16993	Grau Builders	24 Logan Ln	Er. Dwlg.-Sin.

**NEW PERMITS:**

17524	Buffalo Crushed Stone	Barton Rd	Er. Comm. Bldg.
17526	Duro Shed Inc	9 Sawgrass Ln	Er. Shed
17527	Northeast Mechanical	190 Peppermint Rd	Inst. Generator
17528	New Dimensions	7 Cambridge Ct	Er. Res. Add.
17529	Killian, John	23 Park Blvd	Er. Fireplace (V/L)
17530	Sahlems Roofing	17 Squirrel Run	Re-roof
17531	Duro-Shed	6211 Genesee St	Er. Shed
17532	Bernal, Robert	1802 Como Park Blvd	Re-Roof
17533	Ron Zee Builders	195 Siebert Rd	Re-Roof
17534	Forbes Capretto Homes	42 Wainwright Ct	Er. Dwlg.-Sin.
17535	Fingerlakes Const	792 Hall Rd	Er. Pole Barn
17536	Pietras Builders	2 Devonshire Ln	Er. Res. Add.
17537	Tschetter's Const	9 Spruceland Ter	Re-Roof
17538	Stockmohr Roofing	710 Schwartz Rd	Re-Roof
17539	Stockmohr Roofing	38 Bentley Cir	Re-Roof
17540	Richards, Ronald	22 Meadow Lea Dr	Inst. Generator
17541	Selk, Chris	178 Siebert Rd	Re-Roof
17542	Lapp Management	5 Americo Ct	Er. Shed
17543	Loos, Norman	672 Townline Rd	Er. Deck
17544	Valu Home Center	4875 Transit Rd	Er. Comm. Alt.
17545	Velez, Gilbert	140 Nathan's Trl	Er. Shed
17546	Cravatta, William	20 Heritage Dr	Er. Shed
17547	Duro Shed	9 Livingston St	Er. Shed (V/L)
17548	Witnauer, Thomas	643 Erie St	Re-Roof
17549	Greenfield Manor Inc	5949 Broadway	Er. Sign-Temp
17550	Delamater, Robert	467 Lake Ave	Inst. Generator
17551	Wegst, Dan	422 Westwood Rd	Inst. Generator
17552	Cornerstone Services	5949 Broadway	Er. Garage
17553	Besroi Const	16 Southpoint Dr	Re-Roof
17554	Besroi Const	21 Briarwood Dr	Re-Roof (V/L)
17555	Len, Joseph	16 Sawgrass Ln	Inst. Generator
17556	Bascom, Joyce	10 Garfield St	Re-Roof (V/L)
17557 SW	3-D Home Contractors	680 Townline Rd	Er. Dwlg.-Sin.

**BE IT FURTHER**

**RESOLVED**, that the Building Permit Applications herein coded (SW) for sidewalk waiver be and are hereby reaffirmed with a waiver of the Town Ordinance requirement for sidewalks, and

**BE IT FURTHER**

**RESOLVED**, that the Building Permit Applications herein coded (CSW) for conditional sidewalk waiver be and are hereby reaffirmed with a waiver of the Town Ordinance required for sidewalks, however, the waiver is granted upon the expressed condition that the Town of Lancaster, at any future date, reserves the right to order sidewalk installation at the expense of the property owner.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

November 2, 2009

## COMMUNICATIONS & REPORTS:

437. Village of Lancaster to Town Board -  
Minutes of meeting held October 14, 2009. DISPOSITION = Received & Filed
438. General Crew Chief to Supervisor -  
Request appointment of seasonal employees. DISPOSITION = Resolution 11/2/2009
439. Erie County Department of Environment & Planning to Town Board -  
Notice of two workshops pertaining to the State Environmental Quality Review Act (SEQR) to be held November 18<sup>th</sup> & 19<sup>th</sup>. DISPOSITION = Received & Filed
440. Planning Board Chairman to Planning Board, Town Board, Engineering Consultant, Town Attorney, Deputy Highway Superintendent, Building Inspector -  
Draft copy of minutes of meeting held October 21, 2009. DISPOSITION = Received & Filed
441. Planning Board to Town Board -  
Recommend approval of rezone petition of Lancaster Land, L.P., 00 Pavement Road, north of Affordable Senior Housing Project; conditions & comments noted. DISPOSITION = Received & Filed
442. Planning Board to Town Board -  
Recommend Planning Board annual salaries to remain the same for 2010. DISPOSITION = Budget Officer
443. Twin Village Post #463 to Supervisor -  
Invitation to Veterans' Day Ceremony to be held November 11, 2009, 11:00 AM at St. John's Lutheran Church, Depew. DISPOSITION = Town Board
444. General Crew Chief to Supervisor -  
Request appointment of Ann Gangloff as Substitute Van Driver. DISPOSITION = Resolution 11/2/2009
445. Lancaster Rural Cemetery Association to Director of Administration & Finance -  
Request for second payment of budget allocation. DISPOSITION = Town Board For Resolution
446. Donald G. Symer to Town Board -  
Letter regarding garbage totes and collection. DISPOSITION = Received & Filed
447. Erie County Department of Public Works to Town Clerk -  
Notice of restriction postings for the Pavement Road bridges, namely 20 tons weight limit for the bridge over Lehigh Valley Railroad and a no R-Permit restriction on the bridge over the CSX railroad effective October 29, 2009. DISPOSITION = Received & Filed

**ADJOURNMENT:**

**ON MOTION OF COUNCIL MEMBER RUFFINO, SECONDED BY COUNCIL MEMBER AMATURA AND CARRIED**, the meeting was adjourned at 8:45 P.M. in memory of Katherine Bruscia, Irene Nichols, Danny Fliss, Marjorie Rohmer and Pat Corey.

Signed \_\_\_\_\_

Johanna M. Coleman, Town Clerk